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Summary and Recommendations

The Motor Trades Association of Queensland (MTA) is the peak organisation in the State representing the specific interests of 2,500 businesses in the retail, repair and service sector of the Australian Motor Industry.

The MTA's service station sector includes 417 operators at various sites across the state. There has been significant rationalisation and restructuring within the sector and this is ongoing. Consideration should be given to where that evolution may lead.

The MTA's submission is confined to issues that are within the purview of its Members.

The MTA supports the Queensland Government's long-standing policy to exempt motor spirits for revenue raising purposes and the continued reimbursement to motorists of 8.354 cents per litre to compensate for Queensland being included in the uniform Commonwealth excise scheme.

The MTA submits that the title *Fuel Subsidy Act* 1997 (the Act) is a misnomer. "Subsidy" conveys the unfavourable message that Queenslanders who purchase fuel from a retailer receive a grant or financial support or assistance to sustain usage. It is the view of the MTA that Queensland fuel users are reimbursed a tax-refund and do receive a subsidy.

The MTA has no knowledge or evidence of any diversion of the reimbursement along the fuel price chain either inside or outside South East Queensland. Our independent retailing service station members are price takers not price makers. The price makers are the supermarket and oil major integrated outlets.

In examining the concept of statutory intervention and other tax refund reimbursement measures, wider policy settings and the impact of such policy settings should be considered by the Commission of Inquiry particularly in the context of a Queensland economy that is likely to be at near full capacity and against capacity constraints for some period of time.

The MTA has an open mind to a Queensland Government Registration Reduction Fee and would consider such a policy proposal. The MTA does not support redeployment of the reimbursement to other purposes such as underprovided services unless it is accompanied by a policy shift to use fuel for revenue raising purposes.

The MTA is opposed to statutory intervention.

The MTA submits (based on anecdotal information),that the administration fee of 0.046 cpl is below the real cost of administration. The retailers could be subsidising a further 50 per cent of the administration costs.

Recommendations

1. MTA suggests that the *Fuel Subsidy Act* 1997 be renamed to reflect the policy actuality which is a reimbursement to motorists for the Queensland Government not levying a fuel business franchise fee or state fuel tax similar to other States prior to 1997.

2. The MTA has an open mind to a Queensland Government Registration Reduction Fee and would consider a policy proposal.

3. The MTA is opposed to statutory intervention.

4. The MTA is unsupportive of a regulatory proposal that either would have the Queensland Government set a recommended retail price based on oil price and delivery prices or a cap on petrol prices.

5. In examining the concept of statutory intervention or other tax refund reimbursement measures, wider policy settings and the impact of such policy settings should be considered particularly in the context of a Queensland economy that is likely to be at near full capacity and against capacity constraints for some period of time.

6. Consideration be given to the appointment of a State Petroleum Industry Ombudsman to examine complaints or suggestions relevant to the *Fuel Subsidy Act* 1997.

7. The MTA submits that the Commission of Inquiry consider the findings and recommendations of the current Australian Competition and Consumer Commission's (ACCC) Inquiry into the Price of Unleaded Petrol before submitting its report to the Queensland Government.

8. The Commission of Inquiry should examine retailer's administration costs to ensure that the fee represents fair value for reimbursing the tax refund to motorists.

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Submission

Commission of Inquiry - *Fuel Subsidy Act* 1997

Motor Trades Association of Queensland background

The Motor Trades Association of Queensland (MTA) is the peak organisation in the State representing the specific interests of 2,500 businesses in the retail, repair and service sector of the Australian Motor Industry. It is an industrial association of employers incorporated pursuant to the Industrial Relations Act of Queensland.

The Association represents and promotes the issues of the automotive industries to all levels of government and within Queensland's economic structure.

The MTA comprises 14 separate divisions, each representative of a specialist area of the State's automotive industry. They are - Automobile Dealers' Association; Farm and Industrial Machinery Dealers; Auto Electrical Specialists; Motorcycle Industry; Combined Mechanical Repairer Specialists; Tyre Dealers & Retreaders; Engine Re-conditioners; Rental Vehicle Industry; Independent Tow Truck Operators; Service Station & Convenience Store Association; National Auto Collision Alliance; Used Car; Automotive Under car and Auto Parts Recyclers. The Association is the largest automotive trainer in Queensland offering nationally recognised training covering all aspects of the Retail Motor Trades Industry. The Association's Motor Industry Training Department is the largest automotive apprentice trainer in Queensland.

