

Australian Democrats

Additional Remarks

Fuel Tax Bill 2006 and related bill

This legislation is the clearest example yet of policy in a vacuum with no regard to the consequences – on business, on the environment, on rural economies, on jobs. The Government has cherry-picked from the recommendations of task forces, studies and inquiries and has not consulted with those most affected nor taken notice of their entreaties.

The Democrats are pleased that the Chair's report identifies many of the problems associated with this Bill, and identifies the needs for resolution of these before it proceeds.

However, we are concerned about the Government's lack of support for the biofuels industry in particular and make the following additional comments.

The officers from Treasury facing the critics of this bill – and there are many – were able to provide no rationale for the changes, offering only that they are 'policy decisions of government'. This exchange at the committee hearing into the bill demonstrates the point:

CHAIR— It is said, although I note only by RACQ, that the effect of the repeal of the Fuel Sales Grants Act will be to increase petrol prices. What do you say about that?

Mr Colmer—We have not done any modelling of the repeal of the Fuel Sales Grants Scheme. It was a policy decision of government—a decision made about where their spending priorities were.

CHAIR—Do you dispute the RACQ claim that this will increase the price of fuel? Do you say that there is no evidence for that? What exactly do you say, Mr Colmer?

Mr Colmer—The only thing that I can say on that particular point is that the Fuel Sales Grants Scheme was examined initially by the ACCC some time ago and it was subsequently examined again by the fuel tax inquiry of 2001. They were not able to provide any evidence around what its real impact was. I think it is a program that has been around and the government has taken a decision to redeploy that money on to things where there can be some harder and firmer results.

Senator ALLISON—Has any other department bothered to look? What about PM&C or industry?

Mr Colmer—You would have to ask them.

Senator ALLISON—You have not?

Mr Colmer—I have told you: we have not done any modelling of this.

Mr Colmer—My view is irrelevant. This is a policy matter for government.

Mr Lake of Biofuels Australia, said his organisation had questioned Treasury about the impact:

The exact words that came from one of the parties I spoke to in Treasury were: ‘Our concerns are not the externalities of the fuels, only the simple costs of what comes in and out, and it is your responsibility to make sure that the politicians tell us to change it.’ It was that blunt.¹

When asked about the level of awareness and understanding in the industry about the impact of these changes, Mr Lake told the committee that it was only a week ago that complex system of grants and credit schemes was able to be explained to producers and other industry people, in part because the Tax Office had only just corrected the script on their telephone line that had been giving people the wrong information.

Even the Tax office has had trouble trying to understand this and that means that, when the bill was put forward a considerable time ago, people could not understand the calculation of what grant went where or how it was all applied. They are still trying to work it out themselves.²

Main features of the bill

Before discussion the main features of the Bill it is worth noting that Australia's fuel taxes are amongst the lowest in the world and Australia is one of the few to have reduced excise on fossil transport fuels.³ As part of the new tax system proposed in 1999, the Government proposed to reduce excise by \$2 billion a year – a cut more than halved through negotiations with the Democrats. In March 2001, biannual indexation of excise on transport fuels was frozen at around 38 c/L. Access Economics estimated that revenue foregone from this freeze will be \$1.85 billion for 2005/6.⁴ The Fuel Taxation Inquiry recommendation to reintroduce indexation was rejected by the Government.

The Fuel Tax Bill 2006 reduces fuel taxes on diesel by a further \$1.5 billion.

On 1 July 2006 all existing rebates and subsidies are to be replaced with a single system of fuel tax credits and reduced excise on diesel. Products such as solvents will for the first time be required to pay excise to be offset credits claimable via the Business Activity Statement.

¹ Mr Lake, Biofuels Australia, *Committee Hansard*, Monday 5 June 2006, p. 34.

² Mr Lake, Biofuels Australia, *Committee Hansard*, Monday 5 June 2006, p. 38.

³ Excise taxation: developments since the mid-1990s, Parliamentary Library, Research Brief no.15, 2005-06, p.13.

⁴ Excise taxation: developments since the mid-1990s, Parliamentary Library, Research Brief no.15, 2005-06, p.15.

Excise, foreshadowed in the 2003/4 budget, will be imposed on alternative fuels on 1 July 2011 at a rate that is approximately half the equivalent rate of excise on petrols but offset by tax credits that will be progressively phased out by 1 July 2015.

Commercial vehicles over 4.5 tonnes in metropolitan areas will be entitled to credits for diesel and around 20 cents of the 38.143 cents a litre in diesel excise will be declared a road user charge.

Businesses claiming more than \$3 million a year in fuel tax credits will be required to be members of the Greenhouse Challenge Plus Program, obliging them to measure their greenhouse gas emissions, develop action plans for abatement and report to Government on their actions. Achieving any actual abatement is not mandated.

Credits for vehicles of more than 4.5 tonnes will also depend on vehicles being no more than 10 years old that meet in-service emission standards and are properly maintained.

The Fuels Sales Grants Scheme, a 1 c/L grant provided to fuel retailers in non-metropolitan areas, worth over \$200 million a year is to be phased out.

From 1 July 2012, all off road business uses of certain fuels will be effectively excise free, likewise all diesel used in electricity generation and burner fuels such as heating oil and kerosene.

Going against the evidence - the Howard Government's record

The Australian Democrats strongly oppose this legislation because it is a clear reversal of the negotiated agreement under the ANTS package in 1999 and reintroduces many of the problems that were overcome by the agreement. The Democrats negotiated major changes to the package, informed by an extensive inquiry by the Senate Environment, Communications, IT and the Arts References Committee. That inquiry was told that the proposed \$2 billion in cuts to petrol-diesel would wipe out the cleaner but still fledgling alternative and renewable fuel industries – compressed natural gas, liquefied natural gas, LPG and biofuels.

