



Department of Consumer
and Employment Protection
Government of Western Australia

Consumer Protection Division

Submission

**to the Senate Inquiry into the
Proposed National FuelWatch Scheme**

July 2008

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Submission to the Senate Inquiry into the National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008

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Contents

1.	Introduction	5
1.1	Purpose of FuelWatch	5
1.2	Fuel Price Monitoring.....	5
2.	Issues.....	7
2.1	The impact of the proposed Fuelwatch scheme on the price consumers will pay for motor fuel (including unleaded petrol, diesel and LPG) in metropolitan areas, regional centres and rural Australia.....	7
2.2	The economic benefits and costs of the proposed Fuelwatch scheme to consumers in metropolitan areas, regional centres and rural Australia.....	10
2.3	Other economic costs of the proposed Fuelwatch scheme, including the compliance costs of the scheme for industry, particularly independent retailers.....	11
2.4	The impact of the proposed Fuelwatch scheme on competition between motor fuel retailers and the operation and viability of independent motor fuel retailers	12
2.5	Intraday price volatility in the retail market, established price cycles in each state and territory, and consumer awareness of price cycles	15
2.6	The impact of FuelWatch on discounting, as well as the amplitude and duration of price cycles, including any penalties that will apply to motor fuel retailers for not fixing prices for 24 hour periods.....	16
2.7	The potential use under the Fuelwatch scheme of sophisticated pricing strategies by motor fuel retailers who have more than one retail outlet, and how they may take advantage of the 24-hour rule	18
3.	Conclusion	19

List of Tables

Table 1:	Average of daily fuel price difference between the highest- and lowest-priced sites in the Perth metropolitan area (cents per litre).....	7
Table 2:	Average of daily fuel price difference between the highest- and lowest-priced sites in regional centres (cents per litre).....	9
Table 3:	Maximum number of retail fuel outlets within the FuelWatch boundaries by year from 2001 to 2008	12
Table 4:	Changes in proportion of categories of retailers (within FuelWatch boundaries).....	13
Table 5:	Average annual price for ULP in the Perth metropolitan area by category of retailer (cents per litre).....	14
Table 6:	Average length of ULP price cycles for Australian capital cities from 2003 to 2008 (days).....	16
Table 7:	Average range of ULP price cycles for Australian capital cities from 2003 to 2008 (cents per litre).....	17

Appendices

Appendix A

Examples of Emails.....	20
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Appendix B

Figure 1: FuelWatch investigation outcomes for 2001 to 2008 YTD.....	21
Figure 2: Price cycles in Perth and other Australian capital cities from 1 July 2007 to 30 June 2008	22
Figure 3: Average daily metropolitan LPG prices for BP, Caltex Woolworths and Gull from 1 March 2008 to 30 June 2008.	23
Figure 4: Comparison of average daily LPG prices for Perth and other Australian capital cities from 1 July 2007 to 30 June 2008.....	24

List of Acronyms

ACCC	Australian Competition and Consumer Commission
cpl	cents per litre
DOCEP	Department of Consumer and Employment Protection
LPG	liquefied petroleum gas
PPP Act	<i>Petroleum Products Pricing Act 1983 (WA)</i>
PULP	premium unleaded petrol
TGP	Terminal Gate Price
TGP Order	<i>Petroleum Products Pricing (Maximum Terminal Gate Price) Order 2002 (WA)</i>
ULP	unleaded petrol
YTD	year to date

The Western Australia Department of Consumer and Employment Protection (DOCEP) is pleased to make a submission to the Senate Inquiry into the National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008. We have reviewed the issues raised by the Senate Standing Committee on Economics, and have structured our submission so as to respond to the issues that are relevant to DOCEP.

1. Introduction

Following the recommendations of a Parliamentary Select Committee¹ report, the *Petroleum Products Pricing Act 1983 (WA)* (the PPP Act) was amended in December 2000, to extend the Western Australian Government's price monitoring and control powers in relation to wholesale and retail fuel prices. The PPP Act empowers the Prices Commissioner to monitor and regulate fuel prices to prevent excessive prices being charged for the wholesale and retail sale of petroleum products and for the supply of petroleum services in Western Australia.

In addition, a wholesale monitoring system was established for unleaded petrol, premium unleaded petrol, lead replacement petrol and diesel. The monitoring system was established on 19 December 2002 by the *Petroleum Products Pricing (Maximum Terminal Gate Price) Order 2002 (WA)* (the TGP Order).

As a vehicle for administering the PPP Act, the Western Australian Government established a comprehensive fuel price monitoring service in January 2001 known as "FuelWatch".

1.1 Purpose of FuelWatch

The purpose of the FuelWatch program is to represent the interests of consumers by providing price transparency and certainty at the wholesale and retail levels of the Western Australian fuel market. FuelWatch enables motorists to make informed decisions about their fuel purchases, which puts downward competitive pressure on fuel prices.

1.2 Fuel Price Monitoring

The FuelWatch database is used to store information about daily retail fuel prices and terminal gate prices that are notified to the Prices Commissioner. The PPP Act requires fuel retailers within the FuelWatch boundaries to notify the Prices Commissioner about their prices for the next day by 2pm. Prices for unleaded petrol (ULP), premium unleaded petrol (PULP), diesel, liquefied petroleum gas (LPG), RON 98 and biodiesel

¹ Select Committee on Pricing of Petroleum Products *Getting a Fair Deal for Western Australian Motorists* Report 12 October 2000.

blends must be provided to the Commissioner and are recorded in the FuelWatch system.

