



EXECUTIVE OFFICE

16 July 2020

Mr Dini Soulio
Commissioner
Consumer and Business Services
GPO Box 1719
ADELAIDE SA 5001

Sent by email: CBSReforms@sa.gov.au

South Australian Fuel Pricing Information Scheme

The Australian Competition and Consumer Commission (ACCC) thanks the South Australian (SA) Department of Consumer and Business Services for the opportunity to comment on the draft *Fair Trading (Fuel Pricing Information) Regulations 2020*.

The ACCC has comments relating to three areas of the proposed SA fuel price transparency scheme. These are:

- a degree of vertical separation should be maintained between a commercial aggregator of fuel price data and data user services,
- a clear and comprehensive website is valuable for consumers, in addition to fuel price apps, and
- the time between a price change at a service station and when it is notified to a data aggregator should be as short as possible.

Before outlining these comments in further detail, I would like to emphasise that the ACCC welcomes the introduction of a fuel price transparency scheme in South Australia.

The ACCC has long been a supporter of fuel price transparency schemes in Australia. The ACCC's regional petrol market studies that were undertaken between 2015 and 2017 identified the importance of fuel price transparency in promoting competition and assisting motorists. Real-time price information through websites and apps can help consumers find the lowest prices, encourages them to buy where petrol is cheapest, and rewards price-competitive retailers.

For these benefits to be achieved it is essential that such schemes are comprehensive, accurate, timely and readily accessible to consumers.

In September 2017, I gave a speech to the Asia Pacific Fuel Industry Forum in Melbourne on the topic of 'fuel price transparency and retail industry competition'. It outlined the ACCC's general views on fuel price transparency schemes, and a copy of the speech is available from the ACCC website at: <https://www.accc.gov.au/speech/fuel-price-transparency-and-retail-industry-competition>.

While the ACCC has not endorsed a particular form of fuel price transparency, or made a judgement on whether it should be privately or government run, it has closely observed the operation of schemes that have been introduced in other jurisdictions. It is in this context that

I note the following three key features that I encourage the SA Government to adopt in its scheme, as I consider they will most benefit and empower consumers.

Vertical separation

The ACCC encourages the SA Government, in the event where a commercial third party aggregator is engaged to collect data from fuel retailers, to implement a vertically separated and pro-competitive structure in relation to the aggregator services and the data user services that disseminate or publish data for consumers to see.

This is consistent with the ACCC's view expressed prior to the implementation of the Queensland fuel price transparency scheme. A copy of the ACCC's submission to the Queensland Government's Fuel Price Reporting Consultation Regulatory Impact Statement is at [Attachment A](#).

The SA Productivity Commission supported this view. On page 23 of its report, it noted, as one option for the design of gathering, aggregating and publishing petrol prices in South Australia:

Data aggregation by a private third party that is vertically separated (from commercial providers of fuel price information) and pro-competitive (noting ACCC concerns). This could be done by another jurisdiction.

I note that the draft Bill and Regulations are silent on this issue, but I hope that this approach is adopted if a commercial third party aggregator is to be used for the implementation of a fuel price transparency scheme in South Australia.

Website for the scheme

It is not clear from the SA Government's media release, or the draft Bill and Regulations, whether a government or other clearly defined website similar to the New South Wales FuelCheck website or the Northern Territory MyFuel NT website, will be part of the SA fuel price transparency scheme.

While apps certainly play an important role in informing many consumers, the ACCC considers that the websites provided under the FuelCheck and MyFuel NT schemes provide important focal points for consumers in those jurisdictions to access and search for the lowest fuel prices in their area.

Importantly, those websites have functionality that automatically and instantly displays fuel prices for all retail sites both on a map and in a list view, where in both views the lowest priced retail site in an area is clearly identified.

The ACCC encourages the SA fuel price transparency scheme to have a similar website, as well as promote the use of fuel price data by a range of app providers.

Timing for retailers to report price changes

The draft Regulations indicate (at 7(2)) that fuel retailers will have up to 30 minutes to input a change in price at the bowser into an aggregation system, meaning that consumers may not be aware of price changes for up to 30 minutes after a change in price at the pump.

I note that this approach is similar to the Queensland fuel price transparency scheme where fuel retailers must report fuel price information within 30 minutes of a change at the bowser. However, it is different from the FuelCheck arrangements that specify "service station operators must ensure the price of a fuel in FuelCheck matches the standard price of the fuel at their service station at all times" (see: <https://www.fairtrading.nsw.gov.au/help-centre/online-tools/fuelcheck>).

A 30-minute lag time between the notification of prices to an aggregation system (as well as any lags between notification of the data and its publication), raises the possibility that prices may have increased significantly at a retail site – as they do in Adelaide at the end of a petrol price cycle – but consumers are not aware of it. While this may only be for a short period of time, it may lead to some consumers having concerns about the timeliness of the fuel price transparency arrangements and lead to criticism about their usefulness.