Service Station Sector-

The MTA's service station sector includes 417 operators at various sites across the state. These establishments include:

- Independent operators selling refiner/marketer branded petrol;
- Distributor owned sites selling refiner/marketer branded petrol;
- Independent chains (such as 7-Eleven); and
- Small Independent operators selling their own brands.

The ownership structure of our members is based on a system of franchise, lease and branding agreements between single and multi-site owners, fuel suppliers, and convenience store chains.

Rationalisation and Restructuring

From 1993 to 2005, approximately 24 per cent or 440 service stations exited the Queensland industry. Over the last five years, the total number of licensed retailers under the *Fuel Subsidy Act* declined by 19.7% with total retail sites declining by 12.4%.[1]. Between 2000 and 2004 the number of branded service stations operated by franchisees fell by 46 per cent, the majority of which were taken over by the supermarket/oil major alliances.[2]

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[1] Office of State Revenue Report. "Summary of Findings of the Fuel Subsidy Task Force" p.27
[2] Queensland Government Submission Impact of Petrol Pricing Select Committee Inquiry into Petrol Pricing In Queensland, April 2006 p.2

The major change has been the significant reductions in the number of independent retailers and their sites. The number of major independent retailers (four to nine sites) has declined by 32.1% with a 28.7% reduction in the number of retail sites; and the number of independent retailers (one to three sites) has declined by 19.7% with a 21.3% decrease in their retail sites.[3]

This is further evidenced by the fall in the total volume of subsidised motor spirits sold by licensed independent retailers compared to the sale volumes for major retailer's sites increasing by almost 42.8%.[4]

Anecdotally, equilibrium in terms of the level of competition restructuring does not appear to have been reached. Vertical integration by the oil majors and the convergence of fuel retailing with convenience store shopping and alliances/joint ventures between the major supermarkets and the refiner/ marketers –(Woolworths-Caltex and Coles-Shell) is continuing.

The operations of service stations is changing with emergence of high volume service stations with multiple pumps, the introduction of self-service technology supported by Automatic Teller Machines and a range of services and conveniences.

An apparent downside to the rationalisation and restructuring of service stations in Queensland is the ongoing reductions of outlets in small country towns.

Service station data and anecdotal information from the MTA's service station sector suggest that the cycle of restructuring and rationalisation within the retailing sector has been ongoing and consideration should be given to where that evolution may lead.

Independent Service Station Sector

Independent Service Station issues include:

- Independent service station operators have little control over retail petrol pricing. They are price takers;
- They are subjected to severe economic pressures having to fund approximately 30% increase in stock capital without being able to achieve a commensurate investment margin return;
- Increased retail prices cause a reduction in sales volumes, estimated to be between 2 and 3 per cent resulting in erosions of profit levels;
- Supermarket/oil major alliances have forced and are forcing Independents out of business through price discounting;
- The domination of the market by supermarkets and oil majors is impacting on genuine sustainable competition;
- Terminal Gate Pricing despite the Oilcode formula lacks calculation transparency particularly given the perceived variations in the wholesale prices to Independents; and
- There is an emerging trend for the oil majors to take a distributor site and open retail.

[3] Office of State Revenue Report. op.cit. p.27
[4] Ibid p.6.

Fuel Subsidy Act 1997 Issues

Introduction

The MTA's submission is confined to issues that are within the purview of its Members.

Policy

The MTA supports the Queensland Government's long-standing policy to exempt motor spirits for revenue raising purposes and the continued reimbursement to motorists of 8.354 cents per litre to compensate for Queensland being included in the uniform Commonwealth excise scheme.

Tax Refund Reimbursement – not a Subsidy

The MTA submits that the title *Fuel Subsidy Act* 1997 (the Act) is a misnomer. "Subsidy" conveys the unfavourable message that Queenslanders who purchase fuel from a retailer or bulk end users receive a grant or financial support or assistance to sustain usage. It infers that Queensland motorists, transport operators, manufacturers and industry receive an unfair advantage over users in other States and Territories.

There is limited merit, if any, of implying that the Queensland Government is subsidising an energy resource. The term subsidy distorts the price softening real price signals creating the perception that it is an infinite resource.

Subsidisation of fuel conflicts with policies to lower transport greenhouse gases including the recent State Budget measure to establish a new rating system for motor vehicle duty for the purpose of raising revenue for social infrastructure and as an environmental measure to encourage the purchase of smaller cylinder vehicles.

Subsidy conveys the wrong message. It suggests a delinquent approach to fuel conservation and undermines the science in producing energy efficient vehicles.

The MTA submits that Queensland fuel users are reimbursed the excise/customs duty surcharge collected by the Australian Government to reflect the fact that the Queensland Government does not raise revenue from fuel sales.

