



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ECONOMICS

**Reference: National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008; National Fuelwatch (Empowering Consumers) Bill 2008**

MONDAY, 21 JULY 2008

ADELAIDE

BY AUTHORITY OF THE SENATE



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## SENATE STANDING COMMITTEE ON

### ECONOMICS

Monday, 21 July 2008

**Members:** Senator Hurley (*Chair*), Senator Eggleston (*Deputy Chair*), Senators Bushby, Cameron, Furner, Joyce and Pratt

**Participating members:** Senators Abetz, Adams, Arbib, Barnett, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Ellison, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hanson-Young, Heffernan, Hogg, Humphries, Hutchins, Johnston, Kroger, Ludlam, Lundy, Ian Macdonald, Marshall, Mason, McEwen, McGauran, McLucas, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Stephens, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

**Senators in attendance:** Senators Abetz, Bushby and Hurley.

#### Terms of reference for the inquiry:

To inquire into and report on:

The National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008, together with the following matters:

- a. the impact of the proposed Fuelwatch scheme on the price consumers will pay for motor fuel (including unleaded petrol, diesel and LPG) in metropolitan areas, regional centres and rural Australia;
- b. the economic benefits and costs of the proposed Fuelwatch scheme to consumers in metropolitan areas, regional centres and rural Australia;
- c. other economic costs of the proposed Fuelwatch scheme, including the compliance costs of the scheme for industry, particularly independent retailers;
- d. the impact of the proposed Fuelwatch scheme on competition between motor fuel retailers and the operation and viability of independent motor fuel retailers;
- e. intraday price volatility in the retail market, established price cycles in each state and territory, and consumer awareness of price cycles;
- f. the impact of Fuelwatch on discounting, as well as the amplitude and duration of price cycles, including any penalties that will apply to motor fuel retailers for not fixing prices for 24 hour periods;
- g. the potential use under the Fuelwatch scheme of sophisticated pricing strategies by motor fuel retailers who have more than one retail outlet, and how they may take advantage of the 24 hour rule;
- h. independent analysis of the overall economic benefits and costs of the proposed Fuelwatch scheme;
- i. independent analysis of the differences in motor fuel prices between Western Australia and other Australian states and territories, with particular reference to volumetric or consumption-weighted prices; and
- j. the legal basis for the legislation.

**WITNESSES**

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**Committee met at 2.05 pm**

**CHAIR (Senator Hurley)**—I declare open this meeting of the Senate Standing Committee on Economics inquiry into the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008 and related bill. On 18 June 2008, the Senate referred the bills to this committee for report not before 29 September 2008. The objective of these bills is to empower consumers to make informed decisions and purchase fuel at the lowest possible cost. To this end, the bills introduce a requirement that petrol retailers must notify the Australian Competition and Consumer Commission of their next day's fuel prices by 2 pm each day and must sell at their notified prices from 6 am the next day to 6 am the following day. The inquiry will examine, among other things, the impact of the proposed Fuelwatch Scheme on the price consumers will pay for motor fuel, including unleaded petrol, diesel and LPG in metropolitan areas, regional centres and rural Australia, and the economic benefits and costs of the proposed Fuelwatch Scheme to consumers in metropolitan areas, regional centres and rural Australia.

This is the fifth public hearing for this inquiry. These are public proceedings, although the committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. I remind witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to a committee. If a witness objects to answering a question, the witness should state the ground upon which the objection is taken and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

[2.07 pm]

**HANLON, Ms Sharon, General Manager, Public Affairs, Royal Automobile Association of South Australia**

**HANTON, Mr Matthew, Senior Analyst, Royal Automobile Association of South Australia**

**CHAIR**—I welcome the witnesses. Good afternoon. Would you like to make an opening statement?

**Mr Hanlon**—Yes, we would. We would like to thank you for the invitation and for the opportunity for the Royal Automobile Association to present before the Senate standing committee today on this very important issue. Firstly, I would like to take the opportunity to bring to your attention that, in preparing both our submission and our evidence, the RAA have noted the terms of reference, as you have outlined, but our focus is definitely upon the impact a National Fuelwatch Scheme would have on South Australian motorists if introduced. The cost of fuel is certainly the single largest issue of concern to our members. The RAA invest very heavily in tracking price movements, analysing wholesale and retail data, providing public commentary, advising their members and advocating on their behalf.

