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Committee Secretary
Standing Committee on Economics
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

Re: Competition and Consumer (Price Signalling) Amendment Bill 2010

RAA welcomes the opportunity to make comment on the Opposition's Private Member's Bill, which relates to anti-competitive price signalling within the Competition and Consumer Act, referred herein as the *Bill*.

Comment on this *Bill* has also been provided by the Australian Automobile Association (AAA) on behalf of its constituent clubs in Australia. RAA as one of those clubs supports the content of that submission and provides this supplementary submission, on behalf of its South Australian membership.

BACKGROUND

The RAA is South Australia's peak motoring body, representing the views and interests of this state's nearly 600,000 members. As such, RAA is the principal advocate for road users on a very broad range of motoring-related issues, in particular fuel supply and pricing.

RAA provides a comprehensive fuel advisory and information service to RAA members, the general public, media, industry stakeholders and the private sector. It is noteworthy that government agencies also approach the RAA from time to time for current and historical data as they are unable to easily source this information elsewhere.

The RAA aims to make the South Australian fuel retail market as transparent as possible, through the provision of its own comprehensive website, the maintaining of detailed information on all matters relating to fuel prices, and through its assistance to RAA members with specific fuel related information. Fuel data is collected and analysed daily including; regional and global benchmark commodity prices, exchange rates, local and interstate Terminal Gate Prices, local, interstate and regional retail averages, fuel demand, supply and production, and weekly fuel shipping movements.

On average, the RAA fields ten phone calls per day from RAA members and the public on fuel-related issues. During peak periods (ie. periods of intense media coverage and speculation), this would increase to one telephone call every ten minutes in addition to 10-15 media/stakeholder enquiries per day.

GENERAL COMMENTS

The RAA believes that market forces should dictate the price of fuel and should reflect the cost of production, cost of supplying fuel to different markets, and the degree of competition that exists in those markets. A free, open and transparent competitive market for products and services serves the best interests of consumers.

RAA understands the initial intent of the *Bill* is to eliminate anti-competitive price signalling specifically within the Banking sector, however this amendment would apply to all sectors including the petroleum industry.

RAA in this submission seeks to provide proactive input in the debate regarding the possible consequences on South Australian motorists should this occur.

The RAA advocates for full price transparency for petroleum fuels and welcomes increased transparency via the provision of real time pricing data thereby allowing motorists to search and purchase fuel at the lowest possible price.

BILL – DISCUSSION

Anti-Competitive Price Signalling

The ACCC has identified anti-competitive price signalling in the petroleum industry as a key concern, specifically when market participants rise to the peak of the weekly fuel cycle. RAA shares these concerns that this behaviour allows participants to shift to the peak price in the weekly fuel cycle in a concentrated and coordinated manner. The ACCC has indicated that an intermediary facilitates the exchange of pricing information in near real-time, assisting competitors to behave in this way.

RAA members constantly seek information about fuel prices. The RAA asserts that the provision of this information, either by the fuel companies themselves or through an intermediary, should be made publicly available as this would provide a 'level playing field' and enhance consumer information about fuel prices.

RAA is very active in its provision of information to South Australian motorists. To enable them to make informed decisions about when and where to purchase fuel, RAA provides daily fuel price information via its website and through the media.

Communicating Price-Related Information

The *Bill* proposes to prohibit the communication of price-related information if it *“announces, transmits or imparts it in any form, and by any means, direct or indirect, public or private, including by way of public announcement”*.

In its capacity as a motorist advocate, the RAA receives information directly from the petroleum industry and via intermediaries and uses this information to advise and educate its members on the weekly fuel cycle, anticipated price changes and provide commentary on the petroleum industry within South Australia. Under the *Bill*, the RAA has concerns the petroleum industry may be forced to restrict the availability of information, to the detriment of consumers. It is the RAA's firm view that consumer information should not be negatively affected by the *Bill* and that at least the current level of information should remain available.

Disclosure of Information Even when Public

The petroleum industry advertises its fuel prices via street billboards. RAA believes street billboards must not be affected by this *Bill*, as it would have a likely negative impact on consumer choice.

Ongoing Price Signalling

RAA considers that the application of the *Bill* on the petroleum industry may not prevent coordinated behaviour in the peak of the weekly fuel cycle, rather it may lengthen the time the industry takes to move to a different price.

The weekly fuel cycle has existed in Adelaide well before major fuel retailers could assess competitor's prices in near real-time, as is currently the case. If this portal of information available to the major fuel retailers discontinued, the industry would revert back to manual collection methods utilising billboards. Therefore the exchange of prices amongst competitors would still exist, but motorist's ability to access fuel price information could be negatively affected.

Disclosure of Historical Information

The *Bill* does not specifically exclude the disclosure of historical pricing information. RAA considers that the public release of historical pricing information that is not commercially sensitive would provide a public benefit. Historical information would enable motorists to make informed decisions regarding when and where they purchase their fuel in the future by detecting pricing trends.

Disclosure of Information to New Customers

The exclusions within the *Bill* provide that a corporation can communicate information to existing customers or suppliers, however there is no specific exclusion to cover information given to a new customer. A new customer may wish to access and compare various suppliers' terms of supply for a product or service to access a more competitive arrangement based on quantity purchased. Consideration needs to be given to any unintended consequences of the *Bill* which in fact penalise new entrants to the market or new customers to another supplier.

CONCLUSION

RAA maintains that any change to competition legislation that includes the petroleum industry must provide clear benefit to the motoring public, and undergo rigorous assessment and debate.

RAA would welcome increased transparency in the petroleum industry that provides the lowest possible price for motorists, including the provision of real-time comprehensive fuel pricing data to consumers.

Yours sincerely



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