The Democrats did support the Government's policy objective of reducing transport costs for rural communities and agriculture at a time when there was a serious decline in rural economies but negotiated to put in place a suite of measures to more than halve those cuts to diesel excise and address the very significant problems drawn to our attention in the 1999 inquiry process.

That inquiry was also informed that the industry that collected many millions of litres of used oil from mining companies, service stations and industry right around the country - oil that would otherwise be dumped in landfill or worse - and removes the contaminants for reuse or, better still, re-refines it to produce a pure lubricating oil product, would cease to be viable. Petro-diesel would be so cheap as a consequence of an 18 c/L cut in excise that these important industries would no longer have a

market for their product because the cost of collection, treatment and distribution would well exceed the retail price of diesel, even though no excise was being paid on the recycled product. An industry package – the Product Stewardship for Oil Program - was negotiated for recycling waste lubricating oils. It funded collection tanks in rural areas and recognised the cost of treatment and re-refining and the difficulty in finding markets for the product, given the resistance by the major oil companies in carrying recycled stock in retail outlets. Those measures were developed with the industry and were successful in very significantly increasing the amount of oil collected for recycling to 200 million litres a year.

The Democrats negotiated the removal altogether of excise from rail, in recognition of the competitive advantage given to long haul road transport in the diesel excise cuts and the facts that rail use charges were significantly higher than road use charges and that there were very significant benefits in encouraging the much more freight to be moved by rail.

We negotiated national standards for fuels that, for instance, progressively and massively reduced the sulphur content of diesel from around 1500 ppm to less than 50 ppm, and testing and standards for vehicle emissions, bringing Australia into line with European standards over time and improving air quality.

The excise removal on diesel for remote power generation was reversed and the excise that was previously ‘refunded’ to state governments was re-directed to a very successful program to bring renewable energy to remote communities, often in combination with diesel power. It appears the changes in this bill remove that incentive program.

Through the Diesel Fuel Rebate Scheme (off-road) and the Diesel and Alternative Fuels Grants Scheme (on-road) the Democrats negotiated limits on the diesel excise cuts to heavy interstate freight transport and vehicles over 4.5 tonnes travelling outside metropolitan areas and off-road uses eligible for removal of excise on diesel were confined. The price relativity of alternative fuels was secured and grants made available for vehicle conversions.

In 2003, the Government introduced the Energy Grants Scheme that expanded on and off-road uses eligible to recover excise on fuels through the ATO. Biofuels would be subject to the same excise as petro-fuels, to be phased in from 2008. The Democrats strongly objected, warning that this would spell the end of the industry. The Government relented, agreeing to halve the effective rate of excise and to put back its introduction to 2011 and by 2015 excise offsetting energy grants would be removed altogether – a measure claimed by Government to ensure the viability of alternative fuels well into the future.

It should be noted that in countries such as Germany where biofuels have gained a significant share of the fuels market, they have been allowed to develop in an excise free environment for more than 20 years. According to Bioworks Australia, Germany’s approach led to small community based production, happily co-existing

with larger producers, with an output now in excess of 2 billion litres per annum. This makes Australia's 350 ML target for biofuels look very paltry indeed.

Sweden imposed excise on biodiesel in 1997 which halted development of the industry and only recently Sweden's policy was reversed as part of its policy target of being completely fossil free by 2015. (Letter to the Committee from BioWorks dated 6 June 06)

The Issues

Alternative Fuels

This Bill was most severely criticised for the effect it will have on Australia's biofuel industry. Producers argued that this bill represented the removal of Government support for biofuels and the demise of the sector and while difficult to precisely calculate the impact, submitters said these were some of the likely impacts on biodiesel:

From 1 July 2006 100% biodiesel and 49% blends of biodiesel for both on and off road use are likely to be more expensive than petro-diesel (0.13c/L and 0.35c/L)

By July 1010 for heavy on-road users that difference will be as high as 8c/L.

For off road use – farmers, mining companies - 100% biodiesel will become 38c/L more expensive than petro diesel.

This bill effectively returns to the original intention of the Government, using a complex interaction of road user charge, designation of 5% biodiesel blends as the standard for highest credits and the treatment of the current Energy Grants (Credits) Scheme as an excise offset and, in so doing, discriminates against rural off-road users of biodiesel in particular and against biofuel production in general.

Biodiesel and biodiesel blends are developing significant markets for their product that are now in jeopardy. Mr Chris Mapstone of Gardiner-Smith Ltd said the biodiesel industry had grown very quickly and could be producing over 800 million litres of biodiesel a year and were it not for the changes proposed on July 1.

This growth has been possible because biodiesel has not had to rely on marketing the product through the four major oil companies, as is the case for ethanol, supported by the ban on blends of more than 10% ethanol in petrol and the ongoing reluctance by Government to mandate even that blend.

This legislation, by designating 5% biodiesel/95% diesel as the biofuel standard, effectively extends to biodiesel the marketing barrier that exists for ethanol.

Mr Mapstone explained:

With ethanol, you must align yourself with a large retail network. With biodiesel, we can make a product that is fit for purpose on spec and we can go direct to end users, whether they be road transport, off-road users, fishing fleets or the like. That is another reason why the industry is growing so quickly. It will stop very quickly as well, if it is not understood where this legislation will put us.

The issue with the oil companies is that, if the majors chose to adopt the role of purchasing biodiesel to put it into hydrocarbon diesel at a level of five per cent or less, they could gobble up the 800 million litres we currently have in production and it would not even make a dent. So it does not matter whether we are popular or not. If they wanted it, they could take it.