Through the FuelWatch website (<http://www.fuelwatch.wa.gov.au>), an automated telephone system and a free personalised e-mail service, motorists are able to obtain information about the cheapest fuel in their area. Consumers and other interested parties can access the FuelWatch website and automated telephone system 24 hours a day, 7 days a week, with tomorrow's fuel prices available from 2.30pm daily.

Data about relevant international benchmark prices is obtained from external sources each day and used in the course of monitoring prices. These data also are made available on the FuelWatch website.

As well as monitoring daily wholesale and retail fuel prices, FuelWatch compares:

- terminal gate prices notified by the oil companies with the relevant international fuel benchmark price movements; and
- average retail petrol prices for the major fuel retail companies operating in Perth with terminal gate prices.

This information has been produced on a monthly basis since January 2003, after the introduction of the Terminal Gate Pricing arrangements.

The FuelWatch system is unique. It provides a complete daily census of retail fuel prices in Western Australia within the FuelWatch boundaries, which cover 80% of the State (including 100 per cent of metropolitan Perth's petrol retailers which at 30 June 2008 numbers 303). The data used in this Submission largely are drawn from the FuelWatch database, and provides the most comprehensive picture of retail fuel prices available in any Australian marketplace.

2. Issues

DOCEP's response to the issues raised by the Senate Standing Committee of Economics are structured as below.

2.1 The impact of the proposed Fuelwatch scheme on the price consumers will pay for motor fuel (including unleaded petrol, diesel and LPG) in metropolitan areas, regional centres and rural Australia

By providing price transparency and price certainty, FuelWatch enables consumers to identify the cheapest fuel in their area. Because prices vary widely from site to site, the potential savings can be significant.

Table 1 shows the average annual differences between the highest and lowest prices in the Perth metropolitan area for ULP, diesel and LPG.

Table 1: Average of daily fuel price difference between the highest- and lowest-priced sites* in the Perth metropolitan area (cents per litre)

	ULP	Diesel	LPG
2001	11.3	12.3	8.3
2002	11.6	13.2	10.3
2003	11.2	13.1	13.9
2004	11.4	10.1	11.0
2005	12.0	10.7	10.6
2006	12.5	14.4	10.6
2007	15.2	14.3	15.3
2008 (YTD)	13.3	13.7	14.8

* Excludes smaller independent retail sites.

Note: The inclusion of smaller independent retail sites would make the differences larger.

The price of ULP and the price of LPG in the metropolitan area are subject to price cycles. However, there has been no regular price cycle for ULP since May 2008. Because of this, the difference between the highest and lowest prices (and hence the potential saving) is greatest at the beginning of the cycle when the price leader has increased prices but the rest of the market has not followed. The FuelWatch system issues price hike alerts at the beginning of each cycle, thus enabling consumers to time their fuel purchases to maximise savings. In 2007, the average difference between

the highest and lowest ULP prices in the metropolitan area at the beginning of the price cycle was 16.8 cents per litre.

Generally, the difference between the highest- and lowest-priced sites in regional centres is less than the difference for metropolitan sites. However, significant differences are still observed, indicating that regional consumers are able to make savings by shopping around for the cheapest fuel.

Table 2 shows the average annual differences between the highest and lowest prices in major regional centres for ULP, diesel and LPG.

Table 2: Average of daily fuel price difference between the highest- and lowest-priced sites in regional centres (cents per litre)

	2001	2002	2003	2004	2005	2006	2007	2008 (YTD)
Albany								
ULP	7.6	10.3	8.5	11.2	13.2	13.6	15.0	15.8
Diesel	6.3	11.6	8.2	10.5	11.4	11.4	11.3	13.3
LPG	4.3	1.4	1.0	2.3	1.8	1.7	2.7	1.6
Bunbury								
ULP	6.9	6.7	7.3	3.9	4.6	7.9	4.3	3.5
Diesel	9.4	9.4	10.6	6.8	6.1	5.9	3.7	3.1
LPG	2.8	1.1	1.5	3.1	2.7	2.6	4.0	3.6
Geraldton/Greenough								
ULP	6.5	5.1	7.5	6.4	10.5	8.2	18.4	12.6
Diesel	6.5	6.2	6.6	6.1	9.2	9.8	11.3	13.6
LPG	4.1	4.4	9.4	10.3	7.1	5.2	7.9	4.4
Kalgoorlie/Boulder								
ULP	8.2	6.6	7.1	10.4	10.1	7.1	10.3	8.1
Diesel	6.9	5.4	5.2	7.4	8.9	5.1	7.7	4.7
LPG	8.5	8.6	4.6	4.8	3.7	2.6	1.2	1.1
Karratha								
ULP	17.7	4.9	5.2	2.8	4.4	6.4	1.6	2.2
Diesel	11.8	4.4	4.0	2.8	3.9	4.8	1.3	1.5
LPG	5.4	6.1	5.6	6.9	5.0	5.3	2.8	4.6
Port/South Hedland								
ULP	6.6	3.0	2.8	2.7	4.1	4.5	4.9	4.1
Diesel	9.1	5.7	3.3	3.4	4.6	3.8	4.3	4.8
LPG	7.3	6.2	6.0	5.6	3.4	3.6	3.3	3.5

2.2 The economic benefits and costs of the proposed Fuelwatch scheme to consumers in metropolitan areas, regional centres and rural Australia

The FuelWatch system, which requires fuel retailers to notify price information for the next day by 2pm on any day and to maintain the same price for a 24-hour period, provides price transparency and certainty to consumers. As such, it empowers consumers by transferring the risk of fuel pricing from consumers to retailers.

