

17<sup>th</sup> August 2009

The Secretary  
Senate Economics Legislation Committee  
PO Box 6100  
Parliament house  
CANBERRA ACT 2600

Dear Sir/Madam,

The Service Station Association (SSA) wishes to make the following submission to the enquiry into the proposed National Consumer Law legislation currently being considered by the committee.

The SSA is supportive of the bill and makes no other comment except in regard to the exclusion of business-to-business contracts. The SSA, like many other small business associations, placed great store on the intention of the then Minister, Chris Bowen, to include these contracts in the legislation. We are therefore extremely disappointed that they now stand excluded.

We note that the Minister has referred to other initiatives that the Government is considering that may be relevant to business-to-business contracts. In terms of the petrol retailing industry, we believe that the outcomes from these processes will not address the inherent unfairness in the current tenant/landlord relationships. The main code for our industry is the Oilcode, but this code does not address the contract provisions of the terms of tenancy. It only considers the length of tenure and whether in fact tenure provisions apply at all. Moreover, where the Oilcode does apply, it excludes the provisions of the Franchise Code.

The Franchise Code therefore does not apply to any relationships in petrol retailing. Since the repeal of the Franchise Act some two years ago, the majority of tenure arrangements are now commission agencies which are not covered by any piece of Federal legislation, with the exception of the very general Trade Practices Act. There has never been a successful action in this industry in pursuit of unconscionable conduct and yet the abuse of market power and of unfair contracts terms is rife.

We therefore contend that there many franchisees, commission agents and lessees that currently strive to do business in this industry (which is dominated by big business) and do so without any protection against

unscrupulous landlords. They are desperately in need of the sort of legislation originally proposed by Minister Bowen. The possible changes that Minister Emerson contemplates will have little benefit.

We therefore respectfully request the committee recommends that business-to-business contracts be re-instated in the proposed legislation.

I would also like to take this opportunity to advise the Committee that the Oilcode review, mandated to take place in March 2008 was completed in November 2008 and yet the results of that review have not been released. We believe that the committee, in the absence of the recommendations of that review, have no option but to recommend the inclusion of business-to-business contracts be included in the proposed legislation.

Yours sincerely,

Ron Bowden  
Chief Executive Officer