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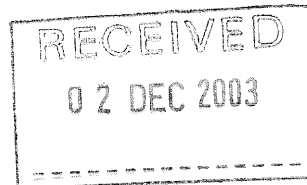
Motor Trades Association of Australia


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No. of Pages: 15

To: <i>Sen Stephens</i>	From: <i>M Delaney</i>
Date: <i>2/12/03</i>	Fax No: 02 6273 2738
Fax No: <i>6277 5719</i>	Phone No: 02 6273 4333

Senator Ursula Stephens
Chair
Economics References Committee
The Senate
Parliament House
CANBERRA ACT 2600



Dear Senator Stephens

I write in relation your Committee's inquiry into the Effectiveness of the *Trade Practices Act 1974* in Protecting Small Business.

I understand that in a supplementary submission to your Committee, the National Association of Retail Grocers of Australia (NARGA) has indicated that it has concerns about the impact of the shopper docket fuel discount arrangements on the retail petrol market. NARGA has also, I understand, indicated that it is concerned about possible cross subsidisation of the fuel discount between fuel retailing and grocery and other retailing businesses.

As the national representative association of some 80,000 retail motor trade businesses, including, relevantly, some 8,000 service station operators, MTAA is also disturbed about the impact of the arrangements between Shell and Coles Myer and the proposed arrangements between Caltex and Woolworths on the retail petroleum market. Both of those arrangements include of course 'shopper docket' discount vouchers. In the case of Caltex and Woolworths the proposed arrangements effectively establish a second retail network in competition with the current Caltex franchisee network. MTAA believes that Caltex's action in doing that is unconscionable and will result (and has already resulted) in a devaluing of the Caltex franchisees' businesses.

I have attached for your Committee's consideration copies of MTAA's submissions to the Australian Competition and Consumer Commission in relation to the Shell Coles Myer third line forcing notification (the shopper docket arrangement), the proposed Caltex Woolworths joint venture arrangement and the Caltex Woolworths third line forcing notification (again, relating to their shopper docket arrangement).

As I indicated to you in my letter of 30 October, *'the move towards a retail duopoly (Woolworths and Coles Myer) and issues of 'below cost selling' and the structural changes that are occurring and will continue to do so, in the petroleum industry are, we believe, relevant to your current inquiry. In fact the underlying issues of market power and the role that independent operators play in the market (be that in the retail petroleum sector, the grocery sector, the liquor sector or many others) are at the core of many of the submissions to your inquiry.*

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- 2 -

MTAA's view is that unless there is a recognition of the contribution that small business can make to our society and there are changes to the Trade Practices Act which reflect that view, our economy will be dominated by a few very large corporations and the competitive force of independent operators will have been lost; and that will be to the detriment of consumers.'

I trust that you will find the attached papers of interest.

If you require any further information please do not hesitate to contact me.

Yours sincerely



MICHAEL DELANEY
Executive Director

2 December 2003

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No. of Pages: 5

To: Mr Tim Grimwade	From: Steve Scank
Date: 28/8/03	Fax No: 02 6273 2738
Fax No: 6273 1211	Phone No: 02 6273 4333

Motor Trades Association of Australia

Mr Tim Grimwade
 General Manager
 Adjudication Branch
 Australian Competition and Consumer Commission
 PO Box 1199
 DICKSON ACT 2600

Dear Mr Grimwade

The Commission wrote to MTAA on 21 July 2003 advising of third line forcing applications it had recently received relating to the petrol and grocery retailing sectors and seeking comment on those applications. This submission relates to notifications lodged by Shell (N40573) and Eureka Operations Pty Ltd (N91137). MTAA understands that the Commission considers all third line forcing notifications on a case by case basis.

As MTAA understands matters, the arrangement between Coles Myer, Eureka and Shell is as follows:

- Coles Myer has effectively purchased, from Shell multi-site franchisees, the rights to operate 584 Shell service stations nationally;
- a fully owned subsidiary of Coles Myer, Eureka Operations Pty Ltd will operate the service stations;
- Shell will supply fuel products to the Eureka operated sites (though LPG will be supplied by Shell Gas (LPG) Australia Pty Ltd) under a what we believe is a 10 year supply arrangement;
- Coles Myer will supply convenience store products to the sites involved in the arrangement;
- motorists who spend a specified amount or more (currently \$30.00) at Coles supermarkets, Bi-Lo supermarkets and Liquorland will receive a voucher which can be exchanged at the Shell/Coles sites for a fixed discount (currently 4 cents per litre) off the price of petrol;

There are a number of Shell branded independent operators in the petroleum market who will not be part of this arrangement. MTAA understands that Shell also supplies fuel to some other independent groups; for example Matilda (who operate mainly in Queensland). It is particularly important that Shell remains committed to supporting and supplying both those client groups.