For the committee's information, the RAA is South Australia's peak non-government body representing motorists, with some 572,000 members, 27 per cent of whom reside in regional South Australia. They look to us to represent their interests on a broad range of motoring related issues and, in particular, fuel. In fact, we provide a comprehensive fuel advisory and information service to RAA members, the general public, media, stakeholders, industry groups and private companies with the aim of making the retail market as transparent as possible. This information service is supported by a comprehensive website, which provides detailed information on all matters relating to fuel. Somewhat interestingly, government agencies also approach the RAA for both current and historical fuel data. Most recently, these have included the federal Department of Parliamentary Services, the Australian Taxation Office and state Treasury, as they are unable to easily source this information elsewhere.

In terms of Fuelwatch itself, RAA has long opposed the introduction of a Fuelwatch scheme into South Australia—firstly, due to the absence of comprehensive modelling which shows that South Australian motorists would benefit from such a scheme and, secondly, on the basis that Adelaide's retail market is highly competitive and operates under a distinct and predictive weekly discount cycle. Indeed, Adelaide's distinct cycle clearly demonstrates that the prices available at the bottom of each week's cycle—that is, Tuesdays—are consistently lower than those prices likely to be available under Fuelwatch.

I should state that, importantly, the RAA does remain willing to reconsider its opposition to Fuelwatch should unequivocal data be provided that clearly demonstrates South Australian motorists will not be disadvantaged under the scheme. However, to date, no such information has been made available either by the federal government or through the ACCC. The RAA believes that market forces should dictate the price of petroleum based products reflecting their cost of production, the cost of supplying products to different markets and the degree of competition that exists in those markets. A free and open competitive market for petroleum products best serves the interests of consumers.

As we have detailed in our submission, Adelaide motorists have plenty to lose if Fuelwatch is introduced. Adelaide has one of the most competitive retail markets in Australia, with retail margins the lowest of any mainland capital city during 2006-07. It can also be proven that Adelaide's daily price variation from the lowest to the highest price available is the smallest of any mainland state capital. When the Prime Minister announced the government's intention to introduce a National Fuelwatch Scheme by December this year, the concept was expressed as a mechanism that would save motorists money each time they purchased fuel, while also providing price certainty. This position does appear to have changed in the months since the Fuelwatch concept was first proposed, with the aim of Fuelwatch to now give motorists the power to understand when and where they can buy their petrol at the cheapest price. As it stands, motorists in each mainland state capital city, with the exclusion of Perth, are actually able to structure their fuel purchasing around regular weekly price movements, price movements which are a sign of a highly competitive retail market.

Extensive educating of the South Australian public by the RAA now sees more than 76 per cent of motorists—indeed, 89 per cent in metropolitan Adelaide—are already aware that Tuesday is the cheapest day of the week to buy fuel and are changing their purchasing behaviour accordingly. This compares favourably with the ACCC's own research, which indicates 72 per cent of motorists are price sensitive and buy fuel when it is at its cheapest. This fact, coupled with the understanding that 76 per cent of motorists buy fuel once a



week, means the majority of South Australian motorists are already buying fuel at the lowest price currently possible.

Having said all of that, we believe that there is more merit in looking to expand the availability of real-time pricing information to motorists than in perhaps introducing a National Fuelwatch Scheme. This option would involve making real-time price information for each petrol retailer available publicly, ideally through a website, whether that be managed by the ACCC or utilising the Australian Automobile Clubs. The RAA remains concerned that, by restricting competition—that is, by banning the intraday price movements of fuel retailers—motorists will ultimately pay more at the pump, particularly those 76 per cent of motorists that I have already mentioned who are already shopping smart and taking advantage of the weekly discount cycle.

I would like to finish by saying that RAA welcomes this inquiry that is investigating a very complex issue and some very perplexing reasoning behind Fuelwatch nationally. We certainly look forward to the committee determining the optimal way in which the governments can assist to improve transparency within the retail market.

**CHAIR**—Have you conducted any survey of your members? What has been the feedback coming into your office about the introduction of a National Fuelwatch Scheme?