The public availability of the following day's price (on the FuelWatch website and an automated telephone service after 2.30pm each day) has increased price transparency for motorists in Western Australia since the introduction of FuelWatch in 2001. Daily FuelWatch price information is also disseminated to the public through the evening news on Channel 7 and *The West Australian*. Through FuelWatch, consumers are able to more easily make informed decisions about their fuel purchases by identifying where to buy the cheapest fuel. The absence of intra-day fluctuation in fuel prices provides motorists a window to purchase at a particular price for 24 hours, thus reducing consumer search costs and eliminates confusion for consumers.

The inability of retailers to make intra-day price changes on any single day prompts retailers to carefully set their prices. They are made aware that by setting their prices wrongly, they are faced with the risk of being left out in the market by price-sensitive consumers for 24 hours. As such, the risk of notifying wrong fuel prices is on retailers and not consumers.

As discussed in section 3.1, the average daily difference between the highest- and lowest-priced ULP in the Perth metropolitan area at the beginning of a price cycle in 2007 was 16.8 cents per litre. Therefore, FuelWatch offers consumers, who use the system, the ability to make fuel purchases at the retail sites that sell the cheapest fuel on any single day, thus contributing to the potential savings they would otherwise not have.

Appendix A provides complimentary emails from consumers who use the pricing information provided by FuelWatch.

There are no direct costs to consumers.

2.3 Other economic costs of the proposed Fuelwatch scheme, including the compliance costs of the scheme for industry, particularly independent retailers

Under the FuelWatch system, retailers are required to submit their prices for the following day by 2 pm daily. This has a resource implication for retailers. However, FuelWatch does not have data on the compliance costs for retailers and, therefore, is not in a position to provide a quantitative response. The best anecdotal information we have suggests that the costs of complying with price notification are thought to be minimal. Retailers notify their prices to FuelWatch via email, web upload and phone.

In its submission to the 2007 ACCC Inquiry into the price of unleaded petrol in Australia, BP Australia stated that differing State legislation resulted in increased operational and compliance costs for national retailers.

The costs of complying with the requirements of FuelWatch will be partially offset by retailers no longer having to continuously monitor their competitors' prices. For independent retailers, the FuelWatch system provides an efficient means of monitoring market conditions that was previously only available to the majors and supermarkets via the service provided by Informed Sources. Anecdotally, FuelWatch is aware that pricing managers of some independent sites use FuelWatch data to determine pricing strategies.

Under FuelWatch regulations, retailers do face penalties for non-compliance. The penalties for infringements range from \$1,000 to \$4,000. For prosecutions, the maximum penalties range up to \$20,000 for individuals and \$100,000 for corporations.

Generally, levels of compliance are high. Figure 1 in Appendix B shows the outcomes of investigations into complaints of non-compliance. Most infringements have resulted in non-financial penalties. Since 2001, the total value of financial penalties imposed on retailers for infringements is \$35,200. There have also been two prosecutions, with a total penalty value (including costs) of \$26,343.50. During this period, more than 6 million price reports were made to FuelWatch.

Taking legal action is a measure of last resort and DOCEP works with retailers to ensure that they understand their legal obligations. However, after unsuccessful attempts to resolve issues legal action may be considered.

2.4 The impact of the proposed Fuelwatch scheme on competition between motor fuel retailers and the operation and viability of independent motor fuel retailers

There is evidence that the introduction of the FuelWatch scheme has increased the level of retail competition in the Perth metropolitan market. The ACCC Inquiry into the price of unleaded petrol in Australia found evidence that the introduction of the FuelWatch scheme was associated with a decrease in retail margins.

At the ACCC petrol price inquiry hearing in Sydney on 3 September 2007, Mr Avi Silver, the managing director of United Petroleum, indicated the Perth retail market was more competitive than other markets.

Analysis of market structure since FuelWatch was introduced in 2001, indicates that although the total number of retail sites within the FuelWatch boundary has been decreasing, the proportion of independently controlled outlets (independent, branded independent and independent chain) has remained relatively constant.

Table 3 shows the number of sites within the FuelWatch boundary since 2001. The table shows the number of sites in the Perth metropolitan area has been decreasing at a relatively constant rate. The total number of sites in the metropolitan area has decreased by 23 percent since 2001. The number of non-metro sites increased in 2003 with the expansion of the FuelWatch boundary. Since 2003, the number of non-metropolitan has decreased by 12 percent.

