The Senate

Standing Committee on Economics

Petrol Prices in Australia

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Senate Economics Legislation Committee

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TABLE OF CONTENTS

CHAPTER 1

Background to the Inquiry

Referral and Terms of Reference

1.1 On 22 June 2006, on the motion of Senator Kerry O'Brien, the Senate referred the following terms of reference to the Senate Economics Legislation Committee (as it was known at that date), for inquiry and report by 9 October 2006:

(a) the relationship between the landed price of crude oil, refining costs, the wholesale price and the retail price of petrol;

(b) regional differences in the retail price of petrol;

(c) variations in the retail price of petrol at particular times;

(d) the industry's integrated structure; and

(e) any other related matters.

1.2 An interim report was tabled out of session on 9 October 2006.

Conduct of the inquiry

1.3 The Committee advertised the inquiry nationally and posted details on its internet site. In addition, it wrote to a number of organisations advising them of the inquiry and inviting them to make submissions.

1.4 The Committee received 75 submissions to its inquiry. These are listed at Appendix 1. Several supplementary submissions were also received.

1.5 The Committee held a total of 8 hearings. The first public hearing was a briefing to the Committee by officers of the Australian Competition and Consumer Commission (ACCC) on 3 August 2006. Public hearings were then held in Kybong in Queensland on 23 August 2006, Perth on 20 September 2006, and on 26 September 2006, a round table was held with economists to canvas a number of issues relating to petrol pricing and the petroleum industry. Further public hearings were held in Parliament House in Canberra on 27 and 28 September 2006 and 13 October 2006. The last public hearing was held in Parliament House on 19 October 2006 and heard final evidence from officers of the ACCC.

1.6 The Hansard of the Committee's hearings and copies of all submissions have been tabled with this report. These documents, including the Committee's report, are available on the Committee's website at:

http://www.aph.gov.au/senate/committee/economics_ctte/completed_inquiries/index.htm

1.7 The Committee wishes to express its appreciation to all witnesses for their cooperation during the inquiry, whether by making submissions, by personal attendance at a hearing or, as in the case of many, by giving both oral and written evidence. In particular, the Committee thanks representatives from the ACCC for appearing before the Committee on multiple occasions.

Outline of the report

1.8 Chapter 2 provides an overview of the petroleum industry and the framework for setting petrol prices. It covers the structure of the petroleum industry and domestic and international factors which affect petrol prices, such as the world price of crude oil, market forces in the Asia-Pacific region and the extent to which the Australian petroleum industry can influence the price of petrol at the bowser.

1.9 Chapter 3 concentrates on petrol price cycles and examines whether price cycles are good for consumers and whether prices really do rise just before long weekends and public holidays. This chapter includes an examination of the Western Australian petrol pricing system and its effectiveness in managing petrol price fluctuations and injecting greater transparency into the petroleum market.

1.10 Competition in the market and competition strategies used by the petroleum industry are discussed in Chapter 4. This chapter considers whether some of the strategies undertaken by various fuel retailers in raising and lowering fuel prices may indicate collusive or anti-competitive behaviour and examines claims that profiteering, price gouging and predatory behaviour exist in the domestic petroleum market.

1.11 Chapter 5 poses a number of questions relating to the taxation of petrol. It analyses propositions submitted to the inquiry about restructuring petrol taxes, including whether excise or GST should be lifted from petrol, or alternatively, if taxes should be increased to send clear price signals to consumers about reducing consumption of the product.

1.12 As reiterated in past inquiries (see below), country consumers on average pay a much higher price for petrol than do consumers in metropolitan centres. The reason for the price differentials and what could be done to alleviate the financial burden on people living in regional, rural and remote communities is discussed in Chapter 6.

1.13 The power of the Australian Government to intervene in the petrol market is covered in Chapter 7. This chapter examines how the ACCC is working to ensure that the domestic petroleum market is a fair and level playing field for all competitors and discusses the current powers of the ACCC to monitor and report on petrol pricing to the public and to Government.

1.14 Finally, Chapter 8 provides the Committee's conclusions for improved petrol price management and proposes recommendations for enhancing consumer confidence in petrol pricing. It summarises the key themes from each of the preceding chapters and outlines directions for addressing these issues.

Terminology in this report

1.15 The term 'petrol' is broadly used throughout this report to refer to the fuel product derived from petroleum used to power motor vehicles and devices. This is in recognition of the Senate's instruction that the Committee inquire into the 'price of petrol in Australia'. The Committee acknowledges the legitimacy of using the term 'fuel' to describe the broad suite of products (for example, petroleum, diesel, liquefied petroleum gas and biofuels) used to power engines.

Past inquiries

1.16 There have been numerous inquiries and reports into the petroleum industry and petrol pricing over the past decade at the state, territory and federal levels. Notable Federal Government inquiries include:

- The inquiry by the Industry Commission (1994) into petroleum products with key findings including that: the price surveillance of petroleum products should cease; State and Territory Governments should not regulate petrol prices; and the *Petroleum Marketing Sites Act 1980* and *Petroleum Retail Franchise Act 1980* should be repealed.
- ACCC inquiry into the petroleum products declaration (1996) which again called for the repeal of the two aforementioned petroleum Acts whilst also advocating for the introduction of increased transparency in the petroleum market.
- ACCC inquiry into reducing fuel price variability (2001), which recommended that a consumer awareness campaign be launched to raise awareness of petrol price cycles whilst other options could be considered to control the extent of price cycle fluctuations. The report also suggested the Government engage with industry to consider future reforms of the petroleum market.
- Fuel Taxation Inquiry (2002) which recommended, among other things, that excise (and customs) duty should apply to all liquid fuels and liquefied and/or compressed natural and petroleum gases, and the rates to apply should be based on the relative energy content of each fuel (except aviation fuels and greases).
- ACCC inquiry examining terminal gate pricing arrangements in Victoria and fuel pricing in the Western Australian market following the introduction of the new petrol pricing and notification system (2002). The report concluded that it was not able to directly attribute the introduction of these state-based systems to better outcomes for consumers.
- ACCC inquiry into shopper docket petrol discounts and acquisitions in the petrol and grocery sectors (2004). The report found that the introduction of the shopper docket schemes had encouraged competition and lower prices in the fuel market.

1.17 State and Territory Governments have also produced a number of reports examining matters such as why petrol prices are high and particularly, the price differential between country and city consumers. The most recent reports were prepared by the Northern Territory (NT) and Queensland Governments. The NT report, *Inquiry into fuel prices in the Northern Territory* (2005) supported the repeal of the two existing Commonwealth petroleum acts and recommended the introduction of increased transparency into the NT petroleum market, such as the mandatory display of price boards, extended fuel price monitoring and increased public awareness of petrol prices, and that all claims of 'unreasonably high' petrol prices be referred to the ACCC. The Queensland report, *Inquiry into petrol pricing in Queensland* (2006) examined competition in the market and recommended Queensland should not introduce a similar petrol pricing system to the Western Australian system, but that options are considered to increase pricing competitiveness in country areas of the state.

1.18 A comprehensive list of past inquiries and reports into the petroleum industry and petrol pricing is included in Appendix 4.

Note on references in this report

1.19 References to *Committee Hansard* are to the proof Hansard with the exception of the hearings held on 3 August 2006 (Canberra) and 23 August 2006 (Kybong, Queensland). In these instances, references are to the official Hansard. Page numbers may vary between the proof and the official Hansard transcript.

CHAPTER 2

Sourcing, Refining and Distributing Petrol

Introduction

2.1 The broad structure of the petrol industry and its individual components has been explained in a number of past inquiries. Evidence submitted to this inquiry clearly demonstrated the complex structure of this industry. That complexity is no doubt one of the reasons for many of the public misapprehensions and 'urban myths' about how fuel at the bowser is priced.

2.2 The price of crude oil on the international market and the factors impacting upon how much is paid for this commodity has received considerable attention in recent times in the media. The media has intensely reported on factors such as instability in the Middle East and natural occurrences such as Hurricanes Katrina and Rita, but there are many other factors also affecting the price we pay for petrol.

2.3 While some of these more obvious influences on petrol prices seem to be reasonably well understood, what is less clear is how the process of converting oil into a useful form like petroleum affects the price, why domestic prices are strongly influenced by what is happening on the international market and how Australia's high fuel quality standards affect the price of petrol. These matters are examined below.

2.4 This chapter frames a number of questions raised in evidence about refining and wholesaling petroleum products, the petroleum industry and most importantly, what really determines the price of petrol.

How the price of petrol is arrived at

2.5 Some witnesses expressed concern about fluctuations in the price of crude oil that allegedly do not correspond to fluctuations in the price of petrol at the pump. Whilst acknowledging the impact of changes in the international market on the price of crude oil, the NRMA pointed out that these factors alone cannot account for the total rise in the price of petrol at the pump:

> Since January 2005 the price of Malaysian Tapis has increased from AUS$59.70 per barrel to $97.70 per barrel. This translates to an increase of around AUS$38 per barrel or 24 cents per litre. Assuming that this cost was fully passed on to motorists and there was additional GST levied the average retail price of unleaded petrol in Sydney, in June 2006, would have been around 123.4 cents per litre.[1]

2.6 The Australian Taxi Industry Association also asserted this view:

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1 NRMA, *Submission 33*, p. 15.

> The ATIA remains to be convinced that some oil industry participants are not using upward price movements in world oil prices to disguise opportunistic price gouging in the domestic retail market. In particular, the impact of upward movements in world oil prices appears to be more immediate and extensive than occurs in the event of downward movements.[2]

2.7 The Victorian Government submitted that Australia's domestic market should be investigated to ensure Australian-based oil companies are not exploiting increases in the international price of oil:

> Rising margins are a concern particularly so when international prices have risen significantly, the majority of domestically consumed fuel is produced and refined locally and the industry is undergoing changes in competition. A detailed examination of oil company prices and margins at this time is needed to ensure that the market is operating efficiently and that consumers are not being disadvantaged.[3]

2.8 Evidence to the inquiry highlighted that the relationship between the sale of oil on the international market and its impact on prices paid at the bowser does not appear to be clearly understood by many in the community. The result of this lack of understanding is suspicion, distrust and resentment towards the petroleum industry.

2.9 The structure of the petroleum industry is complex and highly integrated at all levels, from the domestic refinery, wholesale, distributor and retail levels through to the international market. The strong links between Australia's domestic petroleum market and the international market extends far beyond simply the trade of crude oil. Assessing the extent to which Australia's major oil companies (BP, Caltex, Mobil and Shell) influence the price of petrol, it is necessary to understand the key factors affecting the price of petrol in Australia, namely:

- the international crude and petroleum product markets;
- translation of international prices back into Australia's domestic market; and
- factors in the Australian petroleum industry that influence retail petrol prices.[4]

2.10 Australia consumes a very small proportion of the world's oil production. Of the oil consumed within Australia, about 35 per cent is sourced from domestic oilfields whilst the remainder is imported.[5] One of the reasons Australia does not refine a greater proportion of locally produced oil is because this oil is classified as light, sweet crude and so commands a higher price on the international market. It is

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2 Australian Taxi Industry Association, *Submission 27*, p. 2.

3 Victorian Government, Minister for Consumer Affairs, *Submission 10*, p. 2.

4 Mr John Tilley, Australian Institute of Petroleum (AIP), *Committee Hansard*, 27 September 2006, p. 3.

5 AIP, *Submission 50*, p. 2.

also unsuitable for producing the full range of heavier products produced by some refineries including bitumen, lubricating oils and greases.

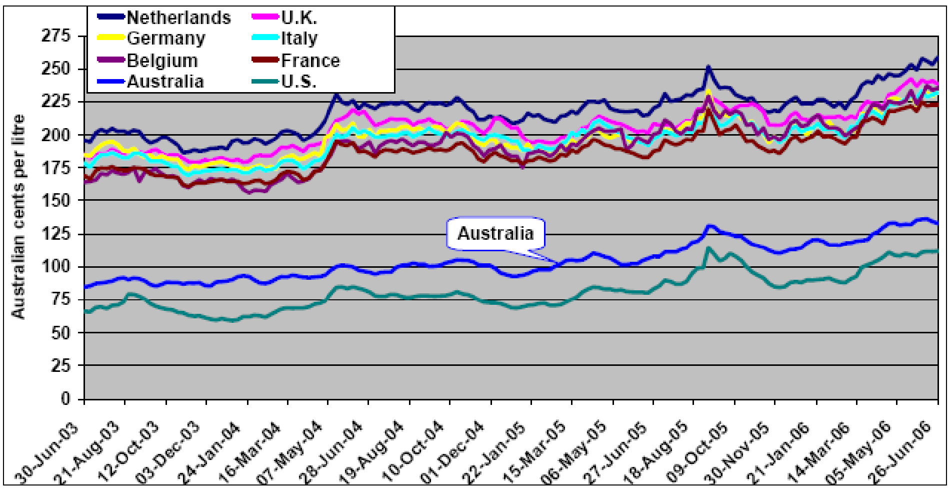
2.11 While one-third of the crude oil refined in Australia is produced locally and converted into petroleum products, the price of this oil is still inextricably linked to the price of petroleum products on the international market. As an internationally traded commodity the price of refined petroleum products (regardless of whether refined from locally sourced or imported crude oil) is set against the international benchmark price. This ensures that Australia has a consistent flow of product:

> If the price of refined petrol in Australia was lower than the international price, domestic refiners would have an incentive to export refined petrol overseas, which could lead to shortages of petrol in Australia. If the price of refined petrol was higher in Australia than overseas, refiners would have an incentive to import refined petrol rather than produce it in Australia.[6]

2.12 The benchmarking process used to determine the basis for Australian petrol prices is import parity pricing. Australian oil companies currently use the price of Singapore Mogas 95 Unleaded as the relevant benchmark. The Singapore price was chosen 'because it was the major trading centre in Asia for petroleum products, the most likely source of fuel imported into Australia and the closest major refining centre in Australia'.[7] The benchmark price is set at the average daily price of this type of petrol traded in Singapore. Australian oil companies have used Singapore Mogas 95 Unleaded as the benchmark since the petroleum industry was deregulated in 1998.

2.13 The linkage to the international market through import parity pricing can be seen in Figure 2.1 which illustrates that petrol prices in Australia reflect very similar trends to retail petrol prices in the United States and European markets.

Figure 2.1—Average weekly pump prices for petrol[8]



6 ACCC, *Submission 31*, p. 28.

7 Motor Trades Association of Australia (MTAA), *Submission 28*, p. 6.

8 Caltex Australia, *Submission 55*, p. 10.

To what extent do fluctuations in the crude oil price affect the petrol price?

The price of crude oil is the ultimate determinant of the price of petrol, creating fluctuations in petrol prices that consumers invariably feel. Australia uses the price of Tapis crude oil from Malaysia as the benchmark for setting the price of this internationally traded commodity.

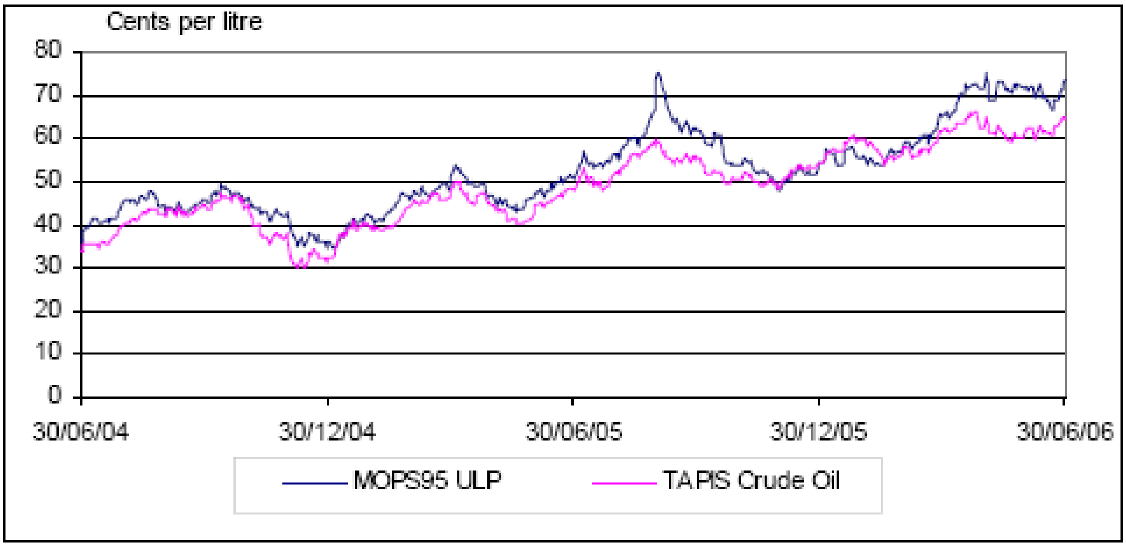
2.14 The ACCC attributed the key reasons for the increase in the international price of crude oil (by around 200 per cent over the past five years) as:

- supply shortages prompted by circumstances in oil-producing countries such as Iran and Nigeria, as well as political instability in oil-producing regions including the Middle East;
- increasing demand for crude oil triggered by supply disruptions such as natural disasters including Hurricanes Katrina and Rita, as well as annual planned refinery closures required to conduct maintenance;
- increasing demand for certain petroleum products in the Asia-Pacific region in which the Australian petroleum industry operates; and
- variations in the Australian and US dollar exchange rate, which can result in a situation where the international price of crude oil drops yet a weak exchange rate means that the price of oil remains relatively stable.[9]

2.15 Petrol is an independently priced and traded commodity and so the price can and does move independently of the price of crude oil. Figure 2.2 illustrates that whilst the price of petrol and oil tend to follow similar fluctuations, the prices do not always align such that the price of crude oil may be greater, or less, than the price of the international benchmark price of petrol. Nevertheless, allowing for these variations and lag effects, there is a very close correspondence between fluctuations in the crude oil price and the petrol price, as the following chart demonstrates.

9 ACCC, *Submission 31*, p. 29.

Figure 2.2—Tapis crude oil price and Singapore Mogas 95 Unleaded price[10]



2.16 A significant amount of evidence acknowledged fluctuations in the price of crude oil as being a major factor behind increases in the price of petrol. However, as was discussed by a number of commentators, although it is clearly the principal determinant, the price of crude oil alone cannot account entirely for the increase in the price of petrol.

What other factors affect the wholesale price of petrol in Australia?

2.17 The price of petrol extends beyond the import parity price. Whilst it represents the bulk of the wholesale price of petroleum products, other factors also contribute to the downstream price of petrol. Typically the wholesale price of petrol is a summation of many factors including:

- the rolling average of the daily price of Singapore Mogas 95 Unleaded;
- the rolling average of the daily Australian and US dollar exchange rate;
- costs of meeting Australian fuel quality standards;[11]
- transport charges, including insurance and wharfage charges;
- refinery operating costs; and
- refiner margin.

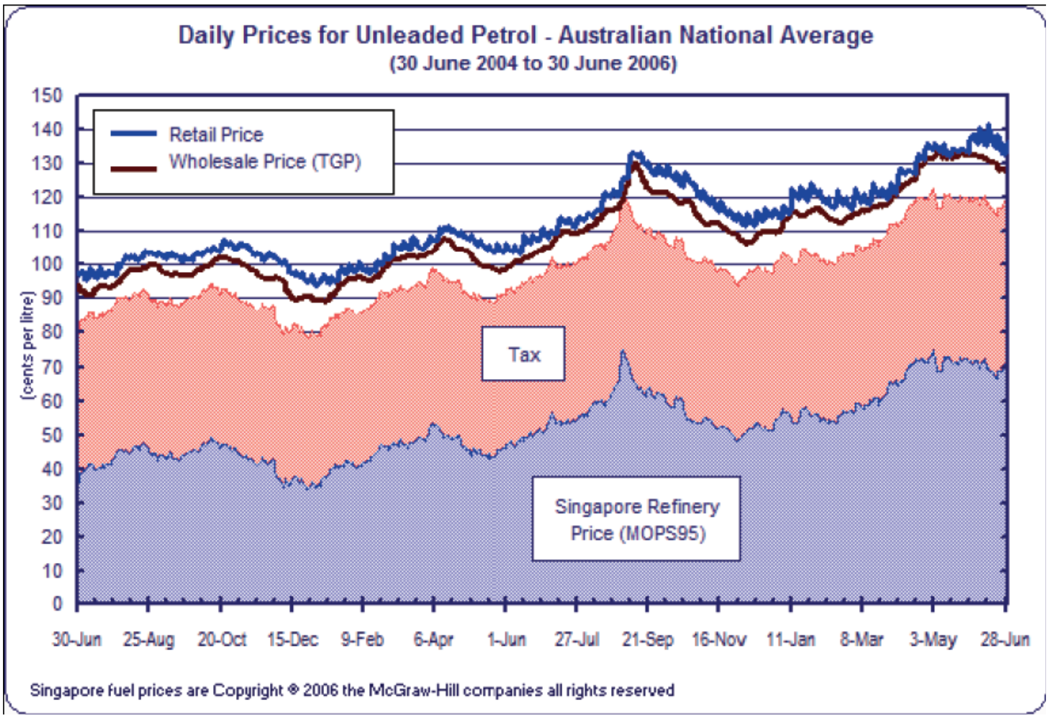
2.18 The combination of these components, plus or minus any other factors included by operators to calculate the wholesale petrol price, is referred to as the

10 AIP, *Submission 50*, p. 13.

11 The ACCC noted that Western Australia has a higher fuel quality premium (see ACCC, *Submission 31*, p. 36).

Terminal Gate Price (TGP). According to the Australian Government's new Oilcode,[12] the TGP is the price for a wholesale sale of petroleum product, temperature corrected and expressed in cents per litre.[13] This is the wholesale price that a truck driving up to the terminal gate of a refinery can expect to pay for a bulk quantity of petroleum product. Figure 2.3 illustrates that fluctuations in the TGP tend to follow reasonably closely with fluctuations in the retail price. Figure 2.3 also shows that the greatest contributors to the cost of petrol at the pump are the price of Singapore Mogas 95 Unleaded and taxes.

Figure 2.3—Movements in Singapore Mogas 95 Unleaded and TGP[14]



2.19 In addition to the TGP many oil companies also hold a 'wholesale list price'. This price is calculated daily by the oil company and is generally treated as a confidential price between the oil company and the purchaser. This is because the price may include factors such as bulk purchase discounts, rebates or other terms and agreements that have been agreed between the parties. However, both the TGP and the wholesale list price are calculated in relation to the import parity price.

12 The Oilcode forms part of the Downstream Petroleum Reform Package. Effective 1 March 2007, it will provide a uniform regulatory environment for petroleum industry participants. Its introduction coincides with a repeal of existing petroleum legislation, the *Petroleum Retail Marketing Sites Act 1980* and the *Petroleum Retail Marketing Franchise Act 1980*. For further information, see 'Downstream Petroleum Reform Package and Oilcode', (accessed October 06): http://www.industry.gov.au/assets/documents/itrinternet/ReformPackage20060331151615.pdf

13 *Trade Practices (Industry Codes — Oilcode) Regulations 2005*, Final Draft, s. 4.

14 AIP, *Submission 50*, p. 17.

2.20 In evidence submitted to the inquiry, it appears that most petroleum products are sold on the basis of a price other than the TGP; namely, the wholesale list price set by the oil company, and how this price is calculated is not disclosed by the parties.[15]

2.21 Terminal (or refinery) operating costs are the costs to the business incurred in refining crude oil into petroleum products. These costs would also include the more general costs associated with running a business such as the costs of operating and maintaining refinery equipment (including overheads and payment of wages), as well as any costs associated with upgrading and modifying ageing equipment or to meet new industry environmental emission standards. As all of Australia's refineries are some fifty or more years old, there can be substantial costs associated with conducting upgrades.

2.22 Transport charges include the costs associated with shipping a tanker of petroleum product to Australia. This would incorporate charges such as the shipping reference rate for freighting the product to Australia (essentially an index rate calculated in US dollars a tonne for a tank travelling to a particular Australian port), transportation to a terminal, terminal fees and insurance.

2.23 The refiner margin refers to the difference between the price of Singapore Mogas 95 Unleaded and Tapis crude oil. As described earlier, both of these factors are subject to international market forces, hence Australian refiners do not have control over this component in the price of petrol. Examining fluctuations in the refiner margin over time, it can be seen that whilst the margin is generally positive there have also been instances when the refiner margin has been negative.[16] BP Australia Pty Ltd commented that:

> Refinery margins were very low for many years due to overcapacity in the [Asia-Pacific] region. Margins less than US$4.00 are generally poor margins…Margins are better now, but the cycle can quickly turn. And even in recent times they have shown considerable variability. For example:
>
> - in January 05 they were close to zero;
> - in June 06, they were about US$7; and
> - in August 2006 they were about zero.[17]

2.24 However, as illustrated in Figure 2.4 fluctuations in the refiner margin have become clearly more pronounced in recent years.

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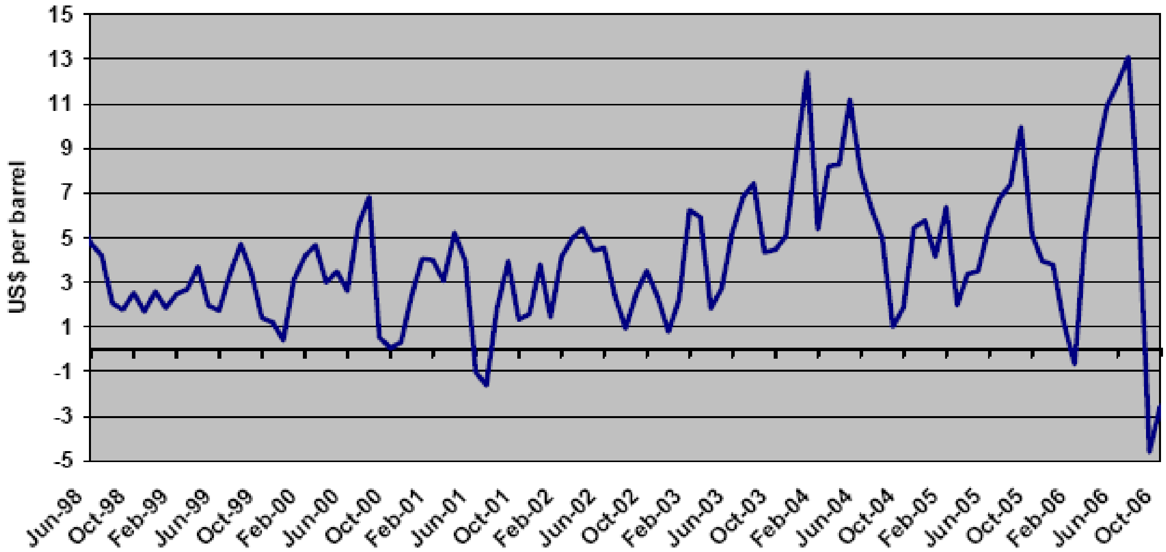
15 Mr Warwick Richards, Director, Economic and Energy Analysis, *Committee Hansard*, 26 September 2006, pp 14–15.

16 ACCC, *Submission 31*, p. 29.

17 BP Australia Pty Ltd, *Submission 34 – Additional Information* (presentation to Committee), p. 16.

Figure 2.4—Singapore petrol refiner margin[18]



2.25 The NRMA questioned whether the oil companies may be using increases in the international price of crude oil to also increase other margins included in the sale price of petrol:

> NRMA does not know why there has been a simultaneous increase in refiner margins, wholesale margins and retail margins along with record high crude oil prices. There is no evidence to suggest that higher crude oil prices would lead to increases in other input costs throughout the oil production and distribution chain. On balance, we believe that these simultaneous increases in various margins throughout [the] industry supply chain suggest that the oil industry in Australia is not effectively competitive.[19]

2.26 The Motor Trades Association of Australia (MTAA) argued that higher wholesale margins have been attained by the oil companies in recent times whilst retail margins have remained largely unchanged:

> The tighter supply and demand conditions have also delivered improved wholesale margins to refiners over the last few years. In contrast, retail margins have remained fairly consistent over the same period due to intense competition at the retail level. For example, the Caltex Refiner Margin rose from US$1.82 a barrel in 2002 to US$8.40 a barrel in 2005 – an increase of 361 per cent.[20]

2.27 This view was also presented by the Australian Automobile Association, which stated that:

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18 Caltex Australia presentation at public hearing, 13 October 2006, p. 4.

19 NRMA, *Submission 33*, p. 18.

20 MTAA, *Submission 28*, p. 7.

> Though it is difficult for us to pinpoint the reason for the increase in the differential between oil and petrol prices, our analysis suggests it has been driven by a combination of increases in margins at the retailing, wholesaling and refining levels.[21]

2.28 The ACCC explained that the fluctuations in the refiner margins could be the result of structural changes in the Asian petroleum market, resulting in a situation where demand for petrol in our region is increasing whilst supply decreases:

> Part of what has happened is that we have had a structural change occur in the Asian markets, which is basically what determines our prices in Australia. A structural change has been that for a long time Asia was a substantial consumer of diesel, and petrol was a by-product when you are producing diesel. We had a period where, if anything, there were excess supplies of petrol in Asia…In more recent years, Asia has started to consume more petrol than previously. That is partly through the growth of China and India and it is partly through the increasing use of petrol driven motor vehicles. That ready supply, almost excess supply, of petrol in the Asian region that we had for quite a while has disappeared.[22]

2.29 This view was echoed by the Service Station Association:

> With the strong growth in China and, to a lesser extent, India that surplus capacity is no longer there. That means that refiner margins, again because of supply and demand, have probably doubled in the last few years. That is a situation that will reverse because new, additional refining capacity in the region, I am told, is likely to have an impact on that from 2008 onwards. So we are probably likely to see refiner margins cut back in the latter part of this decade.[23]

2.30 Shell explained that the current high margins are temporary, reflecting cyclical patterns in the industry:

> The long-term cyclical nature of margins must be taken into account in considering the risk and return on the very large and long-term investment in a refinery. Refining industry dynamics have tended to be characterised by a cycle of poor margins → stagnant capacity → increased demand → good margins → investment/increased capacity → over capacity → poor margins.[24]

2.31 This situation has been the reverse to what was observed in previous years. Mr Warwick Richards from Economic and Energy Analysis commented that this is:

> …a complete reversal of the long-run trend that we had in the regional market, which was a very pronounced overhang of excess investments in

21 Australian Automobile Association, *Submission 29*, p. 7.

22 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard,* 3 August 2006, p. 23.