The bulk of the customers that we target currently are customers of the majors—in particular, mining industries. If you also look at where we are with the current specification for diesel, having a low-sulphur diesel of 50 parts per million, biodiesel is being added to that in the US just as a standard B5 blend. That is to add lubricity back into the diesel to prevent wear within fuel systems. So, similarly, it could be taken up as five per cent or less and sold and no-one would even know it was in there.⁵

Mr Lake of Biodiesel Australia concurred:

The biodiesel industry in Australia has only just started. In the last 12 months, production has gone from virtually zero to 180,000 tonnes. I have a list of the projects which are currently planned. With the incentives offered by the government so far and the current tax position on excise, it will produce well over one billion litres of biodiesel per annum. Apart from the plants which are currently under construction, the proposed changes to the excise rulings and the way in which the rebate and producer grants are going to work will make 99 per cent of the biodiesel market unviable. The way the biodiesel producer grant is applied will effectively offset the excise paid or payable, or liable, for the production of the fuel—that is how it is treated by the tax office.⁶

Mr Lake also advised that:

..... while biodiesel currently has a moderate advantage, as of next month biodiesel will suffer a price disadvantage. Definitely, in the case of on-road applications, there will be a price penalty of anywhere between 2c and 4c. In the case of off-road applications, that price penalty is around 38c, the full excise price. What we understood to be the intent of the formation of the biofuels industry was to have biofuels implemented in areas where they would have the maximum benefit, and those do include a lot of off-road applications.

⁵ Mr Mapstone, *Committee Hansard*, Monday 5 June 2006, p. 35.

⁶ Mr Lake, Biofuels Australia, *Committee Hansard*, Monday 5 June 2006, p.32

The types of markets for the off-road applications, where biodiesel has the greatest application, include marine applications, such as the trials currently under way for Sydney Ferries and trials operated by Brisbane City Council. Being state governments or local councils, while they will pay a slight premium for environmentally effective products or things that solve other operational issues, such as occupational health and safety, they would not incur the cost penalty for those particular operations. Likewise, in mining environments, where the emissions profile of biodiesel makes it highly valuable, we will not have time to actually establish and prove the effectiveness of biodiesel. To give you an idea of the time that this often takes, the initial approach to the New South Wales state government asking for a trial to the trial actually starting took three years, and we are still probably about another 18 months away from the second phase of the trial being completed. So it is a five-year cycle, and a lot of these valid applications for biodiesel are simply not going to be possible and producers will have to scrap the whole program. That is what they are looking at at the moment if this bill goes ahead.⁷

Mr Lake further advised that the largest current producer of biodiesel in Australia produces 45 million litres a year and has another planned to produce 160 million litres and other companies have plans for further expansion, however the opportunities that they have for the development of those markets and development of those feed stocks, predominantly from Australian production, are going to disappear very quickly because none of these new projects will be viable under this legislation:

..... we will go from nearly a billion litres of biodiesel per annum to a situation within the next two to three years where we will be lucky to keep the couple of hundred million litres that are coming online now.

A lot of infrastructure has been put or planned, and there are new projects being planned at the moment, all based on a certain return and a certain revenue opportunity for a period out to the phase-out of the excise or the producer grant. Effectively, we were given a carrot, and that carrot has been put away and the chopping block has been stuck in front of it.⁸

Under current legislation, the most price effective blend for off road users of biofuels is 49% biofuel and 51% diesel but under this bill, the highest credits go to 5% biofuel and 95% petro-diesel – the new ‘standard’ for biodiesel.

The following table submitted by Biodiesel Association of Australia illustrates the position pre and post 1 July 2006 for on and off-road biodiesel:

⁷ Mr Lake, Biofuels Australia, *Committee Hansard*, Monday 5 June 2006, p.32

⁸ Mr Lake, Biofuels Australia, *Committee Hansard*, Monday 5 June 2006, p.33

TODAY ON ROAD DIESEL		TODAY ON ROAD BIODIESEL [B100]		BIODIESEL DIFFERENTIAL
Gate Price	1.32	Gate Price	1.25	
Rebate	0.19	Rebate	1.19	
Final Price	1.13	Final Price	1.06	0.07
FROM 1 JULY 06 ON ROAD DIESEL		FROM 1 JULY 06 ON ROAD BIODIESEL [B100]		
Gate Price	1.32	Gate Price	1.25	
Rebate	0.38	Rebate (EGCS)	0.18	
Road User Charge	0.20	Road User Charge	0.20	
Final Price	1,14	Final Price	1,27	-0.13
TODAY OFF ROAD DIESEL		TODAY OFF ROAD BIODIESEL (B49)		
Gate Price	1.32	Gate Price	1.29	
Rebate	0.38	Rebate	0.38	
Final Price	0.94	Final Price	0.91	0.03
FROM 1 JULY 06 OFF ROAD DIESEL		FROM 1 JULY 06 OFF ROAD BIODIESEL (B49)		
Gate Price	1.32	Gate Price	1.29	
Rebate	0.38	Rebate	0.00	
Final Price	0.94	Final Price	1.29	-0.35

It is clear that under the changes scheduled to take effect from July 1 2006, the benefit to the on road biodiesel user reduces from \$0.07 to a \$0.20 cents per litre disadvantage. (-\$0.13 against Hydrocarbon Diesel).

In the case of the "off road user" of Biodiesel, the position changes from a \$0.03 cents per litre price advantage to a \$0.38 cents per litre disadvantage (-\$0.35 per litre against Hydrocarbon Diesel) making the use of Biodiesel prohibitive for "off road use". (Supplementary advice from BAA received 13/6/06)

Transfield Holdings Pty Ltd's submission described the bill as a terminal threat to an industry it was in Australia's interests to develop and described the problems:

Heavy On-Road Users

This group is key to the development of the Biodiesel Industry. They use nearly all the diesel sold for on road use and have extensive company storage and distribution facilities that make the distribution of a new and different fuel logistically easier and independent of the major oil companies. Their knowledge of the performance of their vehicles and the desire to cut fuel costs to the minimum make them particularly interested in using B20 (20% Biodiesel, 80% conventional diesel) and higher blends. But only after they have conducted detailed trials and tests. Such trials have been increasingly conducted over the past year or so, all of which have been successful. This has led to a rapid uptake by this sector, particularly B20 and above.

