

Submission to the Senate Inquiry into  
the National FuelWatch (Empowering Consumers) Bill

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## Summary

The proposed national FuelWatch scheme should not be enacted into law. The scheme itself has no demonstrated benefit to Western Australian consumers and would constitute a reduction in competition in the retail petrol market. The ACCC analysis is fatally flawed, and the ACCC itself has refused to allow its analysis to be independently scrutinised. The only other body that has access to the ACCC data – the Australian Treasury – has recommended against a national FuelWatch scheme. The evidence that is publicly available suggests that greater competition in the WA fuel market lead to improved prices, not the decreased competition that followed the introduction of FuelWatch.

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## About the Author

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He has been a prominent critic of the FuelWatch scheme, and has had the following op-ed articles and an IPA Occasional Paper published, all highly critical of the proposal:

“This might be the wrong way to get petrol prices right” *Weekend Australian Financial Review* 1-2 March 2008.

“Rudd as tricky as the price of petrol” *The Age* 30 May 2008.

“A critique of the ACCC analysis of the FuelWatch scheme” *IPA Occasional Paper* 30 May 2008.

“Petrol pricing by shifting the focus to loyalty schemes” *The Australian* 20 June 2008.



## Introduction

“The Australian people are being enticed towards a Fuelwatch scheme because you have told them it will bring down the price of petrol. You base that on the premise of an econometric model. The model was devised, tabulated and constructed in your office and nobody but the people inside your office have had anything to do with it.” Senator Barnaby Joyce, Senate Estimates, Thursday 5 June 2008.

This submission shows that the proposed national FuelWatch scheme has not been adequately analysed by the Australian Competition and Consumer Commission (ACCC). The modelling that has been undertaken is sub-standard and incomplete. The ACCC has proposed a scheme to fix prices, retard competition and thereby harm consumers on the basis of analysis and information that either does not exist or is not in the public domain. The ACCC motives for doing so are entirely unclear – this is especially troubling as the ACCC has reversed its long-standing position that the Western Australian FuelWatch scheme was not worth extending to other parts of Australia. When challenged on this point, all Graeme Samuel could do was quote John Maynard Keynes; “When I find evidence that I was wrong, I change my mind. What would you do?” (Senate estimates 5 June 2008, pg. E57). At the very least, Mr Samuel should produce that evidence.

The FuelWatch scheme was introduced in Western Australia in January 2001. The purpose of the scheme is to provide certainty to consumers as to petrol prices for a fixed period of time. In practice, service stations are required to notify FuelWatch of their prices for the next day. On the following day, beginning at 6am the service station prices are fixed for 24 hours.

In December 2007, the ACCC released its report into petrol pricing in Australia. In that report the ACCC expressed some concern about transparency in petrol retail markets and also canvassed some policy solutions. It is worth highlighting three statements the ACCC made in regard to retail petrol sales:

- (1) “There is a significant degree of price competition at the retail level.” (ACCC 2007 pg. 15)
- (2) “There are a range of explanations for price cycles. Many of these are consistent with competitive market behaviour and the existence of price cycles does not provide any evidence of a lack of retail competition. It is clear, however, that compared to international experience, Australia’s price cycles appear distinctive.” (ACCC 2007 pg. 16)
- (3) “In the end, the ACCC decided that in the time available it was not possible to fully review all the options with regard to their administrative implications, effects on competition or their likelihood of delivering the objective of increased price transparency. A detailed assessment addressing these issues would have to be made before government could confidently embark on any one of the suggested options.” (ACCC 2007 pg. 18).

These three points cannot be over-emphasised. First the ACCC believes that the retail petrol market is competitive despite price cycles (which may themselves be consistent with competitive market behaviour) and then the ACCC did not undertake an exhaustive analysis of all the options that may address issues related to price transparency.