A significant number of retail service stations and supermarket outlets have in the past notified the Commission (and continue to do so) of third line forcing conduct whereby the service station agrees to offer motorists a discount off the retail price of fuel if the motorist

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- 2 -

has a voucher from the supermarket. MTAA has never opposed those notifications as they have generally involved one service station and a nearby supermarket and have been seen to benefit the operators of the service station and the supermarket as well as motorists. The arrangement has been mostly been specific to the two outlets involved.

MTAA is concerned however that the Shell/Coles Myer arrangement and now also the recently announced Caltex/Woolworths joint venture arrangement will result in a fundamental restructuring of the retail petroleum market. That restructuring is likely to see a significant reduction in the number of small, independent operators in the market (thus removing a strong competitive element from the market), possibly see one refiner/marketer exit from the Australian market altogether and which is likely to largely remove any real competitive threat to the domestic refiners from imported fuel; all of which will result in a retail petroleum market dominated by two supermarkets and two to three refiners.

These changes are not in MTAA's view principally being driven by the oil majors competing for each other's market share (although some are clearly winners from these alliances), but more by the desire of the two dominant retailers to secure a greater share of the retail spend, by attracting more customers to their supermarkets (and their other outlets which offer the fuel discount to customers).

Ultimately the cost of the discount schemes must be borne by consumers; in this particular case it will be all Coles supermarket and certain liquor store customers; not just by those who redeem their vouchers at service stations. Motorists benefit from low fuel prices; however it is likely that a large percentage of motorists would spend more at the supermarket each week than on petrol and MTAA would assume that the cost of the fuel discount will be recovered by the retailers in their general supermarket pricing.

The changes which will occur in the retail petroleum market as the Shell/Coles Myer arrangement is progressively 'rolled-out' around the country and as the Caltex/Woolworths joint venture arrangement is established, are largely being facilitated by the existence of the fuel discount offers. The outcome will most probably be disastrous for small service station operators, but will also affect competition in a number of markets; including the importation of fuel, the supply of grocery and other convenience store items to convenience stores covered by the two arrangements, the retail petroleum market through increasing concentration and in the wholesale market for fuel through the exclusive supply arrangements entered into by Shell and Coles Myer and by Caltex and Woolworths.

MTAA has been concerned for some time about the increasingly concentrated nature of many markets in our economy. The seeming inability of the merger provisions of the Trade Practices Act to address the issue of 'creeping acquisitions' has been a matter of concern, particularly to those involved in the retail sector, for some time. The arrangements between Shell and Coles Myer and the announced proposed joint venture between Caltex and Woolworths has, and will, deliver a significant new market to each of the supermarket retailers; allowing them to further increase their already significant share of consumer spending and to also increase the level of concentration in the grocery market.

Finally we would only add that while the Shell/Coles Myer (and the proposed Caltex/Woolworths) fuel discount voucher would appear to offer a short-term benefit to motorists, the Commission should consider the wider competition issues, outlined above, associated with their introduction. Ultimately it is likely that small, and particularly

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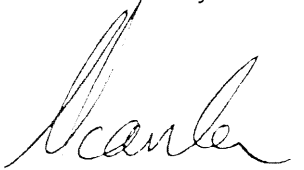
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independent, service station operators will be unable to compete with the 'offer' presented by the two strategic alliances. Service station operators, as the Commission is already aware, operate on very slim retail margins and in fact many franchisees in metropolitan areas receive price and/or profitability support from their franchisor in order to be able to compete. Service station operators are very concerned about below cost selling of fuel by the supermarkets in particular. Small service station operators make their livelihood from their service station – selling fuel and convenience store items and in some cases from workshops, car washes, trailer hire and so on. Small operators do not have the opportunity to subsidise their service station activities from supermarket and discount store sales. For small service station operators fewer forecourt sales (because market share is being eroded through the voucher arrangements) means fewer customers in their convenience stores; a combination which we believe will see many of those operators exit the sector and thus ultimately damaging competition.