This sector buys in bulk and receives significant discounts from the oil majors. Therefore deep discounts (usually 10 to 20 cents/L) have had to be offered to encourage this sector to conduct the trials and accept greater logistical complexity (blending etc).

As illustrated in the table below, the proposed phasing out of the Energy Grants (Credits) Scheme will render biodiesel uncompetitive within two years in the heavy vehicle sector, or more rapidly if the present historically high oil prices decline.

The table assumes a Biodiesel sale price of \$1.05, but often a higher discount is required as discussed above.

	June 06		July 06	July 07	July 08	July 09	July 10
Petro-diesel	c/L	Petro-diesel	c/L	c/L	c/L	c/L	c/L
Purchase price	1.35	Purchase price	135	135	135	135	135

Rebate	(19)	Road user charge	20	20	20	20	20
		Excise rebate	(38)	(38)	(38)	(38)	(38)
Effective price	116		117	117	117	117	117
Biodiesel		Biodiesel					
Purchase price	105	Purchase price	105	105	105	105	105
ECGS*	(18.5)		(14.8)	(11.1)	(7.4)	(3.7)	(0)
		Road user charge	20	20	20	20	20
Effective price	86.5	Effective price	110.2	113.9	117.6	121.3	125
Biodiesel advantage			6.8	3.1	(0.6)	(4.3)	(8)

* Assumes price after application of biodiesel manufacturer excise rebate

The declining competitiveness of Biodiesel in this sector as shown above will be very discouraging to investors. Maintaining the Energy Grants (Credits) Scheme at its present level for the next five years (or replacement with a similar mechanism) would go some way towards ameliorating this effect and we recommend the Committee give serious consideration to this.

Off-Road Users

This is another large potential market segment for Biodiesel. The logistics of blending and storing alongside conventional diesel and relatively low production to date have meant that the market has hardly been touched. It will remain that way if the proposed Bill is accepted without amendment because there will be no commercial incentive for it to consider using Biodiesel.

We accept that the current arrangements need amending because there is no doubt an unintended 'double dipping' exists that highly favours Biodiesel. Under current arrangements, off-road users pay an effective price of around \$0.85 for conventional diesel (after GST and fuel excise rebate has been rebated and if they use a 49% blend of biodiesel, additional rebates mean an effective price of \$0.71, or a 14 cent per litre saving over conventional diesel.

The amendment proposed by the Bill will no longer allow for diesel blends of up to 49% to be classified as 'diesel' (and thus claim the excise rebate), and therefore all the price advantage to off-road users of using biodiesel will be removed. We understand that conventional diesel will continue to be available for about \$0.85/L, but that Biodiesel blends will cost off road users between about \$0.90 and \$0.95/L.⁹

In his submission, Mr Mike Burrows agrees that the denial of an energy grant for off-road users is discriminatory for primary producers and 100% diesel will not be economic. He says:

It seems illogical to offer an incentive to use biodiesel in a low percentage blend but no incentive to use stronger blends or 100% product. This removes the incentive for underground mining companies to use the cleaner burning (healthier) product and so protect workers and the environment. It removes the incentive for fishermen to use a biodegradable product and so protect their catch and the environment. It removes the incentive for farmers to use a biodegradable fuel, protect the environment and grow the production of oil seeds such as Canola which will be used as the feedstock for biodiesel. All of this in turn removes the incentive for potential investors to build the necessary plants to produce biodiesel.

As off-road use of biodiesel will only be supported in a blend with diesel any importers or local producers will need to be aligned with a major oil company to access diesel and the large storage required tanks to allow blending. To mix a 5% blend the required storage facility is 20 times larger than if a 100% product was produced.

This denies the users the possibility of alternative suppliers entering the fuel market especially the retail market which is dominated by the major oil companies and Coles/Woolworths. The further strengthening of the grip of these select companies on the Australian market is not in the national interests.¹⁰

Transfield Holdings also described the impact on small users:

Small users typically obtain their fuel from service stations, which are mostly supplied by the major oil companies. They often have concerns about the quality of the fuel and are not normally as knowledgeable or equipped to trial fuels that might be considered 'experimental'. Hence this group is most likely to be introduced to Biodiesel via a B5 blend which meets the 'diesel standard' and therefore raises no issues with vehicle warranties etc. The combination of the low blend ratio and the smallness of this market, means that the Australian Biodiesel industry will struggle to achieve critical mass.

⁹ Transfield Holdings, *Submission 24*.

¹⁰ Mike Burrows, *Submission 4*.

Even this struggle will be to no avail if, as is likely, the oil majors follow BP's lead and capture this market by hydrogenating fats and oils in their conventional refineries and claim the excise exemption granted to Biodiesel at this level of blend. The Bill has already been amended in the House of Reps to permit this

We recommend the Committee take out the amendment allowing the 38 cent/L reduction on diesel made in conventional refineries from fats and oils.¹¹

Mr Lovelady, Director of BioWorks told the committee:

Our customers in regional communities are not big fleet operators or big oil companies. They are farmers and small businesses operating a few trucks and heavy equipment. They get no special deals from big oil. There are no fleet discounts or rebates for them. They pay bowser price and they are struggling.¹²

Many said this bill was a major concession to the petroleum companies that would limit growth in biodiesel to only that which the oil companies were prepared to produce or accommodate. Submitters argued that the advantage for regional producers was that they avoided double transportation by making fuel where the raw materials were available and the fuel consumed but with this legislation they would have to compete for raw materials against petroleum companies that have a 38 c/L advantage. Mr Lovelady of BioWorks said:

The transportation advantage will be lost and the raw materials will be acquired by a supplier to a blend, distributed as diesel – these central producers will be willing and able to pay more for the same raw materials.

