APADA
Australian Petroleum Agents
And Distributors Association

369 High Street,
Kew, VIC, 3101
Telephone: (03) 9855 5490
Facsimile: (03) 9855 5494
Email: admin@apada.com.au
www.apada.com.au

27 July 2007

The Petrol Price Inquiry
Australian Competition & Consumer Commission
GPO Box 520
Melbourne VIC 3001

Dear Mr Dobinson

Inquiry into the price of unleaded petrol

The Australian Petroleum Agents and Distributors Association (APADA) is a national employer's body representing distributors predominately regionally based who deliver about 35% of the product to the end user in Australia, and handle about 75% of all country sales to service stations, industrial, commercial and primary producer accounts.

We will again take the opportunity to provide comment on some of the points raised by the ACCC. Given the far ranging issues raised, we will only be providing written comment on those we believe are relevant to our members. ie. mainly in the wholesale and distribution area. It should be recognised the distributors are not wholesalers under the Oilcode definition, and are in fact customers of wholesalers.

We like many in the industry feel that another inquiry so soon after the Senate Economics Legislation Committee Inquiry into the pricing of petrol in Australia is becoming rather repetitious and arduous, and is going over exactly the same ground.

We also believed that the ACCC has shown a good understanding of petrol pricing in the industry with its submission to that inquiry in July 2006 and its "Understanding petrol pricing in Australia" (answers to some frequently asked questions) published in August 2005.

As indicated, due to the number of questions, our comments will be brief, and focus mainly on the wholesale and distribution area, but we would be pleased to discuss these or any other petroleum industry issues with you.

Yours sincerely

Garth Symington
General Manager

Comments on issues relevant to the petroleum distributor network.

Who are the major wholesalers and distributors and how have these changed over time and why?

This is well summarised in Section 3.3 of the ACCC's July 2006 submission.
Since that time there has been some further consolidation and amalgamations in the distributor area particularly by BP and Caltex, although total distributor numbers remain around 130 in Australia. There is an increasing number of small 1-2 truck operators emerging in regional Australia, as some of the refiner/marketers operating at the wholesale level now market more selectively, both geographically and by size and type of customer. Over the past 2 years Mobil has maintained a constant number of distributors in all states other than WA, and has sold back or tendered out any equity it may have had in its distributor chain. Shell on the other hand has effectively had no 'independent' Shell branded distributors for a number of years, and are continuing to be selective with its customer base outside the metropolitan areas and major regional centres.

Who are the significant non-refiner/marketers wholesalers and from whom do they obtain their fuel.

Whilst the majority of distributorships are still `major` branded, there is an increasing number of independent operators in the marketplace who buy from a number of the Australian refiners, from independent importers, eg, Trafigura, and occasions import themselves. In the majority of cases, the larger independents are more focussed on their own branded retail chains, eg, Freedom, Matilda and Choice, however some, such as Liberty, United, Gull and Neumann's also operate at the wholesale level.

Comment on the level of competition at the wholesale and distributor level.

There is significant competition at the wholesale and distributor level, amongst both refiner/marketers and independent wholesaler marketers. Like any marketplace, the level of competition is determined by the number of competitors in the market, and also the availability of supply and range of services offered.
Wholesalers with access to and selling direct from refineries and seaboard terminals are obviously at a distinct advantage over those up-country distributors reliant on product being delivered by a carrier or a third party.
There is now a majority of `ex the refinery or terminal` supply contracts for distributors, cartage contractors and even commercial and industrial customers.

With increasing competition in the business being delivered by the wholesalers and distributors direct to customers and not through regional bulk facilities, operators are more and more conscious of the profitability of each sector of their businesses, as the `new entrants`/jobbers selectively market to many of the large economical and easy to deliver customers. This has meant service levels in the up-country areas, to the smaller less accessible and economic customers is decreasing, and with that, the real cost of delivering to these accounts is being charged and prices are increasing.
Customers in this `squeeze` will inevitably look for short cuts and cheaper ways to have their product delivered, or even pick it up themselves, which will lead to product quality issues and unsafe practices.

What effect has a decrease in the number of wholesalers and distributors had on competition. Describe the vertical linkage that exists at the wholesale and distributor level.

The decrease in the number of distributorships has really had little overall effect on the competition which exists in the metropolitan areas, and only a lessening effect on competition in the more remote areas where one or two total operations may have withdrawn for economic reasons. It is not the number of wholesalers or distributorships in an area that may effect competition, but more the selective nature of the business (customer size & type) in which these operators may specialise.