Table 3: Maximum number of retail fuel outlets within the FuelWatch boundaries by year from 2001 to 2008

	2001	2002	2003 ^(a)	2004	2005	2006 ^(b)	2007	2008
Metro sites	391	373	365	348	337	324	307	303
Non-metro sites	213	213	316	312	302	298	285	277

^(a) The FuelWatch boundaries were expanded in 2003 to include more regional areas.

^(b) Three outlets from Southern Cross were removed from the FuelWatch boundary in 2006.

Table 4: Changes in proportion of categories of retailers (within FuelWatch boundaries)

	March 2001 (%)	June 2008 (%)	Change (ppt)
Branded Independents	34	35	1
Company Controlled/Price Supported	42	18	-24
Distributor Controlled	8	8	0
Independent	2	6	4
Independent Chain	13	13	0
Supermarket	2	20	18

Notes:

- *Branded Independent*: A service station owned by an independent operator, but having the branding of an oil company or independent chain. This type of site makes up a majority of regional sites.
- *Company Controlled/Price Supported*: A service station whose price is set directly or indirectly (i.e. via a price support mechanism) by an oil company. These sites are either operated directly by the oil company, or operated on their behalf by a multi-site franchisee. This type of site is very common in the metropolitan Perth area, but only a handful exist in regional areas.
- *Distributor Controlled*: These are sites owned and operated by a distributor. These are more common in regional areas than in the metropolitan area. The number of distributor-controlled sites in Western Australia includes unmanned sites (which require a motorist to pay via credit card or EFTPOS).
- *Independent*: These are sites that have no branding, and are owned by an independent operator.
- *Independent Chains*: These are sites that are owned by a large independent company. In Western Australia, these companies are Gull, Peak and United. These sites are predominantly located in the Perth metropolitan area.
- *Supermarket*: These are sites operated by a supermarket chain, such as Coles Express or Caltex/Woolworths.

Table 4 shows the changes in the WA market structure for sites included within the FuelWatch boundaries from March 2001 to June 2008.

As indicated in Table 4, most site closures since 2001 have been company controlled or price supported sites. Of the 18 percentage-point increase in supermarket sites, most of these are sites that have changed ownership from an oil company to a supermarket chain.

In June 2001, Gull and Liberty (independent chains) claimed the requirement to fix prices in advance would take away their ability to respond to the prices of the majors and would leave them at risk of being priced out of the market.

Despite this, sites controlled by independent chains have consistently been the most price competitive sector of the Perth metropolitan ULP market. This is evidence that independently controlled outlets are able to effectively compete in an environment where prices are required to be fixed in advance. See Table 5.

Table 5: Average annual price for ULP in the Perth metropolitan area by category of retailer (cents per litre)

	2004	2005	2006	2007	2008 YTD
Supermarket	96.8	109.2	123.3	124.4	142.9
Company Controlled/Price Supported	97.1	110.0	124.1	125.3	144.4
Distributor Controlled	98.3	112.4	125.7	126.8	146.1
Branded Independents	99.4	112.4	126.7	127.8	146.7
Independent	102.8	116.0	128.8	129.5	148.2
Independent Chain	95.8	109.0	123.1	123.4	142.6

2.5 Intraday price volatility in the retail market, established price cycles in each state and territory, and consumer awareness of price cycles

One of the key features of the FuelWatch system is that the Western Australian retail fuel market is free from the intraday price fluctuations that occur in other States and Territories. The system provides consumers with price certainty. Western Australia is the only State in which the Government and motorists have access to such comprehensive information about fuel prices.

The FuelWatch system has not eliminate price cycles. What has been observed is that Perth's ULP prices fluctuate less compared with the other capital cities.

Section 2.6 provides a more detailed discussion on price cycles in Perth.

In a consumer survey commissioned by the ACCC during its Inquiry into the price of unleaded petrol, it was found 81% of all surveyed motorists knew of a regular price cycle. Perth motorists, however, show a significantly lower awareness of a price cycle (61%). This may be because of the price cycles in Perth being 14 days, rather than 7 days as experienced in other capital cities.

2.6 The impact of FuelWatch on discounting, as well as the amplitude and duration of price cycles, including any penalties that will apply to motor fuel retailers for not fixing prices for 24 hour periods

As in other Australian capitals, ULP prices in the Perth metropolitan area are subject to retail price cycles. Each price cycle in Perth is nearly always instigated by BP increasing its petrol prices by up to 14 cents per litre simultaneously at a number of sites. This price hike is then followed by other fuel retailers during the next day or two.

Price cycles in Perth have been predominantly 14 days since January 2006. Between September 2005 and December 2005, no price cycle was present. Prior to 2005, price cycles in Perth were predominately 7 days. There has been no regular price cycle in Perth since May 2008.

A comparison between the lengths of Perth price cycles and those in the Eastern States capital cities is shown in Table 6.

Table 6: Average length* of ULP price cycles for Australian capital cities from 2003 to 2008 (days)

	Perth	Sydney	Melbourne	Brisbane	Adelaide
2003	8.3	6.9	8.0	7.5	8.0
2004	7.9	7.0	9.3	8.0	8.5
2005	9.6	7.4	9.4	9.9	7.0
2006	13.4	7.1	8.3	7.9	7.0
2007	14.6	7.8	7.3	7.3	7.4
2008 YTD	14.1	7.0	7.6	7.3	7.0

* Average number of days between price hikes.

