

EXECUTIVE OFFICE

D12/33649

22 March 2012

The Hon Bruce Billson MP
Federal Member for Dunkley
PO Box 501
Frankston VIC 3199



Australian
Competition &
Consumer
Commission

GPO Box 3131
Canberra ACT 2601

23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

Dear Mr Billson

Thank you for your correspondence dated 13 February 2012 in relation to fuel shopper docket discounts and the draft Australian Automobile Association (AAA) analysis titled *Impact of Supermarket Fuel Discount: Market Analysis*.

Before addressing the AAA analysis, I note that your letter outlines that the ACCC had reached a settled view in relation to the impact of fuel shopper dockets or that it believes they are unquestionably good for motorists. This is not an accurate reflection of the ACCC's position.

The ACCC's view on shopper dockets was articulated in its 2007 report *Petrol Prices and Australian Consumers: report of the ACCC inquiry into the price of unleaded petrol*. In that report the ACCC noted that it would consider developments in the sector as they arose, including changes to the extent of the impact of shopper docket arrangements and their effect on competition.

Since the release of this report the ACCC has continued to actively consider competition and consumer protection issues as they arise. These activities included, for example, in October 2009 approaches to Coles leading to withdrawal of their planned 40 cents per litre (cpl) discount offer after the ACCC advised Coles and announced publicly by way of an ACCC news release that it was not satisfied that their proposed plan struck the appropriate balance between consumer benefit and longer-term competition.

I note for background that in 2007 the third line forcing provisions of the then *Trade Practices Act* were amended, removing the need for arrangements between related bodies corporate, such as arrangements between supermarkets and related fuel retailers, to be notified to the ACCC. Following this change, the ACCC is now required to consider shopper dockets and other such arrangements under other provisions of the *Competition and Consumer Act 2010* (the Act), such as the misuse of market power prohibitions.

The ACCC is currently considering the competition and consumer protection concerns that may arise from the trend of discounts above 4.0 cpl being offered more often and for longer periods and continues to work with industry representative groups to gather information to undertake the necessary analysis against the provisions of the Act.

I understand the ongoing public discussion about shopper dockets and the concerns raised. That noted, it is important and appropriate that these issues be given the attention they deserve. The ACCC is assessing these matters carefully and extensively taking account of market information and engaging with market participants and expects to finalise its position later in 2012 on whether competition or consumer protection issues arise from the current shopper docket discounts.

Turning to the AAA analysis, on 10 February 2012 the ACCC received, through the media, the draft AAA report which claimed that fuel prices and margins have been higher by as much as 2.0cpl since late October 2011 following the introduction of 8.0cpl shopper docket discount schemes by Coles Express and Woolworths. On 24 February 2012 the ACCC received a copy of the final report from the AAA which remains substantially the same as the draft.

While the ACCC welcomes any information or assessments undertaken in areas of ACCC interest, there are a number of difficulties with the AAA analysis which places some doubt on its usefulness. A short discussion of some of the issues identified is set out below for your information.

The AAA claim that fuel prices and margins have been higher since November 2011 following the recent 8.0cpl shopper docket discount schemes by the supermarkets. The AAA suggests that some of the savings promoted by the relevant fuel retailers may therefore be illusory.

The ACCC notes that petrol retail margins vary significantly on a weekly and monthly basis. On our analysis, there is no correlation between higher margin periods and the offer of the 8.0cpl discount. For example, in 2010-11 the average margin was 7.6cpl. However in November and December 2011 the average margins were around 10.0cpl and 9.0cpl respectively. Margins have actually been lower in other periods where the 8.0cpl discount was also being offered, such as July and August 2011, when margins were 7.8cpl and 6.7cpl respectively, which was the lowest for the year.

Having analysed gross indicative margins for each price cycle in Australia's five largest cities from the beginning of 2011, we note that in all cities, the price cycles with the highest margins occurred prior to the period in which the 8cpl shopper docket scheme was operating. In addition, in January 2012 the margin decreased by 1.9cpl to 7.0cpl despite there being an 8.0cpl discount.

The ACCC's analysis indicates that prices in the cycle are generally led by Caltex or BP rather than the supermarkets. Any instance of the supermarket retailers leading price increases to accommodate the increased fuel discounts would be at odds with this trend. A comparison of the retail prices of the supermarkets relative to the market average price in the five largest cities indicates that they have been largely the same before and after November 2011, which suggests no change in the status quo.

The AAA correctly notes that the duration of price cycles increased from 10 to 11 days on average in late 2011. It should be noted, however, that the duration of price cycles has been increasing since mid-2010 when the average duration was seven days as noted in the 2010 and 2011 ACCC petrol monitoring reports. It is unlikely to be linked to shopper docket discount increases.

The ACCC was questioned in relation to the AAA report during its recent Senate Estimates appearance and offered to provide further information to the Committee in relation to these matters. This information is likely to expand on the matters raised above and, once provided to the Committee, the ACCC would be pleased to provide a copy to you for your information.

Should you have any queries in relation to these matters in the meantime, please feel free to contact Matthew Schroder (03 9290 6924), General Manager of Fuel Group, or Scott Gregson (02 6243 1350), Group General Manager of Enforcement Operations.

I trust this information is of assistance and thank you for taking the time to write in relation to your concerns.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B. Cassidy', written in a cursive style.

Brian Cassidy
Chief Executive Officer