

## **ACCC responses to questions taken on notice at the public hearing of the Senate inquiry into the price of petrol in Australia on 19 October 2006**

At the public hearing of the Senate Economics Legislation Committee inquiry into the price of petrol in Australia in Canberra on 19 October 2006 the ACCC took a number of questions on notice.

### **ACCC contracts with Informed Sources**

Senator O'Brien asked for a copy of the contracts for fuel price data between the ACCC and Informed Sources to be provided to the Senate Committee on an in-camera basis. Mr Cassidy responded that the ACCC would need to ask Informed Sources if it was prepared to provide the contracts on this basis.

The ACCC has done so and the response from Informed Sources was as follows:

*It is not our intention to agree to release of the contract with the ACCC or indeed any other client. From our perspective, it is not in our commercial interest and there is nothing demonstrated to date that it is in the public interest.*

The ACCC understands that Informed Sources will be corresponding directly with the Senate Committee.

### **Copy of correspondence with the National Roads and Motorists' Association (NRMA)**

In responding to a question from Senator Brandis concerning the views of Mr Alan Evans, President of the NRMA, about the ACCC petrol price cycle website, the Chairman of the ACCC referred to comments made by the NRMA to the ACCC in November 2004.

Senator Brandis asked for a copy of the correspondence. It is provided in Attachment A.

Senator Brandis also asked whether Mr Evans was President of the NRMA at the time of the correspondence. According to the NRMA website:

*Mr Evans was appointed to the Board [of Directors of the NRMA] on 18 January 2003. He was elected as President on 27 January 2005. Mr Evans served as Deputy President from 23 January 2003 to 13 December 2003.<sup>1</sup>*

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<sup>1</sup> [www.mynrma.com.au](http://www.mynrma.com.au), retrieved on 23 October 2006.

## Western Australian fuel price arrangements

### ACCC reports

Senator Brandis asked which ACCC reports had assessed the fuel price arrangements in Western Australia.

The ACCC analysis of the fuel price arrangements in Western Australia is publicly available in two reports:

*Reducing fuel price variability*, December 2001; and

*Terminal gate pricing arrangements in Australia and other fuel pricing arrangements in Western Australia*, December 2002.

Pdf versions of these reports are included in the enclosed disc (see page 7).

### Petrol price data

At the public hearing on 19 October 2006 Mr Cassidy referred to price comparisons between unleaded petrol prices in Perth and those in Sydney and Melbourne. This data is contained in table 1.

It shows average annual retail unleaded petrol prices for Perth, Sydney and Melbourne for the financial years 2001-02 to 2005-06 and also for the first nine months of calendar year 2006. It also shows the difference between unleaded petrol prices in Perth and those in Sydney and Melbourne. Table 1 is based on Informed Sources data.

**Table 1: Average retail unleaded petrol prices – Perth, Sydney and Melbourne – 2001–02 to 2005–06 and the first nine months of calendar year 2006**

Year	Perth	Sydney	Melbourne	Difference*	
				Sydney	Melbourne
	cpl	cpl	cpl	cpl	cpl
2001-02	<b>85.7**</b>	84.4	84.5	1.3	1.2
2002-03	<b>91.6</b>	89.8	89.1	1.8	2.5
2003-04	<b>92.4</b>	91.6	90.4	0.8	2.0
2004-05	101.4	<b>103.4</b>	101.0	-2.0	0.4
2005-06	122.2	<b>122.6</b>	122.3	-0.4	-0.1
First nine months of 2006	127.5	128.2	<b>128.5</b>	-0.7	-1.0

Source: Informed Sources

\* A positive difference indicates that Perth prices were above Sydney/Melbourne prices and a negative difference indicates that Perth prices were below Sydney/Melbourne prices.

\*\* The highest annual average in each year is in bold.

