

Chapter 3

Key Issues

3.1 This chapter discusses key issues raised in submissions and evidence, including:

- support for the repeal of the carbon tax;
- cost impacts of the carbon tax and impacts of the carbon tax on Australia's competitiveness;
- effectiveness of the carbon tax;
- timing of the carbon tax repeal;
- the proposed role and powers of the Australian Competition and Consumer Commission; and
- the abolition of the Climate Change Authority and the Clean Energy Finance Corporation.

Repeal of the carbon tax

3.2 Many submitters and witnesses argued that the carbon tax imposes high costs for little or no environmental benefit.¹

3.3 For example, the Minerals Council of Australia argued that the Clean Energy Act is a 'poorly designed response to the policy challenge' and that the carbon tax 'operates as a blunt redistribution mechanism'.² It argued that the carbon tax framework:

...imposed high costs for little environmental benefit, undermined competitiveness and did little to boost substantial investment in a broad range of low emissions technologies and adaptation measures.³

3.4 The Business Council of Australia similarly urged that the carbon tax be repealed due to the high costs on business.⁴ The Business Council indicated that it

1 Mr Peter Lang, *Submission 2*; Tourism Accommodation Australia (TAA), *Submission 3*; Origin Energy, *Submission 6*; Australian Retailers Association, *Submission 8*; Energy Supply Association of Australia, Energy Retailers Association of Australia, Energy Networks Association, Australian Pipeline Industry Association (Energy Industry Groups), *Submission 17*; Australian Forest Products Association (AFPA), *Submission 18*; National Farmers' Federation (NFF), *Submission 19*; Minerals Council of Australia, *Submission 20*; Australian Aluminium Council, *Submission 23*; Cement Industry Federation and National Lime Association of Australia, *Submission 25*; Australian Industry Group, *Submission 26*; Business Council of Australia (BCA), *Submission 27*; Australian Environment Foundation, *Submission 31*.

2 Minerals Council of Australia, *Submission 20*, p. 3.

3 Minerals Council of Australia, *Submission 20*, p. 3; see also Mr Peter Lang, *Submission 2*, pp 5–6; Australian Environment Foundation, *Submission 31*, p. 4.

4 Business Council of Australia, *Submission 27*, p. 3.

'supports the wind-up of the carbon pricing mechanism (CPM), given it places excessive costs on business and households because the carbon charge under the legislation is now one of the highest in the world'.⁵

3.5 The Australian Food and Grocery Council (AFGC) requested that the Parliament recognise the desire of businesses and electors to repeal the carbon tax.⁶ The AFGC urged the Senate to:

...pass the carbon tax repeal bill without delay. Businesses have been through many years of debate. We have had an election fought on this issue. I think generally businesses now want the parliament to get on with it and repeal the carbon tax and reduce energy costs in the interests of improving competitiveness, encouraging investment and driving job creation and growth.⁷

3.6 The committee also received evidence arguing against the repeal of the Clean Energy legislation. Research bodies and environmental groups indicated that the repeal of the carbon pricing mechanism will place Australia behind worlds' best practice for addressing climate change and create policy uncertainty for businesses and investors.⁸ For example, the Investor Group on Climate Change requested that, 'in the absence of an alternative policy proposal that is likely to be at least as effective and efficient as the current carbon pricing framework', the repeal bills not proceed.⁹

Cost impacts of the carbon tax

3.7 Submissions supporting the bills pointed to the costs of the carbon tax on business and the community. For example, the Australian Industry Group cited a survey it conducted in 2012 which 'found that businesses in the manufacturing, construction and services sectors estimated an average increase of around 14.5% in their energy costs as a result of the carbon tax'.¹⁰

3.8 The Minerals Council of Australia described the carbon tax as a 'deadweight' on the Australian economy, pointing out that in '2013–14, it added an estimated

5 Business Council of Australia, *Submission 27*, p. 2.

6 Mr Gary Dawson, Chief Executive Officer, Australian Food and Grocery Council, *Proof Committee Hansard*, 26 November 2013, p. 56.

7 Mr Gary Dawson, Chief Executive Officer, Australian Food and Grocery Council, *Proof Committee Hansard*, 26 November 2013, p. 56.

8 Australian Youth Climate Coalition (AYCC), *Submission 4*; Doctors for the Environment, *Submission 11*; Pacific Calling Partnership, *Submission 12*; Investor Group on Climate Change, *Submission 14*; Australian Council of Trade Unions (ACTU), *Submission 21*; Responsible Investment Association of Australia, *Submission 22*; WWF-Australia, *Submission 24*; Australian Conservation Foundation, *Submission 28*; Regnan—Government Research and Engagement, *Submission 29*; Wentworth Group of Concerned Scientists, *Submission 32*; Hepburn Wind, *Submission 34*; Dr Frank Jotzo, *Submission 35*.