The ACCC recommends a shorter time period be adopted so that price changes are notified, and are able to be published, more quickly for consumers to see and act on.

The ACCC understands that the SA Government will be initially trialling a fuel price transparency scheme for a period of two years. The ACCC will be watching the progress of the scheme with interest.

Should you wish to discuss these comments further, please contact Matthew Schroder, General Manager, Infrastructure and Transport – Access and Pricing Branch, on 03 9290 6924.

Yours sincerely,

A handwritten signature in blue ink that reads "Rod Sims". The signature is stylized and written in a cursive-like font.

Rod Sims
Chair

Attachment A



EXECUTIVE OFFICE

19 September 2018

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Fuel Price Reporting – Consultation RIS – Australian Competition and Consumer Commission

The Australian Competition and Consumer Commission (ACCC) is pleased to make a submission to the Queensland Government's *Fuel Price Reporting Consultation Regulatory Impact Statement* (RIS).

The ACCC welcomes the introduction of a trial fuel price transparency scheme to operate across Queensland.

As the Queensland Government is aware, the ACCC supports fuel price transparency schemes which enable motorists to shop around and purchase petrol at relatively lower priced retail sites. To achieve this, it is essential that such schemes are comprehensive, accurate, timely and readily accessible to consumers.

At a high level, it appears that the policy objectives of the Queensland Government as outlined in the RIS envisage such a scheme in Queensland. The ACCC encourages the Queensland Government to develop a scheme that fulfils these objectives.

The ACCC understands that the Queensland Government will be initially trialling a scheme for a period of two years, and will evaluate the scheme to assess whether it meets the policy objectives in considering a longer term scheme. The ACCC will be watching the progress of the scheme with interest.

In the context of the preferred scheme as outlined in the RIS, however, the ACCC is concerned that the Queensland Government's preferred mandatory fuel price reporting scheme may create a market structure that is not in the best interests of consumers. The ACCC also has some questions about the intended operation of the scheme.

Market structure

The ACCC understands that the Queensland Government's preferred scheme is based on commercial parties undertaking all phases of providing near real-time fuel pricing data for use by motorists. In particular, a commercial data aggregator is to be appointed to collect, compile and validate real-time fuel price data. The aggregator would then disseminate the

real-time data to other commercial users (e.g. apps and websites), which would be relied upon to disseminate the fuel price data to motorists.

The ACCC appreciates that not all details regarding the operation of the proposed scheme have been finalised. However, the ACCC is concerned that the RIS contemplates the ability for the commercial data aggregator to also be a commercial user of the real-time fuel price data.

Under the proposed scheme, the aggregator would be the single provider of near real-time fuel price data to various commercial users. As it is understood from the detail in the RIS, allowing the aggregator to also be a user would effectively enable it to vertically integrate into related 'user' services, and give the aggregator an incentive to discriminate in favour of its own operations at the expense of other users. In addition, the scheme's intention to have all commercial users provide usage data back to the aggregator further exacerbates the ACCC's vertical integration concerns if the aggregator is also a user.

The ACCC is of the view that such a market structure would compromise the effectiveness of the fuel price reporting scheme to the detriment of Queensland motorists.

The ACCC has regularly expressed the view that it considers that vertical separation in related markets is the preferred market structure for both physical and digital assets with monopoly characteristics. The ACCC's position is that regulatory arrangements such as ring-fencing or functional separation of resources are an inferior option compared with complete vertical separation. Ring fencing arrangements do not remove the incentive for a business to discriminate, even though they may constrain its ability to do so.

Accordingly, the ACCC strongly encourages the Queensland Government when developing its fuel price reporting scheme to adopt a structure that is vertically separated and pro-competitive, rather than rely on any regulatory or ex-post initiatives.

The ACCC considers that this will not only ensure the integrity of the Queensland Government's preferred model, but will also work to produce the best outcomes for Queensland motorists.

Questions on the operation of the scheme

The ACCC also has some questions regarding the proposed operation of the scheme, which are not clear from the material the ACCC has reviewed. For example, details around the process of validating the fuel price data as well as the intended arrangements between the commercial data aggregator and commercial users were not made clear in the RIS.

While acknowledging that some of these details are yet to be determined, the ACCC is interested to understand more about these aspects. This particularly relates to the terms under which the commercial aggregator would provide fuel price data to commercial users (including requirements on the aggregator to provide complete data) as well as if any requirements would apply to users in order to receive the data.

If you would like to discuss any aspects of this submission, please contact Mr Gary Dobinson on 03 9290 1884.

Yours sincerely



Rod Sims
Chair