



AUSTRALIAN INSTITUTE OF PETROLEUM

1 December 2015

Mr Simon Cohen
Director
Consumer Affairs Victoria
Department of Justice
GPO BOX 123
MELBOURNE VIC 3001

Email: mary.patsatzis@justice.vic.gov.au

Dear Mr Cohen

CONSULTATION ON PROPOSED FUEL PRICE BOARD REGULATIONS IN VICTORIA

I am writing in response to the Minister's invitation of 9 November 2015 for organisations to participate in a Roundtable discussion and make submissions on the proposal for Victoria to adopt similar fuel price board regulatory requirements to South Australia's *Fair Trading (Fuel Industry Code) Regulations 2013*.

Thank you for the opportunity to participate in the roundtable stakeholder discussion of 20 November 2015 and to confirm our views expressed to Consumer Affairs Victoria (CAV) at the Roundtable through this Submission on behalf of the Australian Institute of Petroleum (AIP).

AIP is the key industry association representing the downstream petroleum industry. AIP member company operations cover the entire liquid fuels supply chain, including crude and product imports, refinery operations, fuel storage, terminal and distribution networks, marketing and retail. Our core members are BP Australia Pty Ltd, Caltex Australia Limited, Mobil Oil (Australia) Pty Ltd and Viva Energy Australia Pty Ltd.

Given this background and their significant role in the Australian fuels supply chain, AIP member companies have a very strong interest in proposed government regulations which can directly impact on the downstream petroleum industry, including the industry's ongoing operation, competitiveness and transparency, and also on the costs of doing business in Victoria.

This AIP Submission seeks to reinforce the advice and positions expressed by AIP at the Roundtable, and provide further background to the Government's consideration of this new regulation proposal.

AIP member companies may also make submissions to this process, responding to the specific 'Stakeholder Questions' from their own practical business and operational perspective, whilst protecting commercial-in-confidence matters. For example, the number of sites affected, implementation costs and details of loyalty programs can be commercially sensitive.

2.

AIP and its member companies have a strong history with price board regulation and policy development, and also practical business experience with the design and implementation of State regulatory regimes. This experience includes detailed consultations during the consideration of a 'national standard' by the Consumer Affairs Forum of Ministers over 2013-14, and direct business experience dealing with the onerous NSW price board regulations and compliance regime and the flawed policy and consultation process in the lead up to the NSW regulations being made.

In both State and Federal government consultation processes to date, no clear or strong case (via rigorous cost benefit analysis) has been demonstrated by government for price board regulation in the Australian market. We consider that the general competition laws are adequate to deal with any unlawful price board conduct in the Victorian market (eg. false and misleading advertising) and consumers already have access to a wide and expanding range of timely fuel pricing information and technology applications to make informed and efficient fuel purchasing decisions.

Overall, AIP member companies are very concerned about the increasing burden of red tape and costs of doing business, as they strive to remain competitive in a challenging market environment, and unjustified regulation that imposes costs on business is strongly opposed by AIP and its members.

However, we note the Minister's concern expressed in the recent correspondence and the desire to take action to lead to "more informed decisions by consumers". We acknowledge that providing consistent information to consumers to make more efficient and safer fuel purchasing decisions on the road is a legitimate objective, but how this is implemented in practice and the resultant costs imposed on business is the critical consideration.

AIP and member companies have consistently advocated that IF price board regulation is to apply, it must:

- be 'proportional' to the identified problem or market failure, including
 - having no/low impacts on business and capital costs
 - being 'high level' – not overly prescriptive and with no onerous reporting/compliance burdens
- have clearly stated objectives
- be preferably nationally consistent – as AIP member companies operate across Australia
- be periodically reviewed to ensure it is achieving its objectives.

Any regulation must also be mindful of not encroaching into areas of legitimate and pro-competitive business operation, nor stifling business differentiation and innovation.

Against this background, only a light touch, low cost and low impact regulation could be justified.

The South Australian regulation appears to generally meet this benchmark, and we see the Minister's proposal as being a proportional response whilst helping to facilitate a move towards a more consistent regulatory approach across jurisdictions.

The South Australian price board regulation requires price boards, where they exist, to display only undiscounted prices, and for updates/changes to price boards and pump displays to be sequenced or simultaneous consistent with longstanding industry practice.

3.

Nonetheless, the application of the South Australian laws to Victoria will have a cost impact on industry.

The cost impact will vary across market operators depending on their business model and the specific price board and operational changes needed at individual service station sites. Such costs are generally expected to be manageable for AIP member companies compared to the NSW regulations which have imposed an estimated average cost per service station of \$30,000 - \$40,000.

The management of industry cost impacts and a smooth implementation can be assisted by a suitable transition period to comply – typically one to two years with new regulations.

We recommend the transition period should be determined in close consultation with the fuel retailers with extensive retail networks and loyalty/discount programs, who are particularly affected by the proposal. We expect the transitional period will be heavily influenced by the limited availability of manufacturing and other service providers, to fabricate and safely install the required changes to existing price boards at relevant retail sites. It would also help to allow a sufficient compliance period to fit with company capital planning and approval processes (which are already locked-in for 2016) and allow coordination with other site works to avoid the potential for service stations to be impacted multiple times.

While AIP members will not oppose the direct adoption of the South Australian regulations to Victoria if it is needed to meet Government imperatives, we will change our position if additional regulatory requirements are considered or included which impose unjustified capital and compliance costs on industry. For example, if the regulations are expanded to specify the number or type of fuels to be displayed on the price board, as this has a direct relationship to higher capital and implementation costs on business, as well as distorting business operation and innovation.

Thank you for the opportunity to provide our views to CAV through this AIP Submission. We appreciate the consultative approach to date of the Department and Minister's Office on this proposal, and we look forward to further consultation and advice on implementation and transitional details.

If you have any further questions in relation to AIP's Submission, you can contact me on (02) 6247 3044.

Yours sincerely

Nathan Dickens
Deputy CEO