There are a number of operating modes that exist in the wholesale and distributor sectors. As mentioned previously, there are a large percentage of operators who purchase product ex the refinery or seaboard terminal gate and proceed to the final point of delivering and invoicing the customer, be it a service station, commercial or industrial.

The 4 major oil companies operate in slightly different ways. :-

- Shell has no independent full line distributors and supplies selectively into regional areas through a company operations subsidiary named Shell Direct.
- BP has rationalised its numbers in recent times and has a selection of independently run distributorships, a few 50% equity and a large independently owned operation, all run as an `arms length` distributorship.
- Caltex has more distributorship than the other majors, with a range of independents, 50 & 100% equity operations.
- Mobil has recently sold back all of its equity in its distributor network, and whilst Mobil branded, the operations are now all independent.

BP, Caltex & Mobil distributorships all supply and operate service stations/convenience stores.

There are a number of independently branded wholesaler and distributor operations which nearly all `lift` product direct from refineries and terminals, and in some cases import into leased/owned seaboard facilities. Increasingly large cartage contractors who draw from seaboard facilities are reselling product, as well as acting as contractors for fuel suppliers.

In summary whilst there are obvious vertical linkages, we don't believe it lessens or inhibits competition.

What are the barriers to entry to wholesaling and distributing?

The main barrier to entry in the petroleum industry is the availability of capital.
The Australian supply situation is relatively tight with refineries being able to quit all their production, coupled with the fact that the refiner/marketers, or established independents, own or lease the majority of the seaboard terminals which are available for importing. This makes it difficult for a new entrant to ship product into the country. A potential new operator would need to make product purchasing arrangements with existing refiner/importers in what is a balanced supply market.
The size of the Australian market doesn't warrant the huge capital investment required to undertake a `greenfields` terminal project.

As is the case with most small to medium size businesses, the increasing compliance requirements particularly in the handling of dangerous goods and environmental issues has also been a deterrent in entering the industry. The high volume, high unit cost (per litre) and the low per litre margins, has meant an increasing concern with the ability to correctly capitalise the business, coupled with the exposure to potentially large bad debts.

To what extent are the sales at the wholesale level made on the basis of posted TGP's?

All the questions relating to the movements in Singapore Mogas 95 unleaded prices and its impact on the terminal gate price (TGP) have all been fully covered in the ACCC's Senate submission in July 2006 (Sec 4.4, 4.4.1 &4.4.2)
There is normally a time lag of up to 2 weeks between changes in Singapore prices and changes in the TGP's by states. This lag should happen with both rising and falling prices.

The Trade Practices (Industry Codes – Oilcode) Regulations 2006 (The Oilcode) regulates the conduct of suppliers, distributors and retailers in the downstream petroleum industry. The definition of the TGP (as outlined in the ACCC`s, Guide to the Oilcode for industry participants, page 5) acknowledges that charges for additional services must be identified separately from the posted TGP in a wholesale suppliers sales document. These can be by subtracting an amount as a discount and /or adding elements to cover additional services. This of course means that the transparent or `web` posted price is really only an indicative price based on an agreed formulae, and that many, if not the majority of the sales made at the wholesale level can be at prices below the daily TGP and in a number of cases contacted above the daily TGP.

If there are discounts off, or premiums on TGP's. how large are they, on what basis are they determined and who receives them.

The specifics of this question are confidential, and best answered by the refiner / wholesalers who supply the distributors and the resellers. The majority of distributors purchase product at the price which on most occasions is below the daily TGP due to the application of a contractual rebate, and then some additional service charges, eg, brand, equipment/facility rent, etc, etc.

What proportion of sales at the wholesale level are based on contracts and what proportion on spot.

Again, as an organisation representing petroleum distributors, not wholesalers we can only estimate, and believe that it would be a relatively high proportion on contracts, say 70% +. The relatively tight supply situation in Australia means that most distributors, resellers and large commercial customers require certainty of supply, and as such are usually under contract.

How are wholesale prices set for the different types of retail operations?

Sales from a wholesaler direct to retail operations are dependent on the size of the retailers operation and are usually under some form of contract and the smaller operations are on a spot basis depending on the drop sizes and delivery economics.
Supply availability, size of operation and credit worthiness are key determinants in on- going relationships. These assist in discount negotiations. The ability to change suppliers is very dependent on alternative supply availability, and facility and equipment ownership.

