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Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

The National Roads and Motorists' Association (NRMA) welcomes the Australian Government's *Competition Policy Review* and supports the objective of the review to drive productivity growth and improvements in the living standards of Australians by identifying competition enhancing reforms.

NRMA is Australia's largest mutual organisation representing 2.5 million Members in New South Wales and the Australian Capital Territory. For more than 90 years, NRMA has represented the interests of motorists in relation to road funding, road safety, driver education, motor vehicle repair and service and other related public policy issues.

NRMA is pleased to provide the following submission to the *Competition Policy Review* Issues Paper:

Access and ownership of vehicle data

It is noted that over time cars have become more complex due to technological innovations and improvements such as computerised engine and vehicle management systems and in-vehicle telematics. While these innovations provide benefits to consumers through reduced car emissions, improved vehicle efficiency and increased safety and comfort features, it has created significant issues around the access and ownership of vehicle management and data systems.

NRMA is concerned that car manufacturers are attempting to restrict access to vehicle data and management systems in order to enhance their own commercial interests. By limiting access to vehicle data, car manufacturers are able to restrict free choice by requiring consumers to have their vehicle serviced or repaired exclusively by the manufacturer or an affiliated entity.

Such an outcome would result in restricting fair competition by limiting the ability of motorists to have their vehicle serviced or repaired by an independent service provider.

This could result in independent service providers being forced out of the market by car manufacturers, effectively reducing competition in the marketplace, forcing motorists to pay more for ancillary services. It could also restrict the ability to provide roadside emergency service that entities such as NRMA provide.

The restriction of access to engine and vehicle management systems and data could also have an adverse impact on Australia's Automotive Aftermarket manufacturing industry which will result in adverse impacts on employment and exports.

Competition in the retail and wholesale fuel markets

NRMA notes that current competition laws aim to ensure that the wholesale and retail fuel markets in Australia remain competitive. However, NRMA remains concerned about particular elements of the fuel industry and their impacts on Australian consumers.

NRMA is concerned by recent media reports that the total number of petrol stations in Australia has fallen from 20,000 in 1970 to approximately 6,300 as of 2011. Concentration in the fuel market is of particular concern because of fuel companies' or major retail entities that they are associated with, high levels of control of refining, wholesaling and retailing in the Australian fuel industry.

NRMA believes that a diversity of ownership in the retail fuel industry is critical for greater competition in the retail fuel market. At present, competition in the retail fuel industry in rural and regional areas across remains limited. As a result, rural and regional fuel prices are on average more expensive than can be justified by transport costs than those in more competitive retail fuel markets in urban and metropolitan areas.

NRMA has similar concerns about the lack of competition in the wholesale fuel market. The monopolisation of this sector by a handful of large oil companies can result in negative outcomes for motorists and Australia's productivity generally.

Without adequate competition in this sector, oil companies can dictate and control the price of imported fuel, which in turn pushes up the price of fuel at the bowser for motorists. A lack of competition in the retail and wholesale fuel markets could result in higher petrol prices.

NRMA strongly believes that competition in both markets could be adversely affected if the Australian Government fails to address the ownership and structure of the retail and wholesale fuel markets. Such an outcome would be anti-competitive and have a negative impact on the nation's economic productivity and living standards.

Creeping Acquisitions

NRMA is also concerned about the practice of creeping acquisitions, whereby small and independent fuel retailers are progressively acquired by large organisations to expand their market share. This is particularly concerning in regional areas; as such practices result in market dilution and substantially lessen competition in the retail fuel market.

In the past, such acquisitions have failed the 'transparency' test and have resulted in less than ideal situations in regional markets.

To ensure this issue is adequately addressed, NRMA believes that the powers of the Australian Competition and Consumer Commission (ACCC) need to be improved to enable action to be taken against creeping acquisitions where such acquisitions may result in a substantial lessening of competition in the marketplace.

Investigative powers of the Australian Competition and Consumer Commission

NRMA acknowledges the work of the ACCC in attempting to keep petrol prices remain competitive for motorists. NRMA also acknowledges the ACCC's role in monitoring fuel prices and investigating instances of misleading and anti-competitive conduct of fuel retailers under the *Competition and Consumer Act 2010* ('the Act').

The ACCC has previously made decisions to oppose the acquisition of Australian retail fuel assets by large oil companies on the basis that such acquisitions would reduce the number of independent service stations in parts of Australia, therefore limiting competition within the market place.

Notwithstanding the above, NRMA believes that the ACCC could be more effective in protecting consumers from anti-competitive conduct by reviewing section 46 of the Act.

At present the provisions contained within section 46 of the Act create high thresholds for the ACCC to commence investigations into anti-competitive activities. Lowering this threshold would provide the ACCC with the ability to scrutinise matters that to date may not have been adequately investigated.

Section 46 of the Act should also be reviewed to ensure that it remains practical and reflects the current regulatory environment. These changes would allow the ACCC to investigate a wider range of issues and would further protect motorists from misleading and anti-competitive conduct in the retail fuel market.

NRMA looks forward to the release of the *Competition Policy Review Draft Report* later this year and would welcome the opportunity to engage in further consultation following its release.

Should you wish to discuss any of the above matters further, please contact Mr Ben Gommers, Government Relations & Policy Officer on (02) 9276 7234 or ben.gommers@mynrma.com.au.

Yours sincerely



Sam Giddings
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