We suggest that the Act be renamed to reflect the policy actuality which is reimbursement for Queensland not levying a fuel business franchise fee or state fuel tax similar to other States prior to 1997.

It is the view of the MTA is that Queensland fuel users receive a tax-refund not a subsidy.

Diversion of tax refund

The MTA notes that under the Act, Queensland motorist would expect ULP to be some 9.2 cents per litre (cpl) (representing the reimbursement of 8.354 cpl and GST of 0.835 cpl on that amount) below Sydney and Melbourne.

Ongoing Office of State Revenue (OSR) Taskforce compliance investigations for the three years ending 30 June 2007 found that the ULP retail price differential between Brisbane and Sydney and Brisbane and Melbourne was 6 cpl to 7 cpl. The Taskforce found that licensed retailers complied with the obligation under the Act to pass on the reimbursement.[5]

Of significance was the reason for establishment of the OSR Taskforce in January 2007 to investigate compliance by licensed fuel retailers as it followed a period from 1 December 2006 to 31 January 2007 when the average differentials between Brisbane and Sydney and Brisbane and Melbourne were 3.9 cpl and 4.2 cpl respectively[6]. This suggests a large diversion of the reimbursement funds away from the intended beneficiaries – the motorists. This period coincided with the highly mobile period of school holidays, Christmas and New Year.

The Queensland Government's press statement of 21 August 2007 states that up to $125 million of the $541 million reimbursement scheme is not "ending up in the pockets of Queensland motorists".[7] This means that along the fuel price chain there is a leakage or diversion of some 20 per cent of the funds away from motorists. Unless Queensland motorists are fully reimbursed it may be argued they are paying a defacto fuel tax.

The Commission of Inquiry seeks information on:

- *(i) the extent, if any, to which the market power of wholesalers or retailers is impeding the effective delivery of the 8.354 cents per litre subsidy;*
- *(ii) the extent, if any, to which wholesalers impede effective delivery of the 8.354 cents per litre subsidy by discouraging retail competition in the fuel market in Queensland;*
- *(iii) the extent, if any, to which the structure of the wholesale or retail fuel industry in Queensland is affecting the delivery of the 8.354 cents per litre subsidy; and*
- *(iv) whether any factors impeding delivery of the 8.354 cents per litre subsidy operate with greater effect in areas outside South East Queensland.*

The MTA has no knowledge or evidence of any diversion of the reimbursement along the fuel price chain to submit either in or outside South East Queensland. Our independent retailing service station members are price takers not price makers. The price makers are the supermarket and oil major integrated outlets.

From the perspective of our Members there is a lack of competition in the wholesale sector and there are no indications that this will change. The harmonisation of Australian fuel quality standards with international standards prevents the importation of cheaper Asian fuels and is supported by the MTA.

A critical factor is the lack of Terminal Gate Price (TGP) transparency. Under the *Oilcode* the TGP formula is published but it is the lack of numerical empirical transparency for its determination and its failure to be the base price for unleaded petrol is a fundamental weakness.

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[5] Ibid.p. 6
[6] Ibid. p.2
[7] Premier of Queensland, "Commissioner to Investigate Fuel Prices". 21 August 2007.

It appears that there is not a single TGP but various purchase prices and price mechanisms. While there is one published - the overt one -, the MTA is of the view that there are other prices that appear to act in the market. The impact and the incidents of terminal gate pricing appear to be different for different customers.

Independents are at the end of price chain and have to accept the wholesale delivery price of the day. The TGP appears to have limited relevance to the wholesale price paid by small independents. Anecdotally it appears that the majors that have economic and market power receive a considerably greater advantageous price at the terminal gate than MTA independent service station members.

Without knowledge of wholesale pricing mechanisms and wholesale pricing we are unable to identify any impediments without resorting to anecdotal evidence.

It is noted that one of the primary goals of the current Australian Competition and Consumer Commission's Petrol Price Inquiry is to increase transparency in the marketplace about petrol prices at the various levels of the industry, and to identify any current impediments to efficient pricing.

Reimbursement mechanism

Under the Act, reimbursement of 8.4 cpl is payable to licensed fuel retailers and bulk end users on eligible fuel sold or used.[8] Retailers are required to pass on to their retail customers 8.354 cpl of the amount by reducing the price at which they would otherwise sell the fuel. Retailers are entitled to retain the difference of 0.046 cpl to offset against their costs in administering the reimbursement.[9]

The two key elements are:

- the reimbursement method, and
- the administration cost of the reimbursement by retailers.

Reimbursement Method

The Queensland Government has utilised all points on the fuel price chain – the refiners and wholesalers and retailers and bulk users to reimburse motorists the tax refund.