MTAA has no objection to this correspondence being placed on the Commission's public register.

If you would like to discuss any of the concerns that we have raised, please do not hesitate to contact me.

Yours sincerely



SUE SCANLAN
General Manager - Policy and Operations

28 August 2003

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No. of Pages: 6

To: M Pearson	From: M Delaney
Date: 07/10/03	Fax No: 02 6273 2738
Fax No: 6243 1212	Phone No: 02 6273 4333

Motor Trades Association of Australia

Mr Mark Pearson
 General Manager
 Merger & Asset Sales
 Australian Competition and Consumer Commission
 PO Box 1199
 DICKSON ACT 2602

Dear Mr Pearson

Thank you for your letter of 1 October 2003 seeking MTAA's comments on the proposed joint venture arrangement between Caltex and Woolworths.

MTAA and its Member Associations have a number of concerns about this proposed joint venture and for the reasons set out below, believe that the Commission should deny approval for the proposed Caltex and Woolworths alliance.

Based on the information available to MTAA about the proposed joint venture, I provide the following responses to the issues raised at attachment B of your letter:

1. Market Definition

MTAA believes that the proposed joint venture arrangement will have an impact on the:

- petroleum wholesale market – under the joint venture (JV) arrangement it is proposed that Caltex will supply fuel to the joint venture sites which includes a large number of Woolworths sites previously supplied by independents (for example Trafigura). That market will now be lost to the independent wholesalers;
- petroleum retail market – MTAA believes that the proposed joint venture will have a significant impact on the viability of those Caltex/Ampol branded sites that are not part of the JV arrangement and also on other independents in the retail market; and
- grocery wholesale market – the information available to MTAA suggests that Woolworths will supply all Caltex and Ampol branded sites that have convenience stores, not just those sites within the JV. MTAA believes that will effectively remove some wholesalers from the convenience store market.

Obviously the proposed JV is intended to operate nationally and the impact on competition in the various markets must be assessed at that level. However, the impact on state, regional and local markets must also be assessed – particularly in relation to areas where there is an already existing Woolworths petrol outlet and there

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- 2 -

are also Caltex and Ampol branded outlets in the same locality. Competition between Woolworths and those Caltex/Ampol sites in the JV will effectively cease.

2. Market Concentration

MTAA estimates that Woolworths has somewhere in the vicinity of 10 to 15 per cent of the retail petroleum market; an approximate estimate of 11 per cent is considered reasonable. It is difficult to estimate the market share of the Woolworths Caltex co-branded sites post the establishment of the joint venture as little information is available about which Caltex sites are to be placed into the joint venture. However, some estimates from Caltex dealers suggest that the market share of the JV may well exceed 30 per cent. That figure includes the current Woolworths market share, the up to 161 sites that Caltex is proposed to contribute to the JV and additional volume 'acquired' by the JV sites at the expense of those in the Caltex/Ampol network who are not able to accept the discount voucher. It is expected that there will be a significant shift in customers from those sites outside the JV to those 'inside' the JV.

MTAA would expect that the loss of supply by independent wholesalers (particularly Trafigura) to Woolworths sites will have a significant detrimental impact on those companies. In addition to the stated 1680 Caltex and Ampol branded sites in its current network, by this JV, Caltex will secure a guaranteed supply arrangement for at least three years for an additional 289 sites. In MTAA's view that must impact on competition in the wholesale (including imports) market.

For a wholesale (including the importing of fuel) business to be viable the wholesaler/importer requires a relatively stable (in terms of numbers and volumes) retail network through which the fuel can be sold. Without a substantial retail network available, MTAA believes that it is questionable as to whether importing of fuel by independent wholesalers (as opposed to the oil majors) will continue in Australia.

Information on retail market shares in the oil industry is not readily available. However, MTAA would expect that once the national 'roll-out' of the Shell Coles Myer alliance is complete and the Caltex Woolworths Joint Venture is established, those two entities will be the dominant parties in the fuel retail sector. In MTAA's view it is likely that those two entities will control over 50 per cent of retail sales of petrol. MTAA believes that part of that market share will be attributable to the transfer of customers away from sites that are not able to accept the discount voucher to those sites that do accept them.