9 Investor Group on Climate Change, *Submission 14*, p. 1.

10 Australian Industry Group, *Submission 26*, p. 3; see also Australian Environment Foundation, *Submission 31*, p. 7.

\$6.4 billion to the nation's tax bill (equivalent to a 10% increase in company tax revenue).¹¹ The Minerals Council of Australia further estimated that 'the combined costs of permits, higher fuel costs and pass through of carbon costs on gas and electricity was an added burden of about \$1.2 billion'.¹²

3.9 In supporting the repeal bills, Tourism Accommodation Australia (TAA) suggested that the carbon tax has had a major impact on the hotel accommodation industry. TAA considered that the carbon tax 'is stifling investment in accommodation in Australia' and 'adding directly to the current historically high cost of construction'.¹³ TAA submitted that:

Carbon pricing is impacting heavily on accommodation businesses, with profit reductions of up to 12% attributable to increased costs related to the tax. It is estimated that across the Australian accommodation industry, the carbon tax cost will be up to \$114.9 million in its first year.

The repeal of carbon tax will cause significant price reductions and ease concerns for the accommodation hotel sector, depending on the carbon footprint of the particular properties or chains.¹⁴

3.10 Refrigerants Australia, the peak body representing the refrigerant and air conditioning industry, highlighted that the carbon tax has had a devastating impact on their members' businesses.¹⁵ Due to their emissions intensive nature, prices of refrigerants rose approximately three to six times after import.¹⁶ According to Refrigerants Australia:

...the refrigerant and air conditioning industry consists of about 20 000 businesses nationally, employing 173 000 people across Australia. The industry had overall expenditure of over \$26 billion in 2012, which represented about 1.7% of national GDP and supports many essential uses, including nearly \$30 billion worth of perishable food per annum from farm to domestic refrigerator.

...

Companies and operations across Australia—abattoirs, horticultural operators and fishers, for example—were subject to significantly increased costs of, at times, tens of thousands of dollars, which they could neither recover, offset nor predict.¹⁷

11 Minerals Council of Australia, *Submission 20*, p. 2.

12 Minerals Council of Australia, *Submission 20*, p. 2.

13 TAA, *Submission 3*, p. 7.

14 TAA, *Submission 3*, p. 4.

15 Mr Gregory Pickers, Executive Director, Refrigerants Australia, *Proof Committee Hansard*, 26 November 2013, p. 14.

16 Mr Gregory Pickers, Executive Director, Refrigerants Australia, *Proof Committee Hansard*, 26 November 2013, p. 14.

17 Mr Gregory Pickers, Executive Director, Refrigerants Australia, *Proof Committee Hansard*, 26 November 2013, p. 14.

3.11 In the agricultural sector, the costs of the carbon tax have also had a significant impact. The National Farmers' Federation (NFF) informed the committee that, for an average-sized farm, there have been additional costs of up to \$10 000 a year as a result of the carbon pricing mechanism.¹⁸

3.12 In supporting the repeal of the carbon tax, the Australian Retailers Association (ARA) submitted that 'the abolition of the carbon tax would mean a spending boost of around \$500 pa for consumers—a major boost for the retail sector'. Further:

...many of our members have supplied direct evidence of the price impact on their energy bills, with some retailers such as supermarkets and fast food operators reporting energy usage in excess of all other outgoings short of wages thanks to the impact of the tax. Major retailers are now anticipating savings for their businesses as well as increased consumer confidence and spending post 1 July 2014.¹⁹

3.13 In contrast, the Investor Group on Climate Change submitted that the carbon price has increased prices less than the 0.7% forecast by the Treasury before the start of the scheme²⁰ and that 'market economists have estimated around a 0.3%–0.4% [Consumer Price Index] CPI increase attributable to carbon pricing across the economy'.²¹

3.14 It was also argued that factors other than the carbon price were impacting on increased costs of living. For example, the Investor Group on Climate Change pointed out that 'the carbon price makes up around 7% of retail electricity prices, compared with 43% for transmission and distribution charges'.²²

3.15 The Australian Council of Social Service (ACOSS) submitted that 'it remains unclear whether repealing the carbon tax will lead to a significant decrease in household living costs' and that:

The drivers of energy price rises are much broader and more complex than the introduction of the carbon price alone including, for example, increased network expenditure.²³

Impacts of the carbon tax on Australia's competitiveness

3.16 Several submissions also expressed concern about the impact of the carbon tax on Australia's international competitiveness. The committee heard evidence that the price on carbon could rise to anywhere between \$38 to \$68 per tonne of CO₂

18 Mr Matthew Linnegar, Chief Executive Officer, National Farmers' Federation, *Proof Committee Hansard*, 26 November 2013, p. 23.

19 ARA, *Submission 8*, p. 1.

20 Investor Group on Climate Change, *Submission 14*, p. 3.

21 Investor Group on Climate Change, *Submission 14*, p. 3.

22 Investor Group on Climate Change, *Submission 14*, p. 4; see also Sustainable Population Australia, *Submission 15*, pp 1–2; and WWF-Australia, *Submission 24*, p. 3.