Perth has a smaller range between the top and bottom of the ULP price cycle. A comparison between the price range of Perth price cycles and those in other Australian capital cities is shown in Table 7.

Table 7: Average range* of ULP price cycles for Australian capital cities from 2003 to 2008 (cents per litre)

	Perth	Sydney	Melbourne	Brisbane	Adelaide
2003	5.8	6.7	7.4	7.0	7.4
2004	3.7	5.4	6.3	5.4	6.0
2005	3.3	6.5	5.3	5.4	4.5
2006	6.4	8.6	9.2	8.2	7.9
2007	8.0	8.8	9.2	9.1	9.2
2008 YTD	7.2	9.0	8.9	8.1	8.8

* The difference between the highest price and the lowest price in the price cycle.

Figure 2 in Appendix B presents the price cycles in Perth and the other Australian capital cities from 1 July 2007 to 30 June 2008.

LPG prices in Perth are also subject to a retail price cycle patterns. Since August 2007, Caltex and Caltex Woolworths branded LPG retailers have generally followed a seven-day cycle. The rest of the market has followed a 14-day cycle lead by BP.

Figure 3 in Appendix B shows the average prices for BP, Caltex/Woolworths and Gull branded LPG retailers since 1 March 2008. This graph illustrates the different price cycle strategies adopted by LPG retailers.

Figure 4 in Appendix B compares the average daily LPG prices for Perth, Sydney, Melbourne, Brisbane and Adelaide from 1 July 2007 to 30 June 2008. The graph shows that, currently, the LPG price cycle is unique to Perth and that LPG prices in Perth are more volatile than in other capital cities (this contrasts with ULP where Perth prices tend to be less volatile).

Perth diesel prices do not follow a price cycle.

Price cycles are not present in regional areas.

The penalties for non-compliance with FuelWatch regulations are discussed in section 2.3.

2.7 The potential use under the Fuelwatch scheme of sophisticated pricing strategies by motor fuel retailers who have more than one retail outlet, and how they may take advantage of the 24-hour rule

Under the Western Australian FuelWatch system, retailers are free to set the price they will charge for fuel.

Some retailers, notably the supermarket chains, appear to have a strategy of ensuring they have a site with the cheapest unleaded petrol in each of the three Perth metropolitan areas. This ensures the retailer gains positive publicity on the FuelWatch website and in media reports on fuel prices, despite the cheaper price not replicated at the retailer's other sites. This practice appears analogous to supermarket chains publishing 'specials' for particular grocery items.

Using the FuelWatch system, consumers can more easily identify these sites and take advantage of the lower prices, which are often 10 cents per litre cheaper.

3. Conclusion

The introduction of the FuelWatch system in 2001 has provided consumers in Western Australia with fuel price transparency and certainty. Consumers, through the availability of daily price information, are able to make informed decisions about their fuel purchases.

As a result of the 24-hour rule, retailers have to carefully set their prices so as not to face the risk of being left out in the market by price-sensitive consumers for 24 hours if prices are set wrongly. As such, FuelWatch empowers consumers by transferring the risk of fuel pricing from consumers to retailers.

FuelWatch, which provides a complete daily census of retail fuel prices, presents the most comprehensive picture of retail fuel prices available in any Australian marketplace.

Recent high unleaded petrol prices appear to have contributed to the increased number of visitors to the FuelWatch website. During May 2008, there was a record 291,767 visits to the website, almost 40,000 more compared to the previous month. The number of email subscribers to the FuelWatch service also reached a new high of 37,490 in May 2008.

Appendix A

Examples of Emails

EMAIL 1

"I had never looked at the Fuelwatch website until this morning. I heard about a price hike on the radio, and I was literally running on empty. When I checked the site, I was able to head to a nearby service station and fill up, saving almost \$10 over what I would have spent had I waited, or not been able to find a station that had not raised its prices yet! For a single mother on a budget, that's the equivalent of a meal. Thank you."

EMAIL 2

"Dear Fuel Watch,

Thanks for the letter – I hadn't really expected to get an answer, let alone such a good one explaining everything. We really appreciate Fuel Watch rushed out last night to fill up prior to the ten cent increase today."

EMAIL 3

"thank you a big bunch, I really do appreciate all your assistance. Good customer service is very hard to find, so good on you. Your service has been fantastic and I wish you all the very best"

EMAIL 4

"Thank you so much for this great service. We are so lucky here in WA. I have family in Melbourne who don't know from one day to the next how much the prices of fuel will be."

EMAIL 5

"In spite of negative media comments, I believe the FuelWatch service is invaluable! With a little forward planning I refuel at my "best-available", tying in with either my work or trekking around the metro area for our kids sports. That always gets me fuel in the lower quartile of pricing."