**Ms Hanlon**—Regarding Fuelwatch specifically, we have certainly done some research recently in terms of our members on a whole range of issues around fuel and fuel pricing. Perhaps I should give you the sample sizes. We commissioned McGregor Tan Research, a market research firm, back in May of this year. They did a telephone survey of a random sample of 250 RAA members. That was basically to gauge the impact of rising fuel prices. In the light of that research, we wanted to explore some of those responses further. So we had an online survey from 23 May to 6 June this year, in which we had 2,260 respondents. In terms of your question on Fuelwatch, 3.7 per cent of motorists believed that the federal government's plan to introduce Fuelwatch would help reduce costs, 64.7 per cent felt that it would not improve pricing and 31.6 per cent were unsure.

**CHAIR**—What was the question that was asked?

**Ms Hanlon**—I am sorry; we do not have the exact question. In my report to my board, it was stated that just 3.7 per cent of motorists believe that the federal government's plan to introduce Fuelwatch nationally would help reduce fuel costs. They were asked as to whether they felt that Fuelwatch would help reduce the cost of fuel.

**CHAIR**—So you basically asked whether they thought Fuelwatch would reduce the price of fuel?

**Mr Hanton**—We asked whether it would help to reduce the price of fuel. The question was: 'Would it help reduce the price and allow you to find cheaper fuel?' From that, 3.7 per cent said that they believed that it would help them to source cheaper fuel.

**CHAIR**—So you did not ask about consumer information specifically? It was more tied in with the price of fuel?

**Mr Hanton**—That is correct.

**Ms Hanlon**—I should perhaps expand on that. What we were looking at was their current fuel purchasing behaviour. That was of great interest to us. Regarding the statistic that I quoted in the opening statement of 76 per cent knowing that Tuesday was the cheapest day in Adelaide for fuel that, in fact, was 76 per cent overall, and 22 per cent of respondents came from regional South Australia. That figure increased to 89 per cent when we were just talking about metropolitan RAA members. Indeed, 76 per cent—so the number is the same—chose to buy when fuel was at its cheapest; at the lowest end of the cycle each week.

**CHAIR**—Do you think that if the fuel cycle were flattened out that people would not have to go out on Tuesday night and buy petrol but would simply be able to buy it whenever they needed it?

**Mr Hanton**—It certainly would provide for that. But what we know is that the fuel pricing in Adelaide on a Tuesday—the cheapest part of the discount cycle—sees the price consistently lower than that low point in Perth under FuelWatch currently. Yes, motorists would be able to go out and buy fuel on any day at a flat price rate. But we know that that would be a higher price than what is currently available in the market.

**CHAIR**—I see. You are saying that on the basis that Adelaide is a more competitive market and they drive down the price on that particular day. What makes you think that it would be less competitive under Fuelwatch and that the prices would not be driven down anyway?

**Mr Hanton**—If we look at the Western Australian example—and that is what we have to base it upon; that is all we have—FuelWatch there operates over a two-week cycle. Adelaide has a distinctly weekly cycle. The fear is—and the research indicates this—that if it was to be introduced retailers may not be willing to go as low as quickly or as high as quickly. We concede that Fuelwatch would flatten out the pricing structure but what we know is that the great majority of motorists know when to buy, structure their purchasing around that and are able to take advantage of a price that we believe would not be available under Fuelwatch.

**CHAIR**—Could you go into that again? Why would the Adelaide market become less competitive? Why wouldn't we see those lower prices?

**Mr Hanton**—Obviously, you are going to have a situation where retailers will be fearful and will not lock their price into a low point for a 24-hour period. The price inevitably will not drive as low because they are trying to hedge their bets.

**CHAIR**—So you are saying that currently on a Tuesday they are not locked in. Do they go up during the day? If they are prepared to sell at that price now, why wouldn't they be prepared to sell at that price for a 24-hour period?

**Mr Hanton**—In Adelaide, at the moment we know that the price over the course of the week will continually drop. If you are forced to lock that price in at that lower level and your competition do not follow you, then there is the potential that over time that price will inevitably rise to a point where you are comfortable with the margin. We know that the oil majors have the ability to spread that risk out over a number of sites. Independents are limited to one or two outlets, potentially. There is the potential there that they will not want to sell that fuel for that price. On Tuesdays, when fuel is heavily discounted, it is sold in some cases below terminal gate prices. We know that that cannot be sustained for long periods. We remain fearful that that price will not go as low as it does now and we will see motorists paying anywhere from 2c to 7c more than what we are seeing in Perth in any week. That is what our data suggests.