23 ACOSS, *Submission 10*, p. 5.

emissions in the future, particularly if the carbon pricing scheme does not allow international trading.²⁴

3.17 The Business Council of Australia, in acknowledging such projections, argued that Australia's carbon charge 'is now one of the highest in the world'.²⁵ The Investor Group on Climate Change also recognised that Australia's carbon price mechanism is one of the most broad and highest cost national schemes in the world.²⁶

3.18 The Australian Industry Group insisted that 'the tax is far too high in light of international prices'.²⁷ The industry body informed the committee that:

Our assessment is that Australia's current high, fixed carbon tax is among the highest in the world. There are Scandinavian taxes with narrower or broader bases which are set at a higher level. There is a sub-national scheme in Canada which is set at a higher level. But of all major schemes ours is by far the highest price point combined with a relatively broad application across the economy and a relatively low level of free allocation of permits with is another critical issue for distinguishing schemes.²⁸

3.19 The Minerals Council of Australia agreed that the Australian carbon pricing scheme is the world's biggest carbon tax and that none of Australia's minerals export competitors face an impost on the same scale.²⁹

3.20 Similarly, the Cement Industry Foundation and National Lime Association of Australia argued that responses to climate change should be consistent globally, and that:

Australia's climate change policy must not expose the Australian cement and lime manufacturers to costs not faced by their international competitors. Our competitors are mainly from Asia—none of which face a nation-wide carbon price.³⁰

3.21 TAA likewise recommended that:

...the inefficient carbon tax needs to be repealed to put Australia's accommodation industry back on a more level playing field with international competitors and other investment classes and to facilitate opportunities to attract new investment in high-quality accommodation

24 Mr Anthony Wood, Energy Program Director, Grattan Institute, *Proof Committee Hansard*, 26 November 2013, p. 7.

25 Business Council of Australia, *Submission 27*, p. 2 and see also p. 3.

26 Mr Nathan Fabian, Chief Executive Officer, Investor Group on Climate Change, *Proof Committee Hansard*, 26 November 2013, pp 8–9.

27 Australian Industry Group, *Submission 26*, p. 1 and see also Appendix B.

28 Mr Tennant Reed, Principal National Adviser, Public Policy, Australian Industry Group, *Proof Committee Hansard*, 26 November 2013, p. 54.

29 Minerals Council of Australia, *Submission 20*, p. 2; see also Australian Environment Foundation, *Submission 31*, p. 6.

30 Cement Industry Foundation and National Lime Association of Australia, *Submission 25*, p. 3.

stock. This tax must be reversed, especially due to the high cost impacts it has on this important industry.³¹

3.22 In contrast, the Climate Institute argued 'it has been one of the enduring myths in the carbon policy debate' that Australia has the world's highest carbon tax.³² The Institute explained:

Putting aside the Nordic countries, who have had carbon prices in place since the early nineties that are at a higher levels than we currently have in Australia...you have places like the UK who have a carbon price floor which, coupled with the European emissions trading scheme, sees carbon prices in the order of what we currently have in place here. It is not a correct assertion to say that Australia's carbon price, as it currently stands in terms of the fixed price period, is above what other countries are doing. Certainly it is above what some countries are doing, like Japan, for example...³³

3.23 Others also disagreed that repealing the carbon tax would boost Australia's economic growth, increase jobs and enhance Australia's international competitiveness, arguing that 'there is evidence there are many opportunities for growth and development in the renewable industry which would also increase employment'.³⁴

Effectiveness of the carbon tax

3.24 Those opposed to the bills argued that the carbon price has been an effective and efficient measure to reduce greenhouse gas emissions.³⁵ For example, WWF-Australia observed that:

In the first twelve months of the Clean Energy Act's operation, emissions in Australia's electricity sector fell by 7 per cent—equivalent to 12 million tonnes of carbon dioxide. Power generation from brown coal was down by 13 per cent and renewable energy generation grew by 25 per cent. While not all of these changes in the electricity sector can be attributed to the emissions trading scheme, the general consensus amongst analysts is that putting a price on carbon pollution has made polluting energy sources less competitive and renewable energy sources more competitive.³⁶

31 TAA, *Submission 3*, p. 4.

32 Mr Ewin Jackson, Deputy Chief Executive Officer, The Climate Institute, *Proof Committee Hansard*, 26 November 2013, p. 34.

33 Mr Ewin Jackson, Deputy Chief Executive Officer, The Climate Institute, *Proof Committee Hansard*, 26 November 2013, p. 34.

34 Pacific Calling Partnership, *Submission 12*, p. 2.

35 Investor Group on Climate Change, *Submission 14*, p. 2; Doctors for the Environment Australia, *Submission 11*, p. 2; Australian Council of Trade Unions, *Submission 21*; see also Hepburn Wind, *Submission 34*, p. 2; Dr Frank Jotzo, *Submission 35*, pp 1–3.