23 Mr Ronald Bowden, Service Station Association, *Committee Hansard,* 23 August 2006, p. 32.

24 The Shell Company of Australia Limited, *Submission 45*, pp 8–9.

> refinery capacity in Asia…Since then, we have seen unprecedented rates of growth in demand in the region, and of course the market failed to anticipate the rate of that demand.[25]

2.32 Furthermore, Mr Richards described the nature of the petroleum industry 'in which refineries are billion-dollar investments…with very long lead times' which means that the owners must put the investment to good use to recoup costs. He argued that the capital-intensive nature of the industry tends to drive refiner margins in the region.[26]

2.33 The Service Station Association Ltd pointed out that in addition to underinvestment in the industry, higher freightage and insurance costs at the moment are contributing towards higher petroleum prices:

> Freight and insurance is only small but at the moment it is higher than it otherwise might be because of the shortage of refining capacity in the Western world generally, which means that there is a higher amount of refined product being moved around the world in tankers. Ten years ago there was a surplus of tankers. Today there is a shortage of tankers. The same underlying problems are there with a shortage of capacity because of underinvestment.[27]

2.34 However what could be deemed to be a *reasonable* increase, both in the margins to recoup losses sustained during low points in the market or to ensure a sufficient return on investment in a refinery operation, is not clear. When questioned about this matter Mr O'Keeffe from Matilda Fuel Supplies provided the following commentary:

> **Senator CHAPMAN**—Do you believe that is justified in terms of the previous margin being too low because of a period of fairly flat demand and pricing in Australia or is that excessive?
>
> …
>
> **Mr O'Keeffe**—I do not know, but a person who used to be a trader with one of the major oil companies told me a few years ago that the appropriate refiner margin would be in the order of $3.50 a barrel. We have seen it go up to $14 and $10 a barrel. Certainly, when it is down at $1.50 a barrel, it is too low and that is where it was at one stage. But I think it is obscene if it goes over $10 a barrel, and it has been sitting at $10 a barrel for a long

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25 Mr Warwick Richards, Director, Economic and Energy Analysis, *Committee Hansard*, 26 September 2006, p. 4.

26 Mr Warwick Richards, Director, Economic and Energy Analysis, *Committee Hansard*, 26 September 2006, p. 4.

27 Mr Ronald Bowden, Service Station Association, *Committee Hansard*, 23 August 2006, p. 32.

> time, although…you will see that since about 8 August the unleaded refining margin has dropped back considerably.[28]

2.35 The Queensland Government noted:

> International factors are a key determinant of domestic petrol prices, but it is important that this is not used as an excuse for inaction. The impact of high petrol prices on the financially vulnerable sections of the community, and the strategic importance of petrol in the economy, makes it incumbent upon governments to take whatever practical steps are available to reduce petrol prices and Australia's longer term reliance on petrol.[29]

2.36 Some submitters to the inquiry also questioned why increases or decreases in the international price of crude oil do not correspond equally with changes to the price of petrol at the pump.[30] However, evidence described the lag in fluctuations as the consequence of Australian markets working on a seven-day rolling average.[31] This means that changes in the world price will not be felt in the Australian wholesale petroleum market for up to a week whilst the flow-on effect to the retail market will be delayed until new product is purchased from the wholesaler at the increased or decreased price. It is only then that the increased or decreased price will be passed on to consumers purchasing fuel at retail outlets.

2.37 The time lag between changes in the international prices and the resulting effect on the price at the pump was reported as being around one to two weeks.[32] However, it can sometimes be much longer depending on how regularly the retailer receives new petroleum consignments. For example, in regions of slow retail product movement, such as in rural or remote communities where demand for product may be quite low, the retailer may purchase new fuel far less frequently than would retailers in metropolitan areas. Therefore short term fluctuations in the international price of crude oil or petroleum products may not be felt for some time, if at all. Locally specific influences on the price of petrol at the pump, including the impact of the retailer's margin and competition between petroleum retailers, are discussed in Chapter 3 – The Petrol Price Rollercoaster.

Does meeting Australian fuel standards increase the price of petrol?

2.38 New fuel standards were first introduced by the Australian Government between January 2002 and January 2006, imposing limits on the amount of olefins, methyl tertiary-butyl ether (MTBE), sulphur, aromatics and benzine in petrol and the

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28 Senator Grant Chapman & Mr Lawrence O'Keeffe, Matilda Fuel Supplies, *Committee Hansard*, 23 August 2006, p. 13.

29 Queensland Government, *Submission 75*, p. 1.

30 *See for example*, Mr Stephen Garlick, *Submission 17*, p. 3.

31 *See for example*, AIP, *Submission 50*, p. iii; *and* Mr Ronald Bowden, Service Station Association, *Committee Hansard*, 23 August 2006, p. 33.

32 Motor Trades Association of Australia, *Submission 28*, p. 5.

banning of leaded petrol. Further increases in fuel standards were announced in 2004, aimed at reducing the amount of sulphur in premium unleaded from January 2008 and in progressively reducing the amount of sulphur in diesel commencing from 1 January 2006.[33]

2.39 Since 2000, a number of states have also adopted tightened fuel standards ahead of the Australian Government including Western Australia, Queensland and South Australia. Following the introduction of tighter fuel standards by the Australian Government, all fuel standards are now common across Australia, with the exception of Western Australia which has stricter limits on the amount of MTBE permitted in petrol.[34]

2.40 Whilst the environmental advantages of the new fuel standards include cleaner urban air and the use of more efficient, environmentally-friendly technologies, the cost of adapting Australia's refineries to meet the new standards was estimated as exceeding $2 billion.[35] Petroleum industry representatives indicated that the tighter Australian fuel standards introduced since 2002 would account for around 2.0 to 3.0 cents per litre higher wholesale petrol prices, which would be likely to flow-on to similar increases in the retail price of petrol.[36]

2.41 The ACCC noted that Australia's tightening fuel standards, combined with increased demand for petrol in Asia, have impacted on the ability to purchase petrol at reduced prices on the international market and this has particularly affected independent fuel operators:

> Actually, I would say that what is not happening all that much these days is the independents being able to pick up relatively cheap petrol in Asia. That is partly because our fuel standards have made that more difficult and partly because there is a much tighter demand-supply situation in Asia.[37]

2.42 The restriction on being able to import fuel from some countries because of increased Australian fuel standards was also discussed by other witnesses:

> [Independents] were sourcing petrol in China and elsewhere when it was available. An important issue that restricted their supply was not only the changes in the market in Asia but particularly the availability of MTBE as

33 The Hon. Ian Campbell, Minister for Environment and Heritage, 'Cleaner fuels: cleaner air and a healthier Australia', *Media Release,* C6/04, 22 July 2004.

34 ACCC, *Submission 31*, p. 19.

35 AIP, 'Energy Statement points the way towards a sustainable industry', *Media Release*, 15 June 2004.

36 ACCC, *Submission 31*, p. 19.

37 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, p. 43.

> an octane enhancer. As that was restricted in the region, a lot of the available product was also less available for those purposes.[38]

2.43 However, independent fuel operator Matilda did not believe the impact of fuel standards on independents is quite so significant:

> I cannot be specific, but I would have thought that now Australia is importing 20 to 25 per cent of its requirements and some of the Asian specifications are becoming closer to our Australian specifications there would be an opportunity to import fuel.[39]

2.44 The Australian Institute of Petroleum noted that as other countries in the Asia-Pacific region move towards higher fuel standards, more opportunities will arise to import fuel:

> So over the rest of this decade we will see a progressive shift in more and more countries across the region to fuel standards that are similar to the Australian fuel standards and that are similar to fuel standards in Europe and North America...So Australia is not at the forefront of these standards. They are standards that are already in place in Europe and in parts of Asia, certainly in Japan. Progressively there will be more countries around the Asian region requiring these fuel standards.[40]

2.45 The ACCC noted that compliance with Australian Government fuel standards adds a premium onto the base price of Singapore Mogas 95 Unleaded but also commented that as fuel standards 'rarely change' this is unlikely to cause significant fluctuations in the price of petrol.[41]

2.46 Despite more stringent Australian fuel standards resulting in petrol price increases, it is clear that the fuel standards will continue to benefit Australia well into the future through improved air quality and reduced environmental damage. The Minister for Environment and Heritage, the Hon. Ian Campbell also noted that the increased fuel standards would help 'the two million asthmatics and countless other Australians who suffer from breathing problems' whilst also 'hasten[ing]the introduction of the next generation of cleaner vehicle engines and emission controls'.[42]

2.47 As well as factors specific to the industry, taxes on petrol (excise and GST) account for a significant proportion of the cost of petrol, as demonstrated in Figure 2.3. Excise is levied on petrol at a cents per litre basis (currently set at 38.143 cents

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38 Mr Warwick Richards, Director, Economic and Energy Analysis, *Committee Hansard*, 26 September 2006, p. 10.

39 Mr Lawrence O'Keeffe, Retail Director, Matilda Fuel Supplies, *Committee Hansard*, 23 August 2006, p. 5.

40 Dr John Tilley, Executive Director, AIP, *Committee Hansard*, 27 September 2006, p. 17.

41 ACCC, *Submission 31,* p. 30.

42 The Hon. Ian Campbell, Minister for Environment and Heritage, 'Cleaner fuels: cleaner air and a healthier Australia', *Media Release*, C6/04, 22 July 2004.

per litre for unleaded petrol) whilst GST is included after all other components of the petrol price have been calculated at the usual rate of 10 per cent. A detailed discussion of the contribution of taxes to the rising price of petrol is included in Chapter 5 – Petrol, Excise and GST.

Conclusion

2.48 As an internationally traded commodity, a number of factors outside of the direct control of domestic oil companies are influencing the price of petroleum products in Australia. Whilst a number of margins contained within the price of petrol have increased, it is also apparent that the industry has suffered periods of low or negative margins in the recent past. It is natural for any industry, in particular an industry which is highly capital intensive and in which investment in plant and equipment are very expensive and involve long lead times, to seek to recoup losses sustained once conditions in the market are more favourable, for example, during a period where demand exceeds supply. And in any case, the refiner margin is not within their direct control, but is set by market forces.

2.49 Australia's petroleum refining capability is much smaller and older than its competitors in the Asia-Pacific region. Australia cannot compete on the economies of scale enjoyed by some of the newer, larger refineries in our region, but it is noted that Australia's increasing fuel standards may be placing limitations on, or at least additional expenses to, importing fuel from neighbouring regions. This may be putting domestic refineries in a more favourable position, at least in the short term. However the benefits of tightened fuel standards and in developing cleaner technologies are clear.

2.50 The international and domestic petroleum market is subject to fluctuations that all Australians feel when purchasing petrol at the pump. The chief factors affecting petrol prices are outside the control of Australian oil companies, in particular the international price of crude oil, the changing balance between supply and demand in the Asia-Pacific region, fluctuations in the United States and Australian dollar exchange rate and increased Australian fuel standards. Nevertheless, the Committee notes that Australian oil companies do exercise some control over some margins contained in the price of petrol, although not the refiner margin nor freight costs.

CHAPTER 3

The Petrol Price Rollercoaster

Introduction

3.1 Daily and weekly fluctuations in the price of petrol cause significant bafflement to many Australians, resulting in confusion about why price cycles fluctuate so markedly. Consumers that provided submissions to the inquiry expressed great frustration at the extent of the fluctuations in the price of petrol during the course of the day or a week, describing fluctuations as great as 10 cents per litre or more depending on the location. Consumers also voiced their concerns at what they believe to be price hikes timed to coincide with public holidays and long weekends.

3.2 The NRMA described consumer sentiment towards price variations as:

> …a major source of anger for consumers, who express bewilderment and feelings of being exploited when they see the retail price of petrol varying from 10 to 15 cents per litre within the space of 24 hours and even more over a seven day period.[1]

3.3 The frustration conveyed to the Committee by one consumer spoke for many others in the community:

> …I am frustrated and annoyed at the daily and weekly fluctuations in the prices I pay for petrol in Sydney. For example, yesterday I drove past the SOLO service station in Five Dock at 9.15am and the price of unleaded petrol was 129.9. When I next drove past at 4.30pm, it was 144.9 (a 10% increase). Two days earlier it had been 133.9. The simple task of filling up each week has become a frustrating and stressful game of cat and mouse, most days feeling ripped off and occasionally feeling like you got a bargain.[2]

3.4 The Motor Trades Association of Australia (MTAA) commented that price volatility also creates challenges for fuel retailers and not just consumers:

> While retail price fluctuations are a matter of irritation and confusion to some motorists, they are also confusing and irritating for service station operators (for the physical changing of prices on boards and pumps and also because of the complaints from motorists that the fluctuations inevitably and understandably generate).[3]

3.5 This chapter examines the nature of the price cycles that consumers observe during the week, why they occur and the impact on the community. Finally, the

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1 NRMA, *Submission 33*, p. 23.

2 Mr Greg Longmuir, *Submission 3*, p. 1.

3 MTAA, *Submission 28*, p. 10.

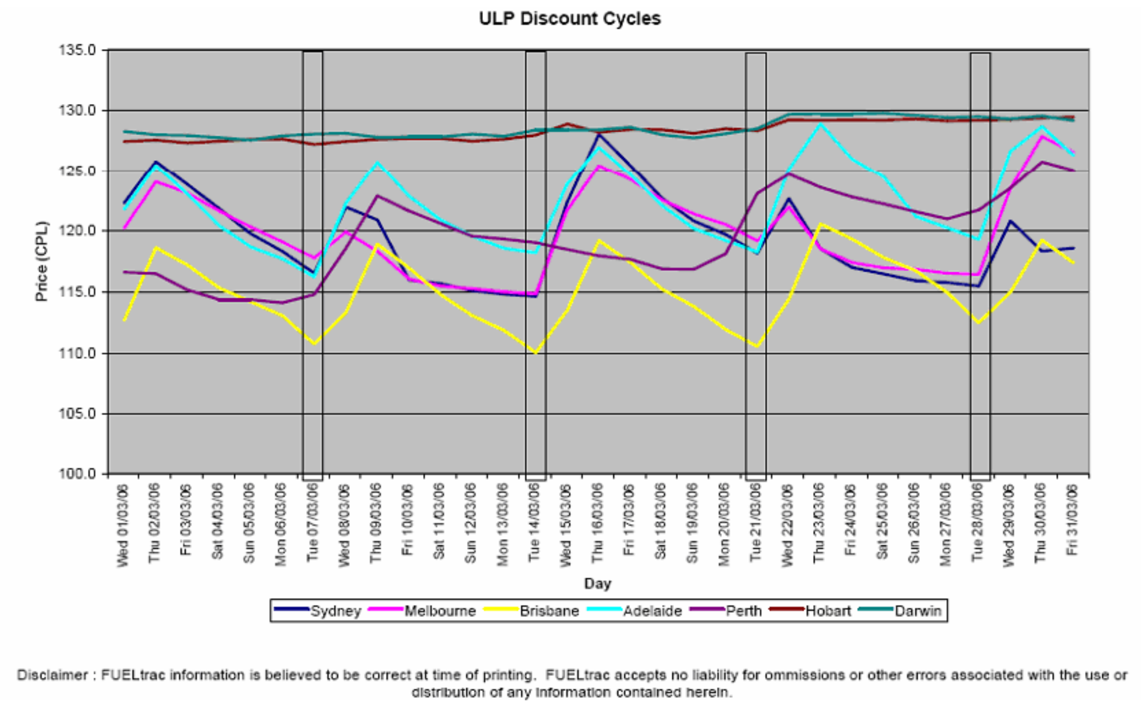
chapter considers whether the community derives benefit from the price cycles or if action should be taken to reduce fluctuations in the price of petrol.

What is the cause of petrol price cycles?

3.6 Petrol price cycles vary in intensity and duration according to the location and the number of competing fuel retailers in the area. Aggressive price cycles tend to be observed most commonly where a number of fuel retailers are competing for market share, such as along main arterial roads where fluctuations in the price of petrol can be observed throughout the day.

3.7 Volatile price cycles are apparent in major metropolitan cities and the surrounding areas, as well as in some rural centres. They tend to be regular and frequent, displaying a saw tooth pattern which suggests that prices rise and fall over a short period. This is presented in Figure 3.1.

Figure 3.1—Retail unleaded price cycles in metropolitan areas (March 2006)[4]



3.8 Evidence to the inquiry noted the greatest variations to the price of petrol on the retail market are observed between early in the week (when daily average prices are generally at their lowest point) to late in the week when prices reach a high. According to analysis conducted by the ACCC, of the five largest metropolitan centres price cycles commonly tend to peak in Sydney, Melbourne, Brisbane and Adelaide on Thursday and reach the lowest daily average on Tuesday. In Perth prices

4 MTAA, *Submission 28*, p. 10.

tend to peak on Wednesday and reach the lowest point on Sunday.[5] The ACCC commented that regular price cycles tend not to exist in Canberra or Darwin.

3.9 This pattern of activity is attributed to a number of key factors including:

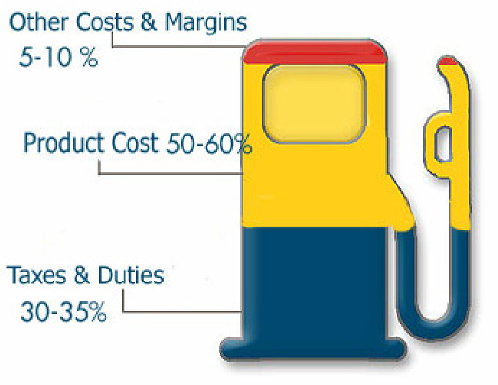
- competition between petroleum retailers for market share, including the provision of price support to some retailers by the oil companies to greater facilitate competition;
- variations in the demand for petroleum products during the week which influences retail petrol prices;
- variations in the wholesale price paid for petrol (for example, a cheaper price paid for the wholesale purchase of petrol means that retailer can engage in more aggressive competition);
- consumer behaviour whereby consumers actively seek out the cheapest price for petrol, thereby driving strong competition between retail fuel outlets for market share; and
- a stable and consistent demand for petroleum products that facilitates regular and predictable price cycles by petrol retailers.

3.10 Whilst it is clear from the discussion in Chapter 2 that the price of petrol is constrained by circumstances in the international petroleum market and tightening Australian fuel standards, competition in the market is the foremost driver of petrol prices in the retail market. The extent to which the retailer can engage in aggressive market competition to lower prices and capture a greater share of the market depends upon the ability of the retailer to secure low prices from petroleum wholesalers or distributors.

3.11 The difference between the retail price of petrol (the price paid by consumers at the pump) and the wholesale price of the fuel (the price paid by the retailer to purchase petrol from a refinery or distributor, such as the Terminal Gate Price) is referred to as the retailer's margin. Figure 3.2 outlines what is included in the price of petrol at the pump. It can be noted that margins (the oil company, distributor and retail fuel operator share) are only a very small percentage of the total price of petrol:

5 ACCC, *Submission 31*, pp 67–68.

Figure 3.2—What is included in the price of petrol?[6]



3.12 For example, the retail price of petrol of 134.1 cents per litre (cpl) could be broken down into the following components:[7]

- product: 79.5 cpl
- tax (excise and GST): 50.3 cpl
- retailer's and refiner's margins: 4.3 cpl

3.13 The retailer's margin also incorporates any additional costs to the retailer incurred during the process of obtaining fuel from a wholesaler or distributor such as freight and distribution costs whilst the price may also be affected by factors in the wholesale market which could lead to more competitive prices being secured by the retailer.

3.14 The cost of freighting the petrol from the terminal gate of the refinery to the retail fuel outlet generally increases the further away the retailer is located from the petroleum terminal or refinery. For retailers located at significant distances from a terminal, the retailer may rely on a distributor sourcing petrol from a storage depot in a regional area, thereby producing higher costs for the supply of petrol as compared to retailers which are able to source petrol directly from the terminal gate. These factors can add to the price of fuel at the pump and create considerable price differentials depending on the location of the retailer.

3.15 Business arrangements between the wholesale supplier and the retailer can be influenced by the circumstances in the wholesale market. For example, where several wholesale suppliers are present, competition between wholesalers often results in the retailer securing supply at lower prices.[8] Contractual terms and arrangements (including any discounts for bulk purchases or price support provided by the major oil companies to the retailer) between the wholesaler and the retailer can also enhance the ability of the retailer to compete more aggressively with competitors in the retail

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6 Shell Australia, *What drives petrol prices*, (accessed October 2006): http://www.shell.com.au

7 MTAA, *Submission 28*, p. 5.

8 ACCC, *Submission 31*, pp 33–34.

market. This is because the retailer may have paid a lower wholesale price for the petrol (so they can engage more vigorously in price wars with other retailers) or has an arrangement established with an oil company that will see any losses sustained during competitive price wars being subsidised by the oil company.

3.16 Alternatively, the retailer may have structured their business in such as way as to be able to subsidise any losses in the sale of petrol through increased sales of other goods in the business (that attract higher profit margins than petrol) such as food or beverage sales. Caltex Australia described the importance of maintaining traffic through fuel retail outlets, commenting:

> If somebody finds that the traffic through their station is low, they will follow the price down of somebody who has already led the price down to get their volume back up. This is very much a low-margin, high-volume kind of business, and it is important that people bring more motorists into their stations. From the standpoint of the person who operates the station—in many cases, franchisees—the majority of their profit actually comes from what they sell in their convenience store and not what they sell at the petrol pump. So bringing the traffic in is very important to maintain overall profitability.[9]

3.17 A detailed discussion on the impact of competition and whether circumstances exist within the Australian petroleum market that could indicate anti-competitive behaviour is included in Chapter 4 – Competition or Collusion? Furthermore, a very comprehensive discussion of the causes of the price cycles is included in the ACCC report, *Reducing Fuel Price Variability*.[10]

Why is the public so acutely aware of petrol price cycles?

3.18 Price cycles affect the community in different ways. Petrol consumers can generally be considered as people who are either:

- acutely aware of the price of petrol and that take direct action to benefit from reduced petrol prices, such as driving across town to purchase petrol from a lower cost supplier and only buying petrol on certain days of the week;
- aware of prices but that will limit modifying their behaviours to take advantage from cheaper petrol prices, such as preferring to buy petrol early in the week where possible; and
- largely unaware of petrol prices and do not modify their behaviour in accordance with the price of petrol.[11]

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9 Mr Desmond King, Managing Director and Chief Executive Officer, Caltex Australia, *Committee Hansard*, 13 October 2006, pp 7–8.

10 ACCC, *Reducing Fuel Price Variability*, December 2001, pp 31–39, (accessed October 2006): http://www.accc.gov.au/content/index.phtml/itemId/326657/fromItemId/326599.

11 Mr David Moir & Mr Michael Upton, RACWA, *Committee Hansard*, 20 September 2006, p. 42.

3.19 The Royal Automobile Club of Queensland (RACQ) explained that some cross-sections of the community are far more sensitive to variations in the price cycle than others:

> Obviously, there will be those in lower income groups who will probably be more sensitive to movements in petrol price than those at a higher income level. Those people in lower income groups are more likely, in the short term, to cut back their consumption and cut back discretionary driving and so on than those at a higher income level.[12]

3.20 Commentators noted that the price of petrol is highly visible to the public, with price boards at the front of retail fuel outlets providing consumers with the ability to remain cognisant of price fluctuations and to identify which retailer is offering the lowest price at a particular time. The ACCC noted that because of these factors, petrol prices are more visible to the public than are the prices of other household commodities.[13]

3.21 Unleaded petrol (ULP) is also a largely homogenous commodity. Invariably, the price boards at the front of retail fuel outlets will advertise the price of regular ULP. Although consumers may have a preference for a certain brand of petrol, the homogenous nature of the product clearly gives the price-conscious consumer the ability to select a retail fuel outlet based on the most competitive price. Therefore, retail fuel operators rely on competitive prices as the key to remaining viable in the industry.

3.22 Whilst price cycles also apply to other consumer goods, such as groceries and household consumables, the cycles generally change on a weekly basis rather than a daily basis. Prices also tend not to be displayed nearly as prominently as is the price of petrol, which can be readily identified on large price boards. There is also generally a greater public awareness of petrol prices than perhaps applies to other consumer goods. Mr Mick McMahon of Coles Express commented:

> When I am at a barbecue or with friends and I say what I do, the first question is going to be something about the price of fuel…and everybody knows the price of fuel to the second decimal point. But if I say, 'Tell me about the price of milk,' in general almost no-one knows it…or the price of bread.[14]

3.23 Furthermore, Mr McMahon said that public sensitivity towards petrol prices and cycles is certainly understandable:

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12 Mr Kenneth Willett, Executive Manager, Economic and Public Policy, RACQ, *Committee Hansard*, 23 August 2006, pp 42–43.

13 ACCC, *Submission 31*, p. 53.

14 Mr Mick McMahon, Managing Director, Coles Express, *Committee Hansard*, 27 September 2006, p. 86.

> …it is such a big part of people's weekly budget, particularly when prices are very high. So I would say that in Australia people drive large distances. We put a price board on just about every corner but certainly on every location, with big letters telling people what the price is, which is not necessarily the case in all markets overseas. There is heightened media interest—I do not know why, but there certainly is. So the prices are known. There are Pricewatch segments. It is on talkback radio.[15]

3.24 Evidence also discussed the role of the media in creating hype around petrol price cycles, particularly around long weekends and public holidays:

> I would put it down to the media in many respects. The media have a whole series of stories that are repeated time and time again, and petrol prices and holiday weekends are one of those stories which you can be sure will occur regularly. We have experienced this. We get ready for it, and we put information out—such as the sorts of things that we are discussing with you today—but, frankly, the industry is a whipping boy when it comes to this sort of thing.[16]

3.25 The Royal Automobile Club of Queensland (RACQ) told the Committee that media reporting on price cycles actually helps to minimise enquiries from the public:

> We do hear a lot from our members but, at the times when petrol prices spike, we receive an extraordinary number of queries and requests for comment from the press. Often those requests for comment can outnumber the actual requests we hear from members on a particular day when the price has risen. I think that we would receive a lot more inquiries and comments from our members if indeed we were not commenting on a regular basis via the media—TV, radio, newspapers and so on.[17]

3.26 The Western Australian Commissioner for Fair Trading argued that regular media attention contributes to encouraging retailers to offer cheaper prices for petrol because it raises the profile of retailers selling petrol at a better price than their competitors.[18]

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15 Mr Mick McMahon, Managing Director, Coles Express, *Committee Hansard*, 27 September 2006, p. 86.

16 Mr Richard Beattie, Group Manager, Corporate Affairs, Caltex Australia, *Committee Hansard,* 13 October 2006, p. 15.

17 Mr Kenneth Willett, RACQ, *Committee Hansard*, 23 August 2006, p. 42.

18 Mr Patrick Walker, Commissioner for Fair Trading, *Committee Hansard*, 20 September 2006, p. 72.

Is it true that petrol prices rise on long weekends and public holidays?

3.27 A number of submitters contended that prices tend to hit greatest heights at the onset of a long weekend, coinciding with events such as Easter, Christmas or other holidays where people are most likely to be travelling long distances in the car.[19]

3.28 Describing the Perth petrol market, a consumer commented that:

> …it is particularly remarkable how [world oil prices and associated factors] always seem to come into play and cause sharp increases in petrol prices just before long weekends and public holiday periods in WA.[20]

3.29 Mr Gerald Hueston, President of BP Australia responded to claims that prices increase before long weekends, stating:

> **Mr Hueston**—Moving on to retail pricing: one of the issues that get highlighted in the media is that whenever there is a long weekend the prices tend to go up. Our argument would be that, in normal price cycles in most of the metropolitan cities, the prices tend to go up later in the week and then diminish over the weekend and the early part of the week, and then they spike back up again. So, if you have a look at that—
>
> **CHAIR**—It is not just long weekends, though.
>
> **Mr Hueston**—It is every weekend. The objective of showing this is: could you pick where the long weekends are? Our view is that you could not, when you look at that detail. There is nothing special about the long weekends compared with any other week in which we operate.[21]

3.30 Mr Michael Carr, an independent retail fuel owner, stated that increasing the price of petrol prior to a long weekend would have only a limited effect on profit margins for oil companies:

> …more fuel is sold to industry than to the general public regardless of long weekends or not. If the fuel cycle timing was designed to take advantage of extra volume then it would always cycle up at the start of the working week.[22]

3.31 Mr Richard Beattie from Caltex Australia commented that such media attention would be better directed to raising awareness about price cycles:

> So I suggest that it is this constant opportunity the week before a holiday weekend for various people—and not just the media. There are certain motoring organisations whose representatives say, 'Look what's coming,' but they could just as easily make the comments that we have been making

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19 See for example, Mr Steve Gibbons, MP, Federal Member for Bendigo, *Submission 49,* p. 4; *and* NSW Government, *Submission 44*, p. 3.

20 Mrs Nola Jones, *Submission 12*, p. 1.

21 Mr Gerald Hueston, President, BP Australia, *Committee Hansard*, 27 September 2006, p. 59.

22 Mr Michael Carr, *Submission 38*, p. 2.

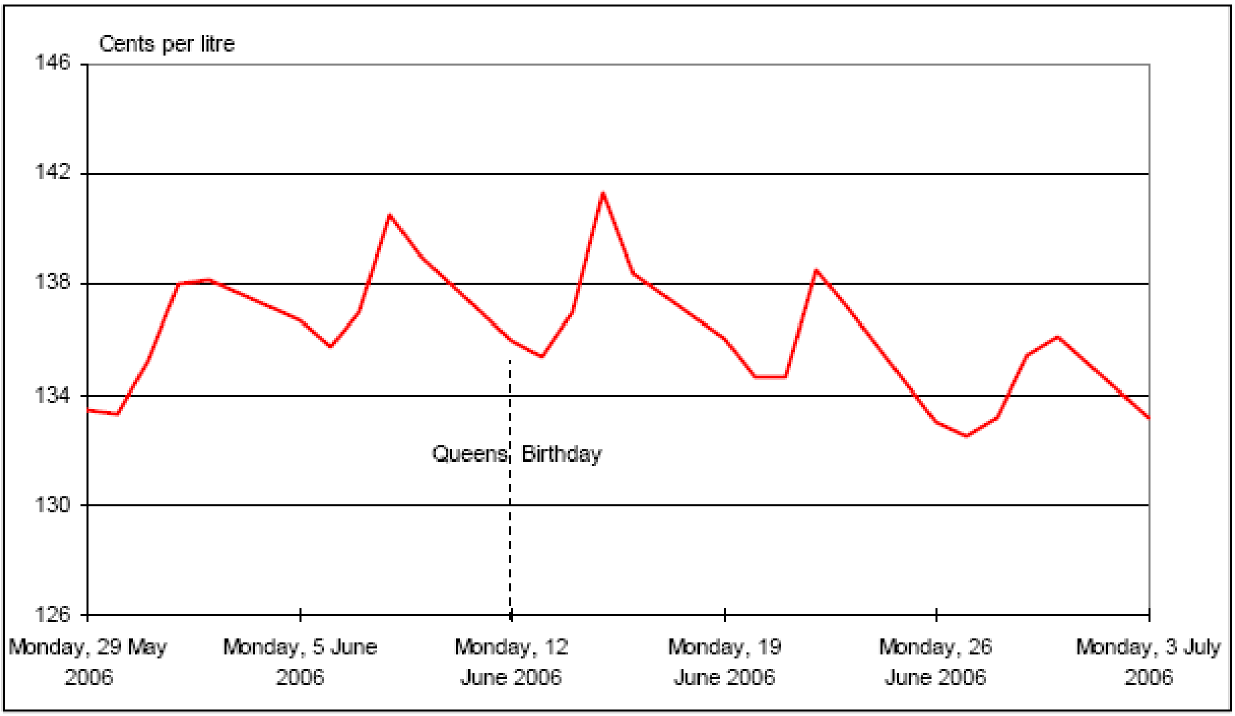
> about price cycles. We are more than prepared to say to consumers, 'Take advantage of the [price] cycle.'[23]

3.32 Analysis by the ACCC of the five major metropolitan markets (Adelaide, Brisbane, Melbourne, Perth and Sydney) also did not support the hypothesis that the price of petrol is higher before public holidays when compared to non-public holidays, commenting:

> There have been suggestions in the media that petrol price increases before public holidays are always higher than the price increases that occur at non-public holiday times. From [ACCC] analysis this generally is not the case for the five largest metropolitan cities.[24]

3.33 Examining petrol price data from the 2006 Queen's Birthday long weekend (9–12 June), Figure 3.3 demonstrates that the national average petrol price did not deviate significantly from the typical price pattern for this holiday:

Figure 3.3—Retail ULP price cycle for Queen's Birthday long weekend 2006[25]



Does the public benefit from price cycles?