The ACCC report included an Appendix (Appendix S) that contained an econometric analysis of the FuelWatch scheme. Senator Barnaby Joyce made the point at Senate estimates that, “The whole premise of FuelWatch is based on this econometric analysis. That is why it is the crux of our questioning.” In agreement, the ACCC’s Brian Cassidy said “Yes” (Senate Estimates 5 June 2008 pg. E42). That econometric analysis has been widely cited as demonstrating that the FuelWatch scheme has led to lower prices in Western Australia. The ACCC itself said, “Analysis of pricing results in Perth indicates that there has been some reduction in average price margins relative to the eastern capitals in the time following the introduction of FuelWatch” (ACCC 2007 pg. 257). Furthermore, the Minister for Competition Policy and Consumer Affairs, Chris Bowen, told the Parliament on 28 May 2008, “the government has had the benefit of working through the ACCC’s report with them over several months and working through the implications. The ACCC recommended that more work be done on FuelWatch. I understand that the government had had the benefit of that analysis and that process and that the opposition has not. ... [T]he chairman of the ACCC is more than happy to work them through the analysis that the ACCC has done, work them through the econometric analysis and work them through



the proposals. If members seriously want to deal with petrol prices and they seriously want to hear about the rigorous analysis that the ACCC has done they will take up that offer..." (Hansard 28 May 2008 pg. 52).

It is quite clear from what the Minister is indicating that the econometric modelling was an important component of the analysis and that the ACCC had undertaken additional analysis of the national FuelWatch proposal. Indeed, on 29 May 2008, the ACCC released a document that purported to provide details of "further FuelWatch econometric analysis". That document is quite remarkable in that it purports to report the results of an econometric testing procedure, but does not name the actual procedure being performed, nor does it report any of the diagnostic statistics such as standard errors or p-values that one might expect in any econometric analysis. The ACCC allegedly undertook an analysis "known as endogenous selection of structural break points" (ACCC 2008 pg. 3). This analysis apparently identified a number of dates of interest (March 2000, May 2000, February 2004, and September 2005). To place those dates in context, FuelWatch began in Western Australia in January 2001, and Coles entered into the Western Australian market in March 2004. This later ACCC document also moved the policy goalposts by claiming that "there is no evidence that the introduction of Fuelwatch in Western Australia led to any increase in prices and it appears to have resulted in a small price decrease overall" (ACCC 2008 pg 4). The claim being made about FuelWatch was that it would reduce petrol prices, not increase them. When asked about this analysis at the Senate estimates committee one week later, the ACCC did not say which econometric test had actually been performed, but did reveal that all structural breaks were significant at the five percent level.



It seems quite clear that the federal government relied on the ACCC when making the decision to implement a national FuelWatch scheme and, in particular, relied on the fact that the ACCC had undertaken a rigorous econometric analysis. In fact, the ACCC has done no such thing. The econometric analysis in Appendix S does not stand up to any scrutiny. When this had become clear, the ACCC then shifted the policy goalposts to argue that saving a few cents per litre was not the objective of the policy at all. Rather, the FuelWatch scheme would empower consumers. When challenged on this point by Senator Helen Coonan as to whether any economic modelling had been done on the notion of consumer empowerment, Graeme Samuel answered "No" (Senate Estimates 5 June 2008 pg. E65). In short, the only empirical evidence the ACCC have to support their recommendation to implement a national FuelWatch scheme is located in Appendix S.

Finally, it is clear that the ACCC recommended the implementation of FuelWatch. At the Senate estimates, Graeme Samuel made the comment, "If the commissioners that sat on that inquiry had found through that econometric modelling that Perth motorists had suffered harm as a result of the introduction of FuelWatch, *we would never have recommended it to the Australian government in our report*" (Senate Estimates 5 June 2008 pg. E16 emphasis added). The difficulty, of course, is that nowhere in the 2007 report did the ACCC recommend a national FuelWatch scheme. Fortunately, Chris Bowen corroborates Graeme Samuel's testimony in a recent *Sydney Morning Herald* article, "the Australian Competition and Consumer Commission chairman, Graeme Samuel, told me that the consumer commission would recommend that serious consideration be given to a national roll-out of the West Australian Fuelwatch scheme" (SMH 4 June 2008). What is not clear is when and why the ACCC recommended a national FuelWatch scheme. As Senator Helen Coonan indicated, "That is a real issue here. And what we are really troubled by as a committee, and no doubt we speak on behalf of a lot of people, is how this very expensive scheme—the best that can be said about it is that it will do no harm, but probably it will not do much benefit—is now foisted upon Australians against the advice of some very experienced departments and no doubt some very concerned ministers" (Senate Estimates 5 June 2008 pg. E22).

