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27 November 2017

Mr David Hatfield
Director Adjudication
Merger & Authorisation Review Division
23 Marcus Clarke Street
Canberra ACT 2601

Subject: Request for comment on whether 4 cents per litre is still an appropriate cap on shopper docket discounts

Dear David,

Thank you for your email dated 8th of November and for the opportunity to comment on the appropriateness of maintaining the current 4 cent cap on shopper dockets.

As you will be aware United Petroleum (UP) has already made a number of submissions and participated in discussions in relation to this transaction. To be clear our stated position as per those submissions remains our current view. Having said that and having now reviewed the documents enclosed within your email we make the following comments:

1. Prior to this transaction the ACCC concluded that "Shopper Dockets" significantly lessened competition, particularly where the docket value is beyond 4cpl. As a consequence the ACCC sought to limit the docket value. As we understand it the agreement undertakings unfortunately were not tight enough to preclude the supermarkets from offering additional discounts at either a site level or via their respective reward programs which we understood was the original intent of the undertakings.
2. It is clear from BP's submission that they intend to build on the current use of the shopper docket program. A wider distribution of the docket's will only exacerbate the situation and effectively "lock out" many more of the price sensitive consumers out the pool available to the non- supermarket competitors. This will clearly reduce volumes at non supermarket sites and put upward pressure on fuel prices. It is very important that any undertakings are drafted such that additional discounts are not added and specific customer groups cannot be targeted by them.

3. Our reading of the documents supplied by the ACCC indicate that the funding of the discounts will be shared between Woolworths and BP. This situation is a further relaxation of the undertakings given to the ACCC in respect to supermarket dockets. Allowing this situation will damage competition in the retail petrol and supermarket sector.

We remain very concerned that if left unchecked BP could use its market power and ongoing relationship with Woolworths to find ways to share the funding and expand these offers to the public. Our concerns extend to their plans for loyalty programs including Woolworths Loyalty Card Rewards. It appears they may be looking to increase the use of this program providing very attractive rewards which will in turn "lock out" a broader "value" orientated customer group. This will undoubtedly be emulated by Coles and Coles Express.

4. Rather than the controls being relaxed UP believes the ACCC should at a minimum take this opportunity to tighten the controls to ensure the original intent of the undertakings are enforceable. This transaction is a clear opportunity for the ACCC to deal with this matter even further requiring the removal of the shopper docket program all together.

By their conduct we have concerns that any ambiguous undertakings will be exploited by the supermarkets and their fuel distribution partners. By having a simple and clear rule we believe the market will operate in a more equitable way while ensuring full compliance.

5. If the ACCC decides to continue to allow the "Shopper Docket" then we believe:
 - a. A strict limit of 4cpl (maximum) should operate on any transaction, precluding the addition of an extra amounts for the purchase of shop or fuel goods on site and mail outs with special offers or temporary promotions.
 - b. Controls need to be in place over Woolworths loyalty card such that it does not deliver a benefit beyond the maximum 4cpl per transaction including shopper docket redemption.
 - c. A 10 year approval by the ACCC is much too long and should be reviewed in 12 months and then every 2 years from that time onwards.

It is our view that the current conduct of offering additional discounts by Woolworths and Coles is circumventing the purpose of the undertakings and will not in the long term deliver public benefit.

6. BP argues the market has seen a growth in independent operators and discount schemes since the restrictions were introduced in 2013. We agree with BP and take it one step further arguing the removal of shopper dockets all together will promote the growth of independents ensuring a competitive market which in turn delivers the greatest public benefit. It also follows that any relaxing of these undertakings will threaten this momentum and therefore result in a lessening of competition.
7. While BP argues that there are other retailers such as UP who are able to make similar discount offers e.g. United RACT Card in Tasmania we would argue that this is a very different local market platform. In any event it is important to note that UP's ability to offer such discounts is a function of its independents and investment in supply chain. In Tasmania UP has a significant retail presence, imports fuel and owns/operates a terminal and logistics fleet.
8. The merger of the Woolworths and BP businesses will add to the consolidation of the retail petrol market and will create more sophisticated competitors with ever

more effective loyalty programs. As a consequence it is United's view that smaller independents will increasingly struggle to compete in this complex landscape. Therefore, we would strongly encourage the ACCC to require BP to dispose of sites where they determine there is a lessening of competition to the market to larger sophisticated independent operators such as United that do not include a branded fuel supply agreement. By doing so it will allow larger sophisticated independents such as United to strengthen their market position and create the incentive to continue to invest in supply chain capability, thereby ensuring a sustainable competitive market.

9. We would like to request further information on any proposed "Price Competitive Arrangements" (PCC) including any next steps or options the ACCC may be considering. UP does not support this type of price control and feel there are other steps the ACCC can take that will ensure a better long term solution for consumers. We believe that PCC Arrangements can and probably will have unintended consequences and their use as a competition tool is fraught with danger.

We thank you again for the opportunity to make comment in relation to this matter. If you have any questions or concerns please do not hesitate to contact either myself or David Szymczak.

Yours sincerely,



Gary Brinkworth

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