3.34 The question arises as to whether the public is deriving advantage from price cycles, or are they just an unnecessary source of frustration for motorists?

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23 Mr Richard Beattie, Group Manager, Corporate Affairs, Caltex Australia, *Committee Hansard*, 13 October 2006, p. 15.

24 ACCC, *Submission 31*, p. 81.

25 AIP, *Submission 50*, p. 35.

3.35 BP Australia and Caltex asserted that points in the cycle of petrol where the prices are lower coincide with the days when the greatest volume of petrol is sold, reflecting that consumers understand the price cycles and seek to benefit from cheaper prices.[26] Based on data from the Sydney and Melbourne markets, the ACCC report on petrol price variability found that around 60 per cent of the total volume of fuel is sold at prices which are below the average price of petrol for the cycle (such that consumers are buying on the days where petrol is at its lowest price), whilst the remaining 40 per cent of volume is sold above the average price for the cycle.[27]

3.36 The ACCC report into reducing fuel price variability[28] recommended undertaking a public campaign to raise consumer awareness of the price cycles so that more people may benefit from lower prices. Consequently, the ACCC launched its petrol price website in November 2002 to provide consumers with information on taking advantage of the petrol price cycles in the five major metropolitan centres.

3.37 However, the MTAA commented that because price cycles are not observed across all areas of Australia, not all consumers are able to benefit from price cycles:

> It is therefore motorists in particular locations, rather than all motorists, who benefit from price fluctuations in the retail price of petroleum.[29]

3.38 Furthermore, price cycles are of little use to some consumers such as industries that are reliant upon the use of vehicles to sustain their businesses and cannot limit purchasing to certain days of the week:

> Contractors are at the mercy of the weekly cycle of retail petrol prices. Contractors are usually in no position to take advantage of lower price days because of the sheer quantity of petrol that their vehicles consume while performing the mail service.[30]

3.39 The Australian Taxi Industry Association noted:

> The trend to volatile pricing in capital cities, especially where it is based on particular days of the week, is especially frustrating and nonsensical from the perspective of an industry such as ours that purchases fuel on a daily basis. The taxi industry has little capacity to avoid purchasing fuel on high price days.[31]

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26 BP Australia Pty Ltd, *Submission 34 – Additional Information*, p. 23; *and* Caltex Australia, *Submission 55 – Additional Information*, p. 13.

27 ACCC, *Reducing fuel price variability*, December 2001, p. 45.

28 ACCC, *Reducing fuel price variability*, December 2001, available (accessed November 2006) at: http://www.accc.gov.au/content/index.phtml/itemId/321896/fromItemId/653960

29 MTAA, *Submission 28*, p. 10.

30 The Post Office Agents Association Ltd, *Submission 24*, p. 8.

31 Australian Taxi Industry Association, *Submission 27*, p. 2.

3.40 One consumer called for the mandatory introduction of a recommended retail price to be displayed by retail fuel operators to counter fluctuating petrol prices:

> It may be a perception by the general public, but it is a very strong perception, that the oil companies hold the public to ransom, and no-one inclusive of the government are capable of controlling them. I would also suggest that the continuing changing of the displayed price at service stations is just another ploy by the oil companies to keep the general public in a complete state of confusion.[32]

Intervening in the market—the Western Australian experience

3.41 Intervention in the Western Australian petroleum market has reportedly led to a reduction in the volatility of price cycles, at least on a daily basis. The Western Australian Government introduced the FuelWatch system in January 2001, a petrol price monitoring system to increase price transparency and pricing certainty in the WA petrol market. The system is administered under the state-based *Petroleum Products Pricing Act 1983* (the Act) and the associated regulations and orders and applies to fuel retail outlets within the FuelWatch boundaries.[33]

3.42 Under the Act retail fuel outlets must notify the WA Commissioner for Fair Trading about the next day's petrol price for ULP, premium unleaded petrol, lead replacement petrol, liquefied petroleum gas (LPG), 98 RON and biodiesel blends by 2 pm on a daily basis. Subsequently the prices are publicly announced on both the FuelWatch website and via a telephone hotline after 2.30 pm. The retailer is committed to selling petrol at the notified prices for the following day. Retailers within the FuelWatch boundaries must also ensure they maintain price boards displaying the retail price of ULP, LPG and three other fuel products.

3.43 On 19 December 2002, additional measures were introduced in WA to increase price transparency in the wholesale petroleum market and to facilitate access to more competitive wholesale prices from terminals. The Terminal Gate Price (TGP) system requires that terminal operators advise the Commissioner for Fair Trading whenever the TGP is changed, as well as the components making up this price. Prices (not including individual components) are published on the FuelWatch website so retailers or distributors are able to compare wholesale petrol prices. For all purchases wholesalers must provide itemised invoices which clearly list the TGP plus any other charges included in the price such as freightage or branding. TGP information is also used by the Commissioner for Fair Trading to monitor movements against fluctuations in the international petrol pricing benchmark and average retail petrol prices for the major oil companies in Perth with terminal gate prices.[34]

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32 Mr Ted Summerson, *Submission 64*, p. 2.

33 Currently, the FuelWatch boundaries cover a total of 604 retail outlets which consist of 314 sites within the metropolitan area and 290 sites in regional areas.

34 The Australia Government's Oilcode (effective March 2007) will introduce similar notification measures relating to the TGP.

3.44 The benefits of the FuelWatch system to date were described by the Commissioner for Fair Trading, Mr Patrick Walker as:

> …enabling consumers to plan their purchases and to buy at the cheapest price in their area. With information about the cheapest price being made available through FuelWatch and the media, retailers are encouraged to offer lower prices in order to gain sales.[35]
>
> FuelWatch has proven to be an extremely popular and useful source of fuel pricing information. Continued growth in the number of motorists using the various FuelWatch services suggests that WA consumers are planning their fuel purchases to benefit from the competitive rates being offered on any given day.[36]

3.45 He told the Committee that metropolitan motorists reported 'saving an average of $2 per week' through FuelWatch information, equating to a substantial saving for motorists annually, whilst petrol prices in Perth were now lower than those in Adelaide and Brisbane for a year and lower than prices in Sydney and Melbourne 'for the majority of the year'.[37] Furthermore:

> Price hikes now occur much less frequently in WA than previously so consumers are able to benefit from lower prices for longer periods. Perth now has significantly longer price cycles than other Australian capital cities. On average ULP price hikes are occurring every 13 days in Perth compared to every seven to eight days in the eastern states capitals…[38]

3.46 The ACCC cautioned that whilst the FuelWatch system increases transparency in petrol pricing, the 24-hour notification rule may have a negative impact on competition in the market:

> There was—this is anecdotal, of course—an individual retailer in WA that just a little while ago objected to the 24-hour notification and, as I recall, posted on the site that he intended to charge $100,000 a litre the next day for petrol because he frankly was going to work on the basis of discounting over a more regular period than 24-hour notification. The sorts of movements that we were talking about earlier today in discounting have tended, particularly where there is vigorous discounting in the price cycle occurring, to occur on a half-hourly or hourly basis. Of course, that cannot occur in Western Australia, where 24-hour notification is required before

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35 Mr Patrick Walker, Commissioner for Fair Trading, *Committee Hansard*, 20 September 2006, p. 72.

36 Mr Patrick Walker, Commissioner for Fair Trading, *Committee Hansard*, 20 September 2006, p. 73.

37 Mr Patrick Walker, Commissioner for Fair Trading, *Committee Hansard*, 20 September 2006, p. 73.

38 Mr Patrick Walker, Commissioner for Fair Trading, *Committee Hansard*, 20 September 2006, p. 74.

the price can be posted. To that extent, we have concern that that 24-hour notification can have a negative impact on competition.[39]

3.47 The proposition that the 24-hour notification rule be rolled out nationwide was met with criticism by Queensland-based independent fuel retailer, Matilda:

> I find that quite scary. I have looked at that. If you went to work in the morning and found that the service station down on the next corner was a cent or two below you and you did not have the ability to come down and match that, I think that is wrong. I think I would be prepared to go to jail. I would just say, 'I'm going to drop my price and if you want to prosecute me for it, go ahead.'[40]

3.48 The value of FuelWatch in lowering petrol prices was questioned by Mr Gerald Hueston, President of BP Australia:

> I think what FuelWatch does is slow down the speed with which the cycle moves—both on the way down and on the way up, I would suggest. It is very difficult to untangle what is happening in a competitive sense and what is being driven by regulation. Frankly, I think it is a long bow to draw that regulation has driven lower prices.[41]

3.49 In addressing concerns about the 24-hour notification rule, the Royal Automobile Club of Western Australia's (RACWA), Mr David Moir stated that in addition to providing information to consumers about where they can secure the lowest petrol prices, the 24-hour rule provides consumers with confidence that the advertised price will not change over the course of the day. He also described FuelWatch as reducing the severity of price cycle fluctuations in the market:

> **Senator WEBBER**—When we first heard from the ACCC, I asked them about our FuelWatch system. They said they thought that one of the disadvantages would be that we do not get the wild fluctuations downwards in price, but it seems to me, looking at your graph, that it protects us from some of the wild fluctuations upwards. We are probably winning more than we are losing, if you look at that graph.
>
> **Mr Moir**—Yes. At any point in time, in all of the capital cities there is a wide fluctuation in prices. It depends on whether consumers choose to shop around and buy in the bottom half of the price market or whether they are just price takers. But yes, there are some wider fluctuations in Sydney, for example…[42]

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39 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 51.

40 Mr Lawrence O'Keeffe, Matilda Fuel Supplies, *Committee Hansard*, 23 August 2006, p. 8.

41 Mr Gerald Hueston, President, BP Australia, *Committee Hansard*, 27 September 2006, p. 68.

42 Senator Ruth Webber & Mr David Moir, RACWA, *Committee Hansard*, 20 September 2006, p. 36.

3.50 When asked to substantiate the claim that the FuelWatch system is the variable responsible for lowering petrol prices in the market, Western Australian Commissioner for Fair Trading, Mr Walker was unable to provide clear evidence:

> **CHAIR**—I dare say that you have already covered this in an indirect way in your submission and that your report deals with it, but let me ask you straight out: why do you say that there is a causal relationship between the lower average price of fuel in Western Australia and the 24-hour rule?
>
> **Mr Walker**—Because I can find no other explanation.[43]

3.51 The uncertainty of FuelWatch as the variable producing lower prices was emphasised by the most recent major competitor to enter the WA market, Coles Express:

> First of all, you have probably heard through your hearings that when Coles Express entered various markets, we caused quite a shake-up in the marketplace. Without seeing the data that you are referring to, I think there was quite an impact to start with when Coles Express entered [the Western Australian] marketplace. It was a marketplace that has at least one very strong independent and a number of others. It caused quite a bunfight as we competed for customers. I would struggle to differentiate what is the effect of that happening, the particular dynamics of that marketplace, versus the effects of FuelWatch. I think all FuelWatch has done is flatten the price cycle. It may be superficially attractive to regulators and so on, but I think customers lose.[44]

3.52 Whilst the FuelWatch system may have asserted a positive influence on prices in the WA petrol market, the Committee notes the ACCC's concern that the 24-hour notification rule may reduce the competition in the market, and competition has been shown to lead to consumers getting a better deal. Further investigations into the variables driving petrol prices in the WA market may produce more conclusive evidence directly attributing the FuelWatch system to benefits for consumers. The Committee is unpersuaded of the benefits of the WA system, and sceptical of the (in some instances) self-serving claims about its effects in reducing prices. The Committee is concerned that, in a market characterised by an extremely high degree of price volatility—both upward and downward—the imposition of an artificial constraint upon that volatility would be counter-productive, and is just as likely to operate to arrest falls as well as rises in the petrol price.

3.53 The Committee notes that the ACCC, which is in the best position of all of the witnesses to bring an independent and fully-informed expert view to the consideration of this issue, shares its scepticism of the WA system's claimed benefits.

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43 Mr Patrick Walker, Commissioner for Fair Trading, *Committee Hansard*, 20 September 2006, p. 76.

44 Mr Mick McMahon, Managing Director, Coles Express, *Committee Hansard*, 27 September 2006, p. 79.

Conclusion

3.54 Regulating petrol prices in Australia could lead to a more stable market with fewer fluctuations in the price of petrol at the pump and perhaps this would address consumer concern about price cycles. However, such intervention would interfere with competition in the market and possibly reduce the extent of market fluctuations, both at the higher *and* the lower ends of the market. This would be bad for consumers who currently benefit from purchasing petrol at the lowest points in the price cycle.

3.55 The ACCC reported that 60 per cent of petrol is purchased at the lower price points in the cycle and so it stands to reason that petroleum retailers and oil companies compensate for losses sustained by selling the remaining 40 per cent of petrol during higher points in the price cycle. Capping the price of petrol would potentially result in a situation where the price of petrol is unlikely to be as competitively priced at the low points in the cycle because the petroleum industry would have a limited capacity to recoup such losses through selling petrol at a higher price at other points in the cycle.

3.56 Whilst regulating the price of petrol would certainly lead to a flattening of the band in which the petrol prices fluctuates, this would most likely result in an overall increase in the price that consumers pay for petrol. And as argued by the ACCC, attempts to remove the price cycles would be to the detriment of consumers.[45] By understanding petrol price cycles, lower prices can be attained to the benefit of Australians and the Committee encourages greater promotion of the cycles by not only the ACCC, but also by motoring bodies within Australia which are in direct contact with the people who will benefit most from such information.

45 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 19 October 2006, p. 24.

CHAPTER 4

Competition or Collusion?

Introduction

4.1 The Committee found that although the drivers of competition have changed over the last 15 years or so as a result of events overseas and in Australia, the domestic market continues to operate in a way that benefits the majority of consumers.

4.2 This chapter explores competition issues in the domestic petrol markets by firstly considering the major competitive influences on and the industry structure of the market. It then turns to the evidence of anti-competitive behaviour in the market. Finally it considers the role of the supermarket chains.

Changes in the drivers of competition

4.3 The structure of the Australian petroleum industry has altered significantly over the last 15 years or so. During the mid-1990s independent operators were able to compete effectively with the major oil companies. They could do this because of surplus supplies both in the Asian region as well as from a number of the Australian refineries. Their entry increased the level of price competition in the marketplace and they were able to discount retail prices in competition with the refiner/marketers.

4.4 Since 2003, economic growth increased demand for fuel in the Asian market and absorbed surplus supplies. In July 2003 the Mobil refinery at Port Stanvac closed and this restricted refinery capacity in Australia, which was also experiencing strong economic growth, increasing domestic demand for fuel. Furthermore, the introduction of Australian fuel quality standards made sourcing fuel from overseas for the Australian market more difficult. Independent importers were restricted in their ability to purchase product in the spot market and their capacity to provide competitively priced imported fuel declined.

4.5 However, by 1996 Woolworths had entered the retail petrol market, and was joined in 2003 by the other supermarket chain, Coles. This had the effect of increasing concentration in the industry and the market dominance of Caltex and Shell. Nevertheless, the supermarkets have competed fiercely and successfully for market share and have taken over from the independent operators as the significant driver of competition in the retail markets in which they operate.

Industry concentration and vertical integration

4.6 The Australian oil industry is dominated by the Australian offshoots of four major international oil companies: BP Australia, Mobil Oil Australia, Caltex Australia and Shell Australia.[1] Although Australia has no formal barriers to entry, the significant investment in capital equipment required to refine oil represents a major barrier to establishing new refineries in this country. Accordingly it constrains greater competition at the wholesale level of the market.

4.7 However, the size and location of the Australian market also determines refining capacity. Since the 1980s the number of refiner/marketers in Australia has decreased from nine to the current four due to industry rationalisation. The domestic market for fuel is quite small by world standards and our geographical location is removed from the larger markets of Asia which makes it a less attractive location for new refineries. From the mid-1990s to 2000, Australia and Asia enjoyed excess refinery capacity which, while it constrained prices, led to poor margins for refiners.

4.8 Many submissions suggested that the concentration of the fuel industry at the wholesale level and the vertical integration of the major oil companies were, at face value, evidence of a lack of competition leading, to higher prices:

> …Australia's oil industry is dominated by a small number of large integrated players and…there are significant barriers to entry. These and other factors have resulted in a weakening of the competitive process and higher retail prices for consumers.[2]

4.9 However, not all submissions consider that vertical integration is detrimental to consumers. The Royal Automobile Club of Victoria (RACV) stated:

> The oil industry in Australia has been traditionally vertically integrated, with refining, distribution and wholesale, and retail elements each under the control of one or other of a small number of oil majors. RACV's view is that vertical integration of the industry can produce efficiencies and cost savings, and therefore we do not have any objection in principle to this structure, bearing in mind that the Australian market is quite small in international terms.
>
> However, at the wholesale and retail levels, the field is open to players other than the oil majors, and Australia has long had an independent fuel wholesaling and retailing sector. We believe that this has added competition, particularly in the metropolitan areas and major regional centres.[3]

4.10 Caltex suggested that the petroleum industry is not highly vertically integrated and there are few sites directly operated by major oil companies.[4] It provided the

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1 The ACCC provides a useful outline of the industry structure in its submission no. 31, pp 20 – 27.

2 NRMA, *Submission 33*, p. 25.

3 RACV, *Submission 30*, p. 5.

4 Caltex Australia, *Submission 55*, p. 30.

following breakdown of the Australian service station structure in its submission, as shown in Figure 4.1.

Figure 4.1—Australian service station structure[5]

Controlling entity	Number of sites controlled*
Major oil companies**	238
Supermarkets (includes Caltex Woolworths and Coles Shell sites)	1040
Franchisees – major oil company brands	800
Independent sites – major oil company brands	3900
Other brands (eg 7-Eleven, United, IFS, Neumann)	600
	6600[6]

* Company-controlled sites reported under Sites Act to DITR, end-Oct 2004, supermarkets at May 2005, other data adapted from AIP June 2004 survey
** Caltex, BP, Mobil, Shell

4.11 Nevertheless, the Motor Trades Association of Australia (MTAA) argued that while the oil majors may not directly control the setting of prices at many sites, the majority of retail sites are tied to a particular oil major for their fuel supplies. Therefore the oil companies can wield a significant degree of influence over the prices at the retail level through their control of wholesale prices and the inability of many retailers to source fuel supplies from an alternative supplier.[7] The Committee further notes that by providing price support, the major oil companies can influence the discounting cycles.[8]

4.12 The MTAA asserted that that the repeal of the Sites and Franchise Acts is likely to further increase the influence of the major oil companies over the retail market by removing the final constraints on vertical integration in the industry:

> MTAA considers that increased vertical integration and market concentration are not in the best interests of Australian consumers in the longer term as it will allow the larger market participants to exert a greater degree of influence over the product supply chain and to potentially manipulate the price of petrol. It will also threaten the level of competition

5 Caltex Australia, *Submission 55*, p. 30.

6 The figures for franchisees, independents and other brands are rounded figures. Consequently the total number of sites is rounded to the nearest hundred.

7 MTAA, *Submission 28*, p. 12.

8 ACCC, *Submission 31*, p. 21.

> in the industry and create barriers to entry which may preclude other more efficient competitors from entering the market in the future.[9]

4.13 Some submissions cited the current profits that the oil companies are making as evidence of a lack of competition in the industry. For example, the NRMA argued that if Australia's petroleum industry were characterised by robust competition, higher input prices (such as higher crude oil prices) would lead to lower profits or no profit growth.[10] Mr Warwick Richards, Director, Economic and Energy Analysis, told the Committee that the current market is one in which margins have almost certainly exceeded the long-run requirements in the short term.[11]

4.14 Claims of 'price gouging' and 'profiteering' have been raised in the context of the high refiner margin in recent times. The Committee understands that the refiner margin is highly variable over time. Additionally, changes in it are due to movements in the international prices of crude oil and refined petrol, which reflect underlying demand and supply factors.

4.15 In order to assess profit levels in general, an appropriate period over which to make the assessment needs to be determined.[12] For example, there will be a difference in profitability measured over a short period, such as the months covering an upswing in prices, or a longer term, such as over a year or more. Furthermore, to make claims of 'price gouging' and 'profiteering' requires a notion of the appropriate level of prices and profits and an assessment that current prices and profits are significantly above that appropriate level.

4.16 The Committee notes that it is not unusual in any business for there to be periods of both unprofitability and profitability. Supply and demand factors are such that oil refineries are currently enjoying a period of profitability – indeed, that is the natural effect of the operation of competitive markets. Mr Russell Caplan, Chairman, Shell Company of Australia, described for the Committee the cyclical nature of the refiner margin:

> First, refiner margins vary, and it is unarguable that refiner margins in recent times have been high. I am sure that the committee has had a lot of evidence as to why they are high, but it principally relates to demand outstripping supply, exacerbated by some natural phenomena in the United States and some apprehension about affairs in the Middle East.…
>
> …[S]econd…it is too simple to compare average Australian margins with average Singapore margins, because you need to take into account the

9 MTAA, *Submission 28*, p. 15.

10 NRMA, *Submission 33*, p. 27.

11 Mr Warwick Richards, Director, Energy Analysis, *Committee Hansard*, 26 September 2006, p. 49.

12 ACCC *Submission 31*, p. 102.

different configuration of every refinery and the different product qualities that we have in Australia.

There are all sorts of refineries in Singapore. There are quite complex refineries in Australia. Without going into details…six or eight refineries are currently under construction in this part of the world, totalling about two million barrels, and there are 70 or so projects at varying stages of detail for further refinery construction. You have probably heard that the refining business is a cyclic business. It has happened often in the past that the high margins have brought additional capacity, which has destroyed the margins. You would think that people would learn but, in fact, we are in the process of seeing that happen again. Shell's expectation is that refinery margins will come off out of refineries that are currently under construction…[13]

4.17 At the retail level, the price cycles result in high volatility of prices where at times they will move down very low and maybe even move to points at which those in the supply chain are losing money. Then there will be times when prices will move up again, and they will move to points where those in the supply chain are making profits, and then they will move down.[14]

4.18 Despite only four refiner/marketers operating in Australia a number of factors have increased the competitive forces at work between them at the wholesale level. First, Australian refineries must price their output to be competitive with imports and Australian prices are determined by prices in the Asia-Pacific region where there is significant competition between refineries. Secondly, in 2002 the oil companies ended refinery exchange (where refiners exchanged product in different capitals on a tonne per tonne basis) and replaced it with full buy/sell arrangements.[15] Thirdly, a number of independent chains established terminals so they could import fuel. Finally, the entry of Coles into the petrol market to compete with Woolworths necessarily encourages competition between the supermarket chains and the rest of the market.

Discounting petrol prices—competition or collusion?

4.19 The Treasury states that competition maximises welfare and increases productivity which benefits consumers through lower prices and greater choice.[16] Although Australia and the world have recently experienced large rises in the price of fuel, Australians continue to enjoy some of the lowest petrol prices of the OECD nations. This is due to the relatively low government imposts on fuel in this country, and, at least in metropolitan areas, competition-driven fuel price discounting.

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13 Mr Russell Caplan, Chairman, Shell Australia, *Committee Hansard*, 28 September 2006, p. 55.

14 Mr Graeme Samuel, Chairman, Australian Competition and Consumer Commission (ACCC), *Committee Hansard*, 3 August 2006, p. 9.

15 ACCC, *Submission 31*, p. 19.

16 Australian Treasury, *Submission 68*, p. 19.

4.20 Mr Nathan Dickens from the Australian Institute of Petroleum (AIP) told the Committee that the real price of petrol has actually fallen as a consequence of competition:

> …the competitive nature of the market at the retail level has meant that petrol, as a general commodity, has decreased in real terms over the last couple of decades. In real terms, we are very much paying now for fuel what we were in 1980. They are the outcomes of the price cycle from our view. It is very much an indicator of a highly competitive market where aggressive price discounting occurs in order to attract incremental volume. The outcome of that is that we have very low prices by international standards. We have a cycle that is denominated by most fuel being sold below the average point of the cycle. In fact we have such high levels of competition that despite price increases in petrol over time we are basically paying the same now for petrol that we were in the 1980s.[17]

4.21 The Committee received evidence about the importance of competition in the market by reference to prices in the diesel market in which the oil companies do not compete at the retail level.[18] The consequence for the price of diesel is that it is not discounted to the same extent as petrol. Therefore its price stays higher and sometimes significantly so, and does not go through significant price cycles.

4.22 The provision of price support by a major oil company to its franchisees contributes to price discounting in the retail market. It also allows certain retailers to compete when prices are low when they would otherwise be making losses on their petrol sales.

4.23 The competition provisions of the *Trade Practices Act 1974* (the TPA) govern the market for petrol. The Australian Competition and Consumer Commission (ACCC) administer this Act. It is often criticised for not prosecuting 'clear' cases of collusion, 'price gouging' and 'predatory pricing' by petrol companies. The following section examines the evidence about such matters.

Parallel pricing[19]

4.24 Contracts, arrangements or understandings which have the purpose or likely effect of substantially lessening competition in a market are prohibited under section 45 of the TPA.[20] Section 45A of the TPA makes contracts, arrangements and understandings a *per se* breach of the TPA.

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17 Mr Nathan Dickens, AIP, *Committee Hansard*, 27 September 2006, p. 39.

18 Mr Nathan Dickens and Dr John Tilley, AIP, *Committee Hansard*, 27 September 2006, pp 35–36.

19 ACCC, *Submission 31*, p. 101.

20 Australian Treasury, *Submission 68*, p. 20.

4.25 Some submissions claimed that similar movements in petrol prices over a short period of time stem from price fixing or collusion between industry participants.

4.26 A feature of petrol prices is that they tend to reflect a high incidence of price matching or 'parallelism'. This relates to the fact that petrol (particularly regular unleaded petrol) is generally a very similar product with minimal brand loyalty, which means that competition is based primarily on price. Retailers therefore cannot afford to set prices that are higher than prevailing market prices for too long or they risk losing market share.

4.27 Furthermore, in the automotive fuel industry, it is not difficult for retailers to be aware of each other's prices. They are prominently displayed on roadside price boards and made available in comprehensive up-to-date surveys of retail prices in major cities. Caltex told the Committee that pricing information is available electronically to the oil companies in real time, so companies can react very quickly on price:

> There is such a transparency of information on petrol prices in this country—probably more so than any other country, both electronically to the oil companies and to the ACCC—that everybody knows what everybody is doing in a very short period of time, which enables people very quickly to follow once somebody leads.[21]

4.28 Therefore, it is not surprising that retail petrol prices cluster around an average. As long as prices are determined individually without collusion, there is no breach of the TPA. The courts have held that the similarity or even uniformity in price of similar products is not, of itself, sufficient evidence to suggest a breach of the TPA.

4.29 Mr Graeme Samuel, Chairman, ACCC, said that collusion requires the parties to gather together and to agree that they will follow certain price patterns and certain price arrangements between them.[22] The Committee notes that price following and parallel pricing are not the same as collusion:

> The simple increase of a price on a board is not, of itself, evidence of a breach of the act. There is no law in this land—in relation to competitive commodities, in any event—that says that suppliers of the commodity cannot charge whatever price they want to charge, and the fact that the price moves from one figure to another figure, even in a matter of two hours, may reflect nothing more than that the party that has set the price has decided to increase the price in order to increase the profit margin, or whatever might be the case; it is not necessarily evidence of anticompetitive conduct.[23]

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21 Mr Desmond King, Managing Director and Chief Executive Officer, Caltex Australia, *Committee Hansard*, 13 October 2006, p. 7.

22 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 10.

23 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 9.

ACCC investigations

4.30 In the past, the ACCC has brought actions under Part IV of the TPA against petroleum distributors and retailers for price-fixing. For example, it successfully brought actions under section 45 against petrol price-fixing arrangements in Brisbane and Ballarat. In March 2005 financial penalties totalling $23.3 million were ordered by the Federal Court.[24] The total penalty was later reduced by $3.2 million after a successful appeal by two respondents.

4.31 In June 2005, the Federal Court made declarations based on admissions of price fixing conduct involving two service stations in the Brisbane area. The Federal Court imposed penalties totalling $470,000 in November 2005.

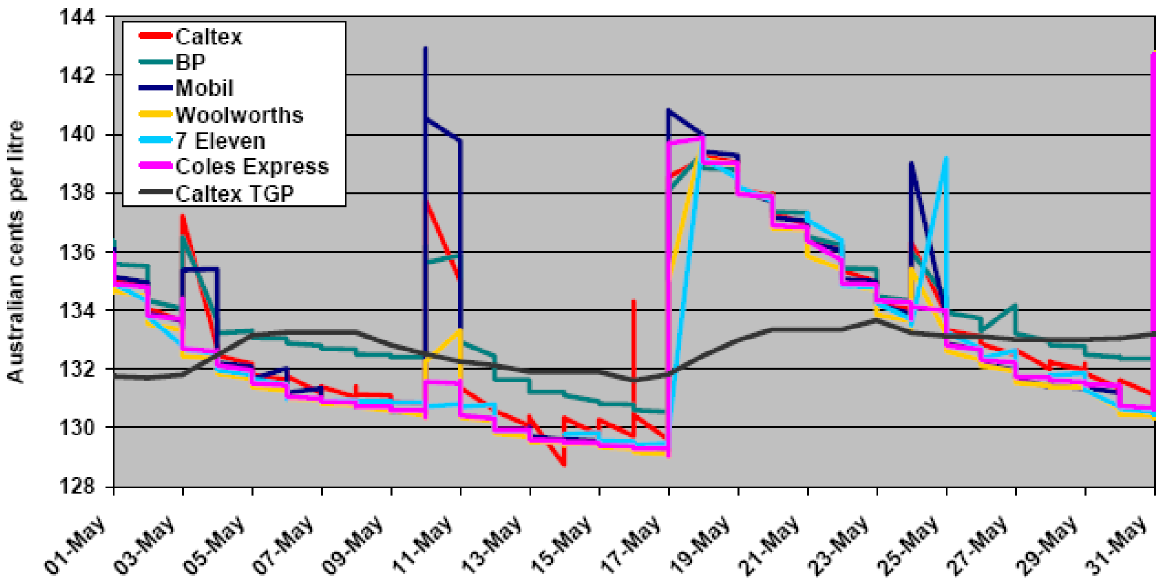
4.32 There is a further case currently before the courts concerning alleged price-fixing in the Geelong area of Victoria.

