



Dear Regulator,

I am writing to you on behalf of the Australasian Convenience and Petroleum Marketers Association (ACAPMA) to express our concerns on pressures faced by small-to-medium business and the affect this is having on the community structures of regional Australia.

ACAPMA is a petroleum distribution and petrol convenience industry association whose members, often family owned petroleum businesses, account for over 70% of all petroleum wholesaling and distribution in Australia and are involved with approximately one third of the service stations in Australia. The ACAPMA Member profile indicates Members are primarily regionally based family owned small-to-medium sized businesses that generate approximately 16,000 jobs. Their businesses operate on very slim margins and are under extensive, scrutiny, regulation and anti-competitive practices.

The public, media, regulators and government, frequently see these mostly second and third generation family businesses as 'just' another arm of the big oil companies, when the reality is they are small-to-medium businesses that operate for the most part in regional and rural areas. Due to these historic links, ACAPMA members have become integral parts of their communities, raising funds for district programs or sponsoring social groups.

ACAPMA members accept that no business, large or small, has an unqualified right to participate in any industry; however neither should smaller businesses be forced out. This unfortunately is the fate of many of these small-to-medium businesses in Australia's current atmosphere.

The weight of compliance is a burden to the progression of these businesses. Regulation, brought on by legislation in areas such as taxation, employment, workplace safety and environmental protection have changed rapidly, with little regard to the added expense placed on operators. There has been no talk of compensation as businesses in the fuel industry have been asked to pay in the hundreds of thousands of dollars to comply with legislation like vapour recover, alternate fuels and tobacco display. While changes to employment law and wages, have not coincided with reductions in company tax or payroll taxes.

As members wrestle with compliance, obtaining funding has been difficult. Financiers are concerned that financial support is required for compliance, not for business growth. Even more difficult for ACAPMA members is the lenders reduced appetite for risk, as they deal with the fall out of the global financial crisis.

As the number of refiner/marketers has reduced in Australia and the supermarket majors moved into the petrol convenience industry, it has become increasingly difficult for independents to compete. The ACCC have been required to rule on issues around anti-competitive and predatory behavior, as shopper docketts with 40 cent per litre discounts threaten to reduce competition. While, discounting at the price boards is frequently below the cost at which an independent operator is able to purchase fuel. To combat this voracious behavior smaller operators sell at a loss or do not sell anything at all.

These economic and regulator factors have influenced the viability of many small-to-medium businesses. While the anti-competitive practice of big companies, in our case major supermarkets, which have used their strength and cross industry diversity to marginalize small business, are magnifying this struggle. Either way local communities have been affected.

This is where an understanding of the broader context of services ACAPMA members provide to communities is important. ACAPMA members offer assistance well beyond petrol in a car or fuel for farmers and industry. Employment, credit facilities, convenience retailing, evening trading (in areas that often do not have retailers open after 6:00pm), cash services (through onsite ATMs), car washes and mechanical workshop services, are all part of an ACAPMA member's business.

Extended trading hours mean, convenience stores are well-lit safe places that provide the community with refuge at night. During the day our businesses are drop off points for sporting groups and social meeting places. By utilizing our sophisticated security systems, law and order agencies request our support in policing community crime. Through the offer of extended services, we have become even more valuable to the community. Where the banks, insurance and telephony companies have left regional Australia because it is unprofitable to operate, we now provide these products for communities.

ACAPMA members have always prided themselves on finding practical and operational solutions to problems they face. For independents in petroleum distribution and petrol convenience, the solution lies with key reforms in the areas of competition, wholesale supply and pricing, biofuels and taxation.

It is acknowledged that the ACCC believes it administers laws to protect competition and not competitors. However, we believe this opinion glosses over the literal interpretation of the *Trade Practice Act*, especially Section 46, which actually addresses conduct that would be "substantially damaging a competitor". When your supplier is one of your major competitors, there needs to be stronger protection around how price is used to influence competition. This includes a more transparent Terminal Gate Price mechanism within Oilcode, as well as changes to below cost selling and cross subsidy or third line forcing legislation in the *Trade Practice Act*.

Competition in the fuel industry is also influenced by supply and as Australia continues to increase its reliance on imported product, there is a necessity for extensive planning around infrastructure, so independents can maintain the access to reasonable supply channels. Bottlenecks occur at port facilities due to draught restrictions and pipeline issues, while access to many terminals are restricted due to ownership by major oil companies. Spending by government is required on these strategically important facilities, as are open access agreements for storage with terminal owners.

Policy on biofuels must be conducted at a national level, including the removal of biofuel mandates. There should also be acceptance that alternate fuels include a wide range of products and mandating narrows our ability to investigate what is plentiful in Australia and best for motorists. Currently, the state based legislation offers no certainty to any operators. Where mandates are imposed, the industry is not in a position to implement the requirements in such short timeframes, due to limited supply, lack of infrastructure and cost.

Several solutions will require public and private investment. Where companies are compelled to invest there is the need for taxation reform. This should include accelerated depreciation of assets, as well as changes to company tax and in some cases state payroll and stamp duty taxation. There also is a need for clarity on fuel excise, especially on biofuels, so that it treats different products in isolation rather than a homogenous group.

It is important, for a lasting solution that all these economic and social ingredients are mixed in the right proportions. If however, there is a continuation of anti-competitive behaviour by larger companies or further red tape from regulators, eventually there will be no independent fuel retailers left. The result will be a less competitive fuel industry, higher prices for all consumers and a weakening of the social fabric in regional Australia.

ACAPMA recognises that to achieve the right solution, groups outside the industry must be sought out for their knowledge, advice and support. To this end, I ask we take the time to meet, so that I can personally seek your understanding on these issues.

If you would like to contact me, I am happy to work with your office to arrange a suitable time to discuss this letter.

Yours Sincerely



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