

STATEMENT OF COMPETITION AND CONSUMER ACT COMPLIANCE

Compliance with the Competition and Consumer Act 2010 (*the Act*), which forms part of the national Australian Consumer Law, is important.

The Australasian Convenience and Petroleum Marketers Association (ACAPMA) have a strong commitment to ensure compliance with *the Act* and seek to minimise the risk of a breach of *the Act* arising from meetings of its members.

Competition and Consumer Act - Risk

The Act contains specific provisions prohibiting anti-competitive restrictive trade practices of the sort that could occur at a meeting of ACAPMA members. These include prohibitions on:

- a) contracts, arrangements or understandings that contain cartel provisions relating to: price-fixing; restricting outputs; allocating customers, suppliers or territories; or bid-rigging (section 44ZZRA);
- b) contracts, arrangements or understandings that restrict dealings or affect competition (section 45);
- c) the misuse of market power by a corporation (or a group of corporations) that has a substantial degree of market power (section 46); and
- d) exclusive dealing (section 47).

Anti-competitive agreements do not need to be in writing. An unwritten understanding or undocumented arrangement to take, or refrain from taking, a course of action may be illegal. If price-fixing by an association, or its members is established, the fact that the prices struck are reasonable or that the ends sought through anti-competitive behaviour are reasonable, is unlikely to provide a defence to an action for breach.

ACAPMA does not endorse activity that might have an anti-competitive effect on the market for products or services, or activity that is otherwise prohibited by *the Act*.

ACAPMA requires its Members and Associates to observe their obligations under *the Act* at all times in respect of Association activities. ACAPMA also requires that Members and Associates do not engage in conduct that may give rise to liability under that Act. This requirement is for the benefit of ACAPMA, and also for the benefit of Members and Associates. A breach may lead to significant financial penalties for you, your organisation, ACAPMA and/or other Members and Associates of ACAPMA.

Particularly sensitive is discussion at ACAPMA facilitated meetings of matters that in any way concern:

- a) terms and conditions of the purchase of products and services;
- b) restriction in competition; or
- c) restrictive dealings with competitors.

Compliance at Meetings

The following Competition and Consumer Act 2010 statement of compliance is to be read at the commencement of all ACAPMA facilitated meetings:

"This meeting is being conducted under the terms of the Association's Statement of Competition and Consumer Act Compliance and members should note the need to comply with the Act and ACAPMA's strong commitment to comply with it. A copy of the Statement of Competition and Consumer Act Compliance is available at this meeting and it is also posted on ACAPMA's website.

If any Member or Associate has concerns about the Competition and Consumer Act 2010 implications of any issue being discussed at this meeting, or if any member is unaware of their Competition and Consumer Act 2010 obligations, they should immediately bring this matter to the attention of the Chairperson of the meeting."