The table shows that:

- In the **first nine months of 2006** Perth prices were 0.7 cents per litre (cpl) lower than Sydney prices and 1.0 cpl lower than Melbourne prices.
- In **2005-06** Perth prices were 0.4 cpl lower than Sydney prices and 0.1 cpl lower than Melbourne prices.
- In **2004-05** Perth prices were 2.0 cpl lower than Sydney prices but 0.4 cpl higher than Melbourne prices.
- In **2003-04, 2002-03** and **2001-02** Perth prices were higher than Melbourne and Sydney prices in all three years – the difference ranging between 0.8 cpl and 2.5 cpl.

It should be noted that the Western Australian Government, when comparing petrol prices in Perth with other capital cities (both in their submission to the Senate inquiry and at other times), adjusts retail petrol prices upwards in Melbourne and Brisbane to reflect the state subsidies provided in those cities at the wholesale or retail level.

The ACCC's preferred approach is to compare the average retail prices that are actually paid by consumers in each city and then explain the influences on those prices.

Comparisons of prices between different locations need to be treated with caution because different factors may be influencing those prices.

- In Perth there are tighter fuel standards than in Sydney and Melbourne. The difference in standards was higher before January 2006.
- Freight costs are lower in Perth as it is geographically closer to Singapore.
- In Melbourne, there is an effective subsidy of 0.47 cpl provided at the wholesale level and in Brisbane there is an effective subsidy of 9.2 cpl provided at the retail level. There are no subsidies in Perth, Sydney or Adelaide.
- There have been periods of retail price discounting at certain times in these cities. As noted in the submission to the Senate inquiry by the Western Australian Commissioner for Fair Trading, Perth experienced periods of significant discounting during 2004 and 2005.<sup>2</sup>
- The size of the market and the number and composition of industry players may differ between cities.

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<sup>2</sup> Commissioner for Fair Trading Western Australia, *Submission to the Senate Inquiry into the Price of Petrol in Australia*, September 2006, p 15.

## Response to comments by the Western Australian Commissioner for Fair Trading

In December 2002 the ACCC provided a report to the Treasurer entitled *Terminal gate pricing arrangements in Australia and other fuel pricing arrangements in Western Australia* (subsequently referred to as the 2002 report). The submission to the Senate inquiry by the Western Australian Commissioner for Fair Trading makes a number of critical comments about this report.<sup>3</sup>

The Commissioner said that:

- Data relied upon by the ACCC were found to be inaccurate when compared with FuelWatch data;
- Periods of irregular pricing were used as a base, leading to distorted figures and conclusions; and
- The impact of the fuel quality premium that applied in Western Australia but not in other states was ignored, as were other relevant events such as the introduction of commercial buy/sell arrangements.

The ACCC would like to respond to these comments on the 2002 report.

*Claim 1: Data relied upon by the ACCC were found to be inaccurate when compared with FuelWatch data*

- The Western Australian Government and the Department of Consumer Employment and Protection (DOCEP, which maintains the FuelWatch arrangements) have argued this line since the 2002 report was publicly released in April 2003.
- The ACCC disagrees with this view and in correspondence has outlined its views on this issue to DOCEP.
- The 2002 report used data from a variety of sources depending on the nature of the data and availability. In all cases where data was used in the 2002 report, the specified source of the data was indicated and made clear.
- The 2002 report generally used Informed Sources average daily retail unleaded petrol prices for Perth. Informed Sources data was available for periods **before and after** the 24-hour rule took effect in January 2001, whereas the FuelWatch data was only available from January 2001.
- A comparison of FuelWatch average daily retail unleaded prices for Perth with Informed Sources prices for the period 3 January 2001 to 30 September 2002 (ie from the commencement of the 24-hour rule to the end of the period analysed in the 2002 report) indicates that on average over the period FuelWatch prices were marginally higher (by around 0.2 cpl) than Informed Sources data.

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<sup>3</sup> Ibid, pp. 21-22.

- This is hardly a significant difference. However, had FuelWatch price data instead of Informed Sources data been used for Perth prices in the 2002 report the difference between Perth prices and Sydney and Melbourne prices would have been higher than was reported in the 2002 report.