For our primary producers the position is actually worse. The changes in the bill make it uneconomic for them to use biodiesel. Yet these are the people most affected by rising oil prices.¹³

The Renewable Fuels Australia said in their submission:

The major barrier to the development of the industry in Australia has been securing access to the mainstream Australian transport fuel market dominated by the four major overseas oil companies in Australia – Caltex, Shell, BP and Mobil. For this reason, new biofuels industry growth in Australia has been severely limited.

Today alternative fuels such as ethanol and biodiesel are widely seen as playing an essential role in making the transition from traditional petrol and diesel fuels to the fuel technologies of the future, and worldwide there has been a strong surge in Government initiatives to increase biofuels production growth as a

¹¹ Transfield Holdings, *Submission 24*

¹² Mr Lovelady, *Senate Committee Hansard*, Monday 5 June 2006, p.51.

¹³ Mr Lovelady, *Senate Committee Hansard*, Monday 5 June 2006, p.51-52.

means of reducing dependence on imported oil and stimulating national energy security. The United States and Brazil are leading this push with the European Community and some 25 other countries initiating active programs to encourage the production of ethanol and biodiesel as alternatives to petroleum transport fuels.

The lack of policy co-ordination and policy inconsistency in relation to biofuels has been a persistent problem in Australia, and this has hindered future growth. The Biofuels Taskforce, for example, represents the development of positive policies for new ethanol and biodiesel industry growth, while Fuel Tax Bill 2006 represents a clear example of impediments being put in place that will undermine the achievement of those policy objectives.¹⁴

Witnesses were questioned about why it was that the ever increasing price of oil would not give advantage to biofuels over time.

CHAIR—But that is subject to the price of oil, surely. If the price of oil continues to rise and the price of your feedstock is not a function of the price of oil, it would make you more competitive, surely.

Dr Humphreys—No, there is a whole new dimension coming into the marketplace. ... Because of the rise in Europe and in the US of the biodiesel industry ... there is now a rapid acceptance of biodiesel around the world. There now is a direct correlation starting to show between the price of a barrel of oil and the price of our start material, the edible oil. A number of reports have come out recently, particularly in Europe, showing that the demand for canola oil and palm oil in Europe for biodiesel purposes has started to link them to the price of a barrel of oil.

... we are not isolated from the international traded commodities of canola, sunflower or cottonseed. Those commodities are influenced more by some of the larger producers around the world, particularly in Europe and the US. Our price here of edible oil is benchmarked against those international standards. Those international standards are now being affected by the increasing use of these oils for biodiesel and that is bringing a new paradigm into the agricultural markets around the world. That paradigm is that now some of these edible oil prices are being influenced by the fossil oil price because of the increasing use of these edible oils for manufacturing biodiesel, which is of benefit to the farming and agricultural community.¹⁵

Road User Charge

The Democrats are disappointed that the Government has not imposed road user charges on the very heavy road transport vehicles that would take account of their impact on roads, and on road safety. It is also regrettable that the Government has not moved to introduce a minimum pricing structure that guarantees a reasonable set of

¹⁴ Renewable Fuels Australia, *Submission 25*.

¹⁵ Dr Humphreys, *Senate Committee Hansard*, Monday 5 June 2006, p.36

wages, conditions and returns for long haul truck operators, currently squeezed by both customers and suppliers to deliver at unsustainable rates.

The National Transport Commission in its determination in late 2005 proposed major reforms in on-road taxes, with increases of about a third in registration fees for B-doubles and road trains and other increased charges to encourage safety and efficiency including an excise increase of 2.1 c/L designed to better reflect the impact of heavy vehicles on the road system. This would have raised the notional component of excise, after fuel tax credits, from 19.633 c/L to 22.1 c/L.

This determination was rejected by governments and instead, part of the excise currently paid by heavy vehicles, is to be formally recognised as a road user charge under this legislation.

The editorial in the Financial Review on 23 March, 2006 criticised this decision, saying:

It's a depressingly familiar story. A government agency decides on an economically sensible pricing regime only to have politicians, acting under heavy lobbying from vested interests, reject it. But on this occasion the politicians concerned – state and federal transport ministers – are not just flying in the face of economic logic. They are defying their own policies, and the desires of their masters – the Council of Australian Governments – to achieve an efficient freight system.

The National Transport Commission believed it was implementing agreed principles that all heavy vehicle classes should pay their own way when it recently recommended a new charging regime for very heavy trucks. The idea was to increase registration and fuel charges for the long, so-called B-double prime movers. These road monsters are cross-subsidised 21 percent by smaller trucks in terms of charges. Cross-subsidisation, the NTC says rightly, is not the way to promote optimal use of roads and vehicles

Australia needs a rational national road-charging regime, perhaps based on transport corridors, and one that is competitively neutral not only between the size of trucks but between road and rail. Whether that is set by the NTC or not, transport ministers have shown they need to be kicked off the job.

COAG at its meeting last month asked the Productivity Commission to examine the whole issue of efficient pricing for road and rail infrastructure via competitively neutral pricing. The political interference of transport ministers already is a bad omen for the outcome of that inquiry.

Waste Oil Recycling

Commenting on the importance of the waste oil industry in 2006, Mr Bob Pullinger of Australian Oil Recyclers Association Ltd explained:

Currently, we [waste oil recyclers] collect over 200 million litres per annum of used oil. A lot of it is in capital cities but it is also in regional and remote areas from mines and farmers. As an example, one litre of used oil can contaminate one million litres of drinking water if it is allowed to leach into the system. From an economic position, we are now a net importer of crude oil. Used oil helps adjust the imbalance and reliance on overseas crude as well as the balance of payments. In five years, used oil will have replaced one billion litres of imported crude into the Australian economy and will continue to do so year after year. By utilising used oil as a fuel for industrial purposes and as a lubricating oil, Australian companies save enormous amounts of money, as a recycled product is generally cheaper than the imported virgin product. From a social perspective, the industry employs in excess of 400 people directly in all states of Australia. Nearly all of these people are employed in small- to medium-sized enterprises. They collect used oil in capital cities but, more importantly, in rural, regional and remote areas of Australia.