36 WWF-Australia, *Submission 24*, p. 3; see also AYCC, *Submission 4*, p. 1.

3.25 Similarly, the Investor Group on Climate Change submitted that a price on emissions is 'the most effective and efficient way to provide a long-term, transparent and certain regulatory framework to address carbon risks in investment portfolios.'³⁷

3.26 The Group expressed support for 'policies that cut emissions at the lowest possible cost' and suggested that 'an internationally linked carbon market allows emissions reductions to occur where the cost is lowest' and therefore supported moving to a floating carbon price linked to the European Union emissions trading scheme from 1 July 2014.³⁸ It pointed to recent OECD reports which found that 'market-based approaches like taxes and trading systems consistently reduced CO₂ at a lower cost than other instruments'.³⁹

3.27 ACOSS considered that a carbon price or emissions trading scheme would provide the greatest environmental benefit for the lowest economic cost.⁴⁰ ACOSS expressed its concern that:

...the repeal of the carbon tax and the implementation of 'direct action' policies may come at a net cost to the Federal Budget. If the government foregoes revenue from a carbon price but retains the full household compensation arrangements, savings may be sought from other programs to compensate for the impact on the Federal Budget. Similarly, direct expenditures to encourage polluters to reduce emissions represent a more costly approach to climate change mitigation. These additional costs may also have to come from scarce Federal Budget revenue.⁴¹

3.28 In contrast to these positions, The Grattan Institute conceded that Australia has reduced its emissions intensity over the past decades without pricing on carbon:

There is a long-term trend for Australia's energy intensity, and therefore emissions per dollar of GDP to go down. That has been going on since the mid-seventies, independent of a carbon price.⁴²

Timing of the repeal

3.29 The committee received evidence outlining a number of issues relating to the timing of the passage of the bills, and transitional issues involved in the removal of the carbon pricing mechanism.

3.30 The intention is for the carbon tax to end on 30 June 2014, regardless of when the legislation is passed.⁴³ Several submitters and witnesses called for the prompt

37 Investor Group on Climate Change, *Submission 14*, p. 1.

38 Investor Group on Climate Change, *Submission 14*, p. 1.

39 Investor Group on Climate Change, *Submission 14*, p. 4.

40 See, for example, ACOSS, *Submission 10*, p. 4.

41 ACOSS, *Submission 10*, p. 5.

42 Mr Anthony Wood, Energy Program Director, Grattan Institute, *Proof Committee Hansard*, 26 November 2013, p. 7.

43 Carbon Tax Repeal Bills, Explanatory Memorandum, pp 8–10.

passage of the bills and/or raised concerns about problems that may arise if the bills are not passed until after 30 June 2014.⁴⁴ In particular, the Australian Industry Group was concerned that any:

...delay and uncertainty about the timing would impose unnecessary cost and confusion on industry and households, primarily through the electricity market.⁴⁵

3.31 The Minerals Council of Australia similarly argued that:

The end of the financial year is the right time to act to ensure business and investor confidence in the Australian economy. The minerals industry urges the Parliament to respect the authority the electorate has given the Government to repeal the Clean Energy Act.⁴⁶

3.32 However, the Minerals Council of Australia was concerned about any delays:

There will be minimal transitional issues if the Bill is passed in a timely manner. While the Government has sought to support investor confidence by framing the Bill in a way which deals with a delay beyond 30 June 2014, (operating retrospectively in the first instance), other issues may arise for business the longer the Bill takes to pass.

While the Bill seeks to be clear about the state of carbon liabilities post 30 June 2014—that is, retrospective application if the Bill is passed after that date—it is less clear about the operation of the compliance mechanisms. Minerals companies take their compliance obligations seriously and it is a key concern for investors.⁴⁷

3.33 The Business Council of Australia agreed and stated:

Any delay in the repeal will have adverse impacts on companies liable under the current legislation.

Liable companies will continue to face compliance obligations under the [Carbon Pricing Mechanism] CPM and associated non-recoverable costs for a yet-to-be-determined period, possibly into the next financial year or longer.⁴⁸

44 Australian Aluminium Council, *Submission 23*, p. 1; Energy Industry Groups, *Submission 17*, p. 5; Minerals Council of Australia, *Submission 20*, p. 4; COzero, *Submission 16*, p. 1; Cement Industry Federation and National Lime Association of Australia, *Submission 25*, p. 4; Australian Industry Group, *Submission 26*, p. 3; Business Council of Australia, *Submission 27*, pp 3–5; Pacific Hydro, *Submission 33*, pp 6–7.

45 Australian Industry Group, *Submission 26*, p. 1.

46 Minerals Council of Australia, *Submission 20*, p. 4.

47 Minerals Council of Australia, *Submission 20*, p. 4.

48 Business Council of Australia, *Submission 27*, p. 4.

3.34 Refrigerants Australia highlighted that unless the Senate expeditiously passes the repeal legislation, their billion dollar industry could face increased costs and shortages.⁴⁹

3.35 The Clean Energy legislation introduced an equivalent carbon price on synthetic greenhouse gases (SGGs) at the point of import or manufacture. There is a small risk that there could be potential shortages in SGGs in the lead-up to the repeal of the equivalent carbon price on 1 July 2014.⁵⁰ This is due to reduced SGG imports in anticipation of the lower SGG levy from 1 July 2014 and domestic businesses reducing levels of SGG inventories in order to delay purchases of SGGs until after repeal of the carbon tax.⁵¹