3. Barriers to Entry

As previously mentioned, MTAA believes that one barrier to entry to the wholesale fuel market is the ability to secure access to a relatively stable network of retail outlets. Without that security, independent imports of fuel in particular, would seem to be in jeopardy.

In addition, in relation to barriers to entry to the retail sector, there are two issues in particular which need to be taken into account. They are that the one essential element in retailing petrol is the ability to secure supply; either from an independent

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- 3 -

wholesaler or an oil major. Any reduction in the volume of fuel available to be marketed to independent retailers is therefore likely to be a barrier to entry. However, MTAA believes now that the biggest barrier to entry in the retail market is the existence of the supermarket petrol discount vouchers. That is, the impact on the market of the discount vouchers is likely to result in a shift in volume from those sites not able to accept the vouchers to those sites that can. MTAA does not believe that those sites outside the discount voucher arrangements will be able to match the discounted price and therefore that will act as a disincentive to new market entrants.

MTAA believes that the inability of retailers to buy at a competitive wholesale price is likely to also act as a barrier to entry to the retail market. If retailers are unable to purchase their fuel at a competitive wholesale price and are also being 'squeezed' on their retail prices by the market activities of the Shell/Coles Myer and the proposed Caltex/Woolworths outlets then clearly potential new entrants will be deterred.

4. **Import Competition**

MTAA understands that the changes to the fuel standard which come into force on 1 January 2004 are of concern to the fuel importers. MTAA understands that the importers are concerned that they will not be able to access competitively priced MTBE-free fuel in our international region from that date. However, accepting that that may be a matter of concern, we would make the point that there are for our members environmental risks associated with fuel that contains MTBE.

While the 1 January 2004 changes to the fuel standards may impact on fuel imports, MTAA believes that the bigger threat to the independent importation of fuel into Australia is actually this proposed joint venture and the exclusive Caltex supply deal which is part of the JV arrangement.

As stated earlier, MTAA understands that one importer, Trafigura, is/was a major supplier to the Woolworths network and that in fact Woolworths is/was Trafigura's major customer. MTAA understands that in Victoria, 70 per cent of Woolworths/Safeway fuel is currently imported.

We would point out that not all fuel imported into Australia is imported by independents. In the past it has been estimated that about half of the total volume of fuel imported is actually imported by the oil majors.

5. **Countervailing Power**

In MTAA's view, Caltex and Ampol branded service station operators (Caltex's wholesale customers) have no countervailing power. For those sites, particularly franchised sites, that will be outside the joint venture, the new arrangements will substantially and irrevocably, damage their business. The damage that this arrangement will do to individual operators who entered in good faith into a franchise agreement with Caltex, only to see the value of their business now substantially diminished by the actions of their franchisor, is of particular concern to MTAA.

02 62732738

- 4 -

Ultimately damage to competitors damages competition and MTAA believes that this proposed joint venture will result in a significant number of non-joint venture operators exiting the market.

6. **Vigorous and Effective Competitor**

In MTAA's experience Woolworths has aggressively pursued market share. It has at times offered discounts greater than four cents per litre. When the Shell Coles Myer alliance commenced operations in Victoria at the end of July, the Shell/Coles service stations were in some locations posting a 'board' price lower than the price at which the Shell independents could purchase fuel from Shell. Motorists could then use their supermarket discount vouchers at the Shell/Coles sites thus making the fuel four cents per litre cheaper and of course at the same time, placing even more pressure on those sites which could not accept the discount vouchers.

MTAA believes that as the Shell/Coles Myer arrangement is 'rolled out' nationally and the Caltex Woolworths joint venture is established, and both parties seek to establish and increase their supermarket customer loyalty, there will be a petrol price war. While in the short term that may benefit motorists, it will place even greater pressure on the non-supermarket service stations. As those operators leave the market and the supermarkets establish the customer base, there will be fewer competitors in the fuel market and the likely outcome will be a general rise in fuel prices. MTAA fears that grocery prices are likely to increase to offset the 'costs' associated with the discount voucher arrangements and a fuel price war.

MTAA sees the joint venture arrangement as effectively joining Woolworths and Caltex as a competitive force, but substantially weakening as a competitive force those Caltex and Ampol sites which are outside the joint venture arrangement.