4.33 These proceedings indicate to the Committee that price collusion may exist in local markets between individual retailers, but there is no evidence it exists at an industry level.

Evidence of price movements

4.34 Many of the charts of petrol price movements submitted to the inquiry showed a pattern of retail prices moving in unison among retailers over price cycles. The graph of retail petrol prices in Melbourne during May 2006 (Figure 4.2) provides a useful illustration of the market in metropolitan areas.

Figure 4.2—Melbourne pump prices in May 2006[25]



24 ACCC, *Submission 31*, p. 101.

25 Caltex Australia, *Submission 55*, p. 22.

4.35 The chart shows the average pump price by brand during May against the Caltex TGP (used here as an indicator of spot market wholesale petrol prices). It indicates that the intense discounting (where petrol was sold below TGP) was driven by Woolworths and Coles and followed by most other major brands. The Committee notes that characteristics of competitive markets are price transparency and volatility. Evidence of these is apparent in the above chart. With a couple of exceptions, the prices essentially track each other. This is typical of price following behaviour in the metropolitan areas that exhibit price cycles although to many people the pattern is indicative of collusive behaviour. However, while some witnesses thought that such a pattern could be consistent with collusion in the market, it is also evidence of competitive behaviour.[26]

4.36 Although parallel movements in price may be consistent with collusion, they are not, of themselves, indicative of it. Parallel price movements are equally consistent with the market being highly competitive. Indeed, where one is considering a commodity like petrol, whose properties are essentially uniform, one would expect retailers to compete primarily on price, not quality. In such circumstances, rational economic actors in a competitive market would seek to match one another's prices, since failure to do so would naturally lead to consumers purchasing from suppliers who offer lower prices. That is particularly so in an industry where both prices and price movements are so transparent. In fact, the committee heard much evidence which suggests that the petroleum retailing industry is one of the most consumer-aware industries in Australia: because of the high level of price transparency, a large number of consumers do consciously seek out the lowest prices, and are assisted in doing so in many capital city markets by media (usually radio) reports which, on a daily basis, alert them to the location of the petrol stations selling at the lowest prices. A market in which retailers seek to match one another's prices would ordinarily be thought to be a competitive market.

4.37 There are two other powerful indicators which are inconsistent with collusion: volatility and profitability. In a market where near-to identical (or parallel) prices are the result of collusion, one would not expect to see significant price volatility. On the contrary, price volatility is one of the surest indicators of competition. The whole point of collusion is to attempt, through artifice, to maintain prices at higher levels than would be achievable in a competitive market; such collusive arrangements are almost invariably characterized by stability at that inflated price, not volatility. For similar reasons, the relatively low level of profitability of the industry, characterized by narrow retail margins which sometimes fall below zero, is also inconsistent with collusion – since the whole point of collusion is to achieve a supra-competitve profit.

4.38 In short, while uniformity of price may be consistent with collusion, it is equally consistent with competition. If such a market were indeed being collusively manipulated, one would also expect to see relatively high and stable prices. But where

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26 Senator George Brandis, Chair, & Professor Paul Kerin, Melbourne Business School, *Committee Hansard*, 26 September 2006, p. 57.

a market in which prices tend to uniformity is also characterized by price volatility and narrow (often negative) margins, it is both counterintuitive and irrational to conclude that the price uniformity (or parallelism) is the product of collusion: on the contrary, all of the other relevant indicia are only consistent with competition.

'Price gouging' and 'profiteering'[27]

4.39 Some submissions claimed that oil companies are practicing 'price gouging' and 'profiteering' with petrol prices.[28] The question of whether petrol resellers have engaged in 'price gouging' and 'profiteering' is a complex one, which raises several issues.

4.40 Firstly, the concepts 'price gouging' and 'profiteering' do not have clear meanings in Australia. Although European and American laws contain anti-gouging provisions[29] these terms are not used in the TPA. Mr Samuel suggested that price gouging means:

> …taking advantage of circumstances that give you an unusual ability to charge prices that would not normally be reflective of the competitive price. In other words, having market power.[30]

4.41 Furthermore, the ACCC advised that the concepts of 'price gouging' and 'profiteering' would usually be associated with market power and it is not clear how they would apply in the context of an industry that supplies an internationally traded commodity such as petrol. Petrol prices in Australia tend to follow Singapore refined petrol prices because refiners in Australia have to compete with refiners in the region in marketing refined petrol in Australia and Asia.

4.42 Mr Stephen French, General Manager, Competition and Consumer Policy Division, Australian Treasury told the Committee that the TPA is more focused on ensuring there are competitive markets which will work to neutralise any such behaviour:

> You might see conduct which some describe as price gouging, but I suspect that in any market you will see other competitors operating to undercut that sort of behaviour or you will see other competitors entering into the market where markets are uncompetitive. From our perspective, we focus on ensuring that the market is competitive, and the law is focused on that rather than on those sorts of effects that you might see from time to time.[31]

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27 ACCC, *Submission 31*, pp 101–102.

28 See for example, Australian Taxi Industry Association, *Submission 27*, p. 2; *and* Mr Steve Gibbons MP, Federal Member for Bendigo, *Submission 49*, p. 4.

29 Dr Warren Mundy, Director, Bluestone Consulting, *Committee Hansard*, 26 September 2006, p. 50.

30 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 27.

31 Mr Stephen French, General Manager, Competition and Consumer Policy Division, Australian Treasury, *Committee Hansard*, 28 September 2006, p. 36.

4.43 Nevertheless, the Committee understands that witnesses use the terms 'price gouging' and 'profiteering' to suggest that oil companies are taking advantage of particular circumstances to charge more for their products than would otherwise be the case. However, on closer inspection, there is no persuasive evidence of such conduct because for each of the components that contribute to the petrol price, there is a market determined price that is transparent, at least to the participants in the market:

> Mr Richards outlined the sorts of margins which are associated: maintaining terminals, marketing and the retail margin for the service stations—service stations have to get something out of it. It is the Singapore refinery price and the crude price. You work all the way down that and you include freight—and each of those is a market. The market for freight is a market; when you have strong demand for freight the price rises. So unfortunately there are a range of components there which you have to get a handle on. I have totted up 12 separate items that you would have to get a good handle on, and I think I am probably underestimating to some extent the sorts of components which go into it.
>
> So, yes, it is more complicated than the price of bananas but at least we can go to a place like Platts or Reuters and say, ‘Look, there is the freight cost, there is the Singapore refinery price and there is the Tapis price.’ And if you had a significant differential between the terminal gate prices and the retail price, or between the terminal gate prices and, say, the Singapore gasoline price then it would become clear to all who monitor those sorts of things.[32]

Predatory pricing[33]

4.44 One of the difficulties in considering claims of 'predatory pricing' is that the term has no strict legal definition, and means different things to different people. Ordinarily, claims of 'predatory pricing' seem intended to invoke section 46 of the Trade Practices Act, which prohibits, in defined circumstances, 'misuse of market power' – which is itself a legally controversial concept. The Trade Practices Act does not explicitly recognise or define 'predatory pricing'.

4.45 Nevertheless, what most people who use the expression intend to convey is the use of price discounting in order to drive weaker competitors out of the market. Such conduct may, depending on the circumstances, constitute a breach of section 46. But it is an error to regard any competitive discounting which results in a competitor being driven out of the market, as conduct which is, or should be, unlawful. As the courts have said many times, the purpose of the Trade Practices Act is to protect competition, not individual competitors, and the result of a competitive market may well be that economically unviable participants will be forced out. Nor do other common commercial phenomena, including loss-making strategies to establish or

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32 Mr Craig James, Chief Economist, Commonwealth Securities, *Committee Hansard*, 26 September 2006, p. 36.

33 ACCC, *Submission 31*, pp 103-104.

expand market share, or discounting to bulk-volume purchasers, constitute unlawful behaviour – although, in particular circumstances, they may. Yet all of these phenomena are sometimes carelessly described as 'predatory pricing'.

4.46 Section 46 prohibits a company with a substantial degree of market power from taking advantage of that power for a proscribed purpose. The proscribed purposes are:

- eliminating or damaging a competitor in that market or another market;
- preventing entry to that or another market; and
- deterring or preventing competitive conduct in that or another market.

4.47 When considering allegations of breaches of section 46 there are many issues that need to be addressed. A threshold question is whether the corporation in question in fact enjoys a substantial degree of power in a market. Even if it could be shown that the corporation has a substantial degree of power in a market, the ACCC then needs to demonstrate that it has 'taken advantage' of that power for one of the three proscribed purposes. As a consequence of court decisions in the last few years, in particular that of the High Court in *Boral Besser Masonry Ltd v ACCC* in February 2003, section 46 cases are becoming increasingly difficult to prove,[34] and the ACCC, as the institutional litigant, has not commenced any new section 46 cases since that decision.

4.48 Retailers selling petrol below cost does not of itself constitute abuse of market power. To fall into that category, such behaviour would need to be targeted at one or more competitors (i.e. it needs to have the purpose of damaging a competitor) over a sustained period. Competitive pricing to gain market share or to respond to general competitive pressures is not predatory.

4.49 Several witnesses gave the Committee their definitions of what constitutes predatory pricing in the petrol industry. These include:

- retailing petrol at prices below the Terminal Gate Price (TGP);[35]
- discounting the Terminal Gate Price to different buyers with insufficient transparency;[36]
- below-cost pricing by one of the major players in the market;[37] and
- selling at a price either below cost or at a very slim margin, with a focus on forcing existing competitors out of the market.[38]

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34 Senator George Brandis, Chair, *Committee Hansard*, 3 August 2006, p. 20.

35 Mr Russell Delahaye, Motor Trade Association of Queensland, *Committee Hansard*, 23 August 2006, p. 44.

36 Mr Peter Fitzpatrick, Motor Trade Association of Western Australia, *Committee Hansard*, 20 September 2006, p. 47.

37 Mr Kevin Hughes, HEH Australian Petroleum Consultancy Co, *Committee Hansard*, 27 September 2006, p. 105.

4.50 There is generally a thin line between conduct that breaches section 46 and vigorous competition. In Queensland Wire Industries Pty Ltd v Broken Hill Proprietary Co Ltd (1989), a section 46 case, the High Court noted that:

> Competition by its very nature is deliberate and ruthless. Competitors jockey for sales, the more effective competitors injuring the less effective by taking sales away … these injuries are the inevitable consequence of the competition section 46 is designed to foster.

4.51 The ACCC has examined a number of claims of abuse of market power in the petroleum industry, but has been unable to find sufficient evidence to indicate a breach of the TPA.

4.52 Some industry participants have in the past called for industry-specific arrangements to address concerns of misuse of market power in the petroleum industry. The ACCC considers that the petrol industry is no different from other industries and therefore section 46 provisions should apply. This is consistent with the Hilmer report into national competition policy which stressed the desirability of the universal application of competition law.

4.53 Mr Brian Cassidy, Chief Executive Officer, ACCC described for the Committee what action the ACCC takes when it receives a complaint of predatory pricing or uncompetitive behaviour:

> Service station A may say, 'Service station B'—which is owned by a competing oil company—'is undercutting me and trying to drive me out of business.' What we do when we receive that sort of allegation…is move to intensive surveillance of prices in that relative geographic area so that we can watch and see who moves first and who then responds. That is the sort of detailed information that we get. We have done a number of these sorts of investigations and it indicates to us that in any particular area it will probably not consistently be the same company or the same service station that will lead prices down. One week it may be an independent because they have managed to acquire a fairly competitively priced load of fuel and they seek to take advantage of that by dropping their price at what they think is an opportune time. It may be one of the major oil company sites in another week because the oil company finds that it has a surplus of product. Despite all the tanks that you see at refineries, the oil companies have a fairly fine margin in terms of how much product they can store. Our experience is that in a particular area you will not be able to say that it is this particular service station that consistently leads prices down. It will vary from one week to the next according to the circumstances of the particular service stations.[39]

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38 Mr Alan Evans, President, NRMA, *Committee Hansard*, 28 September 2006, p. 20.

39 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, pp 10–11.

4.54 In the past, such intensive monitoring has tended to focus on 'hot spots' generally in regional areas, although the ACCC has also investigated wider geographical areas as well.[40]

Supermarket chains

4.55 The supermarket chains have had a significant effect on the retail market for petrol following their entry into the market and they now account for about 40 per cent of fuel sales.[41] The Committee received evidence that it is now the supermarkets rather than the independent operators that drive petrol price discounting.[42]

4.56 On the one hand certain consumers are staunchly supportive of the supermarkets and their shopper docket schemes. The rapid increase in market share that the supermarket chains have been able to garner from the rest of the market illustrates this success. On the other hand, the ability of the supermarkets to offer 4 cents per litre (cpl) discounts and their wholesale arrangements with Caltex and Shell are viewed with suspicion by some competitors and consumers:

> The introduction of shopper-docket schemes by Woolworths and Coles may have sharpened competition in retail markets—although AAA's Tasmanian club, RACT, argues competition has not increased in Tasmania. Indeed as the supermarket chains gain market share, and as other retailers move to introduce similar shopper-docket schemes, retail competition might decrease. The movement of Woolworths and Coles into the retail market may also have reduced competition at the wholesale level, because Woolworths entered into an agreement to source products from Caltex rather than importing them from overseas.[43]

4.57 The ACCC examined retail prices in the five largest metropolitan cities over similar periods before and after Coles Express began operating in those cities. Relative to an independent benchmark, petrol prices were lower after the entry of Coles Express and the Woolworths/Caltex joint venture into the retail petrol market. The extent to which prices were lower varied with cities and time. It ranged from around 0.5 cpl to over 3.0 cpl. Additionally, rather than attributing the lower prices in recent times in the Perth market to the regulatory environment in Western Australia, there is evidence that it is a consequence of the entry of Coles Express into that market.[44]

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40 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 11.

41 AIP, *Submission 50*, p. 20.

42 Mr Brain Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, p. 45. *See also* Mr Desmond King, Managing Director and Chief Executive Officer, Caltex Australia, *Committee Hansard*, 13 October 2006, p. 10.

43 AAA, *Submission 29*, p. 13.

44 Mr Gerald Hueston, President, BP Australia, *Committee Hansard*, 27 September 2006, p. 68.

4.58 The shopper docket schemes have increased in popularity. A 2005 survey found that 73 per cent of motorists used shopper dockets.[45] This compared with only 25 per cent of motorists in 1999. Of the 73 per cent that used shopper dockets, the survey found that those that used the dockets 'every or most times they buy petrol' had doubled in the past two years.

4.59 The additional price competition in the retail markets is placing pressure on all operators including independent operators and franchisees in particular. The MTAA fears that the schemes will contribute to the exit of substantial numbers of independent operators from the market and Australia will be left with a market dominated by the oil major/supermarket alliances.[46]

4.60 However, the AIP countered such an argument, stating that the repeal of the Sites Act will enable all fuel suppliers to compete on an equitable basis, without certain suppliers (i.e. the four majors that are currently restricted by the Sites Act) being unreasonably constrained in their choice of retail business model. This will enable networks to be established that are commercially viable in size and hence enable the networks to optimise the economies of scale that exist in fuel retailing and convenience store operations.[47]

4.61 The NRMA is concerned that as the supermarket chains further increase their market share at the expense of the smaller independent retailers, the increasing dominance of the supermarket alliances will disadvantage motorists.[48] The concern for the independent operators is shared by many, including Mr Kevin Hughes, Principal, HEH Australian Petroleum Consultancy Co:

> …Service Station Operators and Distributors were and are, part of the small business backbone of Australia and many were and are, being forced from the industry by exploitive and unscrupulous commercial behaviour. Such market force behaviour has the effect, through diminishing numbers, particularly of independents, of reducing effective competition and increasing the concentration of market power in the hands of a very small number of market players. A highly undesirable scenario for the creation of a free and competitive market place.[49]

4.62 Some considered that the shopper docket schemes do not represent a true saving to consumers. They argued that the schemes are subsidised by higher grocery

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45 ACCC, *Submission 31*, p. 27.

46 MTAA, *Submission 28*, p. 15.

47 AIP, *Submission 50*, p. 24.

48 NRMA, *Submission 33*, p. 27.

49 HEH Australian Petroleum Consultancy Co, *Submission 70*, p. 3.

prices in the supermarkets[50] which not only creates a false economy for consumers, but unfairly elevates the price of groceries for those who do not purchase fuel.[51]

4.63 However, Mr Mick McMahon, Managing Director, Coles Express told the Committee that the Coles Myer Group does not cross subsidise its Coles Express outlets.[52] Nor does it run the petrol outlets as loss leaders - they are each intended to be a profit centre. Furthermore, the shopper docket scheme is a loyalty scheme to encourage shoppers to frequent Coles Myer stores:

> The fuel loyalty scheme for Coles Myer effectively replaced the shareholder discount scheme. The concern with the shareholder discount scheme was that it was available to a very narrow section of our customer base. It was worth more or less the same amount of money in terms of the cost of loyalty, but it was going to a very small section of the customer base. So the idea with fuel loyalty was to take a more egalitarian view, if you like, and say, 'Can we get an offer that is available to everybody and attractive to everybody?' As you have heard from some of the numbers that we have indicated, the fuel offer is certainly available to everybody. We saw it as the replacement of one loyalty mechanism with a broader based loyalty mechanism. And if we did not spend the money on fuel, we might spend it on FlyBuys, catalogues or TV advertising. That is what I mean by it being just a part of the marketing mix.[53]

4.64 When the Committee questioned Mr McMahon about how Coles Express was able to sell fuel for less than some petrol retailers were able to purchase it wholesale, he told the Committee that this was because Coles Express could sell greater volumes, and also because of the transactions in the convenience stores:

> The fuel discount scheme has been very successful for us in growing volumes. That means that if I have an average throughput that was already at the top end of the industry it is now higher by a significant factor. I do not know who you have in mind, but against somebody who, for instance, is at the bottom end of the average throughput scale, on a rate per litre that can make a huge difference.
>
> Secondly, the importance of the store these days cannot be underestimated in converting that custom account who comes for fuel. We will have stores with an offer that we have invested in which may well be doing as much as five or six times what some of the second tier—I will call them second tier

50 *See for example* ASPO-Australia, *Submission 15*, p. 9 *and* Mr John Turner, *Submission 37*.

51 Mr Michael Carr, *Submission 38*.

52 Mr Mick McMahon, Managing Director, Coles Express, *Committee Hansard*, 27 September 2006, p. 84.

53 Mr Mick McMahon, Managing Director, Coles Express, *Committee Hansard*, 27 September 2006, p. 85.

> for the sake of this example—operators are doing. That fundamentally changes the economics of the game.[54]

Conclusion

4.65 The Committee found that the dynamics of the Australian petrol industry have changed over the past decade or so. The market has evolved from one that was highly regulated with a variety of participants to a deregulated market in which there are fewer competitors at the wholesale level, as well as a smaller number of retail outlets. Nevertheless, the competitive forces are sufficient to place downward pressure on retail prices for consumers.

4.66 Despite receiving a variety of assertions about anticompetitive conduct in the industry, the Committee found no persuasive evidence that the industry is characterised by such conduct. To the extent to which anticompetitive conduct does exist, it is localised, isolated and rare and occurs in the form of collusion between individual operators such as the three instances which the ACCC prosectuted in 2005 and 2006. This behaviour is atypical of the industry. Parallel pricing as seen in the industry is not indicative of collusion; indeed, given the transparency and volatility of the market and low margins, it is in fact indicative of vigorous competition. Furthermore, there is no persuasive evidence of regular or systematic misuse of market power which might constitute a violation of section 46. Further, after taking into account the international factors it found that retail prices for fuel are not unnecessarily high.

4.67 Although the number of smaller independent petrol retailers will continue to decline, the larger independents appear to be doing well, despite the fact that the factors that allowed them to become established have changed. The continued viability of large independents is yet further evidence of the absence of predatory behaviour by the major retailers, while the attrition of small (usually one or two output) independents is a natural outcome of ordinary competitive pressures. The supermarket chains have taken over the role of the independents as a strong discounting force in the markets in which they operate.

4.68 The Committee considers that the Australian fuel market, particularly in the metropolitan areas, shows the characteristics of a strongly competitive market, from which consumers benefit.

54 Mr Mick McMahon, Managing Director, Coles Express, *Committee Hansard*, 27 September 2006, p. 90.

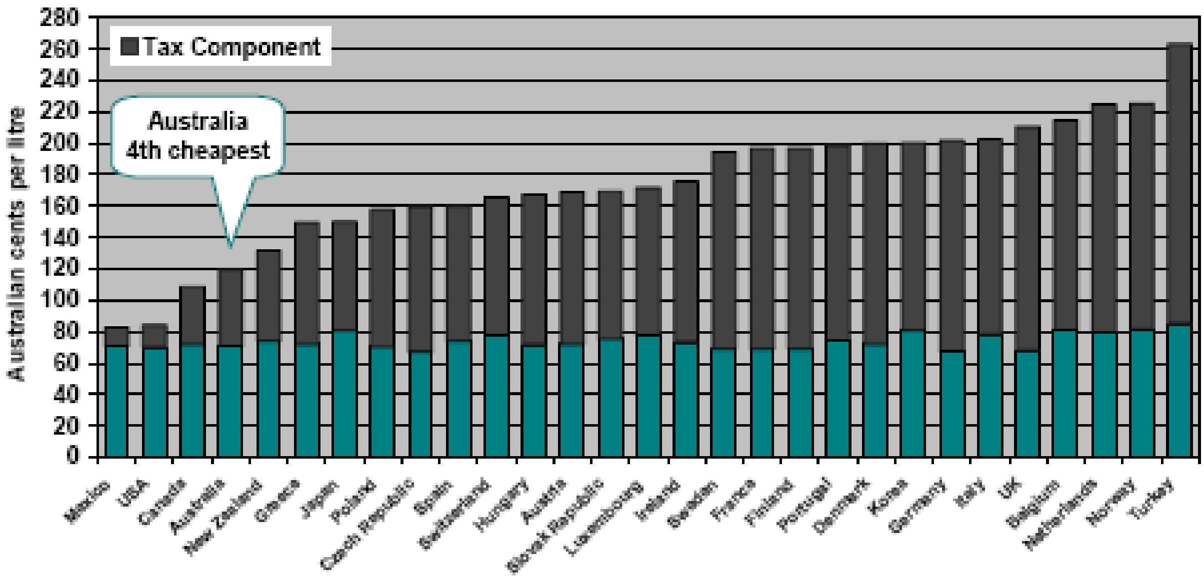
CHAPTER 5

Petrol, Excise and GST

Introduction

5.1 The matter of petrol prices and taxes attracted a significant amount of interest during the inquiry, with submissions from private citizens asking many questions about the current status of taxes on petrol. Figure 3.2 (Chapter 3 – The Petrol Price Rollercoaster) illustrates that taxes comprise around a third of the total cost of petrol at the pump. However, it also shows that Australia has the fourth lowest level of petrol taxation (and consequently the fourth lowest petrol prices) in the OECD, as illustrated in Figure 5.1.

Figure 5.1—OECD comparison of petrol prices and tax (March 2006 quarter)[1]



5.2 Taxes account for approximately 34–39 per cent of the retail price of petrol and consist of two components, excise and the Goods and Services Tax (GST). Excise is capped at 38.143 cents per litre (cpl) and is levied on the domestic production of petrol and the corresponding customs duty which is levied on imported petrol. The rate was frozen in 2001 at that level, so in real terms the level of petrol excise is reducing with the passage of time. GST is charged at the standard rate of 10 per cent of the total purchase price.

5.3 Evidence received by the inquiry indicated divided opinions on whether taxes should be reduced to combat the rising price of petrol or alternatively, if petrol taxes should be restructured to encourage less reliance on petrol.

1 Caltex Australia, *Submission 55*, p. 10.

Is GST a tax on a tax?

5.4 A number of submitters expressed views about the application of GST to petrol. Whilst some called for a blanket reduction in fuel taxes,[2] a common concern of witnesses and motoring organisations was that the application of GST on petrol (which includes excise) is a 'tax on a tax' and are calling for GST to be removed from petrol or that the taxation system be restructured so that excise does not attract GST.[3] One witness submitted that:

> Excise is a tax not goods not service and should be charged at the end after fuel price and GST. eg. Petrol + GST = [Sub] Total + Excise = Total. To do so any other way is breaching the rules of GST.[4]

5.5 The Motor Trades Association of Queensland stated simply:

> Our position on GST, on the excise component, is that we regard it as inequitable. It just does not seem right to have a tax on a tax.[5]

5.6 However, a member of the Committee, Senator Andrew Murray highlighted that there are many instances—perhaps including all goods and services—in which the argument could be made that a 'tax on a tax' is applied, but the question remains as to whether some goods or services should be GST exempt:

> …commonly the GST is always a tax on a tax because, if you take any final good or final service, included in that final good or service is the calculation the company makes with respect to what corporate tax it will pay. That is within its margin. Built in there are state taxes such as payroll taxes. All sorts of state, territory and federal taxes are set into what the company or the business decides as a final price for its good or service provided. Therefore, to my mind GST is always to some extent a tax on tax. Nevertheless, it is a very common statement—talkback radio, letter writers and commentators effectively argue that fuel should be GST-free, like health and educational goods.[6]

5.7 Submitters also discussed higher petrol prices leading to a greater amount of GST being collected because the tax is charged against the total purchase price. The NRMA argued that higher petrol prices means the Australian Government is generating even more GST from sales:

2 See for example, Mr David Blackwood, *Submission 9*, pp 1–2.

3 See for example, Mr Ange Kenos, *Submission 4*, p. 2; Mr Hans Verseema, *Submission 32*, p. 1; RACV, *Submission 30*, p. 6; Sudholz Pty Ltd, *Submission 57*, p. 1; *and* Mr Neville Pitt, *Submission 60*, p. 2.

4 Ms Fay Hicks, *Submission 25*, pp 3–4.

5 Mr Russell Delahaye, Motor Traders Association of Queensland, *Committee Hansard*, 23 August 2006, p. 44.

6 Senator Andrew Murray, *Committee Hansard*, 13 October 2006, pp 36–37.

…the GST levied on a litre of unleaded petrol in metropolitan Sydney in June 2006 is 12.58 cents per litre compared to only 8.83 cents per litre in January 2005. This means that Australian Governments are receiving a windfall gain of 3.75 cents per litre at the expense of the Australian motorists who are already hurting due to high petrol costs.[7]

5.8 Given that GST is collected against petrol purchases, the Royal Automobile Association of South Australia proposed that excise should be lifted:

With the GST, fuel excises are no longer justifiable to raise revenue. The appropriate tax on fuel for revenue raising purposes is, in our view, 10 per cent GST on all fuels, no indexation and no on-road/off-road distinction.[8]

5.9 Whilst the Royal Automobile Club of Victoria (RACV) suggested that GST should be removed from petrol as well as recommending a number of other modifications to the fuel taxation system, notably that:

- the Commonwealth reduce petrol excise by 10 cpl;
- in the longer term, fuel excise be replaced with an explicit road user charge; and
- investment in road infrastructure be increased to a figure corresponding to 12 cpl.[9]

5.10 When propositioned about the possibility of removing GST from fuel, Mr Michael Potter from the Australian Chamber of Commerce and Industry asserted that whilst this would possibly benefit consumers, it would provide no advantage to business:

But the important problem with making fuel GST-free is that that would have absolutely no effect on the price of fuel purchased by business. Businesses can claim an input tax credit for all the GST, so effectively they get a 10 per cent reduction in the cost of fuel. If you made fuel GST-free, of course it would reduce the price for the final consumer but it would keep it exactly the same for business. I am not sure that that is a particularly good public policy result.[10]

5.11 Furthermore, Mr Potter suggested that reviewing the application of excise to petrol would be a more appropriate course of action to reduce petrol prices:

We and businesses generally argued at the time of the introduction of the GST that it should be applied as broadly as possible. If you made fuel GST-free, that would be winding back on that particular position that we took and so we would not be supportive of that from an administrative point of view. It would cost a lot of money too. We think that if you want to do

7 NRMA, *Submission 33*, pp 17–18.

8 Royal Automobile Association of South Australia, *Submission 21*, p. 8.

9 RACV, *Submission 30*, p. 6.

10 Mr Michael Potter, ACCI, *Committee Hansard*, 13 October 2006, p. 37.

> something, it would probably be better to look at the excise rather than at the GST.[11]

5.12 However, in recognition of the impact of GST on petrol prices, the Australian Government undertook a series of steps to ensure that the GST would not lead to excessive levels of taxation. Following the introduction of the GST on 1 July 2000, the excise rate applied to petrol was reduced to compensate for the additional tax that would be imposed under the GST. This is discussed in more detail later in this chapter.

5.13 As a further measure to offset the impact of the GST and in recognition of the price differential that already existed between country and city petrol prices, the Fuel Sales Grants Scheme was introduced on 1 July 2000, providing grants to fuel retailers for the sale of petrol and diesel to consumers in regional and remote areas. However, this scheme ceased on 1 July 2006 in accordance with the findings of the Fuel Tax Inquiry in 2002 which found that there was little recognition of the scheme and uncertainty as to whether the benefits to regional Australians were fully accrued in proportion to the level of public expenditure.[12] Annual funding to the scheme of $270 million was subsequently diverted to the Auslink road transport plan, Australia's National Land Transport Plan to improve transport infrastructure in outer metropolitan, rural and remote areas.[13] The impact of GST on country residents is explored in further detail in Chapter 6 – Petrol Prices in Country Areas.

What is the impact of excise on petrol prices?

5.14 Excise describes taxation levied onto certain goods in Australia for the purposes of raising revenue or, in the case of some goods such as tobacco, to curb consumption of a product type. Excise on petrol and diesel are two of the most important sources of revenue for the Australian Government.[14] Whilst the contribution of excise to the price of petrol is substantial, it is a fixed amount and is not subject to price movements.