Figure 1: FuelWatch investigation outcomes for 2001 to 2008 YTD

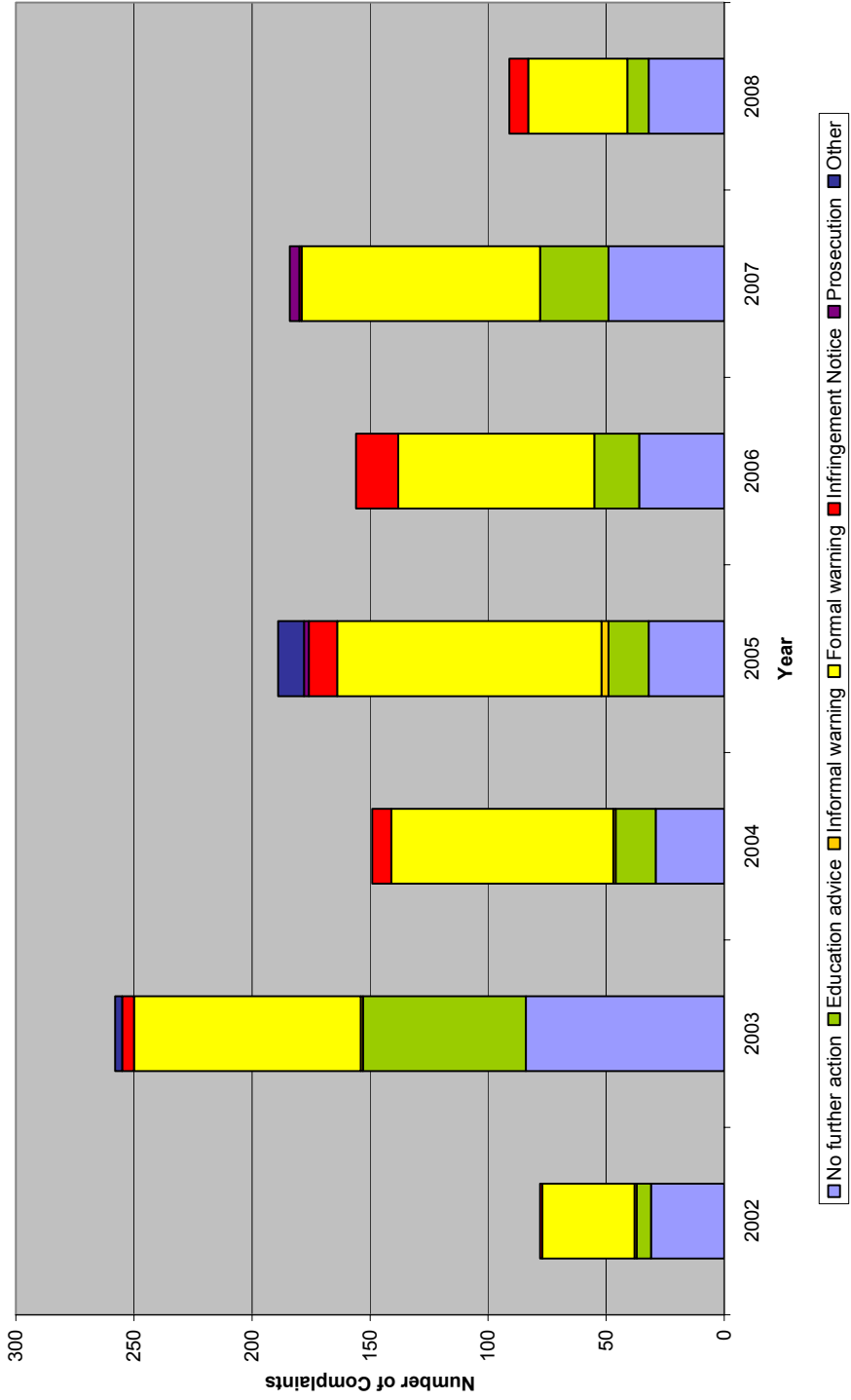


Figure 2: Price cycles in Perth and other Australian capital cities from 1 July 2007 to 30 June 2008