Prior to June 2000, refiners and wholesalers had the responsibility of reimbursing the tax refund but concerns that motorists were not receiving the full benefit caused the Queensland Government to rethink the delivery mechanism. A Registration Reduction Fee of $150 per vehicle was proposed but following critical public opinion it was set aside in favour of reimbursing the tax refund to motorists via licensed fuel retailers and bulk end users.

As a policy measure, a Registration Reduction Fee of $150 per vehicle would ensure a transparent delivery mechanism and ensure that the full benefit of the tax refund accrued to motorists and owners of registered vehicles. Such a policy measure would

[8] Office of State Revenue Report. op. cit. p.11
[9] Ibid p.12

not discriminate against decentralised motorists. The downside includes increased fuel prices, the loss of petrol pump price advantages accruing to Queensland motorists and industry and consequential impacts flowing to the Queensland economy.

The MTA has an open mind to a Queensland Government Registration Reduction Fee and would consider a policy proposal that could involve an annual discounting of registration on a pro rata basis on the cubic capacity of the engine. This concept would enable the full value of the reimbursement to benefit motorists; account for the true cost of administration and be efficient and reflect environmental values. Statutory fiduciary surveillance should apply to ensure full transparency.

The MTA does not support redeployment of the reimbursement to other purposes such as underprovided services or infrastructure unless it is accompanied by a policy shift to use fuel for revenue raising purposes.

It is noted that the Tasmanian 2006-07 State Budget removed the 2 cpl petrol price subsidy to help fund road safety programs and reduce car registrations.
The MTA is opposed to statutory intervention.

Premier Bligh has said that the Queensland Government would consider statutory regulation if recommended by the Commission of Inquiry to ensure that motorists were fully reimbursed the tax refund. “Benchmark pricing could be the best way to protect motorists in both metropolitan and regional parts of the state” but “regulation is a step that we would take very cautiously”.[10]

The MTA is unsupportive of a regulatory mechanism that either would have the Government set a recommended retail price based on oil price and delivery prices or a cap on petrol prices. The MTA’s concern is for both consumers and small independents. Small retailer’s viability may be jeopardised and forced out of the market impacting on fuel market competition causing price rises. Competition in decentralised and regional Queensland may be eroded by the closure of independent retail sites.

In examining the concept of statutory intervention, wider policy settings and the impact of such policy settings should be considered particularly in the context of a Queensland economy that is likely to be at near full capacity and against capacity constraints for some period of time.

Reconciling policy settings for long term competition in terms of the State economy and the fuel industry is important including the consequences of current practices in the industry such as discounting.

The MTA submits consideration be given to the appointment of a State Petroleum Industry Ombudsman to examine complaints or suggestions relevant to the *Fuel Subsidy Act* 1997.

[10] Australian Broadcasting Commission “Qld considers regulation to ease pain at petrol bowser” by Nicole Butler, 24th September 4.37 pm AEST

The MTA submits that the Commission of Inquiry consider the findings and recommendations of the current ACCC's Inquiry into the Price of Unleaded Petrol before submitting its report to the Queensland Government.

Retailer Administration Costs

Under the Act the tax refund payable on each eligible retail sale is 8.4 cpl. Retailers must pass on 8.354 cpl of this amount by reducing the retail sale price of the fuel. Retailers are entitled to retain the difference of 0.046 cpl to offset against their costs in administering the reimbursement.[11]

The MTA submits (based on anecdotal information), the administration fee of 0.046 cpl is below the real cost of administration. The retailers could be subsidising a further 50 per cent of the administration costs.

The Commission of Inquiry should examine retailer's administration costs to ensure that the fee represents fair value for reimbursing the tax refund.

Recommendations

1. MTA suggests that the *Fuel Subsidy Act* 1997 be renamed to reflect the policy actuality which is reimbursement for Queensland not levying a fuel business franchise fee or state fuel tax similar to other States prior to 1997.

2. The MTA has an open mind to a Queensland Government Registration Reduction Fee and would consider a policy proposal.

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6. Consideration be given to the appointment of a State Petroleum Industry Ombudsman to examine complaints or suggestions relevant to the *Fuel Subsidy Act* 1997.

7. The MTA submits that the Commission of Inquiry consider the findings and recommendations of the current ACCC's Inquiry into the Price of Unleaded Petrol before submitting its report to the Queensland Government.

8. The Commission of Inquiry is encouraged to examine retailer's administration costs to ensure that the fee represents fair value for reimbursing the tax refund.

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[11] Office of State Revenue Report. op. cit. p. 3,13