

**27 July 2020**

Mr George Clarke  
Acting Executive Director  
Consumer Building and Occupational Services  
Department of Justice  
30 Gordons Hill Road  
ROSNY TAS 7018

By email: [haveyoursay@justice.tas.gov.au](mailto:haveyoursay@justice.tas.gov.au)

Dear Mr Clarke,

### **Real-time fuel price reporting scheme in Tasmania.**

Thank you for your letter of 17 July 2020 inviting ACAPMA to provide input on the draft Code of Practice for Fuel Price Reporting in Tasmania. The below is provided for your consideration.

#### **1. About ACAPMA**

The Australasian Convenience and Petroleum Marketers Association (ACAPMA) is the national peak body representing the interests of the petroleum distribution and the petrol-convenience retail industry. The Association is first and foremost an employer organisation that is formally recognised under Australian law as the industrial advocate for fuel marketing and fuel distribution businesses.

First established in 1976, the Association started operations as the Australian Petroleum Agents and Distributors Association (APADA) and subsequently changed its name to ACAPMA in 2007. The name change was accompanied by a change in the Association's Constitution to incorporate national representation of fuel retailers.

Today, the Association directly represents 95% of fuel distributors in the country and directly and indirectly (via franchisees and distributor-owned retailers) around 5400 of the 7200 service stations (i.e. 74%) operating in Australia.

The scope of ACAPMA's membership extends from 'refinery gate' through to the forecourt of Australia's national network of service stations and petrol convenience outlets – including fuel wholesale, fuel distributors, fuel retailers, petroleum equipment suppliers and petroleum service providers.

ACAPMA's member businesses range from Australian-owned subsidiaries of international companies, to large Australian-owned businesses, to independently owned mid-cap Australian companies, and small single retail site family-owned businesses.

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## 2. General Comments of proposed Fuel Price Reporting Regulations

ACAPMA is cautiously supportive of the Tasmanian Government's proposal to introduce a Code of Practice for Fuel Price Reporting for all fuel retailers operating in the State. This support is premised on the design and implementation of a scheme that fully accommodates the key principles cited below:

*a) Positive role of fuel price transparency:*

ACAPMA recognises that fuel price transparency is an essential element of an openly competitive fuel retail market in Australia. As such, State/Territory fuel price reporting schemes that are correctly designed and administered can assist with the achievement of this objective.

*b) Harmonisation of data requirements:*

Any fuel price reporting scheme should seek to harmonise data requirements with that of fuel reporting schemes already operating in other Australian jurisdictions (i.e. NSW and the Northern Territory) in terms of:

- the scope of data collection
- the data architecture used for reporting of data.

Any variance in the Tasmanian requirement risks increased compliance costs for fuel retailers with consequent upward pressure on fuel retail prices for consumers.

*c) Competitive neutrality:*

ACAPMA notes that market competition occurs at a *site level* in discrete local markets – and not at an *Enterprise level*. Accordingly, the scheme must be designed and enforced in a manner that guards against unintended adverse consequences in an already openly competitive market.

*d) Market credibility and proportionate enforcement.*

ACAPMA notes the negative market experiences in NSW and the Northern Territory (which are consistent with those observed in a recent study by the OECD) that fuel price reporting schemes are only credible if they are supported by a comprehensive enforcement regime. Such a regime is necessary to guard against the risk of distortions in existing market competition as a result of individual market participants 'gaming' the reporting scheme.

*e) Adequate implementation lead times.*

ACAPMA maintains that the industry should be afforded enough time to adapt to new reporting regulations, given the need to change business process and practices. Failure to provide enough lead time risks a high level of early non-compliance and/or short-term upward pressures on average fuel prices

*f) Avoidance of Information asymmetry.*

Fuel price reporting schemes mean that *real-time* fuel price information is made available to the public (i.e. consumers and fuel retailers alike). Consequently, the aggregated

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information must be published in a consistent manner and made available on an ‘*open access*’ basis.

### **3. Specific comments of proposed Fuel Price Reporting Regulations**

ACAPMA is concerned that the industry is being asked to comment on a proposed Regulation with little detail provided about how the proposed scheme will be administered. Within this context, the following comments are provided in respect of the Draft Code of Practice:

#### *a) Fuel retailer notification process*

Clause 3(2) of the Draft Regulation stipulates that fuel retailers must report fuel price changes *within 2 hours* of implementing a change in fuel prices *on the fuel price reporting website*. This provision appears to differ markedly from the characteristics that apply in all other Australian Jurisdictions which generally stipulate:

- a 30-minute window for notification only
- a requirement to notify the relevant authority of the price change only – as opposed to a requirement to post prices on a government website.

Further, experience with these types of laws in other Australian jurisdictions suggests that some fuel retailers will not be able to report electronically (i.e. due to remote area limitations). It is therefore suggested that provision should be made for fuel retailers to notify price changes by phone if necessary – as opposed to solely being required to record prices on a government website.

#### *b). Lead times for price reporting and commencement of laws*

ACAPMA notes that Clause 2 (1) stipulates different timing requirements for business registration, depending on whether the business was trading before or after the ‘commencement day’ for the new Regulation. It is suggested that Clause 2(1)(b) be modified to require registration within 14 days of business commencement.

It is also noted that there are no details on the proposed timeline between the finalisation of the scheme and the commencement of the laws. It is suggested that, as a minimum, the industry should be afforded 3-months’ notice of regulation commencement - to ensure that internal systems and reporting protocols can be developed for compliance purposes (Note that this timeframe assumes that the Tasmanian system will utilise the same API Data Protocols as used in other Australian States. If this is not the intent, then the lead times will likely have to be longer).

#### *c). Enforcement activities*

Experience with current reporting schemes (e.g. NSW, NT and QLD) indicates that unintended consequences can arise for consumers if fuel price reporting laws are not supported by an adequate compliance regime.

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While we appreciate that this consideration is outside the scope of the draft Code of Practice, we believe that the design of the Code should be developed around a model for enforcement – the details of which are not known at this stage.

#### **4. Further Information**

The above feedback is provided for your consideration. Should you wish to discuss any aspect of the above, please contact me on [REDACTED]. We look forward to working with your Department (and other stakeholders) on the development of the Code of Practice to satisfy the goals of the Tasmanian government, while simultaneously guarding against unintended adverse consequences on the Tasmanian Retail Fuel Market.

Thank you for the opportunity to comment on this matter.

Yours sincerely,



Mark McKenzie  
Chief Executive Officer

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