5.15 Following the introduction of the GST in 2000, excise was dropped by 6.656 cpl in recognition of the additional tax that would be applicable to the commodity through the GST and on 2 March 2001, excise was reduced by a further 1.5 cpl. It was at this time that the biannual practice of updating the excise amount in

11 Mr Michael Potter, ACCI, *Committee Hansard*, 13 October 2006, p. 37.

12 Fuel Taxation Inquiry Committee, *Fuel Tax Inquiry Report*, Commonwealth of Australia, March 2002, pp 162–163.

13 Australian Taxation Office, *Fuel sales grants scheme closed,* (accessed November 2006): http://www.ato.gov.au/businesses/content.asp?doc=/content/72337.htm&pc=001/003/044/004/008&mnu=&mfp=&st=&cy=1

14 Webb, R. 'Excise taxation: Developments since the mid 1990s', *Research Brief*, Department of Parliamentary Services, 13 April 2006, p. 4.

accordance with the consumer price index also ceased.[15] An additional one cpl excise was added onto the price of high-sulphur diesel on 1 July 2003 and again on 1 January 2004 to encourage the early adoption of ultra-low sulphur diesel.

5.16 The alternative fuels ethanol and biodiesel are also subject to excise. However, the domestic production of ethanol attracts a subsidy paid under contract by the Department of Industry, Tourism and Resources equal to the excise amount, therefore leading to effective excise-free treatment. Subsidies are not provided when ethanol is imported so as to offer a level of protection to the domestic market. Both the import and domestic production of biodiesel attracts grants under the *Energy Grants (Cleaner Fuels) Scheme Act 2004*, which effectively brings the rate to zero. A number of alternative fuel excise reforms were announced by the Australian Government on 16 December 2003.[16] In amendments to the Energy Grants (Cleaner Fuels) Scheme Bill 2003,[17] a three year extension on introducing the reforms was agreed, notably that:

- the ethanol subsidy will be phased out incrementally by increasing the effective rate of excise to 12.5 cpl over the period 1 July 2011 to 1 July 2015;
- the biodiesel grant will be progressively reduced by increasing the effective excise rate to 19.1 cpl over the period 1 July 2011 to 1 July 2015; and
- liquefied petroleum gas (LPG) is currently excise-exempt but will begin attracting 2.5 cpl excise after 1 July 2011, which will increase over five years to 12.5 cpl in 2015.[18]

5.17 To provide relief to some businesses and households, Fuel Tax Credits (FTC) was introduced on 1 July 2006, with the final changes applying from 1 July 2012. The FTC scheme delivers a credit for effective fuel tax paid, and in certain cases environmental criteria need to be met. Credits are currently available to entities using petrol, diesel, kerosene, heating oil and toluene as part of conducting their business.[19] From 1 July 2008, the scheme will be expanded to provide a credit of half of the fuel excise incurred in currently ineligible off-road activities and from 1 July 2012, a full

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15 Webb, R. 'Excise taxation: Developments since the mid 1990s', *Research Brief*, Department of Parliamentary Services, 13 April 2006, p. 5.

16 The Hon. John Howard, Prime Minister of Australia, 'Fuel excise reforms', Media release, 16 December 2003.

17 The *Energy Grants (Cleaner Fuels) Scheme Act 2004* was assented to on 21 April 2004 and taken to have commenced on 18 September 2003.

18 See Webb, R. 'Government assistance to alternative transport fuels', *Research Brief,* Department of Parliamentary Services, 9 November 2006, pp 1–2.

19 Eligible fuel use activities include: vehicles greater than 4.5 tonne gross vehicle mass travelling on a public road; off-road activities previously entitled to a grant under the Energy Grants Credits Scheme; burner applications and non-fuel uses; and, electricity generation. For more information, see Australian Taxation Office, *Fuel tax credit guide for businesses*, Commonwealth of Australia, July 2006, p. 4, 19.

credit will be provided so such activities are effectively excise-free.[20] Grants for the use of alternative fuels (for example, biodiesel, compressed natural gas, LPG) will continue to be provided under the Energy Grants Credits Scheme until 2010, but beginning 1 July 2006 and ending on 30 June 2010, the grants will be incrementally reduced to zero.[21]

5.18 The administration of the FTC scheme attracted criticism in evidence which argued it imposes a 'costly compliance burden' on farmers and is overly complicated, recommending that a number of changes be implemented to simplify excise collection on fuel.[22] Fuel distributor Lowes Petroleum expressed concern about the method of collecting fuel excise, proposing that rural fuel distributors should be able to claim back excise in advance on fuel sales, rather than waiting until after the customer has settled their account before the distributor is able to lodge for a return.[23]

5.19 Other evidence argued that the components of the FTC scheme to be introduced in the future should be brought forward to provide some relief today to rural and regional businesses and households.[24] This view was shared by the NSW Government, which suggested that the Australian Government reconsider elements of the FTC scheme:

> Although the Commonwealth is introducing new fuel tax credits for large on-road vehicles (more than 4.5 tonnes) from 1 July 2006, the delayed introduction of fuel tax credits until 2008 for the business use of fuels off-road will affect many businesses, and in particular, primary industries. Reconsideration of the tax deductibility of motor cars for the small business sector (especially in regional areas) may also be a matter for the Commonwealth's consideration.[25]

5.20 The Treasury advised that excise collection in 2006-07 is estimated to be around $7.3 billion which is only $30 million higher than 2005-06, indicating that excise is declining in real terms.[26] They advised the Committee that if half-yearly indexation had continued against fuel excise, the current rate of excise would be 54.9 cpl or 44 per cent higher so effectively, excise is falling in real terms.[27] Accordingly, it would appear that consumers are currently benefiting from the current

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20 Australian Government, *Securing Australia's Energy Future*, Commonwealth of Australia, 2004, p. 178.

21 R. Webb, 'Fuel Tax Bill 2006', *Bills Digest,* Department of Parliamentary Services, 4 May 2006, p. 5.

22 Mr Robert Parry FCA, Chartered Accountant, *Submission 74*, pp 3–4.

23 Lowes Petroleum Service, *Submission 53*, p. 4.

24 Remote Area Planning and Development Board, *Submission 43*, p. 11.

25 NSW Government, *Submission 44*, p. 3.

26 'Real terms' refers to a figure adjusted to correct for the effects of inflation, thereby reflecting the time value of money.

27 Australian Treasury, *Submission 68*, p. 14.

system of taxation (a capped rate of excise plus ten per cent GST) as opposed to biannual indexation of the excise rate.

5.21 The Australian Automobile Association (AAA) argued that not enough of the total amount of fuel excise revenue collected is spent on roads. The Association suggested that fuel tax should be removed, and replaced with a system which imposes both an access charge for using the roads (including vehicle registration) and a user charge whereby transport users pay the full marginal costs they impose for using the roads which incorporates:

- a road wear and congestion charge calculated in relation to the type of vehicle and damage done through road usage (vehicle mass, distance travelled and location, and axle load);
- an environmental charge; and
- a charge to reflect the costs of vehicle accidents.[28]

5.22 However, the Committee notes that such action is likely to have a greater impact on people in rural, regional and remote areas who generally travel much further distances, already experience higher transport costs and have limited opportunities for reducing their road usage (these matters are discussed further in Chapter 6 – Petrol Prices in Country Areas). Introduction of a transport user scheme would therefore require adjustments or concessions for people living outside of metropolitan centres.

5.23 The NRMA called for a greater amount of revenue generated from taxes to be spent on roads and transport:

> The total tax paid on fuel by Australian motorists far exceeds what Australian governments give back in the form of road and transport funding. In 2005-06 the Federal Government collected some $14.07 billion from the fuel excise of 38.14 cents per litre. Of this it returned just $2.1 billion (or 15 per cent) to motorists in the form of better and safer roads. Moreover, it did not allocate any funding to public transport services in Australia's City's which are the home of the majority of Australian's and the hub of the nation's economic activity.[29]

Are petrol taxes too low?

5.24 The inquiry received a number of submissions arguing that the tax rate on petrol in Australia is too low, encouraging over-reliance on petroleum consumption. The Sustainable Transport Coalition of Western Australia (STCWA) proposed that excise should be incrementally increased to moderate the demand for petrol and diesel and that taxation measures including reform of fringe benefits tax and the removal of

28 AAA, *Submission 29*, pp 14–15.

29 NRMA, *Submission 33*, p. 33.

import duty concessions to discourage the purchase of larger motor vehicles such as four wheel drives and six cylinder vehicles.[30]

5.25 Mr Ben Rose proposed that increased fuel taxes could be used to further a number of aims, notably to:

- encourage greater use of public transport by subsidising fares;
- provide education on the impact of vehicle greenhouse emissions and the increasing scarcity of oil and gas; and
- fund a 'buy back' scheme for old, inefficient vehicles.[31]

5.26 Evidence submitted that the finite supply of petroleum means that it is a resource which should not be wasted and where possible, decreased vehicle usage should be encouraged through increasing taxes to alleviate air pollution and Australia's over-reliance on petroleum-based energy.[32] To moderate demand for petrol the Public Transport Users Association called for the real value of fuel excise to be applied.[33] This could be achieved by re-introducing biannual indexation of excise with the consumer price index.

5.27 The STCWA asserted that a transport user system should be introduced which captures the real costs of motor vehicle use, including energy prices, road user charges and costs of repairing and maintaining transport systems:

> Transport users do not pay the real cost of travel. Many costs are paid by the community (eg. health effects of air pollution and costs of road maintenance) are fixed (eg. vehicle registration and insurance) or, arguably, too low (eg. fuel prices compared with many other nations) and so distort the market, resulting in social and environmental costs for the community and increased costs for Government.[34]

5.28 The Carbon Neutral program recommended that tax incentives be introduced to develop petrol replacement strategies.[35] Other suggestions included the introduction of a fuel tax escalator whereby fuel taxes are increased 'smoothly and incrementally' to reduce Australia's reliance on oil and to send out a clear message that fuel consumption must be reduced. The Australian Association for the Study of Peak Oil and Gas recommended that such a system be modelled on the one introduced in the United Kingdom in 1988, but that income tax relief be provided to counteract the

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30 STCWA, *Submission 14*, p. 2.

31 Mr Ben Rose, *Submission 1*, p. 1.

32 Mr Michael Angelico, *Submission 59*, p. 1.

33 Public Transport Users Association, *Submission 40*, p. 5.

34 STCWA, *Submission 14*, p. 1.

35 Carbon Neutral – A Men of the Trees Program, *Submission 2*, p. 1.

additional revenue derived from the sale of fuel.[36] Mr Bruce Robinson from the Association discussed this proposal with the Committee:

> **CHAIR—**His evidence—and I hope I do not do him an injustice by oversimplifying—was basically that government should take policy measures to increase the price of fuel so as to reduce usage so that (a) we can become less fuel dependent and (b) the available resources that are left will last for longer. Is that basically your position? Is that where you are coming from?
>
> **Mr Robinson—**I certainly think that is an inevitable conclusion if we think about peak oil and we look at the next generation, the kids who are just in kindy now, and think about 20 years from now: what are they going to be using in 20 years time if they are setting up houses and things? One of Margaret Thatcher's important legacies to Britain was that she put Britain on a fuel tax escalator…[37]

5.29 To reduce over-reliance on the petroleum industry and build robustness against escalating international oil prices, Mr Alan Kleidon asserted that:

> We purchase petrol on a free market from private companies that exist to provide a return to shareholders. If we, as customers, do not like the high price of petrol then we have the power to purchase less or none of it. I would like the Government to focus its intention on assisting us to live with less petrol, rather than seeking cheaper petrol. This will have enduring economic, social and environmental benefits for all Australians.[38]

5.30 Mr David Rice commented that broad-ranging action is needed to reduce Australia's dependence on petroleum and to change consumer behaviour:

> …you bear in mind the need to prepare the Australian public for substantial global oil price rises (doubling or trebling, not just a few more cents/litre) in the medium term (say 5 to 15 years). This means sending the right price signals to vehicle purchasers to buy more fuel efficient vehicles, planning organisations to plan for accessibility by proximity rather than by mobility, and a myriad of other decisions which, collectively, will mean Australia is in as strong as possible a position to cope with high fuel prices. We need these signals now, propping up low petrol prices will send perverse signals.[39]

5.31 Evidence also recommended that the Australian Government develop strategies for better managing Australia's fuel consumption requirements into the future:

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36 Australian Association for the Study of Peak Oil and Gas, *Submission 15*, pp 6–7.

37 Senator George Brandis, Chair & Mr Bruce Robinson, *Committee Hansard*, 20 September 2006, p. 91.

38 Mr Alan Kleidon, *Submission 35*, p. 1.

39 Mr David Rice, *Submission 39*, p. 1.

> I urge the Government to develop a comprehensive, strategic framework including tax incentives, promotion of research and new technologies, and the necessary infrastructure to ensure that Australia rapidly repositions itself to be less dependent on imported petroleum and a hostage to wild fluctuations in the world price of oil.[40]

Conclusion

5.32 Judging from evidence submitted to the inquiry, the public is divided on how the current structure and level of taxes is applied to petrol. Two distinct perspectives arise: one in which the Government should seek to lower petrol taxes to reduce the impact of escalating petrol prices; and another which argues that the Government should increase the level of excise applied to petrol to reduce Australia's dependence on petroleum. The former would possibly provide advantage to consumers today but would erode over time. Furthermore, the loss of excise revenue generated through petrol taxes which help maintain and build transport networks would need to be obtained from elsewhere. The latter is likely to be highly unpopular with those most hurt by rapidly rising petrol prices and who have few options available to them to alter their fuel use patterns.

5.33 The large number of inquiries over the past decades into the petroleum industry and rising petrol prices demonstrates that these are issues that are unlikely to go away. With every substantial increase to the price of petrol, consumers express dissatisfaction and anger at rising prices as household budgets are again stretched and people struggle to pay higher prices for a commodity they are largely reliant upon. Rather than adopt short-term measures such as removing GST from petrol or reducing excise, or measures which will undoubtedly hurt consumers even more (for example, increasing excise) effort should be directed to promoting public understanding and awareness of how petrol consumption can be reduced.

5.34 Furthermore, calls for an increase in the level of petrol taxation on environmental grounds, tend to view the issue in isolation from other considerations. Appropriate and balanced environmental policy-making demands a holistic approach, not a sectoral or sub-sectoral approach. The Committee is not in a position to conclude that, in isolation from all other considerations, increases in the level of petrol taxation will be significant in improving the environmental outcomes sought by those who advocate that cause. When balanced against the likely economic dislocation of increasing the cost of a major factor of production (which might itself have unseen environmental consequences), the Committee is not persuaded to that approach.

5.35 The Committee is accordingly not persuaded by the evidence received which proposes any change to the system of excise and GST for petrol and does not make any recommendations in this regard.

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40 Mr Steve Gibbons, Federal Member for Bendigo, *Submission 49*, p. 8.

CHAPTER 6

Petrol Prices in Country Areas

Introduction

6.1 Inquiry after inquiry has found that consumers living outside of metropolitan areas pay more for petrol, sometimes significantly so. During a time of rising prices the differentials can be especially marked. Although it is widely acknowledged that higher freight costs incurred in longer transportation distances add to country petrol prices, this is not the only expense contributing to higher prices in many regional, rural and remote locations.

6.2 As discussed in Chapter 3 – The Petrol Price Rollercoaster, the retail price of petrol reflects the wholesale price plus a number of other factors, including freightage and distribution costs, but the price is also influenced by the relative absence of competitive pressures in many local markets, both at the retail and wholesale level. Furthermore, a lower turnover rate of petrol at retail sites often leads to higher prices at the bowser. These factors, as well as a range of other influences which lead to country consumers[1] paying more for petrol, are examined in this chapter.

Are country petrol prices really higher than city prices?

6.3 The Australian Automobile Association (AAA) described consumer sentiment towards rising petrol prices, and in particular, the country and city price differential:

> …motorists find it difficult to understand why prices can vary so much from place to place. This is particularly the case in rural and regional areas, where prices are higher than in the capital cities…during the past 18 months, there have been occasions when the differential has increased dramatically in some locations.[2]

6.4 The Sustainable Transport Coalition WA submitted that whilst higher petrol prices in country areas are justifiable to an extent, significant price differentials are not:

> It is obvious that those roadhouses which are isolated and have to provide their own power generation and sustenance will have higher operating costs than those in the towns, and this will be reflected in even higher retail fuel prices at such roadhouses. However, some instances of petrol pricing in

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1 The term 'country consumers' refers to those consumers living in regional, rural and remote communities across Australia.

2 AAA, *Submission 29*, p. 9.

> (WA's) north west could bear scrutiny. It seems difficult to justify cases where fuel is sold up to **32% higher per litre** than Perth city prices.[3]

6.5 The higher cost of fuel in the country not only adds to the weekly costs of transport borne by consumers, but residents also experience a general increase in the cost of living and doing business when fuel prices are high. Additionally, much of their travel is non-discretionary, there are few if any alternative transport modes, and the distances that people drive are often greater than those of people living in metropolitan areas:

> For Queensland's Outback and remote business operators, communities, and householders, fuel is an essential part of life. Fuel prices impact on business and enterprise financial decisions and priorities, as well as communities' and householder's quality of life and lifestyle.[4]

6.6 A number of personal submissions described the limited alternatives available to country residents:

> A lot of us do have to use our own car as there is no transport in a lot of rural areas. [I] can't carpool as there is no one to carpool with. I'm sure I'm not just speaking for myself here. How can people put up with it?[5]

> It must be realised that we do not have services to our door like urban dwellers, for example, even our garbage must be transported to 'collection sites' for disposal. It is not economical to perform this task daily with one bag of garbage, so it is collected until a trailer load can be transported, likewise...water is essential…[and] must be transported from the public bores…this demonstrate[s] that vehicles of a suitable power to weight ratio must be utilised, [so] reducing petrol bills is extremely difficult.[6]

6.7 The Remote Area Planning and Development (RAPAD) Board reported that the cost of living in a remote community like Boulia (located 1 719 km from Brisbane, 305 km south of Mount Isa and 364 km west of Winton) was already double the cost of living in a larger provincial centre like Toowoomba.[7]

6.8 Figure 6.1 illustrates that the average price of petrol in metropolitan Sydney as compared to NSW country is consistently lower for the period July 2005 to June 2006 and the extent of the differential can vary quite significantly.

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3 Sustainable Transport Coalition WA, *Submission 13*, p. 1.

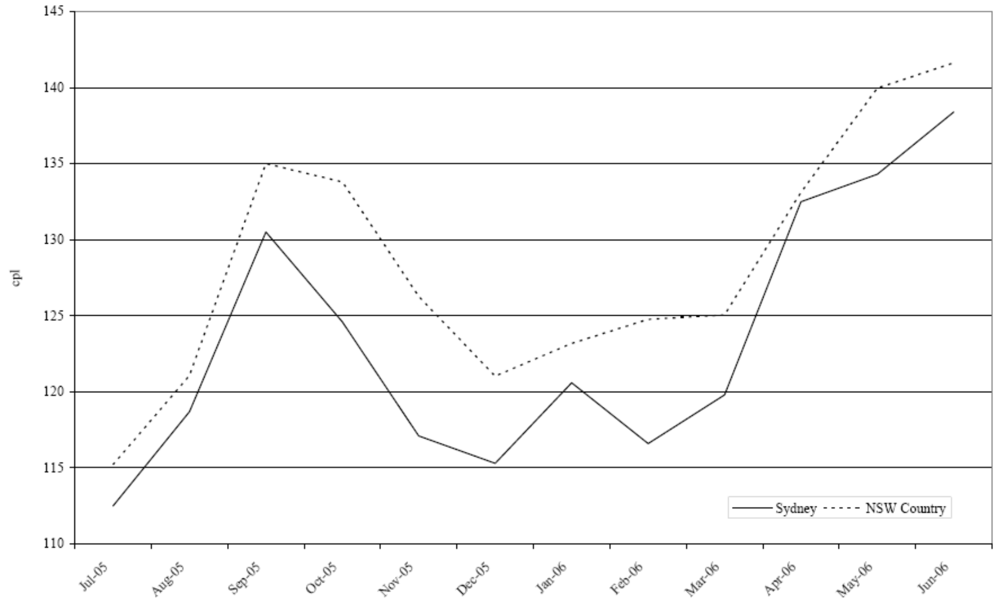
4 Remote Area Planning and Development (RAPAD) Board, *Submission 43*, p. 4.

5 Name withheld, *Submission 22a*, p. 1.

6 Mr Alan Phillip May, *Submission 48*, p. 7.

7 RAPAD Board, *Submission 43*, p. 7.

Figure 6.1—Average monthly retail prices (Sydney and NSW country)[8]



6.9 Mr Jim Turnour noted that communities in Far North Queensland are particularly dependent on the tourism industry and rising petrol prices have reduced the number of domestic tourists travelling to Cairns, Douglas Shire, Cape York and the Torres Strait:

> Our communities are therefore experiencing hardships in a number of ways as a result of spiralling petrol prices.[9]

6.10 The RAPAD Board commented that the latest statistics from Tourism Queensland showed an eight per cent fall in tourism to Queensland's outback and that anecdotally, higher fuel prices have been a major factor influencing the decisions of potential holiday makers to the outback.[10] The self-drive tourism market is especially threatened by rising petrol prices:

> It is cheaper to fly to Bali from Melbourne return than to tow a caravan from Melbourne to Winton and return as part of a holiday. A Melbourne to Bali return airfare including prepaid airfare taxes, 7 nights' accommodation, plus free full breakfast daily is currently being promoted at $744. The indicative fuel cost of towing a caravan from Melbourne to Winton and return is $1270.[11]

6.11 However, Caltex disputed the claim that a large price difference exists between country and city petrol prices, stating that in the first half of 2006 there was 'only a small difference on average between the average prices of petrol in regional

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8 ACCC, *Submission 31*, p. 86.

9 Mr Jim Turnour, *Submission 19,* p. 1.

10 RAPAD Board, *Submission 43*, p. 8.

11 RAPAD Board, *Submission 43*, p. 8.

and metropolitan areas when freight is excluded, apart from WA', accounting for an average difference of 2.2 cents per litre (cpl), not including freight and excluding the WA market. This was argued to be similar to the historical average.[12]

What factors contribute to the price of petrol in country areas?

6.12 The margins set by retailers are dependent on factors such as the average volume of sales, the ability to retail goods and services other than petrol, and the level of competition in the area. A retailer must have sufficient margins to make a profit and keep the business viable. Country service stations typically sell less than half the fuel of a metropolitan service station and unlike metropolitan service stations, those in country areas tend to rely primarily on their petrol sales to maintain the business, so they require higher profit margins.

6.13 When questioned about the impact of the volume of sales on petrol prices, Dr John Tilley from the Australian Institute of Petroleum (AIP) told the Committee that there are many other factors which also add to petrol prices in regional, rural and remote locations:

> **Senator JOYCE—**In a local market then if I were to go to Kalgoorlie where there is a massive amount of diesel used, I would expect a cheaper price for diesel, wouldn't I?
>
> **Dr Tilley—**What you would expect in Kalgoorlie is the underlying price level to reflect the wholesale price of diesel, plus the local area factors and competition. How much does it cost to freight diesel to Kalgoorlie? Is it double-handled along the way? Is it stored in depots so the distribution and handling costs are higher? What is the nature of the market in Kalgoorlie? How many service stations are located in that market? What is the nature of competition between those service stations? What is the average customer base for each of those sites? Do they have the opportunity to move large volumes of diesel over time?[13]

6.14 The experience of operating a fuel retail outlet in a remote location was described by Mr Michael Carr:

> It does cost more to service the country. I spent five years on the Nullarbor, running service stations there, and we do hear a lot of complaints about the price of fuel in the country, but there are a lot of extra costs such as freight, power and water.[14]

6.15 The key influences driving the country and metropolitan price differential, such as freight, transport and distribution costs, local market competition and the lack of price cycles in country markets, are canvassed below.

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12 Caltex Australia, *Submission 55,* Executive Summary, p. 1.

13 Dr John Tilley, Executive Director, AIP, *Committee Hansard*, 27 September 2006, p. 41.

14 Mr Michael Carr, *Committee Hansard*, 23 August 2006, p. 23.

Freight, transport and distribution costs

6.16 The further away a fuel retailer is from a refinery terminal, freight and transport charges will be higher, whilst the retailer may also have to pay a distributor for fuel acquisitions, thereby creating an additional expense. Caltex Australia estimated that freight is typically 1.5 to 3.0 cpl greater for country deliveries as compared to deliveries in metropolitan locations. Whilst freight and transport costs are perhaps the most widely publicised cause of higher country petrol prices, as pointed out by Mr Turnour, the difference in petrol prices cannot be explained by distance alone:

> Cairns regularly experiences fuel prices greater than those in Innisfail and Atherton. Both of these are smaller centres approximately 100 km from Cairns. The arguments that service stations need to charge more because of higher transport costs or smaller volume of sales do not hold up in these circumstances. A lack of competition in the Cairns market is enabling service station owners to price gouge local consumers.[15]

6.17 In terms of the WA petroleum market, the Royal Automobile Club of Western Australia (RACWA) stated that whilst it is difficult to generalise about costs, it is estimated that in many cases transport costs are only a minor influence affecting the price of petrol.[16]

6.18 The costs of acquiring wholesale fuel from a source other than directly from the refinery terminal, such as from a regionally-located storage depot or from a distributor servicing the country area region, can also add further expense to retail petrol prices. Where a retailer is able to source petrol directly from a refinery terminal, then the wholesale price the retailer will pay is generally lower. Purchases from a distributor (via a storage depot), however, results in higher handling costs incurred by the fuel retailer and additional expenses will be reflected in the retail price. BP submitted that its direct retail activities in regional Australia are 'almost non-existent' because the company sells petrol to distributors who then on-sell the BP product to retailers.[17]

Competition in local markets

6.19 Caltex Australia summed up the key reason for the price differential as competition:

> In almost all cases, these differences are the result of local competitive factors, including site volumes and site density, the presence of discounters

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15 Mr Jim Turnour, *Submission 19*, p. 2.

16 Mr David Moir, RACWA, *Committee Hansard*, 20 September 2006, p. 27.

17 BP Australia, *Submission 34*, p. 3.

> including supermarkets and the impact of new entrants seeking to establish volume.[18]

6.20 The Committee found that while many people recognised that competition in the local market has an impact on prices, concern remains as to why country petrol prices do not fall at the same rate as those in metropolitan centres following international price drops:

> There is certainly a lack of competition and, in any particular fuel retail outlet, volumes are much lower in these remote parts than they are in the heavily populated parts of the country. So we recognise it is necessary for the retailer to have a higher cents per litre mark-up on his product in order to cover his overhead costs. But the bit that hurts is that price drops at the retail level seem to be far quicker in the cities than they are out here.[19]

6.21 Councillor Stanley Collins from the RAPAD Board described the impact of reduced competition on country petrol prices:

> I do not think that the claims have ever come from this region that we are cross-subsidising or subsidising city consumers or that fuel companies are jacking the price up out here to put a lower than cost price in the cities. But they find it very easy because of the lack of competition just to take an undue time to drop their prices here. Their margins are pretty good out in these areas because of that.[20]

6.22 There is generally a time lag of around one to two weeks between changes in these prices and price changes at petrol bowsers due to the averaging formula used by refiners in Australia and the frequency of changes to terminal gate prices. This lag is generally longer in country areas because petrol stocks are replenished less often by wholesalers and retailers, due to the generally lower volume of sales. This accounts for why a change to the international price of petrol or crude oil tends to be reflected more rapidly in metropolitan areas, as compared to that in country areas.

6.23 Locations which have a small population and perhaps little traffic through the town are also likely to have fewer service stations and therefore less competition, and higher margins may be needed to ensure the business is financially viable and sustainable into the future. Fuel retailers located in country areas that are close to or on major highways will tend to generate higher volumes of sales of both petrol and other consumer goods, so these sites may be in a position to offer a lower price for petrol. Alternatively, if they are the only fuel retailer in the location or one of very few retailers, then the retailer may be in a position to charge higher prices because of a lack of local competition in the market.

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18 Caltex Australia, *Submission 55,* p. 12.

19 Councillor Stanley Collins, Mayor, Winton Shire, *Committee Hansard*, 28 September 2006, p. 30.

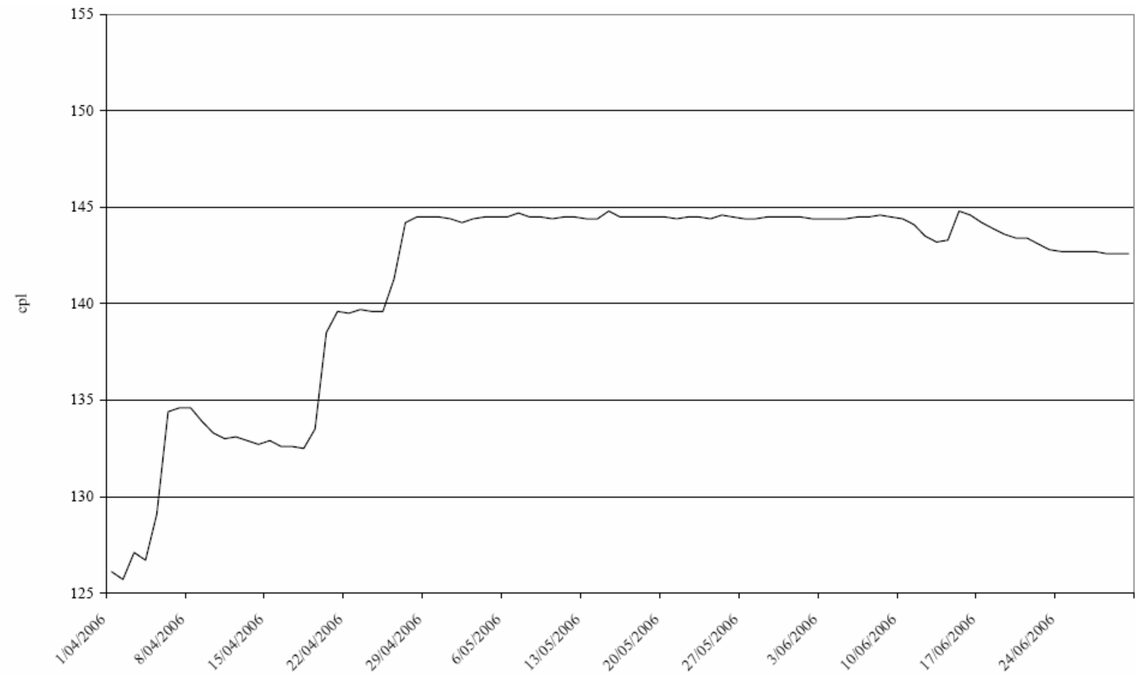
20 Councillor Stanley Collins, Mayor, Winton Shire, *Committee Hansard*, 28 September 2006, p. 33.

6.24 Furthermore, greater competition in the wholesale market generally means fuel retailers are able to secure supply at a lower price and so the relative absence of competitive pressures not only in the retail market, but also in the wholesale market in country areas means retailers have a reduced ability to offer lower prices to consumers.