**CHAIR**—And yet that is not supported by the ACCC research.

**Mr Hanton**—Which research is that?

**CHAIR**—The report that they did on this. They said that in the Perth market fuel may be about 1.9c a litre cheaper.

**Mr Hanton**—We would vehemently disagree with that on the grounds that FuelWatch was introduced into Perth for a distinct reason: the market was highly dysfunctional at the time—back in 2001. What it has done is lowered average prices in Perth. But that has simply corrected things and brought the Perth price into line with the prices in the rest of mainland Australia. We would question that. The data that we have does not support that. We have outlined that in our submission.

**CHAIR**—Which data are you referring to?

**Mr Hanton**—The data that we have sourced from FUELtrac.

**CHAIR**—What does that show?

**Mr Hanton**—It shows that the price in Adelaide is highly competitive. It is a highly competitive market. I do not know if you have our submission in front of you there, but on page 8 of that the chart indicates that under the discount cycle the price available at that low point in the cycle is consistently lower than the flatter price out of Perth.

**CHAIR**—But you do not have data that shows that it would not necessarily be that competitive if Fuelwatch were introduced.

**Mr Hanton**—There are assumptions in this. There is a fear that if the Adelaide market is subject to a Fuelwatch system that its competitiveness and its weekly structure will be—

**CHAIR**—So this is just a concern that you have; it is not based on any hard data that you have produced.

**Mr Hanton**—It is a strong concern. Unless there is evidence to ease that concern, it will be a concern that we will continue to have. What we know is that prices in Adelaide today, without Fuelwatch, are in most cases at the low point in the discount cycle cheaper than the price in Perth. Unless an assurance can be given that the price is going to be at the same level, then we see no reason to proceed with Fuelwatch.

**Senator ABETZ**—Thanks, Ms Hanlon and Mr Hanton. Let us cut to the chase on this: as I understand page 10 of your submission, you are saying that, for the astute motorist, filling up each Tuesday in Adelaide

represents an annual saving of \$102 and that saving of \$102 is in comparison to the astute motorist filling up in Perth. Is that correct?

**Mr Hanton**—That is correct. We have looked at every Tuesday. We know that Tuesday in Adelaide is the cheapest day to buy. If we look at the Adelaide price on each Tuesday of this year, we know that a saving of around \$51 has been achieved on the price that was achieved on that day in Perth. Extrapolating that out over the course of the year, you are looking at a saving of in excess of \$100. And we feel that that could be lost if Fuelwatch were introduced.

**Senator ABETZ**—What you are saying is that if you had the same market savvy motorist in Adelaide and Perth, that same savvy motorist would be \$102 better off in Adelaide than they would be in Perth in relation to the purchase of fuel.

**Mr Hanton**—That is correct.

**Senator ABETZ**—Has it been your experience that, with FuelWatch, the highs in prices might be a bit lower in Western Australia as compared to South Australia but that the lows are also higher in Western Australia so that the differential is smaller and therefore the really market savvy motorist will be denied the opportunity to buy petrol when it is really cheap—namely, on the Tuesday?

**Ms Hanlon**—Absolutely. We reiterate that FuelWatch was brought in in Western Australia to correct a dysfunctional market. We have no issue with the fact that it has done that. But what we see in Western Australia is a distinct two-weekly cycle which is much flatter than what we are experiencing here in Adelaide and in a couple of the other capital cities around the country. We also know that motorists look to fill up on a weekly basis in the main. What we are saying is that every second week they would be denied that opportunity to buy at the lowest point, which is where our cheap Tuesday comes in.

**Senator ABETZ**—In fairness, I should have put a caveat on my questions in relation to the metropolitan purchases in Adelaide and Perth. I now want to go to the rural and regional areas. The view in your submission is that the impact on the regional consumer could be even worse than it would be for metropolitan Adelaide. Is that correct?

**Mr Hanton**—What we know is that regional South Australian motorists do not have the ability to structure their purchases around a discounting cycle. They are consistently paying a flat rate above the wholesale rate. We remain fearful. If we look at the Western Australian experience, over time it has been expanded into regional areas of Western Australia. What we find is that in towns of comparable population size and distance from the capital prices are higher. That is the fear: because they will be forced to lock a price in, they will not be as willing to go as low as they could because they know that they cannot adjust it. We remain of the opinion that regional motorists may be forced to pay more.