3.36 To address this risk, an exemption from the equivalent carbon price will be made for the import of SGGs between 1 April and 30 June 2014.⁵² Refrigerants Australia stated that these measures would 'allow companies to pre-position refrigeration and hopefully avoid any lack of supply'.⁵³

Sufficient time and notice needed

3.37 In addition to the timely repeal of the bills, many called for sufficient time to make arrangements relating to the repeal of the carbon price mechanism. The Business Council of Australia submitted that:

Assessing contracts and determining price variations will take time if it is to be done properly. The repeal legislation has not factored in that companies will not be able to instantly change arrangements and that at a minimum companies will need three months to review contracting arrangements.⁵⁴

3.38 The Business Council of Australia therefore recommended that the Government:

...take into consideration that companies will require at least three months once the legislation is passed to amend the range of contracts that they have in place with carbon pass-through clauses and ensure companies are not penalised during this time.⁵⁵

49 Dr Gregory Picker, Executive Director, Refrigerants Australia, *Proof Committee Hansard*, 26 November 2013, p. 15.

50 Ozone Protection and Synthetic Greenhouse Gas (Import Levy) (Transitional Provisions) Bill 2013, Explanatory Memorandum, p. 6.

51 Ozone Protection and Synthetic Greenhouse Gas (Import Levy) (Transitional Provisions) Bill 2013, Explanatory Memorandum, p. 6.

52 Ozone Protection and Synthetic Greenhouse Gas (Import Levy) (Transitional Provisions) Bill 2013, Explanatory Memorandum, p. 6.

53 Dr Gregory Picker, Executive Director, Refrigerants Australia, *Proof Committee Hansard*, 26 November 2013, p. 20.

54 Business Council of Australia, *Submission 27*, p. 3 and see also p. 5.

55 Business Council of Australia, *Submission 27*, p. 3.

3.39 COzero similarly raised concerns about the implications of the repeal bills in terms of existing contractual arrangements:

Electricity contracts, in particular, hedged contracts, have been entered into by Liable Entities and Counterparties until the end of the 2015 financial year. These contracts have an implied carbon price in them. Regardless of whether the Carbon Tax is removed, or not, these contracts will have to be honored with a carbon component that will have to be either absorbed by Liable Entities, or passed on.⁵⁶

3.40 Origin Energy Limited (Origin) also emphasised the need for sufficient notice to be given to liable parties to implement repeal 'to ensure that any benefits from carbon price repeal are passed onto consumers in a timely manner'.⁵⁷ Origin explained:

The carbon price was a very complex piece of legislation to implement in the energy markets. Over six months formal notice was given for this implementation and based on our experience a similar period should be given for its repeal to ensure that any benefits are passed onto consumers in a timely manner.⁵⁸

Need for alternatives to be in place before repeal

3.41 Several submissions suggested that the carbon pricing mechanism should not be repealed until appropriate alternative measures are in place to reduce greenhouse gas emissions.⁵⁹ For example, the Responsible Investment Association Australia (RIAA) submitted that:

...we cannot support the repeal of the current Clean Energy legislation due to the resulting policy uncertainty that this will and is already creating. Importantly, it is difficult to assess or support an alternative policy framework until sufficient detail exists upon which our community can make an assessment based on its merits. To date, this detail does not exist.⁶⁰

3.42 The Public Health Association of Australia submitted that it would 'prefer to see a complete alternative package of measures developed and publicly discussed before repeal of the existing legislative package occurs'.⁶¹

3.43 General Electric (GE) stated its preference for the proposed removal of carbon pricing to be 'conjoined' with its proposed replacement (Direct Action including the Emissions Reduction Fund).⁶²

56 COzero, *Submission 16*, p. 1.

57 Origin, *Submission 6*, p. 1.

58 Origin, *Submission 6*, p. 3.

59 WWF-Australia, *Submission 24*, pp 4 and 11; Australian Conservation Foundation, *Submission 28*, p. 2; Regnan – Governance Research & Engagement, *Submission 29*, p. 2.

60 RIAA, *Submission 22*, p. 2.

61 PHAA, *Submission 5*, p. 6; see also Doctors for the Environment Australia, *Submission 11*, p. 5.

62 GE, *Submission 1*, p. 1.

3.44 ClimateWorks Australia submitted that if the carbon tax legislation is repealed, 'it will need to be replaced with measures that will deliver equivalent emissions reductions (and more), and which address both the price and non-price barriers to achievement of emissions reductions'.⁶³

3.45 Several submitters and witnesses also pointed out that any delay in emissions reductions will increase the ultimate cost of delivering abatement.⁶⁴

Role of Australian Competition and Consumer Commission

3.46 Several submitters and witnesses raised concerns about the powers proposed to be given to the Australian Competition and Consumer Commission (ACCC) to monitor prices following the repeal of the carbon price mechanism.⁶⁵ These powers are contained in the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013.