The changes to the Excise Act as currently proposed will severely affect the ability and viability of oil recyclers and collectors to survive in business and to continue and collect trade in used oil. It will also put in jeopardy the government's goal and strategy of taking used oil out of the environment. Oil recyclers have been captured by this legislation to the detriment of our industry, we believe.

The greatest challenge we face at the moment is markets. The markets for used oil and oil generally are shrinking because of gas and other areas that are not excisable. Securing markets and keeping them is probably one of the major issues that face our industry. We have looked at some markets in the past and discussed them with the ATO. Who determines what a transport fuel is? Is marine fuel classed as a transport fuel and therefore subject to excise, even though the product may be going overseas? Are collectors of used oil to come under ATO excise control? Before a collector picks up generator, filtered and dewatered oil, is the waste oil excisable? We cannot seem to get answers to these questions from the ATO at this stage.¹⁶

The committee was advised that it remains the case that petroleum companies will not purchase re-refined oil from the sector for wholesale or retail sale.

The submission from Bituminous Products Pty Ltd who use waste oil to make bitumen based products for road building and industrial use, advised that the diesel

¹⁶ Mr Pullinger, *Senate Committee Hansard*, 5 June 2006, p.20.

excise cuts would erode their current commercial advantage over diesel though they recycle a product that is unsuitable for other purposes or re-refining.

Mr Pullinger, Australian Oil Recyclers Association Ltd, pointed out the inconsistency in taxing a product twice:

Under the information paper, Excise tariff reform—recycled fuel products, solvent, if it is reused in the business, is not considered manufacture and therefore is not subject to excise. Our company has been informed by the ATO that we will have to pay excise on recycled product used in manufacture of our business, so the consistency issue does not seem to be coming through.

In the same paper under the heading ‘How are recycled fuel products affected by the changes to the excise tariff?’ the ATO and Treasury recognise that diesel and petrol are part of a used oil product through leaking into the sump and they are now going to tax that product twice. From what we understand, Treasury is using the line, ‘It is more than 55 parts per million of sulfur, so therefore it cannot be the same product.’ This is ridiculous, in as much as the 50 parts per million of solvent is brought about by the degradation of the fuel oil and the diesel and petrol coming into contact with high-sulfur lubricating oils. Again, the same product has had excise paid on its original manufacture and now it is being paid again, so it is a double taxation issue, which probably brings in the validity of the legislation as it relates to our industry. To us, it is double taxation and excise on secondary manufacture, and I think the ramifications of that should be looked at.

We accept that, if recycled products are refined, they are subject to excise because a new product is produced. However, we do not produce new products; all we do is recover and clean up products that are already there. So it is not that we are actually making a new product or changing the molecular structure of a product. We use the same products that are already there and just recover them for use. And it comes down to refining: what is refining as it relates to used oil? Only one company currently claims a refined product; therefore, the manufacturing side of things is not consistent with the intention of this legislation. As far as I am concerned, that is fine.

Getting back to issues of recovering materials from the various recycling processes on which excise has already been paid, those materials if double-excised will not be viable in any way, shape or form, and therefore will not be saleable. What do we do with those materials and how are we going to place them in the future? The very nature of the changes in the bill will preclude our participation in some markets and therefore restrict the movement and placement of materials on an ongoing basis. Our usage patterns, whilst in the main uniform, in some instances are not, and that requires us to stockpile and move materials on a regular basis. If we have to pay excise on those materials, with quite likely six- to 12-months waiting on recovering that in terms of

selling the material, that also imposes a severe impost on the business going forward.¹⁷

Mr Pullinger agreed to the proposition that to overcome this problem there should be a refund on the excise already paid on oil at the point when all of it is returned for recycling.

Asked if the provisions in this bill would encourage re-refining of waste oil as opposed to the more simple, cheaper process of dewatering and removal of some contaminants, Mr Pullinger said:

I would say that, until it is cleared up, it would definitely detract from re-refining—mainly because it costs about \$20 million to put together a re-refinery. With this excise, you are so close to the cost of the virgin material that some of the major operators—for example, power stations—are now saying: ‘What’s the point in having recycled products? We may as well just buy diesel.’ With the excise, it is getting so close in price that they take the view: ‘Why should we deal with recycled product when we can buy virgin diesel?’

The environmental and business implications of this bill for recycling 200 million litres of waste oil a year are profound and the Democrats are deeply disappointed that the Government, knowing this to be the case, appears unconcerned. Like so much else in this bill, it is a very clear reversal of the agreement struck in 1999.

Tens of millions of dollars in investment has been made in the oil recycling sector on the absolutely reasonable assumption that measures had been put in place that would ensure that this important sector, indeed service, had a secure future. Mr Pullinger explained:

A lot of companies have put money into re-refining technology on the basis that there was no excise; now, all of a sudden, excise has been applied to a product that, again, has already had excise paid once.

