



26 February 2020

Our Ref: A31011731

Enquiries: Lanie Chopping
(08) 6552 9407

Mr Patrick Noone
Managing Director
Costco Wholesale Australia
PO Box 7197
SILVERWATER NSW 2028

Dear Mr Noone

COSTCO ENTERING PERTH MARKET AND FUELWATCH SCHEME REQUIREMENTS

Thank you for your email of 17 February 2020 responding to my proposal that Costco voluntarily join the FuelWatch scheme pending the passage through Parliament of the amendments to the *Petroleum Products Pricing Act 1983*. I note your advice that Costco is willing to comply with the price notification elements of the FuelWatch scheme, but not with the requirement to hold those prices unchanged for a period of 24 hours.

As you might be aware, two of the key functions of FuelWatch are to provide Western Australian consumers with fuel price certainty and price transparency. When motorists check prices through FuelWatch they can do so with the certainty that the price a site is selling fuel for will remain unchanged for a 24 hour period starting and finishing at 6am on consecutive days. Consumers in Western Australia also understand that this requirement applies to all fuel retailers in the Perth metropolitan area, and some regional areas. As a result, the FuelWatch system provides them with full market transparency and price certainty.

If FuelWatch were to record and display Costco prices without the guarantee that these prices were fixed for 24 hours, this would impact on the integrity of the FuelWatch scheme for consumers in Western Australia. It is my view therefore that Costco should comply with all aspects of the FuelWatch scheme if it is to be included.

While I would prefer Costco to voluntarily comply with the regulatory requirements, I appreciate that currently the legislation does not require this. Accordingly, given your position that Costco is not prepared to comply with the second element of the FuelWatch scheme, being the fixing of prices for 24 hours, I will not at this stage be including Costco on the FuelWatch system for price notification. Due to this, and the high number of enquiries we have received regarding Costco's prices not being available through FuelWatch, please note it is my intention to issue a media statement advising of the legislation currently before Parliament to bring Costco under FuelWatch.

Once the legislation is passed by Parliament, or unless you advise otherwise before then, we will contact Costco in order to arrange the necessary details for price notification to FuelWatch.

I also take this opportunity to note your concern regarding the potential for consumer confusion around the need to obtain membership in order to purchase fuel at Costco. I advise that it is the intention that all Costco prices displayed on FuelWatch will be flagged with a caveat to alert FuelWatch users to the membership requirement. This system has been successfully used for other particular features for fuel sites on FuelWatch.

If you would like to discuss this further please feel free to contact me on (08) 6552 9407 or via email to Lanie.Chopping@dmirs.wa.gov.au.

Yours sincerely



Lanie Chopping
COMMISSIONER FOR CONSUMER PROTECTION



5 February 2020

Our Ref: A30812212

Enquiries: Penny Lipscombe,
(08) 6552 9394

Mr Patrick Noone
Managing Director
Costco Wholesale Australia
PO Box 7197
SILVERWATER NSW 2028

Dear Mr Noone

LEGISLATIVE AMENDMENTS TO THE *PETROLEUM PRODUCTS PRICING ACT 1983*

I am writing in regards to your meeting with Mr David Hillyard, former Commissioner for Consumer Protection, and other Consumer Protection staff on 26 August 2019. You may recall at that meeting the proposed amendments to be made to the *Petroleum Products Pricing Act 1983* (the Act), by the Petroleum Products Pricing Amendment Bill 2019 (the Amendment Bill) were discussed.

The McGowan Government introduced the Amendment Bill into Parliament in 2019 with the purpose of ensuring Costco falls within the ambit of the Act and the FuelWatch scheme. The Amendment Bill passed through the Legislative Assembly on 31 October 2019, with the support of all political parties, and is currently in the second reading phase in Parliament's Legislative Council.

We were hopeful the Amendment Bill would complete its passage through Parliament in 2019, however unfortunately, the Bill's passage has been delayed and amendments are unlikely to be in place prior to the opening of Costco Perth Airport in March/April 2020.

Given it is only a matter of time before the legislative changes take effect, which will bring Costco under FuelWatch, I propose that Costco be included in FuelWatch on a voluntary basis before the legislative changes are passed. This will allow Consumer Protection to ensure full transparency is maintained and will also provide benefits for Costco in allowing motorists to search Costco's fuel prices on FuelWatch from the day it opens. Costco would also, potentially, be a recipient of the associated television and print media coverage which comes with our regular media reports for Perth's cheapest fuel locations.

If this proposal is acceptable to you, please confirm as soon as practicable that Costco will comply in good faith with the requirements on existing fuel sellers under the FuelWatch regulations until such time as the legislative amendments take effect. This will enable a FuelWatch account to be set up for Costco and the necessary amendments to be made to the website and database.

Please also provide the details of the relevant contacts from Costco's fuel pricing area for our FuelWatch team to contact. Alternatively, Mr Kyle Huynh, FuelWatch Coordinator, can be contacted on (08) 6552 9379 or via email to kyle.huynh@dmirs.wa.gov.au.