**Senator ABETZ**—In table 6.3 on page 10 of your submission, you have for Adelaide and Perth the average TGP—terminal gate price—then the average retail price and then the differential. Could we interpret the differential as being the margin? Would that be another term for the differential or not?

**Mr Hanton**—That is correct. The differential there is the difference in price from retail.

**Senator ABETZ**—And the margin or differential is in fact higher consistently in Perth than it is in Adelaide. Is that correct?

**Mr Hanton**—On all but two occasions in that chart. What we have to work on is the terminal gate price. That is the only advertised wholesale rate. Whether that is fictitious or not is a debate for another day. That is what we have to work on, and that is what we have to use. Yes, on all but two occasions on Tuesdays this year that margin has been lower in Perth.

**Senator ABETZ**—Sorry: the margin has been lower or higher?

**Mr Hanton**—On all but two occasions, the margin has been higher in Perth than in Adelaide on Tuesdays.

**Senator ABETZ**—Yes. The margin has been higher.

**Mr Hanton**—We are not saying that that is a retail margin, though.

**Senator ABETZ**—Exactly, but it is interesting that you say that the margin is higher, because at least one big oil company—namely, Caltex—has come out publicly to say that some of the highest margins are enjoyed in Western Australia. Your analysis would seem to support that. It is of interest to me that none of the big oil companies have come out against Fuelwatch but a lot of the smaller independent operators have—for some of the reasons that you have explained, but we will hear from them later. In relation to the online survey that you

did, the chair asked you whether you asked about transparency and consumer information et cetera. Why did you inquire as to whether the respondents thought that Fuelwatch might provide a reduction in price? What put in your mind that the consumer might be thinking that?

**Ms Hanlon**—A huge amount of media reporting focused initially on anything from 2c to—and I recall seeing this—15c per litre potentially. There has been a significant shift, I suppose, in terms of the way that the benefits of Fuelwatch are being portrayed. It is now much more about consumer information and empowering the consumers. The research was done to see for our own benefit whether South Australian motorists are already well informed and what we need to do to better inform them or provide them with a better information service.

**Senator ABETZ**—It should not surprise you that it was your brothers and sisters in the RACQ who gave us very similar evidence in Brisbane. They, similarly, asked a question about price, because that was the basis on which Fuelwatch was being marketed at the time that you were undertaking the survey. I was interested to read that the RAA has an open mind and, if I might say, that summary reflects my own view of this that in the absence of strong unequivocal data you would be against Fuelwatch but you would be willing to reconsider your position. But you do have evidence of your own which would suggest that it is not going to be helpful to the motorist in accessing cheaper fuel. Also you said:

... due to the absence of comprehensive modelling which shows South Australian motorists would benefit from such a scheme ...

Mr Hanton, are you satisfied that you have looked everywhere you possibly could have looked to uncover this sort of information if it were available?

**Mr Hanton**—We have. We believe that we have exhausted the public opportunities available, stopping short of going out and doing it ourselves. We know that when Fuelwatch was proposed and when the government went down the path of looking to introduce it, the ACCC provided some pretty strong evidence to suggest that it was a good thing. We have not seen that data and, again, that is the data we are looking for so that we can then make a decision based upon that. Everything we look at at this point in time does not indicate that South Australian motorists will be any better off.

**Senator ABETZ**—Have you any analysis not only of price variations but also of volumes of petrol sold at various stages of the price cycle? Just by way of a brief example, if you have got two petrol retailers in a town, one selling at \$1 a litre and the other at 50c a litre, you could argue that the average price is 75c a litre. But if all the motorists fill up at 50c a litre then the average price paid for fuel is actually only 50c a litre and not 75c. So the volumetric test, to my way of thinking, is a lot more important than just doing an average between the highest and lowest price, because it does not tell you how much is being sold or what quantities are being sold at the particular stages of the cycle. Do you have any information to share with us in relation to that?

**Mr Hanton**—We do not have volume data, as such. Through phone conversations we have with our members and through general vision of their behaviours around the price cycle, we know that on Tuesdays there are queues in most service stations from morning through to the evening. Volume data was provided to the ACCC inquiry back in 2007 which suggested that the greater proportions of fuel were being sold at that cheaper part of the week under the weekly average price. We are basing it upon that but also the fact that in that time we know the price has risen significantly and we know that motorists are feeling that and becoming more astute in the way they buy or the way they structure their purchasing to take advantage.