## The Original ACCC Analysis

The ACCC collected weekly, monthly and weekly minimum data for the period 1 August 1998 to 8 June 2007. They then calculated the following Price Margin measure

$$\text{Price Margin} = (\text{Retail price} - \text{lagged Mogas95 price} - \text{net taxes} - \text{fuel quality premium})_{\text{Perth}} \\ \text{less}$$

$$(\text{Retail price} - \text{lagged Mogas95 price} - \text{net taxes} - \text{fuel quality premium})_{\text{average of eastern capitals}} \quad (1)$$

The ACCC defend this measure on the basis that it removes factors that are beyond the control of FuelWatch. The lagged Mogas95 price is the base supply price of petrol and is lagged one week. It is difficult to understand why this figure has been subtracted from the retail price as it is likely to be constant across Australia. Unfortunately, the ACCC analysis gives no indication as to whether this figure does vary across the various states. Similarly, it is not clear whether the net taxes figure varies across states. The mandated fuel quality does vary across states, but the ACCC analysis gives no indication as to what those figures or variations might be. In other words, the measure of interest is not transparent. The ACCC also does not provide any summary data.

The ACCC then undertakes a “unit-root test” to ensure the measure is stationary. This is important for technical econometric reasons. The ACCC analysis then investigates whether the data exhibit a structural change after the introduction of FuelWatch. It appears that the ACCC estimated the following equation:

$$\text{Price Margin}_t = \alpha + \beta \text{FW}_t + \varepsilon_t \quad (2)$$

Where  $\alpha$  = constant representing the average Price Margin before the FuelWatch scheme was introduced,  $\beta$  = the average impact of the FuelWatch scheme,  $\text{FW}_t$  is a dummy variable = 1 after 2 January 2001 and = 0 before 2 January 2001 and  $\varepsilon_t$  = an error term.

The ACCC estimates three versions of the equation, one for each of the three time series versions of Price Margin. They report the results in their Table S2 (reproduced below).

**Table S2 Structural break test<sup>a</sup> for relative price margin, cpl, August 1998 to June 2007**

| Series          | Average (August 1998 to December 2000) | Average (January 2001 to June 2007) |
|-----------------|--|-------------------------------------|
| Weekly average  | 0.83 (0.002)                           | -1.92 (0.000)                       |
| Monthly average | 0.88 (0.001)                           | -1.86 (0.000)                       |
| Weekly minimum  | 0.30 (0.277)                           | -0.90 (0.003)                       |

<sup>a</sup> Coefficient given with p-value in brackets. Diagnostic testing indicated serial correlation so Newey West standard errors used.

Source: ACCC estimates

To understand this table, look at the “Weekly average” row. The number 0.83 indicates that there was, on average, a 0.83 cent per litre (cpl) difference between the Perth net price and the average of the eastern capitals’ net price before FuelWatch was introduced. This figure corresponds to the  $\alpha$ -term in the equation (2). The number in parenthesis (0.002) indicates that the 0.83cpl difference is statistically significantly different from zero (the way to think about the p-value is that it indicates the probability that the coefficient is zero. In other words, there is a 0.2 percent chance that the number 0.83 is really zero). The figure -1.92 represents the impact FuelWatch had on the Price Margin; this is the  $\beta$ -term in equation (2). This implies that the Perth net price fell, on average, by 1.92cpl relative to the average of the eastern capitals following the introduction of FuelWatch. The number in parenthesis (0.000) indicates that the -1.92cpl difference is statistically significantly different from zero. (In other words there is a less than 0.0 percent chance that the number -1.92 is really zero).

This analysis is consistent with the argument that the FuelWatch scheme lead to lower prices following its introduction in 2001. The ACCC does, however, discuss some important caveats to the analysis. More importantly the ACCC do not report whether they considered any other factors that could have resulted in a change in relative prices between Perth and the eastern capitals. This is a remarkable oversight. Brian

Cassidy of the ACCC indicated that the ACCC had previously believed that the entry of Coles into the WA market had had an effect, whereas FuelWatch did not (Senate Estimates 5 June 2008 pg. E6). Mr Cassidy told Senate estimates, “It is interesting that in the econometric work that was done for our report last year we did find a price effect as a result of the Coles entry, but (a) it was relatively small, and (b) it was less than the price effect of FuelWatch” (Senate Estimates 5 June 2008 pg. E7). What is especially difficult to understand is why this particular analysis was not included in Appendix S – this is the most obvious alternative explanation for what had happened in WA and was also what the ACCC had thought had happened in WA, yet they clearly did not see the need to report this analysis in Appendix S.