I will continue to keep you informed as to the progress of the Amendment Bill. In the meantime, should you have any queries, please contact Ms Penny Lipscombe, Director Legislation and Policy, on (08) 6552 9394 or via email to penny.lipscombe@dmirs.wa.gov.au.

Yours sincerely



Lanie Chopping

COMMISSIONER FOR CONSUMER PROTECTION



Government of Western Australia
Department of Mines, Industry Regulation and Safety
Consumer Protection

12 October 2018

Our Ref: A24425861

Enquiries: Penny Lipscombe,
(08) 6552 9394

Mr Patrick Noone
Managing Director
Costco Wholesale Australia
PO Box 7196
SIVERWATER NSW 2128

Dear Mr Noone

WELCOME TO WESTERN AUSTRALIA

I read with interest your announcement that, subject to obtaining planning approvals, Costco intends to open its first store in Western Australia at the Perth Airport precinct in late 2019 or early 2020. I understand from media reports that Costco also intends to open a second store which may be located in the southern suburbs of the Perth metropolitan area.

I am sure that Western Australians are looking forward to exploring Costco's shops and the many items which are offered for sale including groceries, electronic goods, tyres and fuel. I note that Costco's Perth Airport site will also have an optical centre and a hearing aid centre and so will cater to a wide cross-section of the community.

No doubt you are aware that there are a range of state laws that may apply to your proposal. Two laws that fall within the remit of the Department of Mines Industry Regulation and Safety, Consumer Protection Division are the:

- *Retail Trading Hours Act 1987 (RTHA)*; and
- *Petroleum Products Pricing Act 1983 (PPPA)*.

While the RTHA does not apply to retailers at Perth Airport it is likely to apply to other sites Costco may establish. We intend to amend the PPPA to incorporate the unique business model established by Costco to cater for the FuelWatch Scheme operating in Western Australia.

Details of the FuelWatch Scheme can be found at the following webpage:
www.fuelwatch.wa.gov.au

We will, of course inform you about the legislative changes to FuelWatch as they progress and would welcome any comments you may wish to make about the operation of the scheme and its application to Costco in Western Australia.

If at any time you or your executives are travelling to Perth I would be happy to meet with you to discuss any issues affecting your trading arrangements.

In the meantime, should you have any questions about FuelWatch please free to contact Mr Kyle Huynh, FuelWatch Coordinator by email on kyle.huynh@dmirs.wa.gov.au or (08) 6552 9379

If you require any further information about the retail trading hours in Western Australia please feel free to contact Mr Graeme Watts, Principal Compliance Officer, Trading Hours by email on graeme.watts@dmirs.wa.gov.au or (08) 6251 1406.

Yours sincerely



David Hillyard
COMMISSIONER FOR CONSUMER PROTECTION

17 February 2020

Ms. Lanie Chopping
Commissioner For Consumer Protection
Department of Mines, Industry, Regulation and Safety
Gordon Stephenson House Level
2/140 William Street
Perth, Western Australia 6000

Re: Costco Wholesale Australia, Ltd.
Your Ref: A30812212

Dear Ms. Chopping:

I am in receipt of your letter dated 5 February 2020 regarding the opening of Costco's first location in Western Australia. Our grand opening is currently scheduled for 19th March 2020. The petrol station, however, will open prior to the Warehouse and is anticipated to open on 18th February 2020. We are very excited to commence operating in Western Australia and we look forward to serving our Costco members in Perth and the surrounding communities.

Your letter specifically addressed the Petroleum Products Pricing Amendment Bill 2019 which is intended to amend the *Petroleum Products Pricing Act 1983* (the Act) in order to ensure that Costco's petrol station in Perth will be subject to the Act and all regulations promulgated under the Act. The Amendment, however, is not anticipated to be effective for several months and, therefore, you have requested that Costco voluntarily agree to participate in FuelWatch pending the final passage of the Amendment.

As you are aware, Costco is a membership warehouse club and is not open to the general public. The offering of petrol at our fuel stations is one of the many benefits provided to our members. In order to enhance the value of a Costco membership, our fuel prices are very competitive.

If Costco posts its fuel prices on FuelWatch, we believe that there is the potential for the general consumer to mistakenly believe that he or she would be able to take advantage of the Costco price for petrol when in fact they would be unable to purchase petrol at Costco without first purchasing a membership. Nevertheless, we are willing to participate in FuelWatch on a voluntary basis. Our participation will be limited to uploading our fuel prices on FuelWatch on a daily basis. However, until the Amendment is effective, we will not be obligated to comply with any of the other regulations imposed under the Act, including the requirement to hold our fuel prices for a period of 24 hours.

We hope that your Department would not interpret our decision as disrespectful or offensive in any way. At this critical stage of our opening of the Costco Warehouse, we merely want to maintain the flexibility of managing our fuel prices in order to protect the value of a Costco membership by ensuring that our members receive the best price for petrol within the market. We will coordinate with Mr Kyle Huynh at FuelWatch to set up an account. Thank you for providing his contact information.

Should you have any questions, please feel free to contact me.

Sincerely,

Patrick Noone



