GOVERNMENT SENATORS' DISSENTING REPORT

1. The Government Senators emphatically reject the conclusions and recommendations of the main report.

2. While the majority fairly reports the evidence given to the Committee, its conclusions and recommendations are not supported by that evidence and indeed fly in the face of it.

3. Government Senators share the majority's desire to achieve lower petrol prices for hard pressed consumers, particularly those in country areas. However, the bill, if passed, would not achieve that objective and in reality would probably lead to higher prices.

4. The bill would introduce more restrictive arrangements in retail petroleum markets and would not lead to open competition. Most particularly, the bill would stymie the reforms that are widely recognised as necessary, reforms that the Government has already sought to introduce through the proposed Oilcode and the Petroleum Retail Legislation Repeal Bill 1998.

5. The view of the Government Senators is that the Government's proposed reforms would have the effect of increasing efficiency, competition and equity in the market. It is only the intransigence of the Opposition parties that prevents that package from being introduced.

6. The majority report contains a number of fundamental flaws. It recognises but does not adequately address the substantial legal and equity problems with the bill, namely that it is most likely unconstitutional and that it would involve the trampling of legitimate property rights of one group of industry participants. As a result, the bill in its present form would almost certainly be subject to challenge in the courts.

7. Even if the bill were amended to make it less subject to challenge, it would still be unlikely to have the effect intended. This is because acquisition of property rights can only occur on 'just terms' and the extra charges that the oil companies would have to introduce in order to compensate for the loss of their property rights would very likely cancel out any gains made by franchisees.

8. Government Senators consider that the bill is a quick-fix arrangement that completely ignores the long-term costs. Specifically, oil companies own the sites, tanks, pumps and other infrastructure of the franchised service stations. If they are forced to allow the sale of other companies' products through their sites, they will have no incentive to support their franchisees. In the long term, franchisees are likely to be worse off and petrol prices are likely to be higher.

9. The majority also virtually ignores the fact that there is obviously already a high degree of competition in petroleum markets, both between the oil majors and between them and the independents.

10. The low profitability of most of the oil majors on refining provides compelling evidence of the vigorous nature of this competition. When it comes to particular refineries in

particular markets, introduction of the bill is likely to hasten the closure of marginal refineries and make marginal several others. The report summarily dismisses the concerns of the oil majors while making no attempt to address them.

11. The report ignores the fact that the majority of industry groups are opposed to the bill or do not believe that it will have the effect that is intended. The only group that appears to believe the bill has any chance of success is the Motor Trades Association of Australia.

12. Government Senators do not think the bill would do anything to ease pressure on rural petrol markets. The structural and competition difficulties that underlie the problems in the rural petrol market are complex and the bill does nothing to address them. Franchised petrol stations, the target of the bill, are relatively uncommon in rural areas. The vast majority of franchised stations operate in the city.

13. The bill would break quality control links between the refiner and their franchised sites. Refiners cannot be expected to be responsible for the quality of fuel if they have no control over where franchisees obtain that fuel.

14. Government Senators also note that the majority seeks to limit the impact of multi-site franchising by restricting the number of sites any one franchisee may control. However, there is no evidence that multi-site franchisees operate in an anti-competitive manner. Further, the ACCC has observed '…no price effects…from the effects of multi-site franchises'.[1] Accordingly, the majority's proposals, if passed, would be discriminatory and unwarranted.

15. In conclusion, Government Senators consider that this bill is so fundamentally flawed in principle that no responsible Government would introduce it into Parliament. They believe that the Labor Party introduced the bill into the House of Representatives as part of a political ploy and with no intention of seeing it enacted.

Recommendation

The Government Senators recommend that the bill not be re-introduced into either House of Parliament.

Government Senators further recommend that the Government re-introduce the Petroleum Retail Legislation Repeal Bill 1998 and adopt the majority recommendations contained in the Report by the Senate Rural and Regional Affairs and Transport Legislation Committee on that bill.

Senator Winston Crane   Senator Grant Chapman

1 ACCC, Inquiry into the Petroleum Products Declaration, August 1996.

Senator for Western Australia

Senator for South Australia