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The Chair
Policy and Research Advisory Committee of CAANZ
Consumer policy Framework Unit
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Via email: australianconsumerlaw@treasury.gov.au

Re: Consumers and Fuel Price Boards
Consumer Affairs Australia and New Zealand

This submission has been prepared for the consideration of Consumer Affairs Australia and New Zealand (CAANZ) by the Australian Motor Industry Federation (AMIF). AMIF is a federation of the various state and territory motor trades associations and automobile chambers of commerce. Through its Member Bodies, AMIF represents the interests of over 100,000 retail motor trades businesses employing over 308,000 people. Those businesses have an aggregated annual turnover typically in excess of \$162 billion, which, in combination with the industry's scope and size, makes the retail motor trades the largest small business sector of the Australian economy.

Well represented among AMIFs Member Bodies' membership are fuel retailers. At the national level, those fuel retailers' interests are represented by the Australian Service Station and Convenience Store Association (ASSCSA). ASSCSA is a National Industry Sector Committee within the AMIF Federation structure. Quite understandably ASSCSA has taken an interest in the issue before CAANZ in regards to fuel price boards and made the issue an Agenda Item at its most recent national meeting of November 2012. At that Meeting, ASSCSA agreed the following as its position for a response to the issue. That position is for:

- all prices shown on price boards to be at full retail price;
- price boards to be visible to a passing motorist day, or night;
- four prices to be displayed, with those prices being:
 - the top two selling ULPs
 - Diesel
 - LPG

- no discount prices or promotions to be shown on the price boards; and,
- price boards not to be compulsory, except in circumstances where they are currently in place, wherein they must comply with the above standards.

AMIF fully supports ASSCSA's position on this question and concurs with the analysis and logic employed to arrive at it. AMIF would, however, add the following for the Committee's consideration.

The business of fuel retailing has always been highly competitive and characterised by significant financial risk resulting from the need for high sales volumes at impossibly small margins. Those circumstances have particularly been the case in more recent decades and have been especially so for smaller, independent (as in not 'owned' by an oil company / refiner, or grocery chain) retailers.

The contributions towards the current situation for independent fuel retailers have been many, but include the repeal of the *Petroleum Retail Marketing Sites Act (Cth) 1980* and the *Petroleum Retail Marketing Franchise Act (Cth) 1980* (which Acts previously regulated aspects of the fuel industry); the development of an oligopoly in the market through the presence of grocery chains within it; the appearance in the market of 'Shopper Docket' promotions by those grocery chains; and, other structural developments in the Australian market due to the accretion of changes in the refining, distribution and retailing strategies and decisions of the major (off-shore controlled) oil companies that have a market presence in Australia.

The result of these pressures, in the simplest of terms, is that the smallest changes to the market – be it, for example, an increase in regulatory compliance, or an increase in competitive market pressures – can have a significantly disproportionate negative impact upon independent fuel retailers and their ongoing viability. One example of increased market pressures can be found in the manner in which some fuel retail outlets have chosen to make representations as to the price of their fuel on their site's fuel price boards. AMIF has no need to revisit the dubious nature of some of those representations, as it clear from Part II of the Discussion Paper, released by the Policy and Research Advisory Committee of CAANZ on this matter, that CAANZ has a good understanding of the issues. AMIF and ASSCSA would nevertheless suggest that some of those representations would come close to being considered as representing deceptive and misleading conduct (or at odds with Clarity in Pricing regulation).

It nevertheless remains that conduct of that sort can have a deleterious impact on the sales enjoyed by an independent fuel retailer. That is, a retailer in no position to leverage their position in the market through participation in a 'shopper docket' scheme, which scheme forms the basis for the sophistry displayed through some major fuel retailer's fuel price board strategies. Again, though, this represents circumstances that are reflected as understood within the Discussion Paper. And it is circumstances such as these and others that have informed ASSCSA's consideration on this matter.

The Discussion Paper moots three options in response to the issue central to it. Those options are; no new regulation; a basic national standard; and, a detailed national standard. It is likely that the Committee will be able to deduce that, for AMIF and ASSCSA, the option of 'no new regulation' is not supported.

But, nor would AMIF and ASSCSA support any form or level of national standard. As previously indicated, even small increases in regulatory compliance can have significant negative implications in

terms of an independent fuel reseller's ongoing viability. This is especially the circumstance if there is little or no room for movement in the market for a retailer to seek to recoup the cost to them of meeting their compliance obligations. In a market area in which an independent fuel retailer might be locked in 'mortal combat' with a grocery-chain competitor on price, such an increase in on-costs may prove decisive.

Price boards are not a cheap item. They involve a significant capital investment (in excess of \$16,000 per 'face') for which there may be scant opportunity for recoupment by the retailer. Many fuel retailers have undertaken major refurbishment of their sites in recent years and, with such works based on a 7 to 10 year forecast in order to achieve an appropriate return on investment, the imposition of an imperative to comply with a specific signage standard might not be well received.

AMIF would also consider that there may be significant work to be done in terms of the manner in which the multiplicity of planning regimes throughout Australia would interact and engage with any specific signage standard.

AMIF would respectfully suggest, therefore, that in the event of the Committee's endorsement and further pursuit of a specific signage standard, that detailed consideration be given to transitional arrangements and the promulgation of those arrangements so that the risk of non-compliance is minimised and the cost of compliance can be factored and forecast by fuel retailers. AMIF would also suggest that, in the first instance, that the Committee immediately take the steps it deems necessary to bring to an end the dubious price representation practices of some major fuel retail operations in Australia.

AMIF and ASSCSA expresses its gratitude to the Committee for the opportunity to comment on this issue and to provide the Committee with its input. If there is any further clarification or detail that the Committee might require, please do not hesitate to contact this Office.

**AMIF National Secretariat
Canberra**

13 February 2012