*Claim 2: Periods of irregular pricing were used as a base, leading to distorted figures and conclusions*

- This is partly correct. However, the periods used in the 2002 report reflected features of the Western Australian fuel pricing arrangements, such as:
  - Between 2 January 2001 and 23 August 2001 there was a loophole in the 24-hour rule which meant it was not working as intended;<sup>4</sup>
    - As noted in the 2001 *Reducing fuel price variability report* the then Minister, John Kobelke, stated in a media release on 20 March 2001 that “When FuelWatch first began there was about 98 per cent compliance but now there is about 80 per cent non-compliance”.<sup>5</sup>
  - The maximum wholesale pricing arrangements - which were introduced on 12 April 2001 - were changed on 21 August 2001;<sup>6</sup> and
  - The full price impact of the fuel quality premium in Western Australia took effect from 1 July 2002.<sup>7</sup>
- The reasons for using the various periods were clearly outlined in the 2002 report.

*Claim 3: The impact of the fuel quality premium that applied in Western Australia but not in other states was ignored, as were other relevant events such as the introduction of commercial buy/sell arrangements*

- This is not correct. The 2002 report specifically addressed the Western Australian fuel standards in section 2.4 on pages 14-16.
- Furthermore, the fuel standards in Western Australia were specifically acknowledged as being a factor contributing to the then higher petrol prices in Perth. The summary (on pages 2-3) stated that:

*The data analysis in this report found that Perth prices have increased relative to three benchmarks, namely: Sydney and Melbourne prices, the Commission’s import parity indicator (IPI) and the Western Australian MWPs [ie maximum wholesale prices]. While a significant part of this increase could be attributed*

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<sup>4</sup> The loophole is described in ACCC, *Reducing fuel price variability*, p. 149.

<sup>5</sup> Ibid, p.154.

<sup>6</sup> Ibid, pp 149-150 and p.155.

<sup>7</sup> ACCC, 2002 report, p.15.

*to the higher fuel standards, some of it is likely to be due to other factors, including the 24-hour rule, a reduction in competition as a result of the new fuel standards and the cessation of the refinery exchange arrangements and the move to buy and sell arrangements (of which only the latter is an external factor outside the control of the Western Australian Government).*

### Northern Territory Government petrol inquiry

At the public hearing on 19 October 2006 the Chairman of the ACCC noted that the Northern Territory Government report *Inquiry into fuel prices in the Northern Territory*, May 2005 did not recommend introducing the Western Australian arrangements in the Northern Territory.

On page 15 the report stated:

*The Inquiry notes that the Western Australian Government has introduced a range of fuel pricing arrangements...However, the Inquiry does not consider it appropriate to introduce such reforms in the Territory given the different dynamics of the Territory market, that is, the absence of discernible price cycles, and the uncertainty over whether consumers are benefiting from such reforms. The ACCC's December 2002 assessment of the fuel pricing arrangements in Western Australia concluded that the 24-hour rule is likely to have reduced rather than increased competition in the retail market.*

## **Mergers in the fuel market**

Senator Joyce asked

*Will the current framework of the legislation with respect to the 40 days for assessment for mergers and the 20-day extension and your powers within the Australian Competition Tribunal regarding mergers in the fuel market give you the ability to have an effective assessment process?*

The ACCC expects that the formal clearance process will enable the ACCC to conduct an effective assessment of mergers in all markets, including those in fuel markets.

The time allowed for the ACCC to make a determination may be extended beyond the prescribed 40 business days at any point in the assessment process if the applicant agrees to the ACCC taking a specified longer period to make the decision.

In the event that a merger is too complex for the ACCC to assess properly within 40 business days (or longer period specified by the applicant), or other special circumstances necessitate more time for a proper assessment, the ACCC may also extend the period of assessment by 20 business days.

The ACCC notes that, if it is unable to conduct a proper assessment and make a decision within the specified period, the application will be deemed to be refused by the ACCC.

If an acquirer is dissatisfied with the ACCC's merger clearance decision, they may apply to the Australian Competition Tribunal (Tribunal) for review of the decision. In reviewing a clearance determination, the Tribunal must only have regard to:

- information which was taken into account by the ACCC in connection with making its determination in relation to the application;
- information to which the ACCC may have referred in its determination; and/or
- any additional information resulting from requests for clarification by the Tribunal.