3.47 The Business Council of Australia acknowledged that:

The role of the ACCC will be important in ensuring community confidence that the removal of the carbon tax is happening in an appropriate manner. There are elements of the repeal legislation, however, which make the role of the ACCC and the matters it should take into consideration in assessing whether there has been price exploitation unclear and subjective.⁶⁶

3.48 Concerns were raised about the drafting of the relevant provisions governing the powers of the ACCC. For example, energy industry groups were concerned that the powers are 'vaguely worded' and could 'interfere with otherwise efficient energy markets' and would 'duplicate existing state government powers to monitor and regulate retail energy prices'.⁶⁷

3.49 Others also raised concerns about the absence of a definition for the term 'unreasonably high' in relation to price exploitation in proposed paragraph 60C.⁶⁸ For example, the energy industry groups argued that this fails to consider the specificities of the energy industry:

In a competitive energy market, prices will vary by supplier. Businesses that charge high prices will lose market share to those offering a more affordable service. Different businesses will have different cost structures and offer different products, and so prices will vary.

Furthermore, as outlined above, electricity and gas customers may be on market or standing offers, which vary in price. Market offers typically give

63 ClimateWorks Australia, *Submission 13*, p. 2.

64 ClimateWorks Australia, *Submission 13*, p. 2; WWF-Australia, *Submission 24*, p. 11.

65 For example, Origin, *Submission 6*, p. 1; Energy Industry Groups, *Submission 17*, p. 1; Business Council of Australia, *Submission 27*, p. 2; Pacific Hydro, *Submission 33*, pp 5–6.

66 Business Council of Australia, *Submission 27*, p. 4 and also p. 6.

67 Energy Industry Groups, *Submission 17*, p. 3; see also Origin, *Submission 6*, p. 1.

68 Proposed paragraph 60C requires that a corporation must not engage in price exploitation in relation to the carbon tax repeal, with price exploitation occurring if the price for the supply is unreasonably high.

a discount in exchange for meeting certain conditions, such as a contract length, or if bills are paid on time.

Given this variation, the energy industry does not see how the ACCC would be able to establish what an “unreasonably high” charge for electricity could be.⁶⁹

3.50 Submissions concerned about the proposed ACCC powers commented that they appeared to be based on those used for the introduction of the Goods and Services Tax (GST).⁷⁰ However, it was noted that the carbon price operates differently to the GST, and in particular, is not a fixed percentage cost. It is therefore difficult to quantify its exact impact on prices.⁷¹ The energy industry groups gave the following example to illustrate their concerns:

...the introduction of the carbon tax meant that low- or zero-emissions generators received increased margins while highly emissive generators faced lower margins. One would expect this process to reverse once the carbon tax is repealed. The likely net effect would be that margins would return to the same level they were before the carbon tax was implemented. Yet, under these provisions it is possible the ACCC could take action. This is a highly inappropriate consequence and may increase risks for energy businesses.⁷²

3.51 Similarly, the Australian Industry Group submitted that:

...outside of energy prices, carbon price pass-throughs have been limited and the impacts of repeal will also be limited. An Ai Group survey earlier in 2013 found that 70% of businesses in the manufacturing, services and construction sectors were unable to pass through any of their carbon-related energy cost increases to customers. The remainder of the sample were able to pass through small amounts of their carbon cost. Across all businesses, just 6% of total carbon costs were estimated to have been passed on to customers. This strongly suggests that the ACCC should be cautious and focussed in its price monitoring role, as significant price movements are only likely in the area of electricity and gas.⁷³

3.52 Concerns were also expressed about the drafting of paragraph 60C(3)(a) of the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013 which requires the ACCC to consider the supplier's costs, supply and demand conditions and any other matter. It was suggested that the paragraph be expanded to include additional considerations such as wholesale energy costs, network price determinations,

69 Energy Industry Groups, *Submission 17*, p. 3; see also Business Council of Australia, *Submission 27*, p. 4 and Pacific Hydro, *Submission 33*, pp 5–6.

70 See, for example, Origin, *Submission 6*, Appendix A; Energy Industry Groups, *Submission 17*, p. 3.

71 Origin, *Submission 6*, Appendix A; Energy Industry Groups, *Submission 17*, pp 3–4.

72 Energy Industry Groups, *Submission 17*, p. 3.

73 Australian Industry Group, *Submission 26*, p. 3.

compliance with state and federal legislation, regulated prices for electricity and gas, and the overall risk profile of the business.⁷⁴

3.53 Others were also concerned about proposed new section 60E of the Clean Energy Legislation (Carbon Tax Repeal) Bill 2013, which enables the ACCC to send out notices to prevent price exploitation, and allow the ACCC to specify a maximum price that may be charged. The energy industry groups argued that the 'ACCC is not the appropriate authority to have the power to effectively set maximum energy prices'.⁷⁵ Similarly, the Business Council of Australia was concerned that 'this would appear to be an overreach in terms of the role and capacity of the ACCC'.⁷⁶

3.54 Origin further suggested a regulation making power be included to give flexibility for the government to specify what does *not* constitute price exploitation, and that the Explanatory Memorandum provide detailed examples of how the price exploitation provisions will be applied.⁷⁷

