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Mr Peter Graham  
Executive Director  
Consumer, Building and Occupational Services  
Department of Justice  
PO Box 56  
Rosny Park, TAS, 7018

Emailed via: [REDACTED]

Dear Mr Graham,

**Re: Caltex Australia feedback on draft Australian Consumer Law (Tasmania) (Code of Practice for Fuel Price Reporting) Regulations 2020**

Caltex Australia Petroleum Pty Ltd ('Caltex') would like to thank you for your correspondence dated 7 July 2020 and welcomes the opportunity to provide feedback to you on the draft *Australian Consumer Law (Tasmania) (Code of Practice for Fuel Price Reporting) Regulations 2020* ('the draft Regulations').

We welcome the proactive engagement which your team within the Department of Justice ('the Department') have had with industry representatives so far during the drafting process and in sharing information on how the fuel price reporting website will operate.

While we believe there is ample price transparency in Tasmania both through a number of independent, free, price comparison services and a number of company launched applications we support a regulatory approach which represents a 'light touch' approach as a means to manage compliance costs and ensure the integrity of the data provided to consumers.

Having had an opportunity to review the draft Regulations provided Caltex has included below some comments on provisions which we believe should be reviewed, and possibly amended or removed, to ensure the efficient operation of both the draft Regulations but also the fuel price reporting website once finalised.

In preparing this submission Caltex has also engaged with our branded resellers in Tasmania to seek their feedback as well and have sought to incorporate their comments into this document where aligned.

We recognise that the draft Regulations are in effect enabling regulations and that a majority of the work regarding the actual operation of the website will be conducted by the Department in the lead up to its launch.

Given it ensures a consistent approach with other jurisdictions we commend the Tasmanian Government on entering into an agreement to utilise the NSW FuelCheck system which can provide some level of efficiency compared to designing a new system.

We would hope that the Department will continue to engage proactively with industry participants on the implementation of the fuel price reporting website, including to ensure that both the API framework for bulk submission of prices, and other methods for submitting price changes are easy to use for all retailers.

#### Definition of a Fuel Retailer

The current definition of a fuel retailer included within the draft Regulations does not necessarily capture the party who is involved in setting the price at a service station.

While the definition in the draft Regulations would capture a majority of sites which are independently priced by the site's owners/operators (i.e. independent operators and resellers) it will possibly place liability for compliance on the incorrect party in franchise and commission agent arrangements.

Franchise and commission agent sites are service stations whereby one entity often operates the site under agreement with another who may supply fuel, and control the pricing of the fuel, but not carry on the business of supplying fuel for retail sale.

At a significant number of service stations now there is a level of automation between the Point of Sale System ('POS'), priceboard and bowsers that when a company, such as Caltex, looks to change prices at sites there is minimal need for staff interaction at sites.

This is a situation which we have encountered in other jurisdictions where we have sites which are part of the Caltex controlled network but are operated by a franchisee or commission agent.

Caltex recommends that there should be consideration given to broadening the definition of fuel retailer to capture parties which are engaged in the business of supplying fuel for retail sale and/or control the pricing of said fuel.

This change would provide some discretion to ensure that businesses which have no control in determining the price of fuel, and in some changes limited input at the point that a price change occurs, can provide for the price setter to submit prices on their behalf.

#### Reporting of Fuel Prices

Caltex notes that within the draft Regulation, under Clause 3(2)(i) there is the requirement for a fuel retailer to report their fuel prices on the commencement of trading by the fuel retailer.

Our interpretation of this clause is that each fuel retailer would need to report all of their fuel prices at the commencement of trading each day, irrespective of whether there has been a price change, except in circumstances where a site is operating 24/7.

Caltex would note that at some sites it is normal for fuel prices to remain at the same level for a number of days prior to any change given the local market characteristics.

This clause will impose a significant reporting burden on fuel retailers, especially in circumstances where prices have not changed since the preceding days trading, without improving the integrity of the prices collected.

Under Clause 3(1) of the draft Regulation there is already the obligation for a fuel retailer to report the standard retail price of the relevant fuels offered for sale.

It should be taken that any price listed on the fuel price reporting website remains valid and up to date, except whereby a price change has only recently occurred and the fuel retailer has an obligation to report the new price within 2 hours.

Implementation Period

We understand that the price of fuel for consumers represents a significant regular, and necessary, cost of living and that the frequency of purchase as well as constant media attention mean that fuel prices remain front of mind for consumer, the media and politicians.

We are supportive of the implementation of this fuel price reporting website, as we have been in other jurisdictions, however we recognise that in all other jurisdictions there has been a period of time immediately after implementation where both the systems employed by the Governments (i.e. FuelCheck, MyFuel NT, Informed Sources etc.) and systems employed by fuel retailer can encounter initial teething issues.

While the system employed by the Tasmanian Government will largely rely on the NSW FuelCheck system, Caltex would recommend that the Government announce an initial discretionary period where no fines or infringements will be issued to allow for any issues to be addressed and ensure the integrity of the system.

We recommend that a minimum 6 month implementation 'grace period' would reflect appropriate time for the chosen aggregator and fuel retailers to ensure that their systems are appropriately designed to ensure long term compliance.

Caltex commends the Tasmanian Government, and the department, on their work so far regarding the implementation of a fuel price reporting website, however we note that there is still a significant body of work required to be undertake to ensure the efficient collection and publishing of data.

Should you wish to discuss this further Caltex would be happy to make the relevant subject matter experts available to discuss the draft Regulation and the implementation of the fuel price reporting website.

Please feel free to contact [REDACTED], Advisor – Government and Industry Affairs, on [REDACTED] or via email at [REDACTED]

Kind Regards

**Prasad Kholkute**  
**Head of Retail Pricing**