

Labor Senators' Report

Labor Senators are highly critical of the lack of consultation by the committee chair, Senator Brandis, in the preparation and tabling of the report.

To the extent that we have been able to scrutinise this report, we feel that the report is shallow and self-serving and reflects only the view of the committee Chair and perhaps Liberal Party Senators on the Committee. This report is a report that Non-government Senators cannot endorse.

Non-government Senators are appalled in the selective and misleading use of evidence particularly while other quite compelling evidence has been totally ignored. Of great concern to Non-government Senators is that because of the truncated timeframe available to Opposition Senators a full dissenting report cannot be prepared.

Despite the inquiry stretching over five months, the chair provided Non Government Senators with less than 24 hours to consider the contents of the Chair's draft prior to its approval by the government-dominated committee.

We contrast the lack of time to consider the Chair's report with the Chair's own criticism of the Western Australian Commissioner for Fair Trading;

CHAIR—I must say that for a government, with all the resources of a government, to present a substantial submission like this on the day of the hearing without affording the senators the opportunity to get across it and way after the advertised deadline really is not acceptable. I can understand it with small businesses, perhaps, or organisations with limited resources, but for a government not to observe a deadline is really very unsatisfactory.¹

The timeframe for consideration of the draft report by committee members was unacceptable. Regrettably, this report is a rare example of a committee report that reflects the view of the Chair alone.

Non-government Senators are concerned about aspects of the report, including:

- dismissal of the consumer benefit of the FuelWatch system;
- partisan comments about the impact of the Goods and Services Tax;
- reliance on limited evidence to draw sweeping conclusions, particularly in relation to price collusion; and
- dismissal of the impact of high petrol prices on rural consumers.

Non-government Senators are particularly concerned that the report reflects a limited exploration of the important issues referred to the committee by the Senate.

¹ Senator George Brandis , *Committee Hansard*, 20 September 2006 p 69

Rarely has a committee report of such length had so little to say.

Recommendations contained within the report are hesitant and insubstantial. The recommendations do not do justice to the committee's terms of reference or its work.

An example of the shallow analysis placed on the evidence presented to the Committee is the dismissive approach the Chair's report takes to the Western Australian FuelWatch scheme.

Mr Patrick Walker, Commissioner for Fair Trading Western Australia provided a substantial submission to the Committee. It is instructive to quote both the purpose as well as the effectiveness of the '24 hour rule', particularly as the Chair is dismissive of the effectiveness of FuelWatch.

Purpose of FuelWatch

The purpose of the FuelWatch system is:

- to represent the interests of consumers;
- to provide price transparency and certainty at the wholesale and retail levels of fuel market;
- to assist motorists in making informed decisions about their fuel purchases and enable them to pay lower prices; and
- to put downward competitive pressure on fuel prices.

Effectiveness of the "24 Hour Rule"

The effectiveness of the "24 hour rule" has been questioned, however the critics have been proved wrong.

- Perth has experienced lower average prices than each of the Eastern States capitals for 2005 and 2006.
- The structure of the retail fuel market in Western Australia is similar to the national market, so independents have not been driven out.
- Perth's low prices indicate that the "troughs" in the price cycle are not higher than in Eastern States capitals, in fact the troughs are just as low, but the peaks are substantially lower².

The purpose of FuelWatch is to provide consumers with information regarding the price of fuel providing the opportunity to plan purchases in an informed manner. Consumers and competing retailers have the ability to examine the prices of retailers with a result that the evidence suggests places downward pressure on prices.

² Commissioner for Fair Trading Western Australia, *Submission 71* p vi

The monitoring system was established in December 2002 and provides a mechanism for consumers to see daily best prices broken up by locality as well as average prices for that day. Evidence presented indicates that petrol prices in Perth in 2003 (the first year of monitoring) were on average 1.3 cents per litre higher than prices in Adelaide, Brisbane, Melbourne and Sydney. In 2006 price comparisons indicate that petrol in Perth is on average 1.4 cents per litre cheaper than those cities.

As stated, the Chair is dismissive of the benefits of FuelWatch however; the Chair has failed to provide any evidence or to advance an alternative thesis to explain this apparent change in average price in the Perth market. The Chair has also failed to acknowledge that the motoring organisation the Royal Automobile Club of Western Australia provided an independent analysis of the data collected through the FuelWatch scheme that has endorsed the findings of FuelWatch itself.

Another area that the Chair's report has been deficient in is the discussion of the potential role of the ACCC in petrol price monitoring. Non-government Senators are of the view that current informal price monitoring undertaken by the ACCC is not adequate. Amounting essentially to price monitoring 'by Google' the ACCC admits than in some cases there is no more effort than to look at the terminal gate price on the internet.

The ACCC must look behind the price to investigate what are the components of the price. Appropriate price monitoring would need to consider retail, wholesale and refining margins.

The only effective way for the ACCC to be able to get behind the price is to initiate formal price monitoring by the ACCC. This can only currently occur when the Treasurer directs the ACCC to undertake this formal price monitoring.

However, the Treasurer has refused to write to the ACCC chair and initiate formal price monitoring. The Treasurer has not advised any justification for this lack of action.

There is a case for the Parliament having the capacity to initiate this formal price monitoring. It provides a mechanism, outside of the executive arm of government, for investigating in a transparent way whether there is price gouging in petrol markets.

There is a precedent for this type of provision in s29 (3) of the current Act. The proposed change could be constructed as set out below.

95ZEA Direction may be given to Commission

- (1) A House of the Parliament, a Committee of a House, or a Committee of both Houses of the Parliament may give the Commission a written direction;
 - (a) to monitor prices, costs and profits relating to the supply of goods or services by persons in a specified industry; and
 - (b) to provide to the Parliament a report on the monitoring at a specified time or at specified intervals within a specified period.
- (2) The Commission must, in preparing such a report, have regard to the need for commercial confidentiality.
- (3) The Commission must make copies of the report available for public inspection as soon as practicable after it provides Parliament with the report.

Overall Non-government Senators are of the opinion that the deficiencies in the main report seriously detract from what could have been a substantial inquiry with the potential to consider meaningfully an issue of great concern to all Australian motorists.

Labor Senators endorse the comments made by Senator Murray.

Senator Ursula Stephens

Senator Kerry O'Brien