Prior to the joint venture, Caltex would have competed with all other wholesalers to secure supply arrangements for the Woolworths outlets. With Caltex now to be the sole supplier to Woolworths that competitive pressure at both wholesale and retail is removed. At retail, Caltex and Ampol branded sites would have competed with all other retailers including Woolworths and pricing decisions would have been made by the different entities. Now Woolworths is said to be making the pricing decisions in relation to 450 (instead of its current 290) sites.

In addition Woolworths is proposed now to supply and thus to have quite some influence over the convenience store business of, according to the information provided by the Commission, some 1680 Caltex stores outside the joint venture arrangement.

7. **Dynamic Characteristics of the Market**

MTAA believes that the new alliances between Shell and Coles Myer and between Caltex and Woolworths will result in irrevocable structural change in the petroleum industry; and not just at the retail level. MTAA believes that it is likely that as a result of the entry of Coles Myer to the petrol market and the significant expansion of the Woolworths arrangement through this proposed JV that we shall see service station operators outside those networks face increasing difficulty in competing on

02 62732738

- 5 -

retail prices and they will face further reductions in their, already slim, retail margins. If those service station operators are not able to attract motorists to their sites because they are not able to compete with the discount offered by the supermarkets, then those sites will also lose convenience store trade. MTAA would then expect that many smaller service station operators will leave the market. That outcome will eventually not be good for competition in the retail petroleum market.

The ACCC has generally encouraged the continued existence of a large, and indeed growing, independent sector in the oil industry. Many such sites were formerly company owned and their continued presence in the market attests to the interests of small business operators seeking to run competitive businesses in this sector. The Commission needs to be assured that this JV will not result in the widespread closure of such sites.

MTAA believes that the likely result of that will be a retail petroleum industry dominated by two supermarkets and two, perhaps three, domestic refiners. That is, MTAA would not be surprised if one of the oil majors exited the retail and refining markets.

8. Pricing

In relation to pricing matters, MTAA believes that the issue is not who leads prices up or down. The important issue now in the face of the much expanded role of supermarkets in the petroleum industry is that small operators, in our view, are unlikely to be able to purchase fuel at a price which will allow them to compete at retail. Even if smaller retailers are able to post a retail price which is competitive with the retail price posted by Shell/Coles Myer and or Caltex/Woolworths, the smaller retailers still face the issue of the discount voucher arrangement which allows motorists to access fuel at a price against which the smaller retailer will be unlikely to be able to compete.

The experience in Victoria with the commencement of the Shell/Coles Myer alliance is that there has been quite a shift in volume from those sites which are not able to accept the discount voucher to those sites where the discount voucher is accepted.

MTAA is concerned that the two large retailers see fuel retailing as an opportunity to secure customer loyalty in their supermarkets. It is seen by them as 'boosting' their offer. MTAA is further concerned that fuel retailing could be seen by those retailers as being a 'loss leader'; with the 'cost' of that to the retailers being offset elsewhere in the business. However, small service station operators have no such opportunity for such cross subsidisation and if motorists are not entering their sites to buy fuel, they are also unlikely to enter the site to purchase goods from the convenience store; particularly when the supermarket fuel outlets also have significant convenience stores.

A further point that MTAA would like to make in relation to both the Shell/Coles Myer and the Caltex/Woolworths fuel outlets is that it has been separately announced that in both arrangements; Coles and Woolworths respectively, they will set the retail pump prices. It would seem then that in relation to the proposed 584 Shell/Coles Myer outlets, retail pricing decisions will be made by one entity, that is the Coles

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- 6 -

Myer subsidiary company that is to operate the sites. In respect of the proposed 450 sites under the Caltex/Woolworths JV, pricing decisions for those sites are to be made by Woolworths. MTAA believes that is a fairly serious concentration of pricing power, which is not, we would believe, in the best interests of consumers.

9. **Other Factors**

MTAA is particularly concerned about the impact of the proposed JV arrangement on the Caltex and Ampol branded sites, particularly the franchised sites, which are not to be included in the new arrangement. Franchisees need to be able to continue to operate on the basis on which they purchased; that is as a profitable franchise. The Caltex and Woolworths agreement should not be allowed to affect franchisees' opportunity to continue making a profit. Caltex franchisees did not enter into those agreements on the basis that their franchisor would substantially devalue their business. MTAA believes that if this joint venture is to proceed, Caltex should be required to offer all franchisees the opportunity to exit their business, with a compensatory payment which is based on the value of those businesses prior to the announcement of the proposed joint venture.