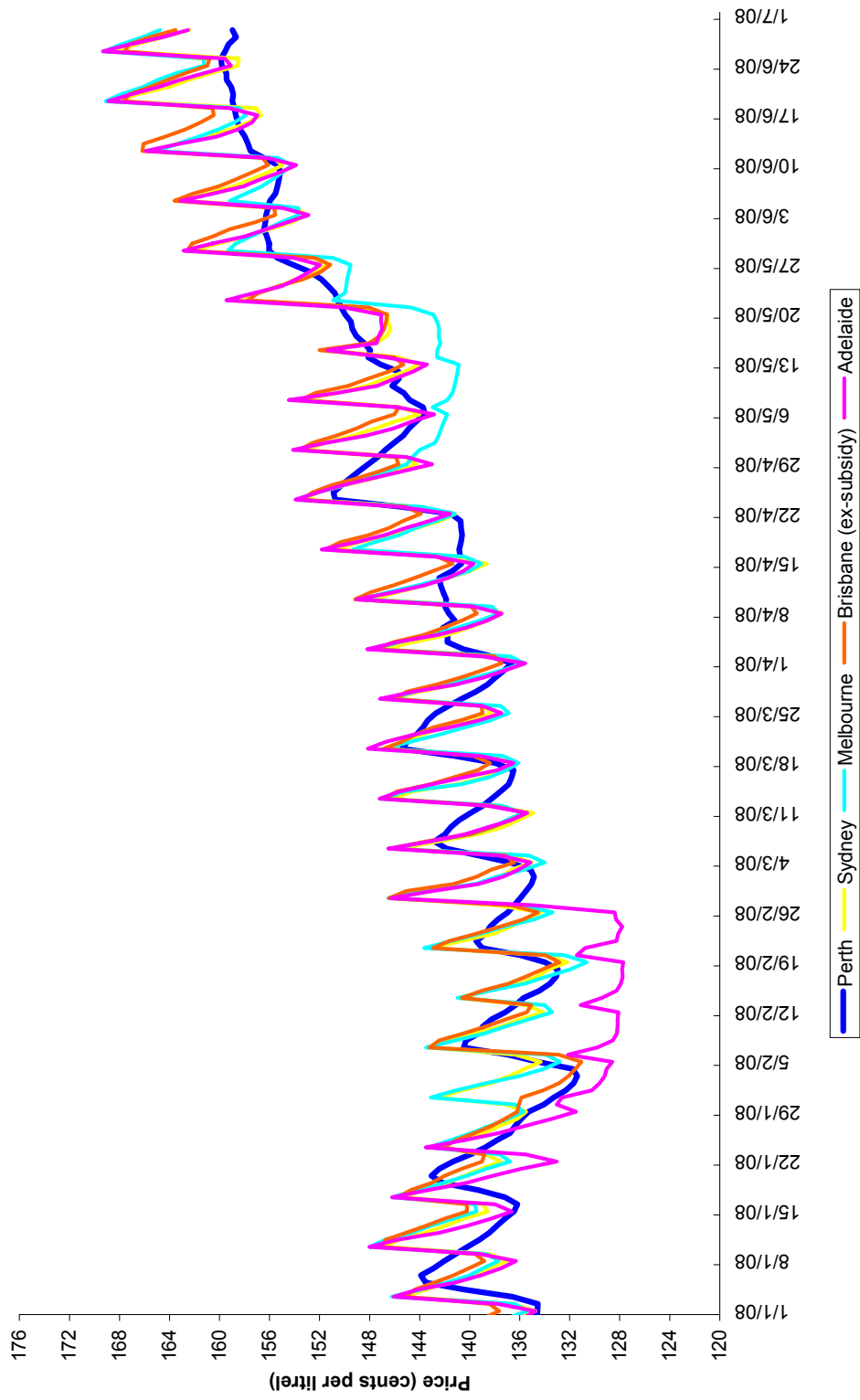


Figure 3: Average daily metropolitan LPG prices for BP, Caltex Woolworths and Gull from 1 March 2008 to 30 June 2008.