3.55 Others supported the use of the ACCC. For example, the Australian Retailers Association expressed support for the use of the ACCC 'to see cost savings being passed onto businesses and consumers'.⁷⁸ ACOSS submitted that the price monitoring powers of the ACCC would be 'essential consumer protection during a period of consuming price adjustment'.⁷⁹

Australian Competition and Consumer Commission's response

3.56 The ACCC informed the committee that it believes it will be able to adequately examine carbon price charges and ensure that they are not being passed on to consumers once the carbon tax is repealed.⁸⁰ The ACCC advised that:

We will have the capacity to look at individual businesses and the decisions they made in terms of the introduction of the carbon price. We will be able to ensure that they take similar decisions on the way out. I think it is fair to say there are a number of factors we will take into account but, at the end of the day, that very simple proposition that where there is a carbon price component in the current price we will look to ensure that it is removed.⁸¹

74 Origin, *Submission 6*, Appendix A; Energy Industry Groups, *Submission 17*, p. 4.

75 Energy Industry Groups, *Submission 17*, p. 5.

76 Business Council of Australia, *Submission 27*, p. 6; and see also Pacific Hydro, *Submission 33*, p. 6.

77 Origin, *Submission 6*, Appendix A.

78 ARA, *Submission 8*, p. 1.

79 ACOSS, *Submission 10*, p. 5.

80 Mr Scott Gregson, Group General Manager, Enforcement Group, Australian Competition and Consumer Commission, *Proof Committee Hansard*, 26 November 2013, p. 40.

81 Mr Scott Gregson, Group General Manager, Enforcement Group, Australian Competition and Consumer Commission, *Proof Committee Hansard*, 26 November 2013, p. 40.

3.57 The ACCC also confirmed that in relation to electricity price increases, it expects that the 9% per cent price increase attributed to the carbon price will be removed.⁸²

Abolition of the Climate Change Authority and Clean Energy Finance Corporation

3.58 Some submissions expressed concern about the abolition of the Climate Change Authority and the Clean Energy Finance Corporation. These submissions took the view that it was important to have independent analysis and advice on emissions reductions and the investment in clean energy technology.⁸³

3.59 In this context, several submissions raised the issue of reviews of the Renewable Energy Target (RET), which are currently undertaken by the Climate Change Authority. The Business Council of Australia pointed out that:

With the wind-up of the Climate Change Authority, consideration needs to be given to the arrangements for the 2014 review of the Renewable Energy Target. To remove any ambiguity it will be important for the government to make clear the matters that will be included in the review either in the legislation or in related documents.⁸⁴

3.60 The Business Council of Australia suggested that the 2014 review should include, for example, explicit consideration of the consequences of changes in demand for electricity, the repeal of the carbon price, and the impact of the RET on business electricity prices.⁸⁵

3.61 GE noted that the intention is for future reviews of the RET to be undertaken, at the minister's direction, by the Department of the Environment, in consultation with the Department of Industry.⁸⁶ However, GE suggested that future reviews of the RET be conducted every four years, rather than every two years.⁸⁷ GE also suggested that the Climate Change Authority (Abolition) Bill 2013 be amended to reinstate current subsections 162(7)–(14) to provide guidance to the reviewer.⁸⁸

82 Mr Scott Gregson, Group General Manager, Enforcement Group, Australian Competition and Consumer Commission, *Proof Committee Hansard*, 26 November 2013, p. 40.

83 For example, AYCC, *Submission 4*, p. 2; Public Health Association of Australia, *Submission 5*, p. 7; ClimateWorks Australia, *Submission 13*, p. 5; Investor Group on Climate Change, *Submission 14*, p. 2; ACTU, *Submission 21*, p. 2; WWF-Australia, *Submission 24*, pp 4 and 18; Australian Conservation Foundation, *Submission 28*, p. 6; Regnan – Governance Research & Engagement, *Submission 29*, p. 2; Wentworth Group of Concerned Scientists, *Submission 32*, p. 5; Dr Frank Jotzo, *Submission 35*, p. 3.

84 Business Council of Australia, *Submission 27*, p. 3.

85 Business Council of Australia, *Submission 27*, pp 4 and 6.

86 GE, *Submission 1*, p. 2; Climate Change Authority (Abolition) Bill 2013, Explanatory Memorandum, p. 11.

87 GE, *Submission 1*, p. 2; see also Australian Industry Group, *Submission 26*, p. 4; and Pacific Hydro, *Submission 33*, pp 7–8.