Mr Grundell advised:

We are currently in the process of constructing a facility that will further value-add to used oil to be used as lubricant. The capital used in that facility is of the order of \$15 million alone. We have several major processing facilities throughout Australia and have spent tens of millions of dollars to establish that infrastructure. We installed a re-refinery in Sydney about 10 years ago on the back of another material we produce being exposed to excise at all levels, but that rule changed shortly after we committed to that capital and we have been wearing the burden of that change up to this point. This is yet another change in the way our products will be treated from an excise perspective, and it is becoming very difficult for us as a company and as an industry to predict with

¹⁷ Mr Pullinger, *Senate Hansard Committee*, p.21.

any certainty what our position in business is going to be like next year, the year after that or five years down the track.¹⁸

Mr Pullinger provided the committee with a copy of the submission made to the Treasurer on 2 August 2005 and representation made to the Minister for Environment and Heritage as well as the then Assistant Treasurer in which the problems for the industry were pointed out – advice that was ignored or rejected.

Mr Grundell advised:

We have obviously made several representations to various ministers and have been given good hearings, but it gets back to having to handle it under the excise and taxation regimes, which is extremely difficult when they are trying to treat us in the same way they would treat an international petroleum manufacturer. It is a completely different set of circumstances. The materials we handle bear no resemblance to the materials handled by the national fuel companies that operate within Australia. It is a difficult task for the officers and ministers involved to try to dovetail or to cater for what is done by the Australian used oil collection and recycling industry. To say that we even fit into that regime is difficult, but I can understand why it would want to be covered by the ATO and excise regimes.

However, having said that, they need to do that while having some appreciation for what it is that we do. Basically, we pick up a material that otherwise would be very harmful to the environment. We put it through various recycling processes, using varying plant and equipment. Then, as best we can, we place that material into alternative fuel markets. In addition, the industry is going down the road of trying to return that material whence it came, which is back into the lubricants market. Again, getting to that area takes on a whole new set of treatment regimes, processes and, indeed, intensive capital investment. That ultimately is the sustained approach. But, today and for the next 10 to 15 years, the industry will have to exist by supplying material into the alternative fuels market, in competition with major oil companies. Anything that makes that road more difficult will detract from the attractiveness of supplying alternative fuels into those markets.¹⁹

On the question of the oil currently being recycled being dumped in landfill as a result of this legislation, Mr Grundell advised:

Whilst there are responsible industries—and I think the majority of industry is responsible—that will take the responsible line in terms of proper placement of their generated used oil, there are other industries out there that are not so

¹⁸ Mr Grundell, *Senate Committee Hansard*, 5 June 2006, p.29.

¹⁹ Mr Grundell, *Senate Committee Hansard*, 5 June 2006, p.27.

responsible and will take the easy way out and that may lead to dumping of material or quitting it into inappropriate outlets.²⁰

Currently, the majority of used oil collected throughout the country is done on a free-of-charge basis.

It will either be stockpiled and/or quitted as a waste material to incineration or things of that nature.

Mr Pullinger—But it will be dumped as well.

Senator MURRAY—It is incinerated, it is stored as eternal waste in drums somewhere or, if it is irresponsibly used, it ends up in our water supplies or in our land—is that correct?

Mr Pullinger—Correct.

Mr Grundell—Correct.

Mr Pullinger—I think the other side of that is that collectors will collect in the areas where it does not cost that much to collect, which is major capital cities. The major impact will be in remote and regional Australia.

Senator WATSON—You just cannot keep collecting oil in 44 gallon- or 200-litre drums. I am not convinced about what is really going to happen to all this oil, if this industry becomes no longer viable. That is my concern. I speak as a farmer who has a problem with disposing of oil out of tractors.

Mr Pullinger—Taking that issue, I remember just before the PSO was introduced and I was at Moree where one of the farmers had 10,000 litres in 200-litre drums. He said, ‘If I can’t get rid of it, I will bury it.’ The other part of it is that the drums start to break down, as you will know.

Senator WATSON—Yes, that is right. You cannot keep storing it indefinitely.

Mr Pullinger—The drums start to rust and the oil leaks. The first casualty of that is the farmer because nobody is going to drive a truck hundreds of kilometres to pick up a 200-litre drum of oil when he can collect it in the city and cover the limited markets he has.²¹

In addition to the risk of waste oil dumping, Mr Pullinger advised that the Federal government investment under the PSO in providing collection tanks is likely to be wasted:

The government constructed a large number of tanks for used oil collection in remote areas, and they will be the first casualties. The 40,000 customers that Harold talks about—in our case it is 10,000—could multiply tenfold given that a number of these people are dropping oil into the tanks that the government has rolled out.²²

Compliance costs

²⁰ Mr Grundell, *Senate Committee Hansard*, 5 June 2006, p.27

²¹ *Senate Committee Hansard*, 5 June 2006, p.29

²² Mr Pullinger, *Senate Committee Hansard*, 5 June 2006, p.31

According to the Minister's second reading speech, this bill will lower compliance costs - a view not shared by many submissions. Mr Neil Morcombe of Bituminous Products said in his submission:

As a result of this bill, we may be put out of business, or at best, we will have more complexity of administration and reporting and a \$200,000 liability that we currently don't have ... and all for no positive result. These impositions on our business have no positive trade-off for anyone ... it is a sheer waste and unnecessary bureaucracy.²³

The BioWorks submission said the bill:

..... actually adds complexity to the current system, has wide ranging cash flow ramifications to business through incorporating fuel excise rebates to the BAS system, has negative consequences to the production and use of renewable fuels and is detrimental to regional development. It is hard to imagine in the current global environment a more regressive piece of legislation.²⁴

The overhaul of excise and credits was also criticised because the excise must be paid on production of the fuel and the rebate paid through BAS which, depending on the frequency of BAS claims made by particular businesses, is likely to cause significant cash flow problems, especially for small business.