Lack of price cycles

6.25 Reduced competitive pressures in the market of country locations generally results in regular price cycles being uncommon and consequently, country prices are more stable than in metropolitan areas. Whilst some country areas do have regular cycles, these tend to be located in areas close to metropolitan cities. Figure 6.2 illustrates the level of price movements in Tamworth, New South Wales as an example of the extent of price movements in a regional hub.

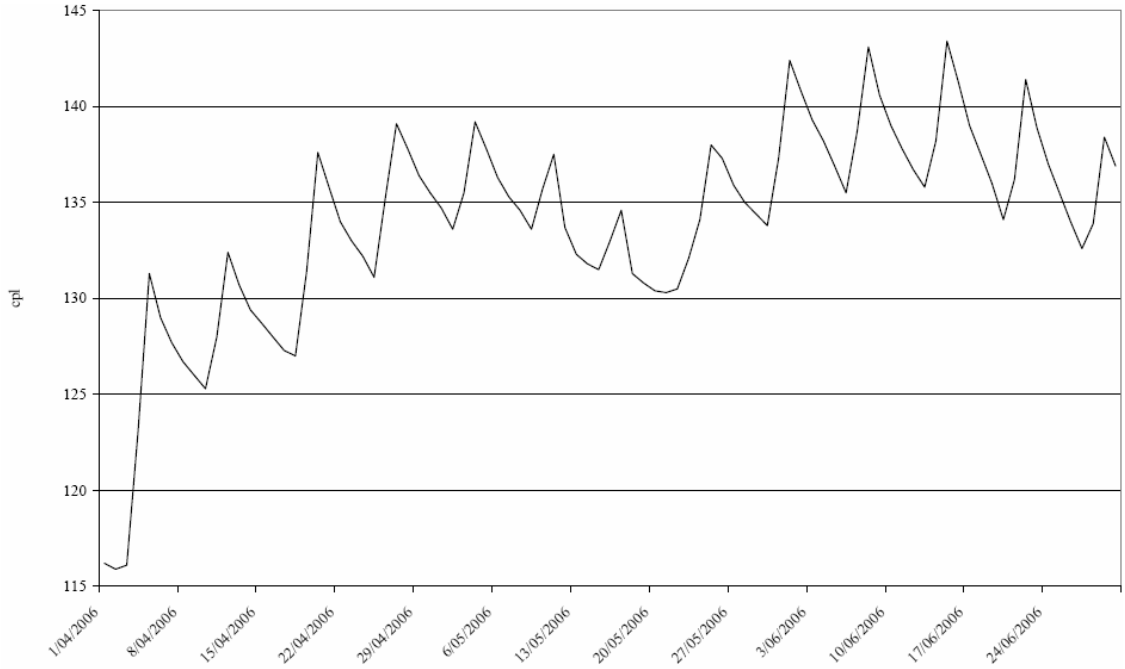
Figure 6.2—Average daily retail prices for Tamworth (April–June 2006)[21]



6.26 This compares starkly with average daily retail prices over the same period for Sydney, as shown in Figure 6.3.

21 ACCC, *Submission 31*, p. 63.

Figure 6.3—Average daily retail prices for Sydney (April–June 2006)[22]



6.27 Although a marked difference in petrol prices is apparent between cities and country areas, the Committee received evidence that in some regional locations the differential is declining. For example, the difference in prices between Bunbury and Perth has declined. In January 2004, consumers paid on average eight cpl more than in Perth, whilst in September 2006 the differential had dropped to just under 5 cpl on average.

6.28 The entrance of a major new competitor to the Bunbury market appears to have produced lower prices. Mr John Bain described the positive affect of increased competition in this country market:

> Coles Express has really put a cat amongst the pigeons. There were two of them. Caltex and Woolworths on two sites were the only two that put a cat amongst the pigeons. Now there are six.[23]

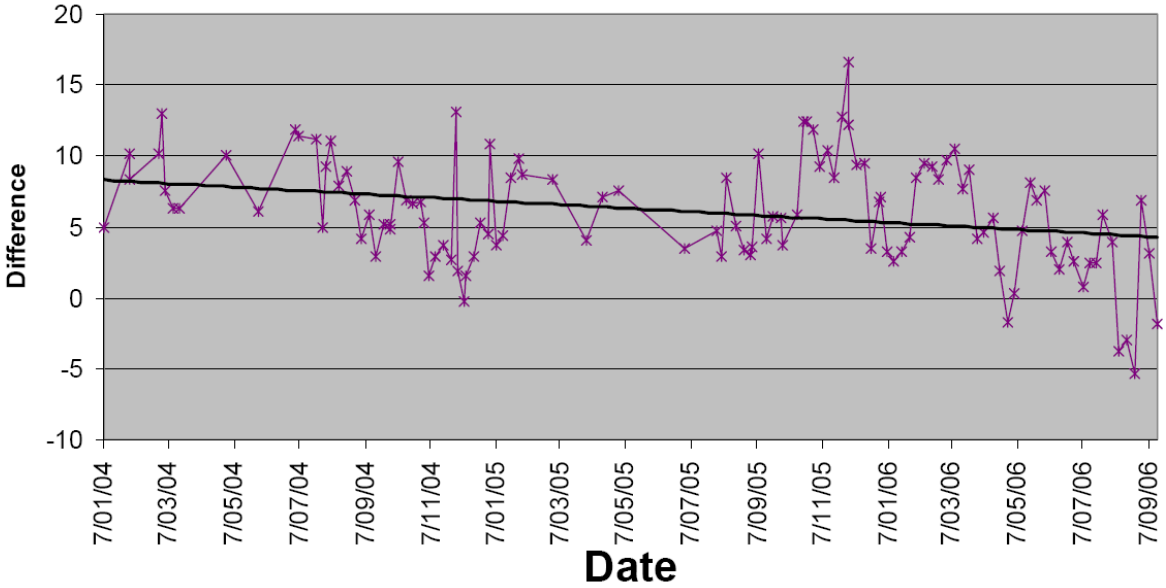
6.29 The differential between Busselton and Perth, and Kalgoorlie and Perth has also declined. This phenomenon can also be observed in data provided to the Committee from the RAPAD Board which compares average petrol prices in Brisbane and Longreach between June 1998 and June 2006.[24] This was supported in evidence submitted by the RACWA (included at Figure 6.4), which illustrates the declining price differential between Bunbury and Perth.

22 ACCC, *Submission 31*, p. 55.

23 Mr John Bain, *Committee Hansard*, 20 September 2006, p. 59.

24 RAPAD Board, *Submission 43*, p. 6.

Figure 6.4—Bunbury and Perth price differential[25]



6.30 However, in other regional areas such as Albany and Geraldton the price differential has remained steady whilst the differential between Port Hedland and Perth is increasing:

> The point we are making here is that it is difficult to generalise about the trends in regional prices. There are local, geographical and economic factors that tend to be pushing things one way or the other.[26]

Do petrol taxes impose a greater burden on country consumers?

6.31 As discussed in Chapter 5 – Petrol, Excise and GST, higher petrol prices attract higher amounts of GST. Several submissions argued that GST on fuel in regional, rural and remote communities should be abolished or lowered.[27] The RAPAD Board submitted that outback residents are paying an additional 1 cpl or more GST on their fuel purchases.[28] Mr Turnour argued that this is discriminatory towards non-metropolitan consumers:

> It is completely unfair for communities in the Torres Strait to be paying 7 cents per litre in GST more than those in places like Brisbane and up to 15 cents more GST per litre in the outer islands.[29]

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25 RACWA, *Submission 72*, slide 12.

26 Mr David Moir, RACWA, *Committee Hansard*, 20 September 2006, p. 26.

27 See for example, Mr Jim Turnour, *Submission 19*, p. 2; RAPAD Board, *Submission 43,* p. 11; *and* Mr Robert Parry, *Submission 74*, pp 3–4.

28 RAPAD Board, *Submission 43*, p. 6.

29 Mr Jim Turnour, *Submission 19*, p. 2.

6.32 Mr Robert Parry proposed that the GST on fuel is removed in tandem with an increase of 7 cpl to both fuel excise and the Fuel Tax Credits, and the additional 7 cents collected in excise revenue could be distributed among the State and Territory Governments at an agreed ratio.[30] Mr Parry's submission also suggested a number of reforms to simplify the collection of excise revenue.

6.33 Lower excise rates for fuel purchases in non-metropolitan areas were also proposed:

> The fuel excise system does not reward Outback and remote business operators, communities and householders. It is discriminative, increasing the cost of transported items through the compounding effect of the fuel excise…
>
> …The higher fuel price provides the opportunity for the Australian Government to revert to the fuel excise system that existed prior to 1959. This would mean the removal of fuel excise as a means of raising general revenue but hypothecated towards those areas from which it is collected – expenditure on roads, rail, air transport.[31]

6.34 However, the Committee notes that those who are eligible for Fuel Tax Credits would not benefit from such a measure because they are already effectively paying reduced or nil excises on fuel. Mr Michael Potter from the Australian Chamber of Commerce and Industry (ACCI) told the Committee that reforms to the petrol taxation structure to assist country consumers would be difficult to implement:

> You could argue that fuel taxes should be lower in the regions. That is probably too hard to implement, though. The Government had the Fuels Sales Grant Scheme designed to keep down the price of fuel in rural and regional areas, but most analysis showed that it was not hugely successful at keeping down fuel prices in rural and regional areas.[32]

So what can be done to reduce country petrol prices?

6.35 Given that competition has been shown to make the most significant contribution to lowering petrol prices in country areas, it is clear that consumers derive benefit from a market which promotes healthy competition between retailers and wholesalers and the emergence of more competitors into the market. The example of Coles Express entering the Bunbury market in Western Australia substantiates this point.

6.36 However, the Committee questions what can be done to help country consumers, unless new competitors enter the market. The Committee agrees that the most effective means of promoting competition in regional, rural and remote areas is

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30 Mr Robert Parry, *Submission 74*, pp 3–4.

31 RAPAD Board, *Submission 43*, p. 9, 11.

32 Mr Michael Potter, ACCI, *Committee Hansard*, 13 October 2006, p. 31.

to ensure the market is free from unnecessary regulation or controls which may restrict market growth.

6.37 In terms of intervening in the market, a submitter called for prices surveillance by the ACCC to be reinstated in country areas to enable formal petrol pricing investigations and to issue six monthly reports on price movements.[33] This view was shared by the NRMA which asserted that:

> NRMA believes that the marked price differentials that exist between regional and metropolitan areas (and which have increased substantially in some locations) are sufficient justification for greater scrutiny by the ACCC of petrol pricing in rural and regional areas. The ACCC should be given sufficient powers to investigate the extent to which regional price differences in automotive fuels reflect increased costs of distribution and marketing as opposed to opportunistic price behaviour.[34]

6.38 The ACCC continues to monitor the city-country retail price differential and retail prices in approximately 110 country towns. If the differential were to widen significantly, it would increase the scope of monitoring. Matters relating to the extent of desirable government intervention in the market are further explored in Chapter 7 – Petrol Market Regulation.

6.39 As an alternative to Australia's reliance on petroleum products, the RAPAD Board submitted that ethanol has the capacity to lower the bowser price of fuel.[35] However, at the hearing Councillor Collins told the Committee that he had mixed feelings about subsidising ethanol production:

> Not only I but everyone living in this part of Australia would be very keen to see cheaper, alternative energy developed. But if it consumes grain in particular it certainly impacts fairly heavily against the cattle feedlotting industry, and much of the cattle coming out of this area go into that industry. So while we might see cheaper energy we would probably also see dearer grain prices, which would impact against us in the long term.[36]

6.40 For further information about alternative fuels, readers are referred to the Senate Rural and Regional Affairs and Transport Committee report on Australia's future oil supply and alternative transport fuels, tabled in December 2006.

6.41 Boyce Chartered Accountants argued that fuel subsidies would help out rural communities struggling with rising petrol prices.[37] It is the view of the Committee that perhaps the most targeted method of alleviating the burden of rising petrol prices on

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33 Mr Jim Turnour, *Submission 19*, p. 2.

34 NRMA, *Submission 33*, p. 22.

35 RAPAD Board, *Submission 43*, p. 12.

36 Councillor Stanley Collins, Mayor, Winton Shire, *Committee Hansard*, 28 September 2006, p. 30.

37 Boyce Chartered Accountants, *Submission 63*, p. 3.

country consumers is for State and Territory Governments to review the level of subsidies they provide, particularly given that all GST revenue collected on petrol is paid to the state and territory governments. Currently, some jurisdictions provide subsidy schemes to reduce petrol prices at either the wholesale or the retail level.

6.42 Victoria is the only state providing a subsidy at the wholesale level (0.429 cpl) whilst jurisdiction-wide retail subsidies are provided in Queensland (8.354 cpl), Tasmania (1.956 cpl) and the Northern Territory (1.10 cpl). In New South Wales and South Australia, subsidies are restricted to particular zones; five zones within New South Wales receive subsidies ranging from 1.67 cpl to 8.35 cpl; and in South Australia subsidies range from 0.82 cpl to 3.33 cpl within two zones in the state. The Western Australian and the Australian Capital Territory Governments do not provide subsidies.

6.43 This report has highlighted that whilst perhaps a source of frustration for some, consumers in metropolitan areas reap the benefits of competitive market activities which lower the price of petrol or at least provide consumers with an opportunity to purchase petrol at a better price, such as on days when petrol prices are at the lowest point of a price cycle. These are opportunities simply not afforded to many in country areas, particularly those living in remote locations or very small communities.

6.44 The Committee notes that the extent of subsidies offered in some jurisdictions is very low or, as in the case of Western Australia and the Australian Capital Territory, subsidies are not offered. To provide targeted assistance to consumers in country areas, the Committee encourages State and Territory Governments to review their existing subsidy schemes to make sure that the people experiencing the greatest hurt because of rising petrol prices, are the ones receiving the most assistance through subsidy schemes.

Conclusion

6.45 Petrol prices in rural, regional and remote areas are on average, higher than prices in metropolitan areas. People in metropolitan areas benefit from market forces and increased competition, whilst these just do not exist in markets servicing people living in many regional, rural and remote communities of Australia and to whom fuel is very much a non-discretionary commodity.

6.46 Although higher fuel prices flow through to higher costs of living in country areas, other costs such as rent and property prices can be lower which goes some way to offsetting them. Nevertheless, the Committee acknowledges that sustained high petrol prices are particularly painful to those in country areas.

CHAPTER 7

Petrol Market Regulation

Introduction

7.1 The competition provisions of the *Trade Practices Act 1974* (TPA) provide the competitive framework under which the petrol industry operates, as they do for any other market in Australia. In addition, the Australian Competition and Consumer Commission (ACCC) conducts an informal monitoring regime of certain fuel prices and it disseminates information to the community.

7.2 This chapter commences with a description of the powers, responsibilities and activities of the ACCC in relation to the petrol industry. It then explores whether its powers are sufficient, looks at impending regulatory changes as well as other available options for market intervention and their likelihood of success in achieving lower prices. Finally, it turns to the merits of possible government intervention in the market.

ACCC powers, responsibilities and activities in the petrol market

7.3 From World War II until 1998, the petrol market was subject to continuous forms of monitoring and price control in various guises by the Commonwealth, state and territory governments.[1] Currently, at the Commonwealth level the ACCC is responsible for administering the TPA, which contains prices surveillance powers that the ACCC has used in the past.

7.4 Prior to 1998 regulators used prices surveillance powers to establish petrol prices. These powers originated in the *Prices Surveillance Act 1983* but on 1 March 2004 they were incorporated in the TPA as Part VIIA.

7.5 The object of the price surveillance provisions is to provide regulators with the power to intervene when competitive pressures in an industry are insufficient to achieve efficient prices and protect consumers:

> The prices surveillance powers are purely about where there is a concern about the level of prices, but not with that deriving from anticompetitive conduct in any sense, but with that deriving more from the structure of the market and the fact that there is not much competition.[2]

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1 Appendix 1 of BP Australia's submission provides a useful history: BP Australia Pty Ltd, *Submission 34*, Attachment 1, *Regulatory Reform in the Petroleum Products Industry*, pp 15-35.

2 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, p. 7.

7.6 Accordingly, price surveillance would typically be used in industries for which there is little effective constraint on a business' pricing power.

7.7 There are three broad forms of price surveillance:

- price inquiry;
- price notification; and
- price monitoring.

7.8 For more detail on these various forms of surveillance the Committee refers readers to the ACCC submission to this inquiry.[3]

7.9 Before 1 August 1998, the ACCC regulated petrol prices using the price notification provisions, which are part of the prices surveillance provisions. The Government had 'declared' the major oil companies under the *Prices Surveillance Act 1983* for sales of all grades of motor spirit (petrol) and automotive distillate (diesel). This meant that these companies were required to notify the regulator of proposals to increase wholesale prices.

7.10 Under the arrangements the ACCC calculated maximum wholesale prices based on import parity. It endorsed proposed prices by the oil companies if these were not in excess of its calculated prices. The price surveillance was directed at wholesale and not retail prices. That is, at the retail level, service station operators were free to set prices as market conditions allowed.

7.11 The ACCC conducted an inquiry into the Petroleum Products Declaration and reported in August 1996. It found that in the capital cities, the maximum endorsed wholesale price acted as a target for prices at the end of a discount cycle and in the country, the maximum endorsed wholesale price acted as a price floor, underwriting the price paid by country consumers. Price notification was having the effect of elevating wholesale prices above where they would have otherwise been.

7.12 The ACCC found that independent operators were increasingly able to access petroleum product so there was a good prospect at that time that the growth and spread of imports could compete with the power of the declared oil companies.[4]

7.13 In July 1998, the Government announced a reform package for the petrol industry which included revoking the Petroleum Products Declaration as recommended by the ACCC. Consequently, from 1 August 1998 the Government deregulated petrol and diesel prices and wholesalers became free to set their own prices. The way that they do this is detailed in Chapter 2 – Sourcing, Refining and Distributing Petrol.

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3 ACCC, *Submission 31*, pp 97–100.

4 ACCC, *Inquiry into the Petroleum Products Declaration*, Executive Summary, August 1996, p. 5.

ACCC's current responsibilities

7.14 As part of its role of administering the TPA the ACCC has investigated allegations of price fixing, predatory pricing and other anti-competitive activities in the petroleum industry. The Committee considered these activities in Chapter 4 – Competition or Collusion?

7.15 The ACCC has also considered proposed mergers in the industry and third line forcing notifications relating to shopper docket schemes. It also monitors prices in the petrol market.

Competition powers in the Trade Practices Act

7.16 As the Committee has explored in previous chapters, the underlying drivers of petrol prices are international factors over which governments have no control. However, they can encourage competitive markets to ensure efficient prices to consumers. Part IV of the TPA prohibits corporations from engaging in anti-competitive conduct. The states and territories also have equivalent legislation that prohibits the same conduct by entities other than corporations, such as individuals and partnerships.

7.17 Part IV of the TPA does not regulate price levels. Instead, it sets a framework to promote competitive markets. Competition maximises welfare and increases productivity, benefiting consumers through lower prices and greater choice.[5] These provisions are generic; they apply to the economy as a whole not just to the petroleum industry.

7.18 The ACCC is empowered to investigate and take action in relation to breaches of the TPA. Among its powers is a capacity to obtain information, documents and evidence relating to a matter that constitutes or may constitute a contravention of the TPA (Section 155). This is the general investigative power of the Act. The ACCC does not require ministerial input to invoke the section 155 powers, which can be used whenever it believes that there may have been a contravention of the Act.

What does the ACCC currently do in relation to the petrol market?

7.19 Since 1 August 1998 when wholesale fuel prices were deregulated, the ACCC has continued to scrutinise the market and monitor prices under what it describes as its 'informal monitoring system'. It gathers price information from around 3 600 of the approximately 6 500 retail fuel sites across Australia (just over 55 per cent). Approximately a quarter of the sites are in rural and regional areas. The information collected relates to:

- the retail prices of petrol, diesel and automotive liquefied petroleum gas in the capital cities and in approximately 110 country towns;

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5 Australian Treasury, *Submission 68*, p. 19.

- international crude oil and refined petrol prices;
- published terminal gate prices of the refiner/marketers (BP, Caltex, Mobil and Shell) and some independents; and
- the city–country retail price differential.

7.20 Mr Brian Cassidy, Chief Executive Officer, ACCC told the Committee:

> We have moved from, if you like, a more formalised system of monitoring and setting the wholesale prices to now what we call our informal monitoring system where we are monitoring prices in each of the capital cities and in 110 country towns. We do that on a daily basis but we do that on a basis of what is fairly publicly available information at each of the service station sites rather than using any sort of formal information acquisition powers because we cannot use those in relation to the monitoring of prices without a decision by the government.[6]

7.21 On 8 August 2006 the Treasurer announced that the ACCC will also monitor the price of ethanol blended fuel (E10).[7] It will produce a quarterly report on the price differential between E10 and unleaded petrol in both capital cities and country towns, and display the report on its website.

7.22 The ACCC uses its price monitoring activities to provide information to consumers and to assist it to administer the TPA. It also tries to assist consumers to understand the complexities of the petrol market by maintaining a petrol price cycle website to explain price cycles in the five largest metropolitan cities along with related petrol information. Additionally, the site provides links to other websites that contain information on petrol prices and petrol pricing issues. The ACCC has also produced and distributed pamphlets that explain petrol pricing in Australia:

> They are really important, Chair, in endeavouring to explain to motorists the issues affecting petrol pricing in Australia—the petrol price cycles and the international factors affecting petrol pricing. They are designed both to inform motorists as to the issues affecting petrol pricing but, at the same time, to try to cure what we strongly felt was a level of misinformation or disinformation that was being disseminated by particular bodies in Australia that had particular vested interests in doing so to motorists in relation to petrol pricing.[8]

7.23 Along with its regular price monitoring, the ACCC conducts additional random monitoring in remote areas and investigates complaints about price changes. When it is investigating a complaint the nature of the ACCC's monitoring changes:

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6 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, p. 5.

7 The Hon. Peter Costello, MP, Treasurer of the Commonwealth of Australia, 'Australian Competition and Consumer Commission to Monitor Ethanol Blended Fuel (E10) Prices', Press release 082*, 8 August 2006.

8 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 19 October 2006, p. 3.

> …if we are in an intensive investigation following a complaint, then our collection of data in the particular area would be entirely different from what has been outlined…[9]

7.24 The Commission also mediates disputes[10] and holds commercial-in-confidence discussions with the oil companies as necessary.[11]

How useful is the ACCC's website?

7.25 The Committee received some evidence about the usefulness of the ACCC's petrol price cycles website. Some argued that it could provide a wider variety of information:

> The ACCC updates information on petrol price cycles in only five cities on its website on a regular basis. There is scope for a great deal more information and analysis to be provided.[12]

7.26 Mr Samuel told the Committee that there are some limitations on the information that can be put on its website because of contractual issues with the information provider.[13] However, the level of information made available has increased over time:

> Certainly since 2003, both under the chairmanship of Professor Fels and more recently under my chairmanship, the level of information that has been made available to motorists has gradually increased. The first thing is that we provide on our website the price cycles. The second is that we took the opportunity, particularly during the high prices that were prevalent following hurricane Katrina last year, to provide a significant increase in information to Thursday, motorists in an endeavour to inform motorists why petrol prices moved through the weekly price cycles and the underlying factors governing petrol pricing in Australia.[14]

ACCC powers in relation to mergers[15]

7.27 Section 50 of the TPA prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in a substantial market in Australia, in a state or territory. The ACCC investigates and reviews mergers that have the potential to raise concerns under section 50.

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9 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, p. 13.

10 Senator George Brandis, Chair, *Committee Hansard*, 27 September 2006, pp 108–109.

11 Mr Gerald Hueston, President, BP Australia, *Committee Hansard*, 27 September 2006, p. 69.

12 AAA, *Submission 29*, p. 8.

13 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 11.

14 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 19 October 2006, pp 2–3.

15 ACCC, *Submission 31*, pp 102-103.

7.28 The most significant merger in the petroleum industry in recent times was that of the refining and marketing interests in Australia of Ampol and Caltex in 1995. This merger was authorised subject to legally enforceable undertakings that enhanced the position of independents in the industry to the benefit of consumers. These included the divestiture of oil terminals, distributorships, depots and retail sites to ensure supplies to independent retailers.

7.29 The ACCC considered the Coles and Shell arrangements in 2003 and the Caltex and Woolworths joint venture arrangements in 2004 and considered that there would not be a substantial lessening of competition if the alliances proceeded.

Shopper docket schemes

7.30 Section 47 of the TPA prohibits exclusive dealing conduct which, broadly, involves one person trading with another imposing restrictions on the other's freedom to choose with whom, or in what, or where they deal.

7.31 One form of exclusive dealing conduct is known as third line forcing. Businesses can gain immunity from legal action under the third line forcing provisions of the TPA by lodging a notification. The ACCC may remove the immunity provided by a third line forcing notification at any stage if it is satisfied that the likely public benefit from the conduct will not outweigh the likely detriment to the public. Without notification, shopper docket arrangements may raise concerns under the third line forcing provisions of the TPA.

7.32 In February 2004 the ACCC released its shopper docket report. It discussed the ACCC's consideration of a number of petrol and grocery related issues, including allowing a number of third line forcing petrol shopper docket notifications to stand (such as by Coles and Woolworths).

7.33 In the report, the ACCC concluded that the shopper docket petrol discount arrangements were likely to result in a net public benefit arising from lower prices for consumers, generation of a culture of discounting and increased non-price competition.[16]

7.34 As at 30 June 2006, more than 500 shopper docket notifications have been lodged with the ACCC covering over 1 000 service stations. The majority of these notifications involve localised arrangements with independently owned major branded sites or independent fuel retailers. Since September 2004 arrangements involving Foodland Associated Limited and independent fuel outlets, and the Servo Saver scheme, have been the subject of a number of the shopper docket notifications.

7.35 The ACCC has also received several notifications on fuel discount arrangements that are alternatives to the shopper docket schemes. For example, these

16 ACCC, *Assessing shopper docket petrol discounts and acquisitions in the petrol and grocery sectors*, February 2004.

arrangements may provide consumers with a discount on fuel when they use credit card or telecommunication services.

7.36 All shopper docket arrangements notified to the ACCC have been allowed to stand.

Are the ACCC's powers sufficient?

7.37 Several submissions called for the ACCC's powers to be strengthened. For example, the Australian Automobile Association (AAA) considered that the ACCC lacks powers to adequately investigate the limited wholesale competition in the market.[17] The NRMA argued that the ACCC lacks sufficient powers to investigate the extent to which regional price differences in automotive fuels reflect increased costs of distribution and marketing as opposed to opportunistic price behaviour.[18]

7.38 The Royal Automobile Club of Western Australia (RACWA) suggested that the ACCC should be doing more:

> …I think there is a role for [the ACCC] to be more active in this area—to analyse the market and to work out whether the prices being charged are reasonable and whether there is some anticompetitive behaviour. The ACCC should either be doing more with the powers it has at the moment or be given greater powers, if it needs them, to keep a closer eye on the oil industry and the retail industry.[19]

7.39 The ACCC stated that it believes it has sufficient powers to adequately perform its functions:

> We have, in accordance with the general provisions, our normal investigative powers to investigate any suggestion or evidence of anticompetitive behaviour in the petroleum industry and, insofar as it is raised with us or we detect it, then we have all the investigative powers, including powers to demand documents and to call witnesses before us under section 155, and our other investigative powers to deal with anticompetitive behaviour. The issue of price monitoring, though, is perhaps a separate issue because it does not go to the heart of anticompetitive behaviour, it goes to the question of pricing, the profits, the costs, the margins and the prices that are charged. If there was anticompetitive behaviour that was reflected in the investigations that we currently undertake, informally or otherwise, then we have the capacity to investigate that and, as I indicated in a response to a question from Senator Brandis, we have had a number of investigations.[20]

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17 AAA, *Submission 29*, p. 2.

18 NRMA, *Submission 33*, p. 22.

19 Mr David Moir, RACWA, *Committee Hansard*, 20 September 2006, p. 32.

20 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 5.

7.40 In relation to its investigatory powers under section 155, Mr Samuel told the Committee:

> Suffice to say this, though, that our section 155 powers are very powerful. There are many within the advisory area, that is lawyers, who consider that the section 155 powers are too powerful and that they give us almost draconian powers of investigation, or demand, some would say of fishing expeditions and of interrogation. They are significant. We are cautious in the way that they are used in order that there cannot be an accusation that they are being used capriciously or improperly. But we do use them in any set of circumstances where we think it is necessary in order to be able to effectively administer the act. In terms of production of documentation, they can be very valuable indeed. I would have to say to you in terms of interrogation of witnesses under section 155(1)(c), that depends upon not only the skill of our interrogating counsel but of course also upon any preparatory action that might have been taken by the advisers to the witnesses concerned as to the manner in which they answer questions and the answers they give.[21]

Impending changes to the ACCC's responsibilities

7.41 There are a number of areas in which the ACCC's responsibilities are to be expanded or changed in the future. These include the introduction of an Oilcode and criminal penalties for serious cartel conduct, and foreshadowed amendments to section 46 of the TPA.

Oilcode

7.42 Effective from 1 March 2007, a mandatory industry code, the Oilcode, will be administered and enforced by the ACCC. Along with the repeal of the *Petroleum Retail Marketing Sites Act 1980* (the Sites Act) and the *Petroleum Retail Marketing Franchise Act 1980* (the Franchise Act), the Oilcode forms the Government's Downstream Petroleum Reform Package. The Oilcode will regulate the conduct of suppliers, distributors and retailers in the petroleum marketing industry.

7.43 Key elements of the Oilcode include:

- the establishment of minimum standards for petrol re-selling agreements between retailers and their suppliers;
- the introduction of a nationally consistent approach to terminal gate pricing; and
- the establishment of an independent downstream petroleum dispute resolution scheme.

7.44 The Government believes the Oilcode will remove structural restrictions on competition and enable the oil majors to compete more effectively with supermarket

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21 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 35.

retailers and independent retail chains which have to date not been bound by restrictions in the Sites Acts:

> While each of the oil majors will respond differently to the removal of the constraints of the Sites Act, these changes will most likely lead to increased competition with the potential for positive impacts on fuel prices, particularly in rural and regional areas.[22]

7.45 The Government expects that maximising conditions to encourage competition will ultimately lead to lower fuel prices for consumers. Furthermore, the Committee is aware of the importance of maintaining the presence of the major oil companies in this country. When the Committee inquired into the Government's Downstream Petroleum Reform Package earlier this year, it found that the refiner/marketers link their future viability to their ability to compete on more equal terms in the retail market.[23] During that inquiry, some contributors argued that the presence of the Sites and Franchise Acts adds to the perception of sovereign risk associated with investing in Australia, and affects their ability to attract investment. BP Australia also advised that the parent company does not refine in countries where it has no retail presence, raising questions about that company's future presence as a refiner, should it be unable to establish what it considers to be a viable retail network.