I have no objection to this correspondence being placed on the Commission's public register.

Please do not hesitate to contact me if you require any further information.

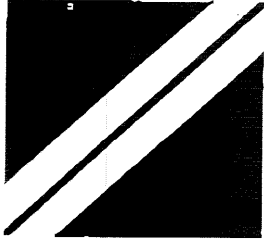
Your sincerely



MICHAEL DELANEY
Executive Director

10 October 2003

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No. of Pages: 4

To: S. Chenoweth	From: M. B. Boney
Date: 20/10/03	Fax No: 02 6273 2738
Fax No: 6243 1211	Phone No: 02 6273 4333

Motor Trades Association of Australia

Ms Stephanie Chenoweth
Acting Director
Adjudication Branch
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Dear Ms Chenoweth

Thank you for your letter of 21 October 2003 seeking comments from MTAA on the third line forcing notification (N31261) lodged by JVC2 Pty Limited (the joint venture company established by Woolworths and Caltex).

MTAA understands that the conduct the subject of the notification involves the offer and supply of fuel by JVC2 Pty Ltd at a discounted price on the condition that the customer has purchased goods of not less than a nominated amount from Woolworths (including Big W) and Safeway stores.

MTAA believes that the Commission should revoke immunity from prosecution in relation to this notification. MTAA does not believe that the public benefits from this proposed arrangement will outweigh the public detriment.

The Association understands that Woolworths/Safeway already has existing third line forcing notifications lodged with the Commission and that the discounted fuel offer, which was the subject of those notifications, has been provided by Woolworths for a number of years.

However, the conduct which is the subject of the current notification will extend the fuel discount offer from Woolworths own petrol outlets to up to a further 160 Caltex sites which are to be operated by the JVC2 company. MTAA understands that the remainder of the Caltex and Ampol branded network will not be able to accept the discount vouchers.

That construct immediately raises concerns about the viability of those sites which are not able to accept the discount vouchers. MTAA would expect that any introduction of a discounted fuel offer for the JVC2 sites will immediately result in a transfer of fuel volume from those sites which cannot offer the discount/accept the voucher to those sites that can. A reduction in fuel volumes obviously reduces fuel turnover and profitability and also reduces, because of fewer customers, shop and other ancillary sales at the site. Inevitably there will be site closures and as the Commission is aware, a reduction in the number of competitors will affect the level of competition in a market.

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The announcement in August 2003 by Woolworths and Caltex that they intended to enter into a joint venture arrangement which would only encompass a small number of the existing Caltex and Ampol branded sites has already resulted in those businesses which are to remain outside the new arrangements being devalued. For those business which operate under a franchise arrangement, their business has been devalued by the actions of their own franchisor; a situation which we believe is totally unacceptable and unconscionable in terms of section 51AC of the Act and that those affected retailers must be compensated for their changed circumstances.

In relation to a similar notification lodged in respect of the Shell Coles Myer arrangements MTAA wrote to the Commission (see letter of 28 August 2003) in the following terms:

'MTAA is concerned however that the Shell/Coles Myer arrangement and now also the recently announced Caltex/Woolworths joint venture arrangement will result in a fundamental restructuring of the retail petroleum market. That restructuring is likely to see a significant reduction in the number of small, independent operators in the market (thus removing a strong competitive element from the market), possibly see one refiner/marketer exit from the Australian market altogether and which is likely to largely remove any real competitive threat to the domestic refiners from imported fuel; all of which will result in a retail petroleum market dominated by two supermarkets and two to three refiners.

These changes are not in MTAA's view principally being driven by the oil majors competing for each other's market share (although some are clearly winners from these alliances), but more by the desire of the two dominant retailers to secure a greater share of the retail spend, by attracting more customers to their supermarkets (and their other outlets which offer the fuel discount to customers).