Mr Pullinger of Australian Oil Recyclers Association Ltd told the Committee

One of the major issues in this legislation is cash flow. I have heard the paint people talking about the same thing. We have a similar exercise and so cash flow is probably one of the major problems for our industry, because the companies tend to be small to medium enterprises, apart from Transpacific Industries, which is a national company. This new legislation will effectively cost \$73 million in excise, which oil recyclers will have to find in order to fund their obligations under the Excise Act. Should a customer go bankrupt, all of a sudden that means the oil recycler loses a lot of money based just on the excise he has paid. As an example, an oil recycler will currently sell a filtered dewatered product for approximately 15c a litre. If you add GST, that is 16.5c a litre. Under the new excise regime, that product will go to 58.5c a litre, and customers are saying, 'We can't afford it,' from the cash flow perspective of their businesses as well.

We can see that the customer will get their excise back, but that does not help the supplier of the product. Another recycler from Western Australia was informed by the ATO that they will have to pay excise on stored product,

²³ Bituminous Products Pty Ltd, *Submission 8*.

²⁴ BioWorks Australia Pty Ltd, *Submission 7*.

which is ridiculous, because he stores the product trying to get rid of it, and it will cost him \$2.7 million in excise should this legislation go through.²⁵

In response to this criticism, the Government announced on 1 June a two-year transitional period to:

..... allow businesses to align their practices to the new arrangements so that by 1 July 2008 all fuel users who make claims will be aware of how the new system works and come on board.

..... eligible claimants may elect to make a claim for an early payment of fuel tax credit entitlements via a written form sent to the Tax Office. At the end of the tax period claimants will still have to report their fuel tax entitlements for the period on their BAS and reconcile the early payment.

Whilst the announcement was welcomed by some witnesses, others said it merely put off the problem for two years.

Cheaper imports

Mr Gordon from Renewable Fuels Australia, also raised concerns that the Government intends to reduce or eliminate the tariff on imported alternative fuel, which would have a substantial impact on the viability of the domestic industry.

Mr Gordon— The second issue relates to the import regime that is being proposed. In 2003, the Prime Minister made an announcement recognising the benefits of alternative fuels. With biofuels, we are talking about future energy security; reducing the balance of payments deficit; reducing, in a positive and significant way, greenhouse gas emissions; and stimulating economic and jobs growth in regional and rural communities in Australia. Imported fuels cannot deliver those benefits. In recognition of those benefits, a commitment was made that our industry would get—and this also would include LPG and CNG—a 50 per cent discount on our final excise rate.

Ethanol's final excise rate, for example, is deemed to be 25c per litre, so our final excise rate with that discount for domestic benefits is deemed to be 12.5c per litre.

Unfortunately, when we looked at the details of the fuel tax bill, it became clear that one of the first casualties would be that 50 per cent discount benefit. We have not been able to get a rational explanation of why we should deliver to imports the benefits of that 50 per cent discount, to which they make no contribution. The best response we have been able to get is, 'Well, we may get a challenge in the world trade court.' Forgive me, I cannot remember what it is called, but you will understand what I am referring to.

²⁵ Mr Pullinger, *Senate Committee Hansard*, 5 June 2006, p.20.

However, the reality is that this industry has some unique features. One is that we are talking about producers around the world that are all carefully protecting the domestic development of their industries. To do this, they all have high-tariff barriers of one form or another. This industry has not reached the production level or the position where it is reaching a commodity market. At the moment, the whole emphasis of the world is on increasing production. Brazil is looking at exporting, but the United States and many other countries are not; they are solely focused on providing domestic production security. That is what we are about. We have not even got off the launch pad in Australia, but we desperately need this time to be able to do that—and that is what we felt government policy would provide.

Senator ALLISON—Could you draw the committee's attention to the part of the bill that affects imports that effectively takes away the current tariff?

Mr Gordon—We provided the committee with a copy of our brief and at the end of that, on page 17, I can provide an example. In 2011, we start our entry into a fuel excise regime and we start at 2.5c per litre and we increase by the same amount—2.5c per litre—

Senator JOYCE—Where is this in the bill?

Mr Gordon—I cannot tell you that precisely.

Senator JOYCE—That is all right.

Mr Gordon—By 2015, we reach our final excise rate of 12.5c per litre. Unfortunately, under the bill, the interpretation we have been given is that in 2011 imports will drop from 38c per litre to zero and then join ethanol—the example we use—at 2.5c per litre, and they will walk up with us until the final excise rate of 12.5c per litre is reached in 2015. This means the complete excising of that 50 per cent benefit which the government proposed to give us the opportunity to use for future development.

Senator ALLISON—So the excise drops to zero in 2010—does it?

Mr Gordon—At the first point, yes, and then it comes up and walks up with us. Beginning at 2011, we are at zero, then we commence our rise into our new excise rate.

Senator JOYCE—It is at zero now and then it walks up to 12½ per cent. What is going to happen in 2012? Imported ethanol will meet us on the road up, so we will have imported ethanol at the same price as domestic ethanol. Therefore, domestic ethanol will collapse.

Mr Gordon—Imported ethanol, for example, will have the benefit of 12.6c discount anyway, because that comes down from 38c per litre to 25c per litre. We believe that the way it was going to work was that they were going to gradually descend on an annual basis to 25c a litre and that would be their level. At the same time, we were rising to 12.5c a litre and there would be a 12.5c per litre buffer, representing those domestic benefits.

Senator ALLISON—Have you had a chance to confirm your interpretation of the bill with the department?

Mr Gordon—We sat down with the Minister for Industry, Tourism and Resources last Wednesday night. He was surprised that this interpretation was made and uncertain that it was correct, but his departmental officers confirmed that this interpretation is the correct one.

Senator ALLISON—After your meeting?

Mr Gordon—Yes.

While it has become apparent that this Bill does not deal with this issue, it is understood that the Government still intends to proceed with reducing tariffs on alternative fuels.

In conclusion

The Democrats recommend that this legislation is withdrawn and that the current arrangements continue to apply unless and until the Government puts forward changes that foster rather than damage alternative fuels and waste oil recycling.

The Democrats will not support the bill.

Senator Lyn Allison

Senator Andrew Murray