88 GE, *Submission 1*, p. 2.

3.62 Origin suggested that the Productivity Commission should play a role in the review of the RET, and that a clause should be inserted that the Department of the Environment 'must take into account' advice of the Productivity Commission.⁸⁹

3.63 The Department of the Environment informed the committee that, despite the abolition of the Climate Change Authority, a number of reporting and monitoring mechanisms will remain in place:

The things that will remain are the National Greenhouse and Energy Reporting System, which is the mechanism by which companies report their emissions and energy use and also information about energy efficiency. The Australian National Registry of Emissions Units will remain in place, and that supports the Carbon Farming Initiative...which will also remain in place. So all of that infrastructure to support the measurement, verification and recording of emissions will remain in place.⁹⁰

3.64 Several submissions also called for the Government to reconsider the abolition of the Clean Energy Finance Corporation (CEFC).⁹¹ It was argued that:

...the CEFC co-investment model is a prudent and cost effective way to allocate limited public funds to leverage private investment to do the heavy lifting in the investment into a low carbon transition.⁹²

3.65 For example, the Investor Group on Climate Change argued that the CEFC has played a key role in advancing Australia's response to climate change and in:

...attracting private capital to low carbon opportunities globally. The ability of co-financing organisations (such as CEFC) to achieve emissions reductions with a positive financial return to government warrants their inclusion in the Government's climate change policy suite.⁹³

3.66 Indeed, the CEFC itself made a submission to the committee outlining its achievements since its inception:

By working with private sector co-financiers, the CEFC multiplies the total amount of funding available for investment. Through investing \$536 million of CEFC funds (including Low Carbon Australia's portfolio) and \$1.55 billion in private sector co-financing, the CEFC has facilitated over \$2.2 billion in projects, delivered 3.88 million tonnes of abatement,

89 Origin, *Submission 6*, p. 3.

90 Mr Simon Writer, Assistant Secretary, Department of the Environment, *Proof Committee Hansard*, 26 November 2013, p. 70.

91 Epuron, *Submission 7*, p. 1; AYCC, *Submission 4*, p. 3; Professor John A Mathews, *Submission 9*; Investor Group on Climate Change, *Submission 14*, p. 2; RIAA, *Submission 22*, p. 2; WWF-Australia, *Submission 24*, pp 4, 17–18; Australian Conservation Foundation, *Submission 28*, pp 7–8; PacificHydro, *Submission 33*, pp 1–2; Dr Frank Jotzo, *Submission 35*, p. 3.

92 RIAA, *Submission 22*, p. 2.

93 Investor Group on Climate Change, *Submission 14*, p. 2.

and achieved it at negative cost (i.e. net return or benefit to the taxpayer) of \$2.40 per tonne of abatement.⁹⁴

3.67 The Department of the Environment outlined to the committee that Government's policy position on abolishing the Clean Energy Finance Corporation:

The government has been very clear that the premise of abolition is that it is a market activity that should be delivered not by government but by the private sector.⁹⁵

Committee comment

3.68 The committee supports the Government's intention to abolish the carbon tax.

3.69 Evidence received by the committee shows that Australia's carbon tax is one of the highest and broadest carbon taxes in the world. The carbon tax has had a significant impact on costs for Australian businesses and families. In particular, the price of electricity and gas has increased to record levels.

3.70 In response to increased energy costs and compliance measures, struggling businesses have been forced to pass these costs on to customers. Where circumstances have not allowed businesses to pass on these costs, they have been forced to bear the brunt of the new tax.

3.71 The committee is concerned that the high price and broad-base of the carbon tax has placed Australian industries at a disadvantage internationally. Australian businesses are forced to compete with international competitors who are not encumbered by such a high carbon price. The carbon tax has made the cost of doing business in Australia more expensive. The committee received evidence that shows that removing the burden of the carbon tax will allow businesses to compete more evenly in international markets and encourage investment in Australian industries.

3.72 The committee is satisfied that the additional powers that are provided to the ACCC will ensure that imposts charged as a result of the carbon tax will come down quickly. The ACCC will have the capacity to look at individual businesses and the decisions they made following the introduction of the carbon tax and see that they are reversed when it is removed. The committee also notes that the ACCC is confident that the 9% increase in electricity prices attributed to the carbon tax will be reversed once the tax is repealed.

3.73 The committee agrees with the bill's intention to abolish the Clean Energy Finance Corporation and the Climate Change Authority. The use of \$10 billion in taxpayer money to fund what essentially amounts to a private bank is not justified. The removal of the carbon tax means that the Climate Change Authority is no longer needed to administer the scheme. The committee is satisfied that other government departments will be able to successfully undertake any future climate policy implementation.

94 Clean Energy Finance Corporation, *Submission 30*, p. 2.

95 Dr Gordon de Brouwer, Secretary, Department of the Environment, *Proof Committee Hansard*, 26 November 2013, p. 66.

3.74 Many submitters recommended to the committee that the repeal of the carbon tax occur immediately and that the Senate not unduly delay the benefits that removal of the carbon tax will have for Australian businesses. The committee also notes the concerns of businesses that if repeal of the carbon tax is delayed until after 1 July 2014 it will create uncertainty. In particular, the retrospective repeal of the carbon tax after 1 July 2014 would create confusion and red tape.

3.75 The committee notes that Australia has had a good track record of protecting the environment and reducing carbon emissions prior to the introduction of the carbon tax. The committee encourages the Government to give consideration to its Direct Action Plan to replace the carbon tax to ensure that there is policy continuity for Australia to meet its target of reducing carbon emission by 5% by 2020.

3.76 The committee recommends that the bills be passed.

Recommendation 1

3.77 The committee recommends that the bills be passed.

Senator John Williams
Chair