Informed Sources have provided me with their petrol price dataset including daily, weekly and monthly average prices for Perth, Adelaide, Melbourne, Sydney and Brisbane. This is the same data that Informed Sources had provided to the ACCC. That dataset does not include the Fuel Premia, Mogas95 prices or the net taxes used by the ACCC in their analysis. I was able to calculate a similar measure to the ACCC measure but I was not able to replicate the ACCC measure. In this sense the evidence provided to the Senate by the ACCC, and in particular Graeme Samuel, was misleading, if not false. There are two points worth making; first Graeme Samuel keeps suggesting that the data belongs solely to Informed Sources and that independent analysts could replicate the ACCC analysis if Informed Sources chose to release the data. Those suggestions are wrong. The second point relates to the misleading statements the ACCC made regarding peer review. The ACCC had no intention of allowing their analysis to be peer reviewed.



(1) Graeme Samuel; “We were asked by Informed Sources the other day *whether the data we had* could be made available. We advised Informed Sources that, of course, *it is their proprietary data*, they can make it available to whoever they want, whenever they want, in whatever form they want and the parties to whom they make that data available can then do whatever they like with it. That is not under our control. That is a matter for Informed Sources. *It is their data.*” This statement is at page E32 of the Senate Estimates transcript (emphasis is added). Informed Sources do not own the entire dataset that the ACCC use. Informed Sources only own the price series. In other words, it is not possible for Informed Sources to make the ACCC data set available to the public. This was acknowledged by Joe Dimasi (at E34); “The other adjustment we made was for fuel premiums. That is not available to people. That is also confidential data so people would need to go [to] the refineries to get that. We could not release that without the refineries’ agreement. That is their data.” In other words, Joe Dimasi indicates that the data do not all belong to Informed Sources. Yet later at page E42 of the Senate Estimates, Graeme Samuel again indicates that releasing the data set used by the ACCC is within Informed Sources power.

(2) The ACCC have worked very hard to avoid any peer review especially relating to any data release. Graeme Samuel at page E42 (emphasis added), “... I am not in a position to be able to say that we would make *our data* and *our methodology* available to anyone out in the public arena. *We are not prepared to make all this available* for any economic modeller or any economic student to simply go through and then to engage the already heavily worked staff of the ACCC in debate on these issues.” Notice that what was Informed Sources’ data is now the ACCC data. Further Joe Dimasi had said at page E 33 (emphasis added), “I might add that *a peer review would normally involve the peer getting access to the original data* and running their own tests on it. That is what a peer review would normally involve. We have provided the results for people to do that. The tests that we ran are known to other econometricians. As Treasury has also verified, they are standard. As long as the owners of the data are prepared to release it, people can go in and apply the standard tests.” The very next speaker in Hansard is Graeme Samuel saying, “If Informed Sources wants to release the data that they gave to us to anyone else—they gave it to us under subpoena—they are entirely free to do so.” Yet again Graeme Samuel suggests that the data set is Informed Sources’ data. The exchange between Senator Barnaby Joyce and Graeme Samuel is worth quoting in full (at page E42).

**Senator Joyce**—Let us cut to the chase: what you are saying is that you will not allow independent reviewing of that modelling work?

**Mr Samuel**—I would have thought that I did not say that. I said that Treasury had undertaken its own robust analysis. But if there is an economic consulting firm that wants to do its own analysis of the impact of FuelWatch in Perth then they can approach Informed Sources. Not that it is our

right to do so anyhow, but we have said to Informed Sources, ‘You are absolutely free to make whatever data you want available to whomever you want on whatever terms and conditions you want to make it, so they are entitled to do their own research and use whatever test they want to use and whatever methodology they want to use. I am sure that there are some economic consulting firms that will find someone prepared to give them a brief to do that.