Criminal penalties for serious cartel conduct

7.46 The Treasury told the Committee that the Government is developing legislation to introduce criminal penalties for serious cartel conduct.[24] The criminal cartel offence will prohibit a person from making or giving effect to an agreement between competitors that contains a provision to fix prices, restrict output, divide markets, or rig bids, where the agreement is made or given effect to with the intention of dishonestly obtaining a benefit.

7.47 The maximum penalties for the offence will be:

- for individuals — a term of imprisonment of five years and a fine of $220,000; and
- for corporations — a fine that is the greater of $10 million or three times the value of the benefit from the cartel, or where the value cannot be determined, 10 per cent of annual turnover.

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22 Department of Industry, Tourism and Resources, *Downstream Petroleum Reform Package and Oilcode*, (accessed November 2006) at: http://www.industry.gov.au/assets/documents/itrinternet/ReformPackage20060331151615.pdf

23 Economics Legislation Committee report, *Provisions of the Petroleum Retail Legislation Repeal Bill 2006*, May 2006, p. 11.

24 Australian Treasury, *Submission 68*, pp 22–23.

7.48 The criminal cartel offence will be targeted at serious cartel conduct that causes large scale or significant economic harm. Minor breaches will ordinarily be addressed through civil proceedings.

Section 46 amendments

7.49 Section 46 of the TPA prohibits corporations with a substantial degree of market power from taking advantage of that power for the purpose of eliminating or substantially damaging a competitor, preventing the entry of a competitor into the market or deterring or preventing a competitor from engaging in competitive conduct.

7.50 The Economics References Committee concluded in its 2004 inquiry into the TPA that section 46 requires amendment following a High Court decision that raised the threshold for determining that a corporation possesses a substantial degree of market power.[25] The Committee made a number of recommendations about suggested amendments and it understands that the Government intends to amend section 46 but the form of those amendments has not yet been released.

Why doesn't the Government set petrol prices?

7.51 The Treasury and the ACCC argued that an efficient, competitive market will deliver the lowest prices to consumers. The Committee agrees. As discussed in Chapter 2 – Sourcing, Refining and Distributing Petrol, import parity pricing largely determines wholesale fuel prices. Prices are not based on local production costs but on international prices and local supply margins in an international commodity market. Even though the fuel is produced in Australia, parity prices fluctuate daily in response to global events, supply and demand, and changes in the United States and Australian dollar exchange rate.

7.52 Import parity pricing is not unique to fuel. It is the pricing mechanism used for most globally traded commodities. Its virtue lies in the fact that regulators do not need to work out long term operating costs of individual companies in order to set a 'fair' price:

> … this notion of an import parity price as a tool to assess whether prices are excessive or not is not unreasonable. It is external and it is relatively easy to administer.[26]

7.53 At the roundtable the Committee conducted with economists as part of its inquiry, the panel acknowledged that import parity pricing was not a perfect mechanism, but was nonetheless useful. Dr Warren Mundy, Director, Bluestone Consulting, told the Committee:

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25 Economics References Committee, *The effectiveness of the Trade Practices Act 1974 in protecting small business*, March 2004.

26 Dr Warren Mundy, Director, Bluestone Consulting, *Committee Hansard*, 26 September 2006, p. 40.

> I am actually really happy about import parity pricing because as a regulatory practitioner and someone who has sat through ACCC pricing inquiries I can tell you what is going to happen if the ACCC tries to price petrol refining. There is going to be a massive debate about what these assets that were put in the ground 50 years ago are actually worth. We will then have a debate about what the value of the site of the Mobil refinery in Spotswood is and it will turn into one God-almighty mess.[27]

7.54 Import parity pricing provides an external benchmark that does not involve an assessment of production costs by regulatory authorities. Oil refining is a capital-intensive industry and in Australia the assets are small and old by world standards. Australia's seven major operating refineries were mostly constructed in the 1950s and 1960s, although they have been extensively modified and upgraded over time. Through import parity pricing, these refineries are competing against newer, larger scale refineries in Asia that can produce at lower costs.

7.55 Mr Richards stressed that for import pricing parity to work effectively it requires liquidity in the market and transparency of costs. He said that while these are apparent for most of the components of the import parity price, the three components which lack transparency are the Australian fuel quality differentials and the terminal and distribution costs.[28] He observed that import parity pricing presumes uniformity of product across different countries and regions, and for so long as Australian fuel quality standards differ from the rest of the market, this precondition is not fulfilled:

> The processes of change in the national and regional oil markets may have lessened the transparency and effectiveness of current import parity pricing mechanisms over the last three years to the extent that we have less transparency in some of those elements at the present time.[29]

7.56 The Committee notes that to the extent these areas of illiquidity and lack of transparency have an impact on the import parity price, the effects are transferred into a lack of transparency in the terminal gate price.

7.57 Nevertheless, Australia encourages efficient and competitive markets and the Committee believes that this is the best way to deliver the lowest prices to consumers:

> …there is no reason for intervention. If you look at the Singapore reference price against the Australian retail price, you see there is consistency in terms of the relationship. You have four major oil players and it is subject

27 Dr Warren Mundy, Director, Bluestone Consulting, *Committee Hansard*, 26 September 2006, p. 37.

28 Mr Warwick Richards, Director, Economic and Energy Analysis Pty Ltd, *Committee Hansard*, 26 September 2006, pp 20–21.

29 Mr Warwick Richards, Director, Economic and Energy Analysis Pty Ltd, *Committee Hansard*, 26 September 2006, p. 28.

> to free entry and exit. There is nothing in terms of restriction of the market which suggests that [the oil companies] are acting in a collusive way.[30]

What else can be done?

7.58 This section looks at some of the suggestions received by the Committee for market intervention. Firstly it considers reinstating the prices surveillance provisions of the TPA for the oil industry. It then assesses whether or not the ACCC should be doing more monitoring of prices. Finally it turns to the issue of whether a Fuel Ombudsman should be established.

Should the Government reinstate prices surveillance?

7.59 A number of submissions to this inquiry called for the Australian Government to reinstate prices surveillance.[31] The difference between informal price monitoring and *formal* price monitoring under the prices surveillance provisions of the TPA is that the latter gives the ACCC the power to obtain relevant information or documents, and to impose penalties for non-provision. Consequently, the ACCC is able to get more detailed information about prices, costs or profits. By contrast, under *informal* price monitoring the ACCC relies on companies voluntarily providing information.

7.60 Mr Steve Gibbons MP, Federal Member for Bendigo, suggested that:

> There is a major difference between observing the retail price of petrol, and vigorously investigating, using powers to subpoena documents and witnesses, in order to fully understand the pricing process and profit margins within the automotive fuel industry.[32]

7.61 Mr Cassidy told the Committee that although prices surveillance may have involved a higher standard of reporting, it did not necessarily involve greater price transparency:

> I think these days there is much more information available, including from the ACCC, for the general public on what is happening with petrol prices and what is happening with international petroleum prices than was the case back in the formal monitoring days. While we did get information from the companies, particularly in terms of the amounts that they believed should be allowed for things like transport costs and terminalling costs and so forth, that was information which in a sense came to the then Prices Surveillance Authority and subsequently the Trade Practices Commission but was not made more generally available.[33]

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30 Mr Craig James, Chief Economist, Commonwealth Securities Ltd, *Committee Hansard*, 26 September 2006, p. 56.

31 See for example, Mr Jim Turnour, *Submission 19*, p. 2.

32 Mr Steve Gibbons, MP, Federal Member for Bendigo, *Submission 49*, p. 5.

33 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, p. 4.

7.62 Mr Cassidy argued that 'we have a more transparent set of arrangements now'.[34] Furthermore, the information that the ACCC collected when prices surveillance was in operation would not have been very useful to consumers:

> I think it is fair to say that the information that was collected pre-1998 was directed towards constructing and controlling a wholesale price. In fact, there was possibly less retail information that we collected and basically monitored; indeed, we did not monitor retail prices. If we are looking at the relationship between information that we provide and produce and information that is relevant to consumers, then that was not particularly relevant or useful to consumers. The wholesale price would have meant very little to consumers. They purchase at retail price, so it is a different kind of information.[35]

7.63 The ACCC currently undertakes prices surveillance in the airport and stevedoring industries and produces related annual reports. Mr Samuel argued that if prices surveillance were to be reinstated in the petrol industry, a publication such as an annual report would be of virtually no use to motorists in terms of purchasing petrol on a weekly basis.[36] The information the ACCC gathers under the prices surveillance provisions of the TPA is for the purpose of reporting to Government.[37] There is no power within Part VIIA for it to display the information on a regular basis on its website or in any other public forum.

7.64 To reinstate price notification requires the Government to again declare petroleum prices – the ACCC cannot invoke these powers of its own volition. Other forms of price surveillance under the TPA also require either ministerial notice in writing (price inquiry) or ministerial direction (price monitoring). To this end, the Minister must decide that competitive pressures are not sufficient to achieve efficient prices and protect consumers.

7.65 Based on the evidence received during this inquiry and the conclusions the Committee reached in Chapter 4 of this report, the Committee considers that there is no persuasive evidence to support reinstating price notification. Furthermore, if price notification artificially inflates prices as can be inferred from the ACCC Report on the Fuel Price Declaration, it does not represent the best option for consumers.

Should the ACCC increase price monitoring?

7.66 Many submissions called for the ACCC to increase its monitoring of fuel prices. Whilst the bulk of these were not suggesting that the ACCC revert to its formal

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34 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 3 August 2006, p. 4.

35 Mr Joseph Dimasi, General Manager, ACCC, *Committee Hansard*, 19 October 2006, p. 15.

36 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 19 October 2006, pp 14–15.

37 Mr Brian Cassidy, Chief Executive Officer, ACCC, *Committee Hansard*, 19 October 2006, p. 15.

prices surveillance role, it is not clear to the Committee exactly what additional information submitters believe should be sought:

> In recent years, the ACCC has published very little of its petrol price monitoring information. Apart from providing data on petrol price cycles in just five cities on its website, very few reports on petrol price monitoring have been published by the ACCC since 2000. In fact, the ACCC has even removed information from its website; for a brief period in the second half of 2005, it published a 'petrol pricing snapshot', though this is no longer available.[38]

7.67 The RACWA made a similar point:

> **Mr Moir—**Our concern is more about what they do about that monitoring. They are obviously collecting heaps of information, but I think they are sitting on it. Our concern is that they should be more active both in metro areas and particularly in regional centres, where these anomalies seem to be occurring, and they should be reporting on the price anomalies. We do not hear much reporting from the ACCC—
>
> **CHAIR—**Again, they say that they put the results of their monitoring on their website.
>
> **Mr Moir—**But I think there is a role for them to be more active in this area—to analyse the market and to work out whether the prices being charged are reasonable and whether there is some anticompetitive behaviour. The ACCC should either be doing more with the powers it has at the moment or be given greater powers, if it needs them, to keep a closer eye on the oil industry and the retail industry.[39]

7.68 Mr Richards suggested that the ACCC could consider adopting a less passive monitoring stance in protecting competition and consumers under the new Oilcode.[40] He suggested that there may be a case for the ACCC to collect information, but not necessarily publish it:

> I am suggesting that a more productive line of approach for the ACCC would be to actually look at what is going on in an economic market context and to equip itself—if necessary by regulation—with some of the information that would make it possible to assess whether there are economic issues of market power and whether the market is conducive to exploitation of market power. For example, on the critical question, given the weight that was put previously on product importation, the ACCC says in its submission that it is in surveillance mode because the market is going to be conducive to imports. Is the market still conducive to imports? How much product is coming in to Australia? Who is importing that? That is not published data. That is not available. If you want to understand it, you have

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38 AAA, *Submission 29*, p. 13.

39 Mr David Moir, RACWA, *Committee Hansard*, 20 September 2006, p. 32.

40 Mr Warwick Richards, Director, Economic and Energy Analysis Pty Ltd, *Committee Hansard*, 26 September 2006, p. 28.

> to gather that information at the grassroots level yourself. It is not published by the ABS, and it is quite important to how this market is working.[41]

7.69 Furthermore, Mr Richards suggested that the ACCC should do more economic analysis rather than simply collecting price data, particularly in regard to the shortcomings of the import parity pricing mechanism:

> …I am explicitly not advocating some form of re-regulation of the market. I would like, though, to suggest that it is quite important for the ACCC to approach what is going on in the oil market in a knowledgeable way, in possession of data about the fundamental economics of the market, rather than relying simply on recapitulating product import parity numbers…In particular, in the short term, on issues about product import parity, I am merely suggesting that, by a less passive role, it ought to be thinking through the issues of how one deals with the discontinuity in product specifications in terms of the Australian market and the way that is working. It should be satisfying itself about the way import parity is being related to the market in those circumstances.[42]

7.70 Some submissions questioned whether the ACCC had stepped back from its surveillance of the market because its website contains less information than it had previously.[43] Between September and December 2005 the ACCC produced a weekly petrol price snapshot on its website, the aim of which was to provide additional information to consumers after retail prices and Singapore refined petrol prices increased significantly in early September 2005 (principally as a result of the damage inflicted by Hurricane Katrina to some oil refineries).[44] In late December 2005 retail petrol prices in the five largest metropolitan cities and Singapore refined petrol prices had decreased significantly from their peak levels in mid-September 2005 and the ACCC discontinued its petrol price snapshot.

7.71 Whilst some consumers may believe that the extent of the ACCC's monitoring is limited to what it publishes on its website, Mr Samuel told the Committee that the ACCC does not post all the information that it gathers:

> The other information we have, which we have discussed and is contained in our submission, is not published on the website but is information that relates to the connection, the relationship or the broad consistency of Australian domestic prices taken on an average basis for petrol, LPG and diesel with the international benchmarks…They are not currently displayed on our website. They were, for a period following Hurricane Katrina, portrayed there on a weekly basis as part of a petrol pricing snapshot. Once

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41 Mr Warwick Richards, Director, Economic and Energy Analysis Pty Ltd, *Committee Hansard*, 26 September 2006, p. 54.

42 Mr Warwick Richards, Director, Economic and Energy Analysis Pty Ltd, *Committee Hansard*, 26 September 2006, p. 48.

43 See for example, AAA, *Submission 29*, p. 13.

44 ACCC, *Submission 31*, p. 97.

> the prices declined after the Hurricane Katrina spike, if I can call it that, we found that the website showing the international relationship of domestic prices in Australia with the international benchmarks was becoming less useful to consumers and therefore we ceased to publish that in January this year.[45]

7.72 According to Mr Samuel, the aim of monitoring prices is to provide information to those that are interested in the pricing structure of the commodity in a competitive environment to determine whether the prices that are being charged are fair.[46] In a competitive marketplace, competition normally leads to a price that is justified; that is, it is determined by market factors. He does not see that publishing more information than is currently available will have any impact on pricing:

> In a competitive marketplace we could publish all the information that is currently available, if we had contractual ability to do so, and then we would have to ask ourselves what the impact would be. It would provide publication of the various charts which are set out [in our submission]…It could reflect the price movements and show the relationship or corelationship of those movements to the Australian dollar, to US dollar movements, to the crude oil prices, and to the refining margins. Indeed at some stage we have made relatively public issues such as refining margins and the like, but then one has to ask, 'What does that transparency achieve?' It may lead some parties to conclude that the prices that have been charged are justified. It may lead others to conclude that they are excessive, but in a commodity such as petroleum, which is largely regulated in price terms by international pricing factors, we are not entirely sure that the added transparency from making all this currently available information public or obtaining any more information would lead to any changes in the pricing factors.[47]

7.73 Mr Craig James, Chief Economist with Commonwealth Securities thought that the monitoring was generally sufficient:

> …the ACCC's powers are quite sufficient at the moment in terms of price surveillance. Perhaps there could be a tinkering in terms of how much they take on in terms of analysis of freight costs; perhaps they could keep a closer watch on margins. There could also be more assessment in terms of the international factors which go into final terminal gate and retail prices.[48]

7.74 Whilst Professor Paul Kerin, Professorial Fellow at Melbourne Business School, considered that the ACCC does too much monitoring:

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45 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 19 October 2006, p. 6.

46 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 12.

47 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 3 August 2006, p. 12.

48 Mr Craig James, Chief Economist, Commonwealth Securities Ltd, *Committee Hansard*, 26 September 2006, p. 35.

> If I look at the ACCC's activities in the last few years, it does far too much monitoring. It monitors petrol prices in 110 towns in rural and regional areas, for example, which is a significant cost. When we look at how much benefit there has been from doing that, we see there has been very little. The ACCC has tried to prosecute in some cases where there has been limited local power and there has been collusion. There are instances of those, and yes, the ACCC has won a couple of cases, but it is very difficult for the ACCC to prove. Are we going to get a significant benefit that is worth the cost? I would put a big question mark over that. I have not seen evidence that the market fails, so my point of view would be to reduce the government's activities rather than propose to increase them.[49]

7.75 The utility and effectiveness of the ACCC's petrol price monitoring is to be seen in the context of the very high levels of price transparency in the petroleum industry. The Committee concludes that in this highly price-transparent industry, given the extensiveness of the ACCC's existing monitoring, there is no case to be made for further expanding its monitoring role.

Should a Fuel Industry Ombudsman be established?

7.76 Mr Kevin Hughes and the NRMA suggested that a Fuel Ombudsman is established to monitor petrol prices and investigate complaints.[50] Such an ombudsman would refer potential breaches of the Trade Practices Act to the ACCC. The office could also handle consumer complaints, reconcile industry conflicts and advise governments on petroleum issues:

> I see the role of an ombudsman as being not prosecutorial; that is the role of the ACCC. I believe the role of such an ombudsman should be to closely monitor the industry, to attend to complaints from the industry and to give advice to the government about pricing and all matters relating to the industry. I see that, if a complaint came in about predatory behaviour by, say, someone in a regional area, that would be investigated by the ombudsman.[51]

7.77 The Committee is not persuaded that any useful purpose would be served by establishing a fuel industry ombudsman. There is little that such an office could do that is not already done or could be done within the ACCC.

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49 Professor Paul Kerin, Melbourne Business School, *Committee Hansard*, 26 September 2006, p. 56.

50 Mr Kevin Hughes, *Submission 70*, pp 5–6; *and* NRMA, *Submission 33*, p. 24.

51 Mr Kevin Hughes, HEH Australian Petroleum Consultancy Co, *Committee Hansard*, 27 September 2006, p. 108.

What are the State and Territory Governments doing?

7.78 Some State and Territory Governments provide subsidies at either the wholesale or retail level that effectively lowers the price of petrol to consumers.[52] Details of these subsidies are contained in Chapter 6 of this report. Only Western Australia and the ACT do not provide subsidies.

7.79 The highest subsidy is provided in Queensland (NSW matches the amount of subsidy in the zone closest to the border with Queensland).

7.80 Since prices surveillance was ended at the Commonwealth level, two States have enacted legislation on the pricing of petrol and diesel. In 2000, Victoria instituted a mandatory system of terminal gate pricing, under which suppliers were required to publish wholesale prices at the terminal gate; however, there was no control of the actual price levels.

7.81 In 2001, Western Australia established a comprehensive regulatory framework for pricing of petrol and diesel. Chief components were:

- a terminal gate pricing system for spot sales;
- a maximum wholesale price;
- a ‘24’ hour rule, limiting intra-day price movements;
- pricing information systems for public awareness;
- a ‘50/50 rule, under which retailers could source half their supplies from sources other than their primary supplier.

7.82 This system was explained in more detail in Chapter 3 – The Petrol Price Rollercoaster.

Should Governments intervene in the market?

7.83 The Treasury warned that Governments need to be careful that their intervention does not distort an already competitive market, resulting in inefficiencies.[53] For example, formal prices surveillance may have harmful side effects on the efficiency of an industry and may facilitate price coordination, not competition, and create an incentive for companies to charge the maximum notified price (rather than a lower one).

7.84 Price oversight methods also impose varying costs on business due to the requirement for businesses to identify, collect and provide to the ACCC relevant data

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52 ACCC, *Submission 31*, pp 30–31.

53 Australian Treasury, *Submission 68*, p. 22.

on prices, costs and profits. Dr Mundy suggested that it is arguable that price control and price monitoring are the same thing.[54]

7.85 The Committee notes that intervention in the market can confuse price signals to consumers, which are important if they are to respond appropriately to what may be fundamentally changing market conditions. Intervention can interfere with competition which could lead to consumers paying higher prices than would otherwise be the case.

7.86 Given the small Australian fuel market and the age of its refineries, the Committee considers that this country is extremely well served by its petrol industry supply and regulatory arrangements. It did not find the evidence put during the inquiry that the ACCC's powers are somehow inadequate to be persuasive. The Committee does not consider that extra regulation, over and above that already foreshadowed, is warranted at this time.

7.87 The Committee notes the claims that have been made about the positive effects of the Western Australia scheme as regards the 24 hour rule, but is also mindful of the evidence it has received that this inhibits competition. The Committee is therefore unable to support its extension to other states.

54 Mr Warren Mundy, Director, Bluestone Consulting, *Committee Hansard*, 26 September 2006, p. 38.

CHAPTER 8

Managing Petrol Prices into the Future

8.1 In this report the Committee has considered the major factors leading to the mid-year rise in petrol prices and examined how petrol prices affect people in the community and what the ACCC is doing to uphold integrity in the petroleum market.

8.2 As discussed in Chapter 2, events in the international market strongly influence the Australian petrol market. Fluctuations in exchange rates, shifts in the international supply and demand balance for both crude oil and refined product and occurrences like cyclones and violence in producer countries all influence domestic petrol price fluctuations. Nationally, petrol taxes add significantly to the price of petrol but have been at a fixed level or have decreased in real terms since 2000 and are amongst the lowest in the OECD. And within the petrol market, competition between sellers (both the wholesale and retail levels) leads to petrol price cycles, resulting in significant variations in the price of petrol. In areas where competition is limited or lacking, such as in the country, this generally results in consumers paying higher petrol prices.

8.3 These findings are not new, and their validity has been substantiated in the findings of a number of past reports. The ACCC has also completed several investigations into petrol pricing and has published a range of material to allay public concern about why petrol prices fluctuate and show consumers how they can take advantage of the price cycles.

8.4 The Committee heard from a wide range of stakeholders, including representatives from the petroleum industry, motoring organisations, consumer bodies and from consumers themselves. It was not uncommon for the views espoused by one submitter to vary greatly from those expressed by another. However, some key themes emerged, namely:

- rising petrol prices hurt consumers and certain industries, particularly when significant and rapid increases occur (such as the spike in pump prices observed around mid 2005) and so the question arises as to whether the Australian Government should intervene in the market to lower prices;
- there is a widespread lack of understanding about why some steep rises occur and there is suspicion that the oil companies use events such as conflict in the Middle East or events affecting international refinery production as opportunities to significantly raise prices and consequently, profit margins;
- there is a lack of appreciation of the overarching importance of international factors, including the nature of the international trade in commodities and parity pricing, and how these influence the petrol price;
- there is a lack of appreciation that Australian consumers pay less for their petrol than consumers in almost every comparable country in the world;

- many people don't understand the structural elements that make up the retail petrol price, the relative contribution of each, or how the market determines the price at the bowsers;
- regular price cycles are a source of frustration for consumers but they are a feature of competitive markets and understanding them can help consumers save money;
- many consumers apparently think that the practice of raising and lowering of prices almost in tandem by petroleum retailers is a sign of collusive behaviour and require assurances that anti-competitive behaviour in the market is not occurring;
- the petrol price differential between metropolitan and regional areas can be significant and the reasons for the difference go beyond higher transportation costs alone;
- there is misunderstanding about the application of GST to fuel prices and concern about whether the current level of taxes on fuel is appropriate;
- whilst the ACCC publishes a large amount of information on petrol prices and cycles, this may not be reaching consumers or sending out the right messages to consumers about the issues that they are really concerned about; and
- there is a lack of understanding in the community that proactive monitoring of, and reporting on, the behaviour of the petroleum industry at the refining, wholesale, and retail levels, as well as the investigation of consumer complaints, is occurring and is effective.

8.5 Evidence examining these issues was included in the body of this report. In this chapter the Committee outlines its conclusions, seeking to bring together the findings that emerged from this inquiry, and provide recommendations to improve the management of petrol prices in Australia.

Intervening in the market

8.6 A wide range of options are potentially available to Governments for increasing petroleum industry regulation, should that be demonstrated as necessary. Petrol prices could be controlled using previously used price notification provisions, meaning that retailers or wholesalers would have to notify the ACCC of any price rises if the proposed price is higher than the price level operating for the previous 12 months. Furthermore, price oversight methods could be imposed so that businesses must collect and report to a relevant Government body (such as the ACCC) relevant information on petrol pricing such as the breakdown of prices at the wholesale level including profit margins, operating costs and various other components which make up the price of petrol. Or a system could be implemented similar to that in Western Australia where fuel prices must be submitted to a Government body and then maintained by the petroleum retailer for a certain period of time such as 24 hours.

8.7 These are all options for intervening in the market. However, such intervention can have unwanted and unintended consequences that may negate any perceived short-term benefits of intervening. Refiners may opt to exit the Australian market if they assess that it is no longer sufficiently profitable to maintain a presence in Australia, therefore leading to fewer competitors, less competition and less choice for consumers. Intervention can also confuse price signals to consumers, which are important if they are to respond appropriately to what may be fundamentally changing market conditions. Most importantly, intervention can interfere with competition in the market, leading to adverse outcomes for consumers. As a result, a number of motoring bodies, industry and community interest groups voiced strong support for not intervening in the market.

8.8 The Service Station Association told the Committee:

> …you can never come up with an effective regulation that guarantees or enhances competition. A deregulated free market will always give you the best outcome. The measures that need to be taken are to make sure that you do not enable one sector or one player in the market to become so dominant that it actually inhibits competition. They are monopoly laws in the extreme, and again I come back to Trade Practices Act issues that the chair raised earlier. Again, none of the measures are absolutely perfect, and you will never come up with a perfect system, but the most important thing is that if we see the emergence of changes in the structure that could lead to a lessening of competition then we need to be wary and we need to put in place measures that stop that.[1]

8.9 The Royal Automobile Association of South Australia submitted that:

> In addition, the RAA advocates…[t]he recommendation of the 2001 ACCC Inquiry 'Reducing Fuel Price Variability' against legislating to eliminate or reduce price cycles given these price cycles enable consumers to buy fuel at lower prices overall.[2]

8.10 Whilst the effect of increased government intervention in the market were described by the Australian Capital Territory Government as providing little gain to consumers:

> We believe that attempts to actively manage petrol prices through tighter industry regulation or the application of expensive subsidies leads to distorted price signals, which discourage consumers from considering more environmentally-friendly fuel/transport options.[3]

8.11 Caltex Australia commented that an unregulated petroleum market helps ensure the long-term viability of Australia's domestic refining industry:

> Let me conclude by saying that Caltex supports the continuation of an unregulated petroleum products market in the belief that the current

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1 Mr Ronald Bowden, Chief Executive Officer, Service Station Association Ltd, *Committee Hansard*, 23 August 2006, p. 34.

2 Royal Automobile Association of South Australia, *Submission 21*, p. 2.

3 ACT Government, *Submission 41*, p. 3.

> arrangements provide the best environment to encourage the large, ongoing requirements for capital investment in the industry and the maintenance of a secure supply of transport fuel for Australia.[4]

8.12 The Committee concluded that the fluctuations consumers observe in the market, such as the rapid and reactive price increasing and decreasing that occurs between competitors when one alters its price, indicates the presence of a healthy, transparent and competitive marketplace:

> …this is a market characterised by not only a very high level of transparency of prices but also a very high level of velocity of information about prices. When you get a high level of transparency and a high, almost instantaneous, level of velocity of information in a market with four or five players with a uniform commodity so that they have to compete on price, not on quality or anything else, what you will get is almost uniformly parallel conduct. On a superficial view, that might look like collusion but in fact it is driven by the very opposite set of phenomena…[5]

8.13 This view was shared by Mr Graeme Samuel, Chairman of the Australian Competition and Consumer Commission (ACCC), who stated:

> …if you take steps to endeavour to regulate that or to diminish the price cycle, invariably what will occur is that the price will be set, on average, at a higher level, and those who take advantage of being informed and purchase at the lower points of the cycle will suffer loss. This price cycle is a very interesting thing. It is a highly emotive issue, and it causes extraordinary emotive reactions which, on the many observations we can make, seem to be somewhat irrational. The price cycle is evidence of a volatile market in pricing which, of itself, is evidence of competition. If you had less competition, you would actually see a steady price that would run throughout the week, throughout the month, and you would not see it drop to below cost levels…[6]

8.14 The most regulated petroleum market in Australia exists in Western Australia under the FuelWatch system. Whilst advocates of FuelWatch argued that it has led to lower prices overall, there is an absence of information to directly link such intervention in the market to lower petrol prices and a better outcome for consumers, as was discussed in Chapter 3 – The Petrol Price Rollercoaster.

8.15 Based on the findings of this inquiry, there are clearly many benefits to be derived from a 'free market'; that is, a market which is largely unregulated and where prices are set by market competitors according to the forces of supply and demand. This defines the nature of most commodity markets in Australia and ultimately leads to Australians paying more competitive prices. For example, deregulation of the

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4 Mr Desmond King, Managing Director and Chief Executive Officer, Caltex Australia, *Committee Hansard*, 13 October 2006, p. 16.

5 Senator George Brandis, Chair, *Committee Hansard*, 19 October 2006, pp 27–28.

6 Mr Graeme Samuel, Chairman, ACCC, *Committee Hansard*, 19 October 2006, p. 24.

domestic airline industry in 1989 led to much greater competition between existing companies for market share and new competitors entering the market which resulted in price wars and cost cutting of fares to the benefit of consumers.[7]

8.16 The Committee does not consider that consumers would benefit in the longer term from artificially controlled prices, or alternatively, capped petroleum wholesaler and retailer profit margins. As described in Chapter 2 – Sourcing, Refining and Distributing Petrol, profit margins are only a very small component in the price of petrol. The factor most influencing petrol prices is the import parity price which is set on the international market and consequently, is outside the sphere of control of Australia's petroleum industry. Therefore, the most important action that should be taken by Federal, State and Territory Governments is to ensure the presence of a market which is healthy, competitive and free from interference.

Monitoring the market

8.17 The Service Station Association's comment included at paragraph 8.8 emphasised the importance of mechanisms to recognise and remove anti-competitive and predatory behaviours in the market. As discussed in Chapter 7 – Petrol Market Regulation, the ACCC plays a central role in monitoring, investigating and where appropriate taking proceedings in relation to suspected contraventions of the *Trade Practices Act 1974* (TPA). The Committee notes the benefits the Oilcode will provide in regulating the conduct of the petroleum industry and urges the early introduction of the foreshadowed amendments to section 46 of the TPA.

