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12 February 2020

Dr Matthew Butlin
Chair and Chief Executive
SA Productivity Commissions
GPO Box 2343
Adelaide, SA, 5001

Emailed via: giselle.oruga@sa.gov.au

Dear Dr Butlin,

RE: Caltex Australia Limited submission to the South Australian Productivity Commission regarding the Commissioned Report on Fuel Pricing

Caltex Australia Limited ('Caltex') welcomes the opportunity to provide the SA Productivity Commission ('the Commission') with the following submission relating to the Commissioned Report on Fuel Pricing.

As the largest supplier of liquid transport fuels in Australia, and with an expansive national service station network of almost 800 controlled sites, Caltex has consulted closely with multiple state and territory jurisdictions around the development of regulatory frameworks to support price transparency and enable consumers to make informed decisions when choosing where to purchase fuel from.

Recognising that there are a variety of models currently in operation around Australia, including a number which are highly similar, price transparency schemes should seek to minimise compliance costs and be designed with a recognition of operational realities for service stations.

It is important to note there is already a high level of price transparency within the South Australia retail fuel market, through independent, free, price comparison services/apps such as GasBuddy, PetrolSpy and MotorMouth as well as other fuel company services.

Our feedback has been provided in the following sections:

1. Background on Caltex
2. Fuel Pricing and Market Competition
3. Current Regulatory Arrangements in South Australia
4. Recommendations on Price Transparency Schemes
5. Conclusions

Caltex provides the following input to the Commission to assist them in the preparation of their report to the South Australian Government and are happy to make relevant staff available should you or the Commission staff wish to engage further.

Should you wish to discuss this further please do not hesitate to contact Philip Skinner, Advisor – Government and Industry Affairs, on 02 9250 5532, or via philip.skinner@caltex.com.au.

Kind Regards

Prasad Kholkute
Head of Retail Pricing

1. Background on Caltex

Caltex has been operating in Australia since 1900, through various antecedent firms, to safely and reliably supply liquid transport fuels to Australia and our operations in the South-East Asian region.

As the largest Australian transport fuel and convenience company listed on the Australian Securities Exchange, Caltex has developed a reliable and adaptable supply chain extending from the regional hub of Singapore, where we operate our Ampol trading office, to the Australian end consumer, serving the needs of customers from the defence force, mining companies, and airlines, as well as everyday consumers.

Caltex supplies 16.2 Billion litres of liquid transport fuels through our infrastructure network of 19 terminals, 5 major pipelines, 89 depots, 798 controlled retail sites and our one refinery located in Lytton, Queensland. We directly employ a dedicated staff of over 6,600 people across Australia.

Within South Australia Caltex supplies liquid transport fuels through our terminal at Pelican Point which is then distributed to our wholesale and commercial customers, as well as 62 controlled retail sites which serve approximately 196,000 customers per week.

Caltex employs almost 400 people throughout South Australia.

2. Fuel Pricing and Market Competition

Caltex's over-arching strategy when setting fuel prices in any given market is to operate competitively in the market.

We attribute fuel pricing decisions within the South Australian market, and indeed all markets, to a combination of input costs and local market dynamics which drive competition within a market.

Cities, such as Adelaide and Sydney, should not be viewed as markets in their entirety, but rather as a collection of market regions which have differing cost inputs and levels of competition within each market.

At a high level, fuel prices in Australia are significantly impacted by variables which are outside of the control of Australian fuel marketers such as Caltex. As regularly reported by the ACCC in their quarterly reports, taxes such as GST and Fuel Excise, along with the international price of fuel are the two largest components of fuel prices, often accounting for around 85% of the price of fuel.

The remaining 15% of fuel prices are determined by a combination of costs associated with the wholesaling, distribution and retailing of fuels, while also allowing operators to draw a reasonable net profit margin as part of undertaking business in Australia.

At a retail level, when making decisions on fuel pricing a variety of input costs are factored into determining the price of fuel, including;

- Labour costs
- Utility costs
- Rates and property taxes
- Corporate services and support costs
- Regulatory compliance costs, including monitoring and infrastructure costs

In addition, there are variables which impact the business which must also be taken into account when pricing fuels, including:

- Competition from other sites within the same market/area
- Wholesale price of fuel
- Costs associated with distribution/delivery of fuel
- Shop patronage
- Overall reasonable return on investment for the site

Impacts to any one of these variables can ultimately result in changes in pricing behaviour to ensure that a retail site can remain competitive within their market, while remaining a viable business operation.

When looking to compare markets Adelaide has an interesting market dynamic with regards to there being a single market participant who controls a critical mass of retail sites compared with all other retail participants.



Ref: Informed Sources Data

This market composition does not mirror other major capital cities around Australia where there is often a greater dispersion of retail sites among brands with no single brand or retailer controlling such a material quantity of retail sites.