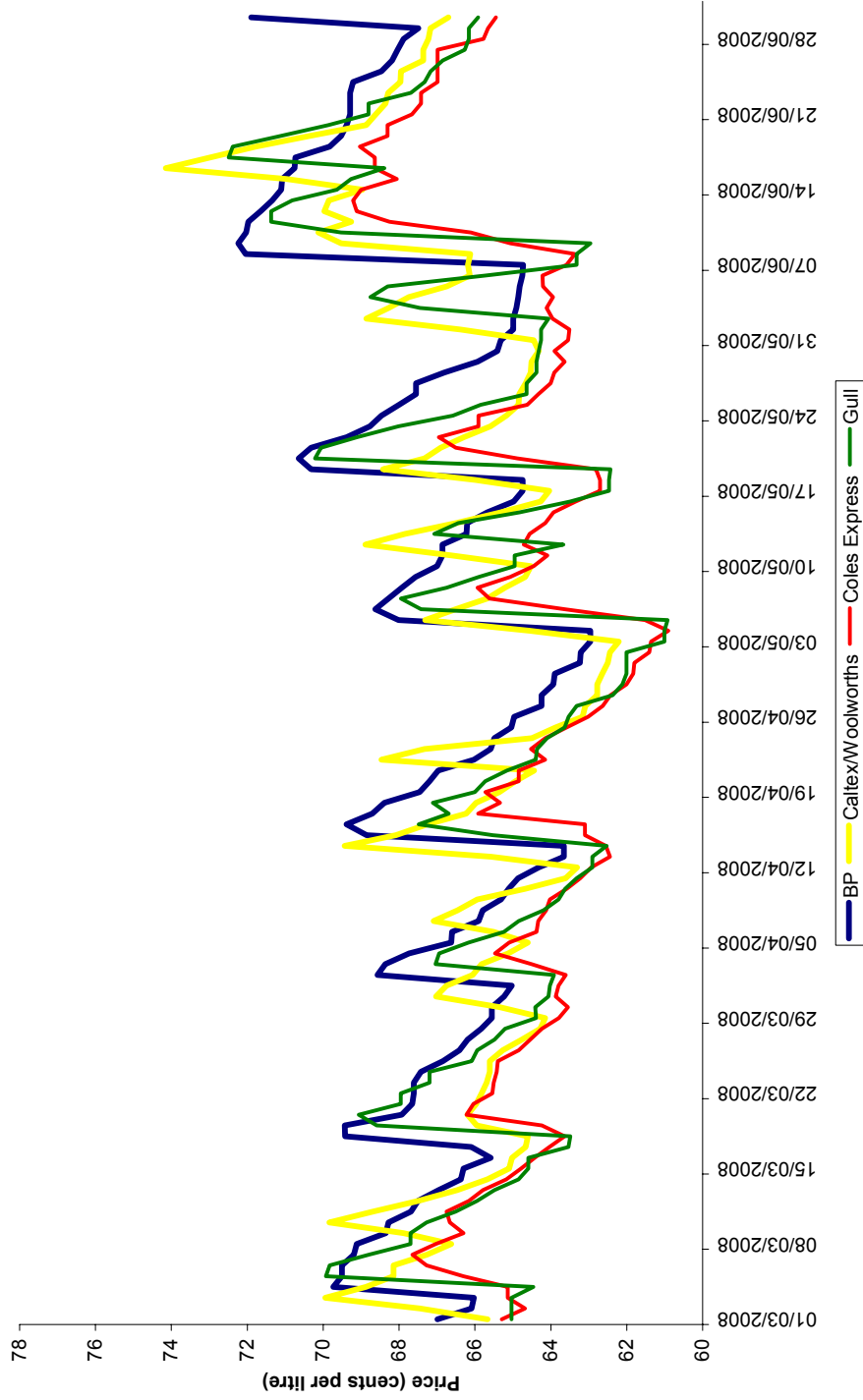
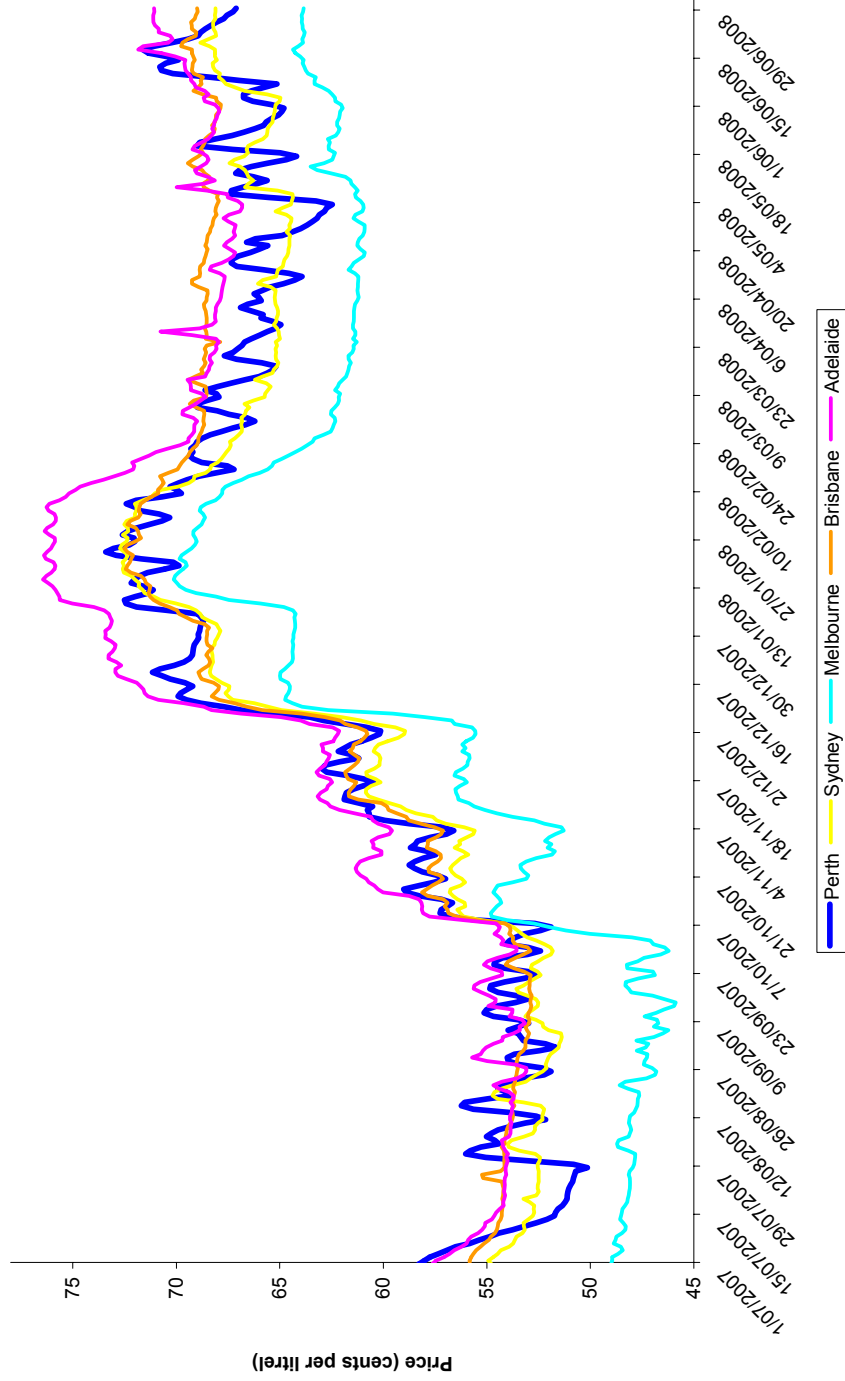


Figure 4: Comparison of average daily LPG prices for Perth and other Australian capital cities from 1 July 2007 to 30 June 2008.



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