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Competition Policy Review Secretariat
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir/Madam

Competition Policy Review Draft Report

The National Roads & Motorists' Association (NRMA) is Australia's largest mutual organisation representing more than 2.4 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, fairer petrol prices and other related public policy issues.

NRMA welcomes the opportunity to provide additional feedback to the recommendations contained within the Competition Policy Review Draft Report released in September 2014. The Draft Report makes a number of recommendations that seek to enhance productivity growth and improve the standard of living for Australians.

However, NRMA is concerned that the draft recommendations, in some instances, seek to reduce or streamline regulations to enhance business productivity at the expense of consumers. NRMA is also concerned that the Draft Report fails to consider the important issue of providing consumers with access and ownership of vehicle data.

1. Access and ownership of vehicle data

NRMA's previous submission highlighted the need for the Competition Policy Review to consider attempts by car manufacturers to restrict access to vehicle data and management systems in order to enhance their own commercial interests.

As noted above, NRMA is concerned that the Draft Report fails to acknowledge or to discuss this emerging problem. 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.

Australian consumers should not be unfairly restricted in accessing the data generated by their vehicles because the vehicle manufacturers are able to control that data. When a consumer purchases a vehicle, it should reasonably be assumed that they have ownership and control over the data that their vehicle produces, either in relation to performance, operation or security.

If car owners cannot choose who can receive data from their vehicle then independent repairers will most likely be completely cut out of the picture. This is irrespective of whether or not independent repairers have access to diagnostic tools in the workshop. This will have significant impacts on competition and ultimately price.

This is not an issue that can be addressed in the future. Technology is moving too quickly. It needs to be addressed now.

This year cars will be released in overseas markets that offer built-in 4G LTE broadband connections. This will enable cars to easily and quickly send and receive information over the mobile broadband network.

While these innovations provide benefits to consumers through reduced car emission and improved vehicle safety and comfort features, it has also created significant issues around the access and ownership of vehicle management and data systems.

At present, access to engine and vehicle management systems and data in Australia is restricted and tightly controlled by vehicle manufacturers to a far greater extent than is the case in Europe, North America and Japan.

NRMA is concerned that multi-national car manufacturers are able to restrict access to vehicle data and management systems to enhance their own commercial interests.

By limiting access to vehicle data and management systems, car manufacturers are able to restrict free choice by requiring consumers to have their vehicle serviced or repaired exclusively by the manufacturer or an entity affiliated with the manufacturer. Such an outcome could limit competition and restrict the ability of motorists to choose to have their vehicle serviced or repaired by an independent service provider.

This may well lead to adverse impacts for independent service providers who without access to vehicle data could potentially be forced out of the market by multi-national manufacturers, further reducing competition in the marketplace and increasing the cost of ancillary services.

NRMA notes that the Fédération Internationale de l'Automobile (FIA) has developed three guiding principles in relation to addressing the issues surrounding right to repair and ownership of vehicle data that should be considered by the Competition Policy Review Panel. There are:

(a) Consumer control and protection of data

Legislation should ensure informed consent on access to a car's data. This means that consumers need to be fully informed about what data is being transmitted and for what purpose. Drivers should retain ownership of the data their car produces and control over how it is used for as long as they own the vehicle.

(b) Free choice

Drivers should have the right to choose their preferred service provider and match the right products and level of service to their needs. The right to choose from a variety of safe product functionalities needs to be guaranteed. The service providers must also be changeable throughout the lifetime of the vehicle, without any additional administrative burden.

(c) Fair competition

A variety of service providers should have the right to develop products and functionalities for car data, ensuring fair competition in an open market place. This enables the driver's preferred service provider to access vehicle data and offer associated functionalities via an open, secure telematics platform.

NRMA notes the Australian Automobile Association's (AAA) submission to the Draft Report and agrees with the AAA that scope exists for the Australian Competition and Consumer Commission (ACCC) to investigate the restriction of vehicle data by manufacturers through section 46(1) of the *Competition and Consumer Act 2010*.

2. Road Transport Pricing

Draft Recommendation 3 calls for the introduction of cost-reflective road pricing, accompanied by the reduction of indirect charges and taxes on road users. For many years NRMA has argued for a fairer deal for motorists who already pay more than their fair share of tax without getting enough back through road investment.

This financial year alone, the Australian Government will collect an estimated \$15.2 billion from motorists through indirect taxes and charges, with only around \$5 billion or one-third of this revenue scheduled to be reinvested back into road infrastructure.

In 2014, Infrastructure Partnerships Australia and Deloitte, in association with Australia's leading motoring clubs, including NRMA, developed a discussion paper titled *Road Pricing and Transport Infrastructure Funding: Reform Pathways for Australia*.

The discussion paper notes that the current approach to road charging consists of a disconnected two part tariff that includes fixed, state-based access charges (registration and licence costs) and the federal fuel excise. It is clear that this approach is no longer sustainable and fails to provide the best outcomes for motorists.

NRMA believes that this review provides an opportunity for a transparent discussion about the need for reform and to explore the options, challenges and opportunities related to road user charging to ensure a more efficient and transparent road pricing system for motorists going forward.

A road user charging system should only be considered as part of genuine reform and not be imposed on top off the current system of road charges and taxes. To this end, NRMA agrees with the AAA that a user pays system for roads in Australia will give motorists a fairer deal and lead to greater efficiencies in the allocation of funding for road infrastructure projects, provided existing indirect taxation is reduced accordingly.

3. Fuel Price Boards

NRMA notes the Draft Reports' comments rejecting the AAA's recommendation that the review panel support the development of a national information standard for fuel price boards. NRMA requests that the review panel revisit the proposal put forward by the AAA as a means to further protect the rights of Australian motorists and consumers.

The NSW Government's decision to regulate fuel retailers' signage in September 2013 is supported by the NRMA. The regulations introduced by the NSW Government ensure that fuel retailer signage displays the non-discounted price of all fuels when a service station sells up to four fuels; and displays the non-discounted price of at least four fuels where a service station sells more than four fuels.

These regulations give motorists more information about the actual non-discounted price of fuel, allowing motorists and consumers to make better and more informed decisions about when and where they should purchase petrol.

The regulation of fuel price boards also levels the playing field and increases competition in the retail fuel market, allowing independent fuel retailers the opportunity to compete with major fuel retailers such as Coles and Woolworths.

4. Retail Fuel Market

The Draft Report provided an analysis of the current fuel retailing environment, concluding that concerns about higher fuel prices in regional areas had no direct correlation to any shortcomings in the law or in policy. NRMA respectfully disagrees, and remains troubled by the higher cost of fuel in regional and rural areas.

As noted in our previous submission to the Competition Policy Review, NRMA believes that a diversity of ownership in the retail fuel industry is critical for greater competition in the retail fuel market.

Competition in the retail fuel market across rural and regional areas remains limited. As a result, rural and regional fuel prices are on average more expensive than those in more competitive retail fuel markets in urban and metropolitan areas.

Competition in the retail fuel market could be adversely affected if the Australian Government fails to address the highly concentrated and monopolistic wholesale fuel market. Such an outcome would be anti-competitive and have a negative impact on the nation's economic productivity and living standards, particularly in rural and regional Australia.

NRMA thanks the Competition Policy Review Secretariat for affording NRMA the opportunity to provide feedback about the contents of the Draft Report. NRMA looks forward to the release of the Final Report in March 2015.

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

Yours sincerely



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