Ultimately the cost of the discount schemes must be borne by consumers; in this particular case it will be all Coles supermarket and certain liquor store customers; not just by those who redeem their vouchers at service stations. Motorists benefit from low fuel prices; however it is likely that a large percentage of motorists would spend more at the supermarket each week than on petrol and MTAA would assume that the cost of the fuel discount will be recovered by the retailers in their general supermarket pricing.

The changes which will occur in the retail petroleum market as the Shell/Coles Myer arrangement is progressively 'rolled-out' around the country and—as the Caltex/Woolworths joint venture arrangement is established, are largely being facilitated by the existence of the fuel discount offers. The outcome will most probably be disastrous for small service station operators, but will also affect competition in a number of markets; including the importation of fuel, the supply of grocery and other convenience store items to convenience stores covered by the two arrangements, the retail petroleum market through increasing concentration and in the wholesale market for fuel through the exclusive

02 62732738

- 3 -

supply arrangements entered into by Shell and Coles Myer and by Caltex and Woolworths.

MTAA has been concerned for some time about the increasingly concentrated nature of many markets in our economy. The seeming inability of the merger provisions of the Trade Practices Act to address the issue of 'creeping acquisitions' has been a matter of concern, particularly to those involved in the retail sector, for some time. The arrangements between Shell and Coles Myer and the announced proposed joint venture between Caltex and Woolworths has, and will, deliver a significant new market to each of the supermarket retailers; allowing them to further increase their already significant share of consumer spending and to also increase the level of concentration in the grocery market.

Finally we would only add that while the Shell/Coles Myer (and the proposed Caltex/Woolworths) fuel discount voucher would appear to offer a short-term benefit to motorists, the Commission should consider the wider competition issues, outlined above, associated with their introduction. Ultimately it is likely that small, and particularly independent, service station operators will be unable to compete with the 'offer' presented by the two strategic alliances. Service station operators, as the Commission is already aware, operate on very slim retail margins and in fact many franchisees in metropolitan areas receive price and/or profitability support from their franchisor in order to be able to compete. Service station operators are very concerned about below cost selling of fuel by the supermarkets in particular. Small service station operators make their livelihood from their service station - selling fuel and convenience store items and in some cases from workshops, car washes, trailer hire and so on. Small operators do not have the opportunity to subsidise their service station activities from supermarket and discount store sales. For small service station operators fewer forecourt sales (because market share is being eroded through the voucher arrangements) means fewer customers in their convenience stores; a combination which we believe will see many of those operators exit the sector and thus ultimately damaging competition.'

Those issues remain our concerns. We do not believe that in the long term, these discount voucher arrangements offer an overall benefit to consumers (and in fact we believe that some consumers will bear the costs without receiving the so-called benefits).

The likely exit from the market of significant numbers of small franchisees and independent operators in the next few years, which will primarily be due to the impact in the market of the fuel discount vouchers rather than the entry of Coles Myer to petrol retailing, or the expansion of Woolworths current network of sites, is not a pro-competitive outcome.

Australia's dispersed population means that it is essential that there is a strong network of service stations in rural and regional Australia, and not just in larger towns or on highways. If that is not the case, then the so-called benefits of any discount offered by supermarket sites will most certainly be considerably diminished by the increased travel costs and the time taken to reach those sites.

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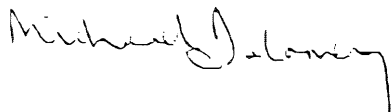
MTAA has previously made the point that once a service station closes in a small town, the town loses more than a fuel outlet. The mechanical repair service will also likely close, there is a loss of employment and training opportunities and often more importantly there is a 'flow-on' effect which means that residents purchase not only fuel in other towns, but other goods and services as well, further reducing business activity in their home town and resulting in the likely closures of other businesses.

Finally, MTAA believes that the Commission must ensure that Caltex continues to make supplies of fuel available to independent wholesalers and retailers. MTAA is concerned that as the volume throughput of the JVC2 sites increases (due to the discount voucher arrangement) there will be a reluctance on the part of Caltex to make fuel available to independents. The Commission is urged to ensure that that does not happen. However, even if 'supply' is available the question of whether it is available at competitive prices is even more crucial and should be the key factor in the Commission's consideration of the impact of the notification in the longer term.

I have no objection to this material being placed on the Commission's public register.

If you require any further information please do not hesitate to contact me.

Yours sincerely



MICHAEL DELANEY
Executive Director

30 October 2003