Gull New Zealand Limited

submission to the

Commerce Commission New Zealand

on the

Draft market study into the retail fuel sector

Redacted Version

Opening access to product improves competition

Understanding that one of the primary recommendations from the Commission was taking appropriate steps to establish a greater level of competition at a wholesale level, Gull is of the view that one of the most significant barriers to entry which currently exist is access to product at a fair rate, which would allow for the entrance into new markets by both Gull and other brands.

Gull believes the establishment of a TGP regime, or similar, would improve the competitiveness of the retail fuel market in New Zealand through the improved availability of a transparent price for products at all major terminals to new and existing wholesalers, distributors and retailers.

Gull has worked towards establishing a presence in the South Island retail fuel market, to which one of the most significant barriers has been the ability to source fuel from existing storage in the South Island at competitive prices and reasonable terms which could allow us to provide competition to market incumbents.

Given the lack of open access and availability of transparent pricing Information XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Gull does not see that construction of further infrastructure, nor entering the national B&L system, as effective mechanisms for entry into the South Island market due to the cost and constraints that would pose. To which, Gull agree with the Commission findings that the B&L system itself has contributed to the current market situation.

Gull considers that the key elements of any broadening of product availability should be fair market value for the product being supplied, transparent pricing mechanisms and clear criteria for supply which could provide new market entrance with confidence when seeking to enter a market through a supply agreement with a current supplier.

We do recognise that terminal infrastructure is a significant investment, and as such it is fair that infrastructure owners seek to earn a reasonable return on that investment, and that the fuel price is set accordingly.

Gull believes a fair market price for fuel, as set and published through a mechanism similar to the Terminal Gate Pricing requirements employed in Australia, allows for each of these three key elements to be addressed.

We would propose the following aspects be considered for supply of fuel to distributors and retailers:

1. Product pricing to be for standard products and an agreed basis, such as standard product conditions and inclusive of all relevant taxes and excises. Product pricing could either include or exclude Emissions Trading System costs depending if the purchasing party is a registered scheme participant and eligible for assignment of ETS liability.
2. Pricing to be published daily, on a publicly accessible website, for each company so it is accessible to prospective customers as well as regulators
3. Conditions on sale to include payment worthiness of prospective customers and approved terminal access at the applicable terminal for trucks and truck drivers engaged to do the fuel delivery
4. Pricing to be set by the supplier at a fair market rate, accounting for the reasonable costs for supply of that product at that location
5. Pricing should be published for each product owner at each location, rather than each terminal/asset owner

The benefit of a system such as this is that it enables spot supply of product to customers, who may have demand requirements that would not warrant more significant contracted supply arrangements.

As a result, we believe the market would potentially see an increased number of competitors, with those competitors then able to better forecast and control their cost exposure as they build their business, while having a level of confidence to any pricing mechanisms in supply contracts which may be linked to the TGP. To promulgate a move to fair TGP pricing Gull has considered posting its own TGP unilaterally in the past. However, the May 2017 New Zealand Fuel Market Financial Performance Study (Cognitus / NZIER and Grant Thornton), and findings concerning one of our competitors publishing a Main Port Price and then discontinuing the practice, has highlighted that such a publication may be seen as price signalling and thus anti- competitive.

Therefore, Gull is reluctant to make such a move as it may be interpreted incorrectly by authorities, although we are of the view that it should be approached by the regulators as a relatively low risk option to improve transparency and potentially support competition in the wholesale, distributor and retail markets.

Wholesale market access

The Draft Report highlights that the wholesale market is also potentially constrained through the structure of the agreements that are in place and some of the specific terms that are typically included which can be restirictive and unduly benefit the primary supplier of products.

Gull believes that it is important that any changes to the structure of these agreements aimed at improving market competitiveness be balanced with the rights of individual parties to agree to terms that are aligned with their business aims and objectives.

However, Gull supports the review of terms that restrict the ability of independent wholesalers to act independently in the market.

Without actively participating in this market at present Gull cannot comment on any specific concerns that the Commission has raised in the Report, however Gull would agree that reviewing clauses that prevent a distributor from genuinely being able to consider improving the terms of supply is of benefit to the market, as it may lead to distributors seeking more competitively priced and termed arrangements.

Pricing awareness of customers

Gull notes that the Commission has suggested that the way information regarding pricing and products is communicated to consumers is an area where improvement may be required.

Specifically, the Commission has highlighted product prices shown on retail price boards as one area for focus, both in terms of discounted pricing and premium product pricing.

Gull believes consumer choice is at its greatest if able to review pricing prior to driving to a particular site, as is possible today through particular applications on phones and personal devices.

This avenue provides opportunities for consumers, if inclined, to utilise pricing information for all products available at sites, and plan trips accordingly to take advantage of routes which may interact with their preferred brand or the best value option.

Gull is of the view that the influence of a price board over consumer choice is partially limited in comparison, as consumers are already naturally inclined to use a retail site that they have chosen to drive to regardless of the price on the price board.

As per our earlier submission Gull notes that it has retrofitted a third price sign at one outlet this cost in the order of $7,500. Given this site was in the Auckland area freight and travel would inflate this price for other regions by $1,000 per site. Therefore, on Gull's existing network an investment of approximately $720,000 would potentially be required to meet any new legislation and this excludes other products: E85, AdBlue, LPG etc. Gull presumes other oil companies would face similar costs.

With technology advances consumers have significantly more options available to them than just the traditional price board, to ensure that they are suitably informed of the availability of products at any given site, and the price at which they are offered. Furthermore, prices for all products are listed on the pumps so that consumers can have confidence in the price of the product they have selected.

When considering the display of prices for premium products Gull would also note that premium grades of petroleum remain lower volume sales at sites than other grades of petroleum, such as regular, and other petroleum-based products such as diesel.

This coupled with the fact that premium grades are not consistent offerings across different brands given their varying use of proprietary additive packages and other product enhancers, suggests that the advertisement of premium products could potentially confuse customers while driving.

Therefore, Gull is not supportive of moving to display board prices for all products at a retail site, particularly for premium products which are often differentiated across the various suppliers and so price alone is not a direct comparison of the market offers.

Additionally, Gull opposes the imposition of undue regulation which may not provide any consumer benefit, considering that costs associated with regulatory compliance can directly impact operating costs and may result in an impact to fuel prices.

Conclusion

Gull would reiterate our prior statement that, in principle, Gull agrees with the findings of the report which suggests that retail competition can be improved through targeted market mechanisms.

As highlighted within this submission we believe that there are several key areas which can be targeted to effect this change, primarily in the wholesale and access sector of the supply chain, however we would recommend that appropriate caution be exercised when considering regulatory options which may not provide significant consumer benefit, such as price board regulations.