I calculate a Relative Price measure where the Average of the eastern state capital average prices is subtracted from the Perth average price. In order to confirm the ACCC analysis I estimate the following equation:

$$\text{Relative Price}_t = \alpha + \beta_1 \text{FW}_t + \varepsilon_t \quad (3)$$

Where  $\text{Relative Price}_t = \text{Average Price}_{\text{Perth}} - \text{Average Price}_{\text{Eastern Capitals}}$  at time  $t$ ,  $\alpha$  = a constant representing the average Relative Price before the FuelWatch scheme was introduced,  $\beta_1$  = the average impact of the FuelWatch scheme,  $\text{FW}_t$  is a dummy variable = 1 after 2 January 2001 and = 0 before 2 January 2001, and  $\varepsilon_t$  = an error term.

The table below shows the result of this exercise.

Table One: FuelWatch structural break test for relative prices (August 1998 – June 2007). Numbers in parenthesis are p-values. Standard errors are Newey-West corrected.

|                 | Constant        | FuelWatch        | Adj-R <sup>2</sup> |
|-----------------|-----------------|------------------|--------------------|
| Weekly Average  | 3.0246 (0.0000) | -0.8529 (0.0002) | 0.0430             |
| Monthly Average | 3.0207 (0.0000) | -0.8515 (0.0077) | 0.0763             |

The results are consistent with the original ACCC analysis, but note that the estimated coefficients are very different. Before the introduction of Fuelwatch, it appears that the petrol price in Perth was about 3cpl higher than in the eastern capitals. After the introduction of Fuelwatch, it appears that petrol prices in Perth fell by 0.85 cpl relative to the eastern capitals. The point to note is that the benefit of FuelWatch is much smaller than the ACCC originally reported – instead of FuelWatch lowering prices by almost 2cpl, the reduction is less than 1cpl.

The ACCC argue that, “Of potentially greater concern is the possibility that something else entirely has driven the improvement in the relative price margin.” That is always a possibility. The ACCC, however, do not investigate the most obvious other factor – the entry of Coles into the WA market in March 2004. Using the Informed Sources dataset I investigate that possibility.

I calculate the following equation:

$$\text{Relative Price}_t = \alpha + \beta_1 \text{FW}_t + \beta_2 \text{Coles}_t + \varepsilon_t \quad (4)$$

Where  $\text{Relative Price}_t = \text{Average Price}_{\text{Perth}} - \text{Average Price}_{\text{Eastern Capitals}}$  at time  $t$ ,  $\alpha$  = a constant representing the average Relative Price before the FuelWatch scheme was introduced,  $\beta_1$  = the average impact of the FuelWatch scheme,  $\text{FW}_t$  is a dummy variable = 1 after 2 January 2001 and = 0 before 2 January 2001,  $\beta_2$  = the average impact of the entry of Coles,  $\text{Coles}_t$  is a dummy variable = 1 after March 2004 and = 0 before March 2004 and  $\varepsilon_t$  = an error term. Consistent with the ACCC analysis, I use the time period August 1998 to June 2007 for the empirical analysis.

Table Two: FuelWatch and Coles structural break test for relative prices (August 1998 – June 2007). Numbers in parenthesis are p-values. Standard errors are Newey-West corrected.

|                 | Constant        | FuelWatch       | Coles            | Adj-R <sup>2</sup> |
|-----------------|-----------------|-----------------|------------------|--------------------|
| Weekly Average  | 3.0246 (0.0000) | 0.0121 (0.9562) | -1.7403 (0.0000) | 0.2137             |
| Monthly Average | 3.0207 (0.0000) | 0.0024 (0.9931) | -1.7077 (0.0000) | 0.3890             |

The results are now very different from the ACCC analysis. The dummy variable associated with FuelWatch is now *not* statistically significant. The Coles variable is highly statistically significant and indicates that greater competition in the form of Coles entering the market caused the relative price of fuel to fall by about 1.7cpl. In addition, the adjusted R<sup>2</sup> are now much higher than before. This result is consistent with the ACCC initial expectation regarding the WA petrol market. As Brian Cassidy told the Senate estimates committee on 5 June 2008, “At the time, I readily agree with you—I did not actually say it in evidence—my feelings were that it was probably the entry of Coles that had the major impact on prices in WA, but I have been subsequently proven wrong” (Senate Estimates 5 June 2008, pg. E7). The irony, of course, is that Brian Cassidy was not “proven wrong”; the ACCC did not report any analysis comparing FuelWatch and the entry of Coles into the WA market in its 2007 report. Brian Cassidy was not proven wrong, the analysis here supports his initial views, and he was probably told that his initial view was wrong.