If an application for merger authorisation is made directly to the Tribunal, the Tribunal will be responsible for assessing the merger. However, the ACCC will conduct an investigation into the impact of the merger and prepare a report for the Tribunal's consideration. In making its decision, the Tribunal must have regard to the ACCC's report and the ACCC has a right to call witnesses, cross-examine them and otherwise make its views known to the Tribunal.

## **ACCC petrol reports**

Appendix 1 of the July 2006 ACCC submission to the Senate Economics Legislation Committee inquiry into the price of petrol in Australia provided a list of publications on the petroleum industry by the ACCC since its establishment in 1996.

The list included:

*Inquiry into the Petroleum Products Declaration*, August 1996

*Increase in the average retail petrol prices in Australia compared with the rise in international prices*, October 1999

*Report on the movement in fuel prices in the September quarter 2000*, October 2000

*Reducing fuel price variability*, December 2001

*Terminal gate pricing arrangements in Australia and other fuel pricing arrangements in Western Australia*, December 2002

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

*Understanding petrol pricing in Australia—answers to some frequently asked questions*, August 2005.

Copies of the 2005 booklet were provided to the Committee at the public hearing on 19 October 2006. All of these publications are available from the ACCC website, except the 1996 report. A hard copy of the 1996 report is enclosed. A disc with pdf versions of the other publications is also enclosed.



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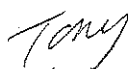
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11 October 2004

  
Dear Mr Stuart.

## Evaluation of the consumer awareness initiative on petrol price cycles on the ACCC website

As you may be aware, on 19 November 2002 the Australian Competition and Consumer Commission (ACCC) launched an initiative on its website to increase consumers' awareness of price cycles and how to take advantage of them. The initiative was one of the recommendations made in the ACCC's report *Reducing fuel price variability*, which was publicly released on 14 March 2002. The federal government accepted all of the recommendations in that report.

The consumer awareness initiative provides data on unleaded petrol price cycles in the five major metropolitan cities. Access to the consumer awareness initiative is via the 'consumer rights' section on the front page of the ACCC website ([www.accc.gov.au](http://www.accc.gov.au)).

The ACCC is currently undertaking an evaluation of its consumer awareness initiative to determine its effectiveness and possible ways to improve it.

As part of the evaluation we are writing to various industry stakeholders (such as the oil companies, Government Departments, motoring organisations and consumer groups) seeking answers to a number of questions about the consumer awareness initiative, petrol price cycles and consumers' understanding of them. The questions are outlined in Attachment A

The ACCC received some comments on the consumer awareness initiative from Lauchlan McIntosh, Executive Director, Australian Automobile Association in February 2004, which will be considered as part of our evaluation.

I would be grateful if you could consider the questions in Attachment A and provide your responses to them by **Monday, 8 November 2004** to Bretta Merifield.



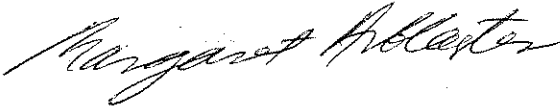


Responses can be emailed to her at [bretta.merifield@accc.gov.au](mailto:bretta.merifield@accc.gov.au) or sent through the post at the following address:

Bretta Merifield  
Transport and Prices Oversight Branch  
Australian Competition and Consumer Commission  
Level 35 the Tower  
Melbourne Central  
360 Elizabeth Street  
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If you have any questions relating to this letter please contact Morna Reid, on 03 9290 1986 or by email at [morna.reid@accc.gov.au](mailto:morna.reid@accc.gov.au), or Gary Dobinson, on 03 9290 1884 or by email at [gary.dobinson@accc.gov.au](mailto:gary.dobinson@accc.gov.au).

Yours sincerely



Margaret Arblaster  
General Manager  
Transport and Prices Oversight

## **Evaluation of the consumer awareness initiative on petrol price cycles on the ACCC website**

Please answer the questions below.