Facilitating understanding of petrol prices in the community

8.18 The Committee acknowledges the amount of material prepared by the ACCC to assist the public in understanding petrol prices. The Committee recommends to the public the online ACCC publication, *Understanding petrol pricing in Australia – answers to some frequently asked questions.*[8] However, the Committee believes that greater community awareness of such publications is needed. Furthermore, whilst the outcomes of ACCC investigations or reports on topics of interest to the public are made available by the ACCC, these can be lengthy and detailed documents which may reduce their effectiveness in communicating across the community. The community may also benefit from information targeting how it can reduce personal consumption of fuel and make budget savings, particularly for people living outside of metropolitan areas where price cycles do not exist and who therefore are unable to take advantage of such market fluctuations.

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7 John Kain & Richard Webb, 'Turbulent Times: Australian Airline Industry Issues 2003', Research Paper No. 10 2002-2003, 16 June 2003.

8 Available on the ACCC website, (accessed November 2006) at: http://www.accc.gov.au/content/index.phtml/itemId/759646/fromItemId/653960

Recommendation 1

8.19 **The Committee recommends that the ACCC reviews the information on its website and in other publications to ensure this material provides simple, straightforward and concise information that is readily accessible to the wider community and addresses the issues at the forefront of public concern, including what individuals can do to reduce personal fuel consumption.**

8.20 **The Committee recommends that, in addition to price monitoring in the five largest metropolitan cities, the ACCC conducts spot checks and reporting on a wider range of locations across Australia to provide confidence to a wider range of consumers, particularly people in regional, rural and remote locations.**

Closing the gap between country and city prices

8.21 As reiterated across the many past inquiries and reports into rising petrol prices, country consumers on average pay a higher price for fuel than consumers residing in metropolitan areas. Higher costs of purchasing and transporting fuel to sites distant from refineries, a lower turnover rate of product at many non-metropolitan service stations and greater dependence on fuel rather than shop sales also results in these retailers charging higher prices, as compared to retailers in metropolitan areas.

8.22 However, one of the key reasons for the price differential is the relative lack of competitive pressures in many country petrol markets. For example, where only one or a limited number of distributors or wholesalers are operating in a location, then the retailer will generally pay a higher price to acquire the fuel and this cost will be passed onto the consumer. This adds weight to the argument that governments should encourage competition, which has been clearly shown to lower prices for consumers.

8.23 But the problem remains that people in country areas are commonly paying higher prices for petrol, and there are practical difficulties associated with increasing competition in many of these areas. The Committee notes subsidies provided by the State and Territory Governments (excluding Western Australia and the Australian Capital Territory). The Committee questions the equity and utility of some of the subsidy schemes, such as that in Queensland, where the subsidy provided is state-wide. This means that someone living in a metropolitan area where the market is competitive and prices are consequently lower receives the same benefit as consumers living away from the city who pay a much higher price for petrol. The Committee acknowledges the efforts of State and Territory Governments that have introduced zoned subsidy levels to ensure that those consumers which need the most help with petrol prices are afforded the most assistance.

Recommendation 2

8.24 **The Committee recommends the State and Territory Governments review subsidies to ensure they focus on consumers in markets where prices are high because of distance and a lack of competition.**

Decreasing petroleum consumption

8.25 The inquiry received evidence advocating higher petrol excise, to encourage reduced reliance on fossil fuels and the development of alternative fuel supplies, because of a possible peaking and subsequent decline in Australia and the world's oil supply. This is not a matter within the terms of reference for this inquiry. The Committee understands that Australia's future oil supply and alternative fuels will be addressed in a forthcoming Senate Rural and Regional Affairs Committee report.

Greater awareness of new fuel quality standards

8.26 As new fuel quality standards are introduced in Australia, refineries often need to reconfigure and adjust ageing equipment to meet new standards. This has substantial community benefits but imposes significant costs on refiners and can limit the ability of independent fuel operators to import cheaper fuel from the Asia-Pacific region where fuel standards may not be equivalent.

8.27 Whilst the Australian Government has provided financial assistance and incentives to domestic refineries to meet new fuel standards, increased refining costs result in higher costs of petrol which are passed onto consumers. It is important consumers understand the origin of such increases and why higher fuel standards are important.

8.28 The Committee encourages fuel retailers to ensure petroleum retailers sufficiently publicise when and why new Australian fuel quality standards will be introduced and how petrol prices will be affected. The Committee recognises that the Department of Environment and Heritage has an important role in working with fuel retailers to achieve this aim.

Reviewing taxes on petrol

8.29 The Committee was presented with a range of evidence discussing the merits of restructuring taxes applied to petrol. This included removing the GST or excise from petrol in its entirety or lowering the rate of excise. However, the Committee did not believe that there was compelling evidence submitted either way to justify the raising or lowering of petrol taxes. The Committee notes that one of the principal reasons why the price of petrol in Australia is relatively low is that Australian fuel taxes are amongst the lowest in the world. The Committee considers that the rate of excise on petrol and application of GST should remain unchanged.

Senator George Brandis
Chair

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.

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[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 lower[2].

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.

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[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 that 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 changed 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

Senator Andrew Murray's Comments

This Report is tabled on Thursday 7 December 2006. It is a long report on a complex subject. I do not know whether it is a substantial or considered body of work, because in this busy last sitting week of the year I have not had time to read it, nor was I given enough time to read it.

As a member of the Committee, a copy of the Chair's Draft was sent to my email address on Tuesday 5 December 2006 at 11h41. I had seen no earlier drafts. The Committee meeting to approve the Chair's Report was held at 08h30 on Wednesday 6 December 2006, 21 hours later.

As this report is a broad reference, and was not dictated by a legislative timetable, there is nothing to have prevented it being tabled later, out-of-session.

I understand the Chair had this draft in his possession for nearly two weeks.

In what is through long precedent expected to be a considerate reasonable mature and professional approach, the process of Committee reports is to give Committee members adequate time to read the Chair's draft and propose any changes or adjustments they think necessary. The Chair may then accept or reject those suggestions. If he or she does not accept those suggestions, then adequate time should be provided to allow for minorities or additional remarks to be written.

I have no opinion on the Chair's Report because I have not had time to read it or reflect on it.

The contempt with which I and other members of the Committee have been treated reflects poorly on the Chair. It indicates an unhealthy and unwise attitude.

Opposition Senators have shown me their brief minority report, and I am sympathetic to their concerns.

Senator Andrew Murray

Dissenting Report from Senator Barnaby Joyce

The inherent weakness in the committee's report is its failure to consider the impacts of biofuels such as ethanol and biodiesel on fuel prices, climate change and liquid transport energy security despite much of the public hearings being taken up with evidence of the potential positive price impacts of alternative non-fossil fuels.

Oil will become unaffordable long before it becomes unavailable. Because our economy in mining, agriculture and tourism is so vulnerable to any shifts in supply and an unaffordable major overhead for the internal combustion engine, it is imperative on an economic basis that emergence of affordable alternatives are spliced into the current oil based consumption.

In its submission, Manildra Group said:

"Petrol pricing is determined by many factors but the final price paid by the consumer can and should be reduced by around 3 cents per litre where ethanol is blended with the fuel at 10%." (Manildra submission, September 9, 2006 page 2)

Indeed, it would appear that this is more than rhetoric from one of Australia's few players in the fledgling biofuels producing industry. The discount fuel retailer Freedom Fuels in Queensland has moved to include a 10 per cent ethanol blend in all of its petrol products. Apart from the well-documented environmental and health benefits of ethanol blends, it has done this because of price. And it is delivering with its pump prices always discounted below those of service stations under the banner of the major oil companies.

Senator Joyce pointed out during the Canberra public hearings that the independent fuel suppliers do not seem to have a problem with start-up costs associated with holding tanks for ethanol blended fuel.

While the uptake of ethanol blended fuel has been slow due to the oil industry refusal to meet their commitments to the Prime Minister under the 2005 Biofuels Action Plan process.

It is submitted that this is further evidence that the major oil companies are not serious about meeting the Federal Government's voluntary target of 350ML by 2010.

The committee should note that at the end of 2006, just 15ML of ethanol and 5ML of biodiesel had been taken up, well short of the lower limit of 89ML under the voluntary target for 2006.

This failure means that it is taking longer to free up refining capacity with ethanol substitution, a factor that the committee heard would put downward pressure on fuel prices.

The committee heard that there is a future beyond E10 as E85 vehicles were starting to take off in America, and Flex Fuel Vehicles in Brazil were capturing over 70 per cent of new car sales.

The committee heard that fledgling ethanol plants, such as the one proposed at Dalby in Queensland, cannot begin production because the major oil companies will not give them firm long term contracts. (Committee Hansard, August 23, 2006)

It emerged from the hearings that the oil companies do not like ethanol because it is a competing product that they can't control.

Senator Joyce told the committee:

They (the major oil companies) try to subdue it because they do not want it out there, but I think everybody agrees that we should get it out there. If more ethanol is out there it will free up excess refining capacity, and if it frees up excess refining capacity they will go looking for a market for that refining capacity, which in itself will drive down the market, so it will have a flow-on effect beyond just getting ethanol out there. (August 23)

Furthermore, Mr Ronald Bowden, Chief Executive Officer, Service Station Association Ltd, said it would not be in the interests of the major oil companies to get serious about ethanol, as revealed in this exchange with Senator Joyce.

Senator JOYCE—I will put it another way. Let us change your hats: if you were in the position of a major oil producer, would you encourage the sale of ethanol in Australia?
Mr Bowden—If I were an oil producer, I would not because that is not where my best profitability would lie.

The Inquiry's Draft Report's major flaw is its lack of attention on the role of alternative fuels to mitigate in the current fuel prices. It is acknowledged that there is no reason that fuel prices will fall in the long term. If Australia is not planning for the future outside an oil price crisis then we will be placed at the disadvantage of dealing with it in a crisis.

Independent fuel stations have proven to be essential in both being leaders in price discounting and leaders in getting ethanol and other bio-renewables out onto the market. Legislation such as the repeal of the Sites and Franchise Act has exacerbated this position in that it plays into the oil majors' hands of controlling retail price and product.

It is clearly the case that the current government target to incorporate ethanol in the sale of fuel has being largely ignored by the oil majors and this is of some embarrassment as there has been a reasserting of these commitments by the Prime Minister.

Since the change in sulphur content rules, Australia has created a non-tariff trade barrier to the importation of fuel from many previous producers in Asia. This has quarantined the current oil majors in Australia from further external competition in their refining capacity.

The available science on the capacity of biofuels to reduce Greenhouse Gas emissions in the Australian transport sector is compelling as it is complete. CSIRO-based recent studies clearly show that current technologies reduce Greenhouse Gas emissions compared to petroleum petrol by as much as 80 per cent and in some circumstances more than 100 per cent on a litre per litre basis.

United States Government laboratory data shows that a 10 per cent ethanol blend and biodiesel blend fuels have the capacity to reduce fine and ultra fine particulate emissions from petrol and diesel by at least 50 per cent.

Recommendation

That there be a phase in over 10 years of a 10% mandate on ethanol on all ULP sales and biodiesel as part of suite of issues to alleviate a future oil crisis.

Recommendation

That should the major oil companies fail to meet their Action Plan targets in 2006, then the Government should move to immediately mandate access to motorists and the consumer to cleaner burning and Greenhouse Gas-reducing ethanol and biodiesel blended fuels in Australia.

Recommendation

That government policy changes to encourage the development of independent refining capacity that includes a minimum 10% component of ethanol and that the refining capacity also concentrates on the development of bio-diesel.

Recommendation

That due to the unwillingness of the oil majors to retail bio-renewables, investment incentives be available to companies to construct retail outlets on the premise that 10% or greater of their total entity sales be bio-renewables.

Recommendation

That an investigation be immediately carried out into the social and economic effects pertaining to incremental increase in oil prices to the $300 a barrel mark. The investigation is to include the capacity and time to bring on line alternatives for the economy to circumvent a crisis.

Recommendation

That the current ban on sales above 10% ethanol be lifted in light of Australia's capacity to immediately start producing cars with the capacity to run on 85% ethanol.

Recommendation

That an investigation be held into the link between research grants given from oil companies to car manufacturers and the effect on opinion this may have in the promotion of bio-renewables.

Recommendation

That a further government report be commissioned into auditable world reserves for oil to give a clear and concise understanding of the time frame, quantity, likely demand curve and pricing implications of future oil. This study is also to investigate essential sectors of the economy that must rely on oil based fuels at affordable levels to stay competitive.

Recommendation

That formal monitoring powers currently held by the Treasurer in Part 7 of the *Trade Practices Act 1974* are given to the Parliament.

Recommendation

That the ACCC be given the powers to have complete transparency of Terminal Gate Prices including all discounts and other measures so that the market can have an assurance of monitoring of unfair market practices.

Recommendation

That a section of the fuel retail market be quarantined for the exclusive use, by volume of fuel, of independents, that is retailers whose total related entities sell less than 5% of the total fuel sales in any given state

Recommendation

That the committee note that the report has been very selective in the issues they have reported. And the time constraints for the review have been quite limiting. That would suggest a resolve by some members of the committee that has not been reported in the body of the document.

Senator Barnaby Joyce

APPENDIX 1

Submissions & Additional Information

Submission Number	Submitter
1	Mr Ben Rose
2	Carbon Neutral – A Men of the Trees Program
3	Mr Greg Longmuir
4	Mr Ange Kenos, JP
4a	Mr Ange Kenos, JP
4b	Mr Ange Kenos, JP
5	Dr David Arelette
6	Mr Terry Willshire
6a	Mr Terry Willshire
7	Mr Bruce Page
8	Mr Wayne Fyffe
9	Mr David J Blackwood
10	Victorian Government, Minister for Consumer Affairs
11	Mr Lindsay Morris
12	Mrs Nola Jones
13	Sustainable Transport Coalition WA
14	Sustainable Transport Coalition WA
15	Australian Association for the Study of Peak Oil & Gas (ASPO Australia)
16	Vietnam Veterans Motorcycle Club
17	Mr Stephen Garlick
18	John Murphy, MP

19	Mr Jim Turnour
20	Service Station Association Ltd
20a	Service Station Association Ltd
21	Royal Automobile Association of SA Inc
21a	Royal Automobile Association of SA Inc
22	Name Withheld
22a	Name Withheld
23	Renewable Fuel Australia (RFA)
24	The Post Office Agents Association Limited (POAAL)
25	Ms Fay Hicks
26	Coles Express
27	The Australian Taxi Industry Association (ATIA)
28	Motor Trades Association of Australia (MTAA)
29	Australian Automobile Association (AAA)
30	The Royal Automobile Club of Victoria (RACV)
31	Australian Competition & Consumer Commission (ACCC)
32	Mr Hans Veersema
33	NRMA Motoring & Services
34	BP Australia Pty Ltd
34a	BP Australia Pty Ltd
35	Mr Alan Kleidon
36	Mr John Bain
37	Mr John A Turner
38	Mr Michael Carr
39	Mr David Rice
40	Public Transport Users Association Inc

41	ACT Government
42	Mr David Evans
43	Remote Area Planning & Development (RAPAD) Board
44	NSW Government
45	The Shell Company of Australia Limited
46	Confidential
47	Mr Brian Gray Stockton
48	Mr Alan Phillip May
49	Steve Gibbons MP, Federal Member for Bendigo
50	Australian Institute of Petroleum (AIP)
51	APCO Service Stations Pty Ltd
52	Mr Colin Law and Ms Anne Law
53	Lowes Petroleum Service
54	Australian Chamber of Commerce and Industry (ACCI)
55	Caltex Australia Limited
56	Confidential
57	Sudholz Pty Ltd
58	Mr Bert Davis
59	Mr Michael Angelico
60	Mr Neville Pitt
61	Confidential
62	Confidential
63	Boyce Chartered Accountants
64	Mr Ted Summerson
65	Mr Roy Murray-Prior
66	Mr Robert Maher

67	Manildra Group
68	Australian Treasury
69	Mrs Christine Oag
70	HEH Australian Petroleum Consultancy Co Publishers of Australian Petroleum Marketer News (APMN)
70a	HEH Australian Petroleum Consultancy Co Publishers of Australian Petroleum Marketer News (APMN)
71	Commissioner for Fair Trading Western Australia
72	Royal Automobile Club WA (RACWA)
73	Confidential
74	Robert W Parry FCA, Chartered Accountant
75	Queensland Government

APPENDIX 2

Tabled Documents and Additional Information Received

1. Additional information tabled at public hearing on 3 August 2006 from Australian Competition & Consumer Commission (ACCC)

2. Additional information received from Motor Trades Association of Queensland (MTAQ)

3. Additional information received from Australian Competition & Consumer Commission (ACCC) – Responses to questions on notice taken at public hearing on 3 August 2006

4. Additional information received from Mr Patrick Walker, Commissioner for Fair Trading Western Australia

5. Additional information tabled at public hearing on 20 September 2006 from Dr David Worth, Sustainable Transport Coalition WA

6. Additional information tabled at public hearing on 20 September 2006 from Dr David Worth, Sustainable Transport Coalition WA – Sustainable Transport Coalition Oil: Living with less

7. Additional information tabled at public hearing on 20 September 2006 from Mr John Bain – Bunbury/Perth Fuel Price Difference ULP

8. Presentation by Royal Automobile Club WA Inc (RACWA) at public hearing on 20 September 2006

9. Additional information received from Australian Taxation Office (ATO) in response to a letter from the Committee requesting ATO comment

10. Correction to information presented at public hearing on 20 September 2006 received from The Royal Automobile Club of WA Inc (RACWA).

11. Presentation by Australian Institute of Petroleum (AIP) at public hearing on 27 September 2006

12. Presentation by BP Australia Pty Ltd at public hearing on 27 September 2006

13. Additional information received from BP Australia – Responses to questions on notice taken at public hearing on 27 September 2006

14. Additional information received from Australian Institute of Petroleum (AIP) – Responses to questions on notice taken at public hearing on 27 September 2006

15. Additional information received from Department of the Environment and Heritage – Responses to questions taken on notice at public hearing on 28 September 2006

16. Presentation by Caltex Australia at public hearing on 13 October 2006

17. Additional information received from Australian Competition & consumer Commission (ACCC) – Responses to questions on notice taken at public hearing on 19 October 2006

18. Additional information received from Informed Sources in response to references to the Informed Sources Group during public hearings

APPENDIX 3

Public Hearings and Witnesses

Thursday, 3 August 2006 – Canberra

ARBLASTER, Ms Margaret Peta, General Manager, Transport and Prices Oversight, Australian Competition and Consumer Commission

CASSIDY, Mr Brian David, Chief Executive Officer
Australian Competition and Consumer Commission

DOBINSON, Mr Gary Martin, Director, Petrol Monitoring Section
Australian Competition and Consumer Commission

SAMUEL, Mr Graeme Julian, Chairman
Australian Competition and Consumer Commission

Wednesday, 23 August 2006 – Kybong

ANDERSON, Mr Garth Matthew, General Manager
Matilda Fuel Supplies

BOWDEN, Mr Ronald George, Chief Executive Officer
Service Station Association Ltd

CARR, Mr Michael Anthony, Private capacity

DAVIES, Mr Blair, Executive Director
Australian Taxi Industry Association

DELAHAYE, Mr Russell James, Divisional Manager, Service
Motor Traders Association of Queensland

KANE, Mr Timothy Joseph, Chairman
Service Station Convenience Store Association of Queensland and
Motor Traders Association of Queensland

O'KEEFFE, Mr Lawrence Phillip, Retail Director
Matilda Fuel Supplies

WILLETT, Mr Kenneth, Executive Manager, Economic and Public Policy
Royal Automobile Club of Queensland

Wednesday, 20 September 2006 – Perth

BAIN, Mr John Morcom, Private capacity

FITZPATRICK, Mr Peter John, Chief Executive Officer
Motor Trade Association of Western Australia

MOIR, Mr David, Executive Manager, Member Advocacy
Royal Automobile Club of Western Australia

MULLINS, Mr Michael Timothy, General Manager, Fuels
Gull Petroleum

ROBINSON, Mr Bruce, Convenor
Association for the Study of Peak Oil and Gas Australia

UPTON, Mr Michael Leslie, Manager, Vehicle Policy
Royal Automobile Club of Western Australia

WALKER, Mr Patrick John, Commissioner for Fair Trading
Department of Consumer and Employment Protection
Government of Western Australia

WORTH, Dr David, Convenor
Sustainable Transport Coalition of Western Australia

Tuesday, 26 September 2006 – Canberra

JAMES, Mr Craig Roderick, Chief Economist
Commonwealth Securities Ltd

KERIN, Professor Paul Domenic, Professorial Fellow, Business Strategy
Melbourne Business School

MUNDY, Dr Warren Leslie, Director
Bluestone Consulting

RICHARDS, Mr Warwick, Director
Economic and Energy Analysis Pty Ltd

SADDLER, Dr Hugh David Walter, Managing Director
Energy Strategies

Wednesday, 27 September 2006 – Canberra

DICKENS, Mr Nathan, General Manager—Policy
Australian Institute of Petroleum

FRILAY, Mr William, Manager, Government Relations
BP Australia

HUESTON, Mr Gerald, President
BP Australia

HUGHES, Mr Kevin, Principal
HEH Australian Petroleum Consultancy Co

McMAHON, Mr Mick, Managing Director
Coles Express

SHORT, Mr Peter George, General Manager
Coles Express

TILLEY, Dr John, Executive Director
Australian Institute of Petroleum

Thursday, 28 September 2006 – Canberra

BROWN, Mr Colin, Manager, Costing and Quantitative Analysis Unit, Tax Analysis Division, Australian Treasury

CAPLAN, Mr Russell, Chairman, Shell Company of Australia

CHISHOLM, Mr James Donald, Senior Adviser
Australian Treasury

COLLINS, Councillor Stanley Bruce, Mayor, Winton Shire and
Member, Remote Area Planning and Development Board

COLMER, Mr Patrick, General Manager, Indirect Tax Division
Australian Treasury

ENDRES, Mr James, Economist, Public Policy
NRMA Motoring and Services

EVANS, Mr Alan Hanson, President
NRMA Motoring and Services

FRENCH, Mr Stephen Reginald, General Manager
Competition and Consumer Policy Division
Australian Treasury

HARWOOD, Ms Mary, First Assistant Secretary, Environment Quality Division
Department of the Environment and Heritage

HOLDAWAY, Ms Hae-Kyong, Manager, Competition Policy Framework Unit
Australian Treasury

KENNEDY, Mr Steven, General Manager, Domestic Economy Division
Australian Treasury

McGREGOR, Mr Grant, Sales and Operations Manager
Shell Company of Australia

MIDGLEY, Mr Chris, General Manager, Supply and Marine
Shell Company of Australia

MURPHY, Mr James Andrew, Executive Director, Markets Group
Australian Treasury

THOMAS, Mr Andrew, Manager, Domestic Economy Division
Australian Treasury

TURVEY, Mr David Robert, Manager, International Outlook Unit
International Economy Division
Australian Treasury

WARD, Mr Michael, Acting Director, Clean Fuels and Vehicles Section
Department of the Environment and Heritage

Friday, 13 October 2006 – Canberra

BEATTIE, Mr Richard, Group Manager, Corporate Affairs
Caltex Australia

JOHNSON, Mr Peter, Policy Adviser
Australian Chamber of Commerce and Industry

KING, Mr Desmond, Managing Director and Chief Executive Officer
Caltex Australia

POTTER, Mr Michael, Director, Economics and Taxation
Australian Chamber of Commerce and Industry

RIDLEY-SMITH, Mr Michael, National Fuels Marketing Manager
Caltex Australia

Thursday, 19 October 2006 – Canberra

ARBLASTER, Ms Margaret Peta, General Manager, Transport and Prices Oversight, Australian Competition and Consumer Commission

CASSIDY, Mr Brian David, Chief Executive Officer
Australian Competition and Consumer Commission

DIMASI, Mr Joseph, Executive General Manager
Australian Competition and Consumer Commission

DOBINSON, Mr Gary Martin, Director, Petrol Monitoring Section
Australian Competition and Consumer Commission

SAMUEL, Mr Graeme Julian, Chairman
Australian Competition and Consumer Commission

APPENDIX 4

List of Past Inquiries and Reports

The following is a list of past inquiries and reports into the petroleum industry and petrol pricing over the last 30 years. It is not an exhaustive list. The reports are listed according to whether they were prepared at either the commonwealth, or state and territory levels.

Commonwealth

Royal Commission on Petroleum report No. 4, *The Marketing and Pricing of Petroleum Products in Australia*, 1976.

Royal Commission on Petroleum report No. 6, *The Use of Liquefied Petroleum Gas in Australia*, 1976.

Senate Standing Committee on National Resources report, *Replacement of Petrol by Alternative Sources of Energy*, 18 September 1980.

Prices Surveillance Authority, *Inquiry in Relation to the Supply of Petroleum Products*, 25 July 1984.

Joint Committee of Public Accounts, *Excise and Deferred Customs Duties*, Report No. 224 of 1985, 1985.

Industries Assistance Commission, *Certain Petroleum Products – Taxation Measures*, Report No. 397, 5 November 1986.

Auditor-General, *Report of an Efficiency Scrutiny – Diesel Fuel Rebate Scheme*, March 1987.

Prices Surveillance Authority, *Inquiry in relation to the supply of petrol in the ACT*, 4 December 1987.

Trade Practices Commission, *Study into Market Practices and Government Regulation in the Petroleum Industry*, 1988.

Prices Surveillance Authority, *Inquiry into Petroleum Product Prices*, 20 December 1989.

Prices Surveillance Authority, *Review of LPG Pricing*, 30 June 1990.

Prices Surveillance Authority, *National Inquiry into Petroleum Product Prices*, 8 November 1990.

Prices Surveillance Authority, *Inquiry into Tasmanian Petrol Prices*, 8 November 1990.

Auditor-General, *Australian Customs Service – Diesel Fuel Rebate Scheme*, Audit Report No. 27 of 1990-91, 1991.

Prices Surveillance Authority, *Report to Government on the Recommendations of the Caucus Special Committee of Inquiry (the Wright Committee) into Aspects of the Australian Petroleum Industry*, 28 October 1991.

Prices Surveillance Authority, *Regional Study of Petrol, Distillate and LPG Prices in Mildura*, 9 December 1991.

Prices Surveillance Authority, *LPG Pricing in Western Australia*, 15 May 1992.

Industry Commission, *Petroleum Products*, Report No. 40, 5 July 1994.

Prices Surveillance Authority, *LPG Pricing in Tasmania*, 7 July 1994.

Prices Surveillance Authority, *Inquiry into the LPG Declaration in Western Australia*, 30 December 1994.

ACCC, *Inquiry into the petroleum products declaration,* 31 August 1996.

Australian National Audit Office, *Diesel Fuel Rebate Scheme: Australian Customs Service*, Report No. 20 of 1995-96, 1996.

ACCC, *Autogas Pricing in Geelong*, 16 December 1997.

ACCC, *Victorian LPG Autogas Prices*, 9 October 1998.

Senate Rural and Regional Affairs and Transport Legislation Committee report, *Provisions of the Petroleum Retail Legislation Repeal Bill 1998*, 29 June 1999.

ACCC, *Review of LPG Autogas Prices and LPG Cylinder Prices in Western Australia*, 7 September 1999.

ACCC, *Increase in the average retail petrol prices in Australia compared with the rise in international prices*, 31 October 1999.

Senate Economics Legislation Committee report, *Consideration of Diesel and Alternative Fuels Grants Scheme (Administration and Compliance) Bill 1999*, 30 November 1999.

Senate Economics Legislation Committee report, *Consideration of Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000*, August 2000.

Senate Economics References Committee report, *Inquiry into the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies*, 8 March 2001.

ACCC, *Report on the movement in fuel prices in the September Quarter 2000,* October 2000.

ACCC, *Reducing fuel price variability*, ACCC Publishing Unit, December 2001.

Commonwealth of Australia, *Fuel Tax Inquiry Report*, Pirie Printers Pty Ltd, March 2002.

ACCC, *Terminal gate pricing arrangements in Australia and other fuel pricing arrangements in Western Australia,* December 2002.

Senate Environment, Communications, Information Technology and the Arts Legislation Committee report, *Provisions of the Fuel Quality Standards Amendment Bill 2003*, 28 October 2003.

ACCC, *Assessing shopper docket petrol discounts and acquisitions in the petrol and grocery sectors,* February 2004.

ACCC, *Understanding petrol pricing in Australia* (booklet or brochure), August 2005.

Senate Economics Legislation Committee, *Inquiry into the provisions of the Petroleum Retail Legislation Repeal Bill 2006*, 11 May 2006.

Senate Economics Legislation Committee, *Inquiry into the provisions of the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006*, 14 June 2006.

ACCC, *An overview of the Oilcode for fuel resellers,* ACCC Publishing Unit, November 2006.

ACCC, *Guide to the Oilcode – Information for industry participants in the downstream petroleum retail industry,* ACCC Publishing Unit, November 2006.

State and Territory

ACT Government Working Group on Petrol Prices, 1992.

Victorian Coalition Backbench Committee, *Discussion Paper on the Disparity between Country and Metropolitan Fuel Prices*, 1993.

Commission of Inquiry into Petrol Prices in Rural New South Wales, 1995.

Tasmanian Legislative Council Select Committee on Petrol Pricing, 1995.

ACT Legislative Assembly Select Committee *Inquiry into Petrol Prices in the ACT*, 1997

NSW Department of Fair Trading, *Inquiry into Petrol Price Signs*, 1999.

Australian Centre for Co-operative Research and Development, *Development of Co-operative-Type Structures for Lowering Petrol Prices in Rural New South Wales*, December 1999.

Western Research Institute, *Enhancing Competition in the Petroleum Industry - The Role of Co-Operatives*, December 1999.

Select Committee on Pricing of Petroleum Products, *Getting a fair deal for Western Australian motorists,* State Law Publisher, 12 October 2000.

Economic Development Committee, *Inquiry into the impact of the Goods and Services Tax in Victoria,* 30 April 2001, Chapter 4 – Fuel Prices.

Northern Territory Government, *Inquiry into fuel prices in the Northern Territory,* May 2005.

Legislative Assembly of Queensland, *Inquiry into petrol pricing in Queensland,* April 2006.

Consumer Affairs Victoria, *Report on Automotive Fuel Prices in Victoria*, January 2003 to April 2006, May 2006.

The South Australian Parliament's *Select Committee on the Pricing, Refining, Storage and Supply of Fuel in South Australia* tabled an interim report in late 2006 and intends on releasing a further report at a date to be determined, as at 5 December 2006. For further information, refer to the Committee's website (December 2006): http://www.parliament.sa.gov.au/committees/select/lc/51/pricingrefiningstorageandsupplyoffuelinsouthaustralia