To what extent is the decrease in the number of sites due to the entry of supermarkets into retail petrol sales?

Whilst there was always going to be some natural attrition, the emergence of the supermarkets into the service station (retail) petrol market has accelerated and increased the reduction in numbers. This situation was very predicable and the current competitive position and influences that prevail in today's gasoline market are the result of this rationalisation and polarisation (refer Para 3, page 2 of APADA's letter to the ACCC dated 10 Oct '03, attached)

The never ending focus on retail petrol pricing is also influencing the reduction in service station numbers. The various state consumer affair and motoring bodies, such as the RACV, provide reasonably comprehensive and current information on prices, locations and trends. This is great for the motorist, but in identifying the lowest prices, which are often involved with supermarket alliances, and are often below the daily TGP, which can be below cost for many resellers, can at times put pressure on up to 30% of the market which may not be able to compete at that point in time. This can mean that state government departments and other authorities will be helping accelerate the demise of the independent/non-aligned service stations, and support the duopoly, which will lessen competition over time.

Comment on the level of competition at the retail level in particular markets. eg, city versus country.

Once again the city versus country issue has been discussed many times and was well documented in the ACCC's `Reducing fuel price variability – discussion paper` a few years ago. In summary the higher prices in the country compared to the city are principally due to the following factors:

- Higher service station costs
- Higher costs of supply to service stations
- More sites and therefore more intense competition in the metropolitan area.

Lower population and smaller operations with a greater reliance on petrol margins than on other complimentary profit centres, necessitates a higher petrol margin to survive. Additionally, lower passing trade, discounting in most cases does not necessarily translate into more customers and sales.

Are independent chains an important part of price competition?

Independent chains are a very important part of the retail landscape as they help to maintain a range of competitors in the service station sector which is being eroded by the increasing dominance of the two large supermarket alliances. As we alluded to previously, this now dominant duopoly can dictate the price of petrol in all major cities and large regional centres. The independents ability to remain viable is to a large degree now in the hands of these supermarket alliances and how they wish to price petrol in the marketplace.

Are petrol prices at the various levels sufficiently transparent and is this an impediment to efficient pricing.

There has been a great deal of effort devoted to informing the consumer on retail petrol pricing and the weekly cycle phenomenon. This has been instituted by the ACCC, AIP and all major refiner/marketers and wholesalers. Unfortunately the sad reality is that not many people bother to look at these on the net or read informative articles in the paper, and the media and many politicians whilst hopefully having some idea of realities, gain more mileage by attacking the industry.
Whilst we know that Australia has the 4th lowest petroleum prices in the world, and that Government excise and taxes make up over 40% of the retail price, petrol has always been seen by the public as a necessary `grudge` purchase and to explain the complexities of the internationality of the pricing formulae is in the majority of cases never going to be understood or accepted.
The nonsensical price cycles which in most weeks takes the price below the posted TGP, only tends to exacerbate the public's frustrations.

The public quite rightly cannot believe that a business would sell product at a loss, almost in a weekly sense, which in reality has often been the case over the past 10 years.

This is competition at its best or worst, depending on whether you are the customer or the reseller.

10 October 2003

Russell Phillips
Mergers Branch
Australian Competition & Consumer Commission
P.O. Box 1199
Dickson ACT 2602

Dear Mr Phillips

Proposed Woolworths / Caltex joint venture.

As you know, APADA is a national employer body representing petroleum distributors, predominately regionally based, and delivering product to a broad range of customers, from service stations, commercial/industrial, mining, primary producers to many government requirements both in towns and at remote locations.

We would like to make the following comments on the proposed joint venture, as we see them impacting on the retail market in regional and country centres.

The proposed joint venture will principally impact on the high volume, low cost metropolitan markets, and large regional markets.

The petroleum industry's image in regional areas could suffer even unjust critisim on the Metro V Country retail price comparisons as the supermarket impact causes further downward pressure on the metropolitan markets.

Shell and to a lesser degree some of the other major oil companies have already exited from parts of regional Australia, and will obviously concentrate their efforts on Metropolitan and key regional centres, causing the smaller more remote areas to carry the full, unsubsidised cost of delivery and required margins, as the normal metropolitan service stations are forced to work on unsustainable margins or be heavily subsidised to survive.