Given the difference in market composition, and behaviour, it should be noted that there is no guarantee that the adoption of a regulatory scheme such as WA FuelWatch or NSW FuelCheck will have a similar effect on the market, if any effect at all.

3. Current Regulatory Arrangements in South Australia

At present the key piece of regulation in South Australia relating to fuel pricing is the *Fair Trading (Fuel Industry Code) Regulations 2013* which regulates the display of fuel prices on service station price boards and pumps as well as prohibiting the advertisement of discounted fuel prices.

Caltex supports regulation targeting price transparency where it has been designed in a light touch manner to minimise compliance costs and burdens.

Which is why we have been supportive of the South Australian regulation governing price boards as it dealt with the primary concerns at the time, being the display of conditional discounted prices, without placing a significant cost burden on fuel retailers through mandating that a price board be erected or requiring a certain number of products, and certain products, be displayed.

This well-reasoned approach to regulatory intervention resulted in the cessation of confusing practices regarding the display of discounted prices without restricting a fuel retailer right to choose what products to include on their price boards, in line with pro-competitive, free market, behaviours.

The South Australian regulations also resulted in costs associated with compliance approximately 13.9% the level of compliance costs associated with the New South Wales model.

While the regulatory compliance costs surrounding price boards are comparatively low, the South Australian approach has succeeded in achieving a greater level of clarity for consumers whom enter service stations based on the information presented through fuel price boards.

4. Recommendation on Price Transparency Schemes

We understand that the price of fuel for consumers represents a significant regular, and necessary, cost of living. We acknowledge that the frequency of purchase, coupled with regular state, national and international media coverage of fuel prices, and impacts on fuel prices, result in these costs remaining front of mind for consumers, and politicians, in considering impacts to costs of living.

However, we do not believe that there is a lack of price transparency in the South Australian retail fuel market, noting that there is currently a number of independent, free, price comparisons services which utilise a combination of publicly available and crowd sourced data to provide consumers with retail fuel prices.

In addition, there are a number of branded, fuel company specific applications which provide consumers access to up to date fuel price information and other offerings.

While these services may not provide 100% coverage of all service stations within South Australia, we do believe that this provides ample data to consumers, at no cost to consumers or taxpayers, to allow them to make informed decisions on where to purchase fuel.

Acknowledging the direction provided to the Commission has been to assess the net benefits and effectiveness of models utilised in other jurisdictions, we recommend the Commission explore more favourably, the models employed by Queensland and New South Wales in regulating the provision of fuel price data through a single data point.

Where there are schemes proposed or operating in multiple jurisdictions, as in the case with price transparency regulation, they should seek to be as consistent where possible through adopting aspects of the schemes which are effective and learning from aspects which are not to ensure regulatory burdens are minimised.

Further efficiencies for Governments can also be gained through seeking to leverage off existing schemes, as we have seen the Australian Capital Territory seek to do, as a means to take advantage of existing IT frameworks while minimising establishment costs for state and territory governments through utilising a ready built solution.

Caltex acknowledges that this does not present a foolproof solution, as no state or territory system is currently perfect, however it would introduce efficiencies which could benefit government and industry while minimising any compliance costs which would need to be recouped through fuel prices.

In making any determinations on implementing a price transparency scheme Caltex believes that suitable consideration should be given to the following matters.

Onus of Responsibility

Within the New South Wales legislation, the *Fair Trading Amendment (Fuel Price Transparency) Bill 2016*, the liability for complying with the legislation was placed with the person who operates or controlled the operation of a service station.

Following extensive consultation with the New South Wales Government against this clause, and internal legal consultation over where liability rested, Caltex was forced to inform franchisees who, under the legislation, were the liable party that they would be required to ensure that they had been appropriately registered for the FuelCheck System and that they take all steps to familiarise themselves with their legal obligation under the act.

This was contrary to the position which Caltex had advocated to the Government which was for the party that set and/or control the price to be the party who were liable to submit data to the government and who ultimately were liable under the act to comply.

The basis of this position was that, in the instance of a franchisee, they may not in any way control the determination of the price for fuel and in some instances, such as where LPG/Autogas is supplied, the prices of multiple products may be controlled by multiple parties. Therefore, the burden placed on small business operators, such as franchisees, is an avoidable one which could be mitigated by requiring the party required to set the price to submit it.

Caltex believes that the onus of responsibility to report prices should fall on the party that controls the price of the product for sale. In our opinion this would ultimately lead to greater efficiencies and accuracy of the data received by removing the need for the data to be input by an separate party (the operator) which, in situations such as Caltex's, have little to no control over the price of the fuel.

Time Implications

Another matter of concern is the practical implications of looking for ‘Real Time’ pricing data from service stations which operate using an array of pricing methods and technologies determined by either themselves or third parties who control prices.

Fuel prices are fluid by nature, and it remains important for an operator to maintain an ability to quickly respond to competitor’s price changes.

