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Gavin Jackman

Director, Government Affairs

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Senate Economics Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam

Re: Inquiry into the Trade Practices Amendment (Guaranteed Lowest Prices - Blacktown Amendment) Bill 2009

BP Australia Pty Ltd (BP) welcomes the opportunity to provide a submission to the Senate Economics Committee's Inquiry into the Trade Practices Amendment (Guaranteed Lowest Prices) Bill 2009 (Blacktown Amendment).

BP is opposed to the proposed Blacktown Amendment requiring that a company must sell products at the same price they are offered for sale at the same time at all their retail outlets within a distance of 35km.

BP rejects the notion that competition policy should be used to pursue sectoral protectionism under any circumstances. The negative impact on consumers in the long-term and on future business investment decisions could be severe if sectoral interests are protected against true competition.

The prohibition against price discrimination was abolished in 1995 following recommendations of the Hilmer Commission (1993) which recognised that price discrimination may be pro-competitive and that any anti-competitive issues can be dealt with under sections 45 and 46 of the Trade Practices Act (TPA).

While the proposed Amendment may have the intention of ensuring that consumers have the benefits of guaranteed lowest price within a particular area, it is unlikely that this will result in lower prices overall as the restrictions on price flexibility will severely inhibit truly competitive behaviour, leading to inefficient outcomes.

Further, BP is also concerned about 'creeping' amendments for the purpose of addressing specific issues, including petrol pricing, as they distort the broad

competition intentions underlying the TPA. This is clearly stated in the Dawson Report (2003): "Competition provisions should protect the competitive process rather than particular competitors. They should not be seen as a means of achieving other social or organisational objectives that are not able to withstand competitive forces. The regulation of competition should be distinguished from industry policy." (p 39)

BP is concerned that the proposed Blacktown Amendment discriminates against operators who own multiple outlets. BP sets the retail price of petrol at around 240 service station sites which BP owns and operates but many independent operators (dealers) own more than one site carrying the BP brand. For example, when setting retail prices, the restrictions imposed by the Blacktown Amendment may see BP (and other multi-site retailers) unable to respond to direct local competition at particular sites by removing our ability to lower prices to match those offered by other fuel retailers without offering the same prices over potentially vast geographic areas with very different costs and competitive forces.

Similarly, the operation of the Amendment could also result in artificially inflating petrol prices across a market as increases in price at one specific site or area may flow through to the rest of the market, resulting in increased costs to consumers.

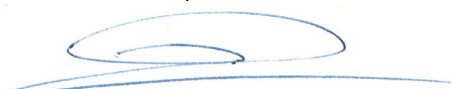
In fact, businesses with numerous sites located within close proximity could find the 35km zone extends indefinitely, further inhibiting competition. Individual sites have their own economic drivers, with sites with higher volumes spreading their operating costs across higher volume sales. Sites located on urban fringes, for example, that are more local than transient, often have their operating economics based on lower sales and higher margins. The viability of these sites, many of whom are independents, could be threatened if the lower prices associated with higher volume sites became the market norm in those local areas as a result of legislation.

BP is concerned about these unintended impacts of the Blacktown Amendment on independent fuel retailers because these are the dealers and distributors who own and operate or supply BP branded sites. Aside from being a fuel retailer, a significant part of BP's business is as a fuel wholesaler. In addition to the service station sites owned and operated by BP, there are over a thousand sites that carry the BP logo which are independently owned and operated and thus BP does not set retail prices.

In summary, BP believes that the Blacktown Amendment would be a retrograde step for competition policy in Australia and would likely be detrimental to both consumers and business alike, now and in the longer term.

Please feel free to contact me on 03 9268 3854 or gavin.jackman@bp.com if I can be of further assistance.

Yours sincerely



Gavin Jackman