Our assessment of national market shares in a Coles/Shell and a Woolworths/Caltex pre & post acquisition environment is as follows:

	PRE		POST
Caltex	27%	+ Woolworths	40%
Shell	23%	+ Coles	33%
Mobil	16%		12%
BP	15%		12%
Others	9%		3%

Those market shares would vary in different areas and customer/trade mix, with Shell/Coles & Caltex/Woolworths having a higher portion of the Metropolitan and large regional centres, and the other companies in all probability looking to improve margins in the country centres.

The emergence of Woolworths and now Coles, and the non level playing field created by the restrictions placed on the majors by the PRMF and Site Act, has forced them to change their "modus operandi" and set up company structures or multi-site franchises to operate their company owned or head leased sites.

The eventual effect of this activity will be full market control by the majors and supermarket chains. Whilst this will be fiercely competitive for some time, it will eventually mean the demise of the majority of independent resellers and distributors. The unstainable margins will sort out all but the biggest and leave the market with fewer sites and higher margins.

We have supported the introduction of a national Terminal gate price as part of the Federal Government's Petroleum Market Reform, but the provision to discount below TGP and the retailing below TGP (in Clause 10 of the Draft Oilcode), coupled with the opportunity for Woolworths and Coles to cross subsidise their petrol margins, will make it impossible for independent resellers and distributors to remain viable.

The emergence of the major supermarket chains involvement in the market, reinforces the fact that the current Petroleum Market Reform process under discussion needs to be well monitored and has the necessary reporting mechanisms to review the impact that this form of "cross subsidised" marketing by the supermarkets has on the smaller franchisees, and independent service stations and distributors.

The revised Oilcode and its alignment with key elements of the Trade Practice Act sections (eg. Sec 45, 45A, 46, 47, 51 &52) is essential to protect the smaller independent businesses from the pressures which will inevitably come from this concentration of control by the emerging supermarket element.

It seems to be an issue of concern that Caltex and Shell will have a considerable number of additional franchisees and non franchised / supplied sites that will not be supported by the Joint Venture or Coles/Shell Master Franchisee arrangements.

In summary, the advent of the supermarket chain influence on the market will mean that eventually over 50% of the retail market in Australia will be influenced by economics not totally related to the oil industry.

There will be the have and the have-nots as far as the ability to cross subsidise and to almost market fuel as a "loss leader". This will only serve to confuse the public, and perpetuate the myth that there are large margins being made `downstream`.

I have also attached a copy of a "thought provoker" list of issues which need to be addressed by participants in the market, particularly our distributor members, as the industry profile changes. APADA used this as a catalyst for a panel discussion at our recent annual conference.

Thank you for the opportunity to make these brief comments on the impact of this proposed joint venture, and while I have not responded to all the questions on your fax, I would be pleased to further discuss this issue with you, if you wish.

Yours sincerely

Garth Symington
General Manager

THE CHANGING PROFILE OF THE INDUSTRY

"WHAT DOES ALL THIS MEAN TO ME"

What % of service stations are going to be affected by the recent supermarket alliances in regional Australia

Does the proposed Oilcode provide any protection for independent operators

Is the inevitable volume shifts going to affect your businesses

- Cash Flow
- Gross Margin

Achieving sustainable margins becomes even more critical

Highly geared or debt ridden operations reliant on positive cash flows need to examine customer & margin mix

Traditional distributor businesses not over-reliant on retail could be in a less vulnerable position - someone has to supply these classes of trade

Regional customers will have to pay the true cost of servicing. Retail will no longer subsidise these cost intensive accounts

With the increasing rationalisation of sites, the location, convenience and the products offered become even more critical

Supermarket resellers will come under public scrutiny on country V metro pricing, particularly if there are a large number of country site closures

Public confusion on who is in these supermarket alliance programs and who is not

Service station owner's reluctance to exit the market due to remediation costs and the availability of buyers at a commercial price

Supply implications

Reduced surpluses due to:

- Closure of Port Stanvac
- Possibly others
- Fuel specification restrictions affecting imports

Independent operators to look for and value supply contracts due to tightening supply

Coles / Shell and Caltex / Woolworths latest commitments will mean a ranking or prioritising of preferred customers

May affect distributorship and reseller business values

Increased focus on transparent TGP's and import parity prices