Mindful of our comments above regarding the onus of responsibility, Caltex would recommend that a reasonable lead time be included in any regulation regarding a price transparency scheme in South Australia to allow for price setters to validate price changes as having transpired correctly before submitting any prices.

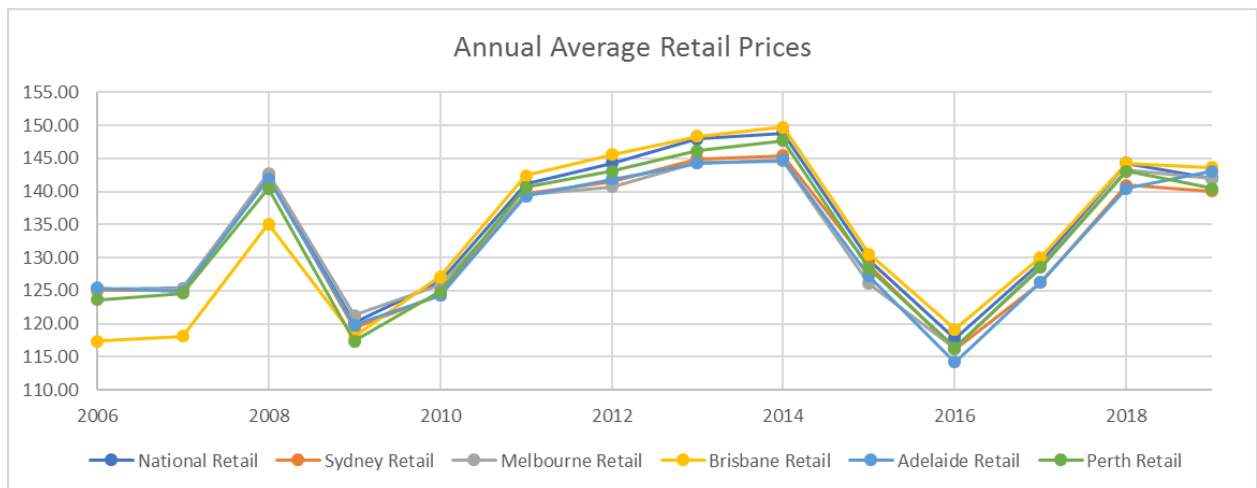
The Queensland regulation makes provision for a price to be communicated within 30 minutes of the change occurring which provides reasonable time for validation and other circumstances which could cause a delay in submitting prices.

This allows consumers to take advantage of a service which is as accurate as possible and reduces the possibility of incorrect prices being submitted.

Western Australia FuelWatch

Understanding that the original rationale behind the establishment of FuelWatch in Western Australia was to address consumer concerns around intraday price movements Caltex would contend that while the Western Australian retail fuel market does maintain a predictable price cycle, the scale of price discounting and restoration behaviour is subdued when compared to other jurisdictions.

Long term tracking of average annual retail prices for Perth suggest that the city has continued to track in line with the long term national average retail price, and prices in other major cities reflecting the fact that fuel prices are largely impacted by cost of materials and government taxes with only a small proportion attributable towards local costs and margins.



Ref: Australian Institute of Petroleum Data

In addition, we would argue that FuelWatch is a cumbersome regulatory system to comply with which limits fuel retailer’s ability to actively compete in markets through ‘chasing volumes’ and penalises retailers in instances where prices may not match, even as a result of an administrative accident.

In other markets, such as Adelaide and Sydney, there is the capacity for fuel retailers to dynamically respond to local competition in an efficient manner through discounting or price matching to try and draw in customers.

At times this can result in situations where retailers are effectively selling fuel at cost, or even below Terminal Gate Price values, in order to remain competitive with other local marketers.

Given the prescriptive nature of the WA FuelWatch system retailers are unable to take these actions, instead relying on a prediction around what will represent a competitive fuel price for the following day and then having to commit to that price for a period of 24 hours even if it may be significant above the market, thus limiting their ability to be competitive.

5. Conclusions

Caltex does not believe there is a lack of price transparency in the South Australian retail fuel market, noting there is currently a number of independent, free, price comparisons services which utilise a combination of publicly available and crowd sourced data to provide consumers with retail fuel prices.

Noting that fuel purchases comprise a large component of consumers weekly budget and that fuel price fluctuations can be confusing Caltex is supportive of the imposition of fuel price transparency schemes where designed appropriately and not in a manner which imposes significant regulatory cost or results in a chilling effect on competition.

Caltex would support a scheme designed for South Australia that seeks to align with New South Wales and Queensland systems, while taking the opportunity to improve requirements around the onus of responsibility and time implications.

Caltex is of the view that a reasonable scheme could be designed for South Australian consumers which would not impose significant costs on the industry.

We would welcome the opportunity to speak further with the Productivity Commission on this matter and would be happy to make relevant subject matter experts available.