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10th July 2008

The Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
Canberra ACT 2600

Email address: Economics.sen@aph.gov.au

Dear Sir / Madam,

RE: Fuelwatch Scheme Review

From an Independent's point of view, the Fuelwatch Bill aims to reduce the retail price of fuel by introducing control mechanisms at the retail level, which does nothing to address the real causes of rapidly escalating prices in Australia.

The major factors affecting petroleum fuels in Australia today are:-

- (a) Growing demand in China and India
- (b) falling US dollar in which crude oil is traded
- (c) "geopolitical" factors eg. concern about Israel attacking Iran's nuclear installations, Nigeria instability etc
- (d) Speculative and hedge fund oil futures trading

Australian wholesale petroleum prices are based on "import parity prices" with the marker prices being Singapore spot prices for grades reflecting Australia's fuel standards, as reported by Platts.

The Report of the ACCC inquiry into the price of unleaded petrol December 2007 states in Forward:- "Petrol prices in Australia might be reduced if some of the issues in the report are addressed. However the adjustments could only expect to be marginal – there will not be a significant drop in petrol prices, it can only be measured in a few cents per litre. This is because the fundamental pricing of petrol is dictated by international factors: the price of crude oil, the US / AUD exchange rate and the international market for the refining of petrol"

The current refinery margins based on Singapore "spot" prices are extremely high for diesel while petrol margins remain at around normal levels, given Refiners would purchase on a contract basis and not at "spot" prices.

Another impost to the consumer on top of the base petrol price is the GST impact of rising prices. A price increase of 55 cents per litre due to crude oil rises, generates an additional 5cents per litre GST which the consumer has to bear.

We do not support Fuelwatch as an appropriate policy response to increasing prices and we particularly oppose the prohibition on any downward price movements to a notified price in a 24 hour period. This means a retailer is unable to meet market forces in his trading area. The imposition of a “blind auction” system will distort the market with no guarantee of a beneficial outcome for consumers.

The explanatory memoranda circulated by the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs released with the National Fuelwatch (Empowering Consumers) Bill 2008 states inter alia...

“Problem.

The Australian market for fuel is characterized by a lack of price transparency between sellers and consumers at the retail level. Current arrangements allow sellers to react more quickly than consumers to movements in retail fuel prices. This information imbalance results in consumer detriment due to the negative effects on competition and consumers.”

This is an incorrect and misleading description of the retail market.

The retail petrol markets in Brisbane, Sydney, Melbourne and Adelaide are by any common understanding of the words “competitive” and “transparent”, highly competitive and very transparent. That markets react so quickly when prices are falling must be positive and beneficial for consumers. Were the market not competitive, falls in prices and the keen competition between participants at a local level (evidenced by pricing adjustments up or down in increments as small as .02 cents per litre) would not occur and the market would likely be static or responsive only to upward wholesale prices. The price of fuels offered by market participants are displayed on the price boards for all to see, and in addition there are numerous web sites and SMS services (eg Informed Sources, Motormouth etc) that also provide the consumer with petrol price information so consumers can make informed decision about their petrol purchases.

The timing of price rises occurs with a high degree of predictability. Generally, independent outlets will not increase prices for up to 12 hours, after major oil companies lead the way. This increases the window of opportunity for consumers to purchase at the best available price. It also helps the overall viability of the independents’ businesses. The amount of the increase in the price cycle is generally predicted accurately by motoring bodies and industry commentators and is extensively publicized in the media. The level of any price increase often does not sit well with consumers but it’s never a surprise.

Commentators, notably including ACCC Chair Graham Samuel, regularly urge consumers to take advantage of the predictability of the fuel price cycle and make their purchases on what has become known as ‘cheap Tuesday’.

There is no objective basis for the claim that “this information imbalance results in consumer detriment due to the negative effects on competition and consumers”. If there is concern that upward price movement might occur without general consumer knowledge this can be addressed as a specific issue via prior notice in the electronic media etc. Any regulation about the timing of price changes and restrictions on the ability to match competitors price will distort the market. The end result will be consumer confusion, small business failure, higher prices and an unproductive bureaucracy unable to control the outcomes.

The objectives of the Government as outlined in the explanatory memorandum can all be achieved very effectively without the costly imposition and unnecessary regulations of the Fuelwatch scheme.

The attached Fuelwatch Fact Sheet produced by Informed Sources Pty Ltd, in our opinion, provides a fair critique of the current Western Australia Fuelwatch system and offers efficient and more effective alternative solutions to the perceived transparency concerns.

In summary 'Fuelwatch WA' reduces competition and will not ensure cheaper fuel. Fuelwatch may increase the duration and reduce the amplitude of the price cycles but at the expense of competition. That outcome would potentially disadvantage consumers who must purchase fuel weekly and habitually make their purchase at the (usually predictable) low point of the cycle.

Competition can be maintained and improved public access to retail price information can be achieved by less bureaucratic and more market responsive solutions, such as Informed Sources, Motormouth etc.

The "econometric analysis undertaken by the ACCC" which the explanatory memorandum uses to support the introduction of Fuelwatch have been seriously questioned (and effectively discredited) by Professor Don Harding in his article "Fuelwatch evidence runs on empty" published in "The Age" on July 2, 2008.

We are particularly concerned about the impact on independent petrol retailers.

The Fuelwatch scheme will require additional administrative activities with consequential additional costs.

Initially there will be an increase in administrative and systems development costs both at Head Office and site level. We would expect the compliance costs will reduce after systems have been installed and "bedded in". There is no doubt that price setting will become more complex.

Independents, particularly small and single site operators will be vulnerable to pricing strategies of majors with a greater number of sites in an area. The market power of the majors will be enhanced not diminished by the introduction of the scheme. Longer duration price cycles, which seem likely to be a consequence of Fuelwatch, will probably result in lower fuel and shop sales at small independent outlets leading to the closure of some of these businesses.

In closing therefore we cannot state strongly enough that it is extremely important for the ongoing viability of independent retailers that daily downward price movements not be restricted over a 24 hour period.

Yours faithfully

Charles N. Wright

Charles N. Wright
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Attachments:- Informed Sources commentary on Fuel watch.