*If you cannot answer a question, or do not wish to answer a question, could you please indicate the reason why (for example, data not available).*

*For each answer you provide, could you please indicate the basis for your answer (eg; survey results, market analysis, anecdotal evidence, opinion, etc.).*

1. Has the consumer awareness initiative raised consumers' understanding of the nature of petrol price cycles?
2. Are consumers now more accepting of petrol price fluctuations than they were prior to the consumer awareness initiative?
3. Are consumers utilising the information available from the consumer awareness initiative to help them determine the timing of their petrol purchases to take advantage of the petrol price cycle?
4. Have consumers changed the timing of their petrol purchasing decisions?
5. How do you rate the quality of information provided in the consumer awareness initiative?
6. What other sources of information about petrol price cycles on the internet are you aware of, and how does the ACCC' consumer awareness initiative compare with (or complement) them?
7. Do you have any information regarding how consumers rate the quality of information provided in the consumer awareness initiative?
8. Do you have any comments on the current presentation of the consumer awareness initiative?
9. Has the petrol price cycle changed since the commencement of the consumer awareness initiative? If so, how?
10. If you have seen a change in the petrol price cycle, to what extent could this be attributed to the consumer awareness initiative?
11. Are there any further comments in relation to the consumer awareness initiative, petrol price cycles and consumers' understanding of them that you wish to add?

**From:** Jack Haley [mailto:Jack.Haley@mynrma.com.au]  
**Sent:** Tuesday, 9 November 2004 8:09 AM  
**To:** Merifield, Bretta  
**Cc:** Dale Hepworth; Camille Dagher; Peter Steele; Hilary Wise  
**Subject:** TRIM:Evaluation of the consumer awareness initiative on petrol price cycles on the ACCC website

Dear Ms Merifield

Please find below NRMA Motoring and Services' comments in red on the above subject. If you need more information please contact me per the details below.

Yours sincerely

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Appendix A

## **Evaluation of the consumer awareness initiative on petrol price cycles on the ACCC website**

1. Has the consumer awareness initiative raised consumers' understanding of the nature of petrol price cycles?

A Several activities, including NRMA's own work in the media, have contributed to consumers' understanding. The ACCC website would have contributed but NRMA has no way of evaluation how much.

2. Are consumers now more accepting of petrol price fluctuations than they were prior to the consumer awareness initiative?

A NRMA believes this is the case, based on the reduction in the number of letters received in this regard. Equally this could be because consumers have been distracted by high fuel prices.

3. Are consumers utilising the information available from the consumer awareness initiative to help them determine the timing of their petrol purchases to take advantage of the petrol price cycle?

A NRMA has no data on this issue.

4. Have consumers changed the timing of their petrol purchasing decisions?

A Again, NRMA has no data.

5. How do you rate the quality of information provided in the consumer awareness initiative?

A NRMA believes it is a useful site for consumers but could be enhanced with other data.

6. What other sources of information about petrol price cycles on the internet are you aware of, and how does the ACCC' consumer awareness initiative compare with (or complement) them?

A Motormouth produces prices for capital cities on a daily basis and Fueltrac provides prices for country towns and cities a month in arrears. The AIP's site has useful background on the industry, on supply and on national terminal and retail pricing a week in arrears.

7. Do you have any information regarding how consumers rate the quality of information provided in the consumer awareness initiative?

A NRMA has no data on this.

8. Do you have any comments on the current presentation of the consumer awareness initiative?

A The current presentation is a useful adjunct to other fuel pricing information sites.

9. Has the petrol price cycle changed since the commencement of the consumer awareness initiative? If so, how?

A NRMA is not aware of any major differences in petrol price cycles. Periodically the cycle gets "out of synch" so the minimum price is on a different day of the week to the usual one in Sydney, but there is no explanation for this that NRMA is aware of.

10. If you have seen a change in the petrol price cycle, to what extent could this be attributed to the consumer awareness initiative?

A As noted above, the ACCC site would have added to consumers' knowledge of the price cycles but NRMA has no data on how much this would be..

11. Are there any further comments in relation to the consumer awareness initiative, petrol price cycles and consumers' understanding of them that you wish to add?

A Nothing in addition to the above.

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