## The Harding Critique

Professor Don Harding of LaTrobe University has released a comprehensive econometric critique of the ACCC Appendix S analysis. His critique is very damning. In particular he argues that the ACCC relied on a nominal price margin when it should have used a real price margin. Specifically, Professor Harding is able to show that once the data are corrected for inflation, “it is not possible, based on this data, to say as the ACCC did that the WA FuelWatch scheme did not act to increase the real retail margin for petrol in Perth.”

In the analysis above, I too have relied on nominal relative prices. In order to check the robustness of my results I calculate the inflation adjusted average petrol prices in each of the capital cities in constant May 2008 dollars, then recalculate the relative price margin and then re-estimate equations (3) and (4). Consumer Price Index data are published by the Australian Bureau of Statistics on a quarterly basis. I use the quarterly figure for each month within the quarter, but also use the average quarterly petrol price reported by the Australian Automobile Association to provide a further check to the analysis. Results are shown in Table Three.

Table Three: FuelWatch and Coles structural break test for relative prices. Monthly average for the period August 1998 – June 2007. Quarterly average for the period Q4 1980 – Q1 2007. Numbers in parenthesis are p-values. Standard errors are Newey-West corrected.

|                   | Constant        | FuelWatch        | Coles            | Adj-R <sup>2</sup> |
|-------------------|-----------------|------------------|------------------|--------------------|
| Monthly Average   | 5.4407 (0.0000) | -0.8041 (0.0869) |                  | 0.0268             |
| Monthly Average   | 5.4407 (0.0000) | 0.6184 (0.0967)  | -2.8451 (0.0000) | 0.4641             |
| Quarterly Average | 4.8883 (0.0000) | -0.7123 (0.5388) |                  | 0.0003             |
| Quarterly Average | 4.8883 (0.0000) | 1.2154 (0.1829)  | -3.7072 (0.0000) | 0.0801             |

Overall the results are consistent with my previous analysis. The introduction of the FuelWatch scheme into WA had a small effect, if any, while the arrival of Coles had a large effect on petrol prices in Perth relative to the eastern states. It is worth noting that in two of the equations that the FuelWatch coefficient is *positive* (although only statistically significant in one instance), which indicates, that everything else being equal, FuelWatch actually caused prices to rise in Perth relative to the eastern capitals. Not too much should be made of that result, however, as the significance level (p=0.0967) is very poor.

The net result of the empirical analysis I have conducted is that the ACCC has under-estimated the impact of the Coles entry into the WA market. What is particularly troubling is that the ACCC did not report any analysis along these lines in their 2007 report, while telling the Senate Estimates committee that (a) they had undertaken that analysis and (b) that the Coles effect was small. The Coles effect is not small and it dominates the FuelWatch effect. Indeed, there is weak evidence that the FuelWatch scheme increased prices in WA once the Coles effect is controlled for.



The Harding critique suggests that the ACCC analysis is not robust. Here I demonstrate another instance where the ACCC analysis is faulty.

The ACCC investigated the differential between Perth and eastern capital cities and found that FuelWatch had reduced the price differential. Here I calculate, using the weekly Informed Sources price data, the differential between Sydney and Melbourne and subject that price differential to the ACCC test i.e. the introduction of FuelWatch to WA, and also the introduction of Coles into WA. Results are shown in the table below.

Table Four: FuelWatch and Coles structural break test for relative prices (August 1998 – June 2007). Dependent variable is  $(Price_{\text{Sydney}} - Price_{\text{Melbourne}})$ . Numbers in parenthesis are p-values. Standard errors are Newey-West corrected.

|                | Constant        | FuelWatch        | Coles           | Adj-R <sup>2</sup> |
|----------------|-----------------|------------------|-----------------|--------------------|
| Weekly Average | 1.6786 (0.0000) | -1.0446 (0.0002) |                 | 0.0579             |
| Weekly Average | 1.6786 (0.0000) | -1.1809 (0.0003) | 0.2742 (0.4521) | 0.0567             |

The ACCC-type test tells us that the introduction of FuelWatch into the WA market had the effect of reducing the petrol price differential between Sydney and Melbourne. That result is clearly absurd. It is pleasing, however, that the entry by Coles into the WA market had no effect on the Sydney – Melbourne price differential. That, of course, is the result that we would expect.



## Conclusion

The ACCC have not produced a rigorous assessment of FuelWatch. Their analysis is poor. Furthermore, the ACCC have gone to great lengths to prevent any external assessment of their analysis. They have made use of secret data, secret econometric tests, secret analysis, and secret recommendations to government to propose a national FuelWatch scheme. Ultimately, the Australian population are being invited to believe that the national adoption of FuelWatch is good public policy simply because the ACCC asserts it to be good policy. Yet there is no corroborating evidence to support the ACCCs assertion. Indeed, all the empirical evidence in the public domain rejects the ACCC’s position.

Graeme Samuel has described FuelWatch as “a consumer empowerment exercise. It is designed to empower consumers to take advantage of a competitive marketplace” (Senate Estimates 5 June 2008 pg. E16). We are invited to believe that fixing prices constitutes a “competitive marketplace”. This is, of course, entirely counter-intuitive. As Chris Bowen wrote in the *Sydney Morning Herald* (emphasis added), “I was intrigued that *the body whose charter is to promote competition* in Australia was telling Australia’s first Competition Minister that *a scheme to limit changes in petrol prices should now be considered to promote competition* in the fuel market” (SMH 4 June 2008). Chris Bowen’s scepticism was well-placed and we know that he was convinced by the ACCCs econometric analysis that has been critiqued above. In essence, the ACCC are trading off fixed prices against asymmetric information. The difficulty they have is that they do not say how big the asymmetric information problem is in the petrol market, nor do they provide any argument or evidence to suggest that the economic gains from reducing asymmetric information are greater than the economic costs of price fixing. Asymmetric information is a *theoretical* problem – in the real world markets evolve solutions to deal with that problem (albeit imperfectly). By contrast, price fixing is a *real-world* problem. So much so that price fixing is illegal under the Trade Practices Act. After much prompting by Senator Helen Coonan, Brian Cassidy admitted that if petrol retailers colluded to create their own FuelWatch type scheme whereby prices were fixed for 24 hours “then that is rather more likely to be a breach of the Trade Practices Act” (Senate Estimates 5 June 2008 pg. E81).

Friedrich von Hayek, the 1973 economics laureate, has described competition to be “like experimentation in science, first and foremost a discovery procedure” (Law, Legislation, and Liberty vol 3. pg. 68). If petrol prices are fixed, the level of price competition in the petrol market will fall. Recall that the ACCC believes that there is already a significant degree of price competition in the retail petrol market. That

competition is likely to be translated into non-price competition. Non-price competition is likely to make petrol pricing less transparent rather than more transparent. The FuelWatch scheme is likely to transfer competition from price to non-price considerations. That reduces the transparency of the market and disadvantages those consumers who would prefer a lower price to an enhanced loyalty scheme. The unintended consequences of the FuelWatch scheme will be to increase existing barriers to entry, increase market power of existing retailers and disadvantage those consumers who buy their petrol at the bottom of the pricing cycle. In order to protect the “integrity” of the FuelWatch system, the ACCC would have to prohibit competition for petrol in both pricing and promotional terms. This highlights the fundamental problem with FuelWatch. In order to prevent petrol retailers from raising their prices, the ACCC need to prevent retailers selling cheap petrol.

The national FuelWatch scheme should be rejected by the Senate. The government has suggested that the scheme be introduced and then evaluated after one year. The problem with this particular approach is that it is not clear how the scheme would be evaluated. It would be impossible to replicate the existing flawed ACCC analysis. That is because it would not be possible to compare the before and after FuelWatch prices to an external standard. The ACCC have been unable to produce any other empirical analysis showing that FuelWatch has benefited WA motorists despite that scheme being in operation since 2001. There is no reason to believe that the ACCC will be able to produce any definite analysis (or indeed any other analysis) after the scheme is introduced nationally. The only evidence the ACCC will be able to point to is that different petrol retailers sell their petrol at different prices. This is hardly news, nor is it evidence of policy success or failure.

The most damning consideration of a national FuelWatch scheme is that the ACCC claim that Treasury evaluated their analysis and “they established the methodology was sound, the approach was robust and the outcomes were solid” (Senate Estimates 5 June 2008 pg. E21), yet we know that Treasury recommended that a national FuelWatch scheme not be adopted.

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