**Senator ABETZ**—If there are other witnesses in the room they might be able to say in their opening submissions whether they have got any volumetric evidence for us, because it has been the case in the eastern states that the volumes are significantly higher when the prices are lower. This is something that has attracted my attention: in terms of the quasi offer, if I can put it that way, of the automobile associations running, for want of a better term, a de facto Fuelwatch, what sorts of costs do you think might be involved in doing that? I just have a sneaking suspicion that the automobile associations around Australia could possibly do it cheaper than \$20.9 million, which is the price tag that the Rudd government has placed on its Fuelwatch. What sort of price do you think that sort of service could be provided for?

**Ms Hanlon**—We have had some very preliminary discussions.

**Senator ABETZ**—We will not consider it as a binding quote.

**Ms Hanlon**—No—and I am only talking about South Australia. Indeed, like anything, year after year as technology improves, things that you need to purchase in terms of data become more cost-effective. We think it is something that the RAA could provide online, probably for under \$30,000 a year. As I said, that is very

preliminary and there were only some informal discussions. No quotations have been received. I guess that on the back of the envelope you would start to duplicate that around the country, state by state. Indeed, that would be a significantly enhanced offering, obviously, than that which we currently provide on our website. We already provide twice-daily updates for a number of suburbs around South Australia. We have always felt that it is something that we look at to improve the information for our regional members. But, as I said, a lot of that data is already collected and received by the ACCC, whether the ACCC chooses to publish it itself or uses the automobile clubs, given we already have a very strong take-up. I think 3,500 users per month log on to our fuel pages to look at information, so it would not take a great deal of promotion to significantly enhance that, I should imagine.

**Senator ABETZ**—Is the *samotor* magazine provided free of charge to your members?

**Ms Hanlon**—It is.

**Senator ABETZ**—The reason I ask is that you refer to your online poll research as being published in the September-October edition. I did not want to damage your sales figures. Are you able to provide us with that detail, in particular on the committee's question? You can take that on notice and provide it to us. In fairness, before we interpret the answers it would be helpful to know the exact question. If you could provide that to us prior to publication of the magazine, I for one would be indebted to you.

**Ms Hanlon**—I would be happy to do that if it were kept confidential to the committee at this point in time, until the magazine comes out.

**Senator ABETZ**—We could not give that guarantee unfortunately. I think we are reporting on 26 August.

**CHAIR**—That is the proposed date.

**Senator ABETZ**—I suppose our difficulty is this: if we, or any of the committee members, were to rely on it to sustain our argument we would need to show that. Online polls are, I might say, notoriously inaccurate but they do provide you with some indication, especially when it appears to be a very strong vote out of in excess of 2,000 and only four per cent believe it will reduce fuel prices. That would be of benefit. Take it on notice and, if you think it would damage the interest in the magazine too much, that would be understood.

**Ms Hanlon**—Regarding 26 August, the magazine generally comes out in the last week of the month prior to its issue date, so I would be happy to provide that. I agree that online polls and, indeed, any polling by its very nature needs to be examined carefully, but I suppose that for us it was as much about the level of interest. The number of respondents that we had to that in itself told a story as far as we were concerned. Having 2,260 people opting to click online and answer a series of questions was an incredibly strong response rate.

**Senator ABETZ**—That is interesting: you have run a number of online polls?

**Ms Hanlon**—We do from time to time.

**Senator ABETZ**—Is there such a thing as an average response rate?

**Ms Hanlon**—No, but I would just say that it was a very strong response on this occasion, particularly because it was held over a very short period of time—that is the other thing. It was not online for terribly long.

**Senator ABETZ**—So it was a stronger participation rate than what you had previously experienced.

**Ms Hanlon**—Yes, most definitely.

**Senator ABETZ**—Thank you very much.

**Senator BUSHBY**—Firstly, thank you for your submission, which I think was very comprehensive and you put your argument very well. Senator Abetz and the chair have asked many of the questions I would have liked to ask, but I have got a couple nonetheless. I note in your submission you refer to the extensive educating of the South Australian public, which has led to a high awareness of cheap Tuesday. How did you go about that? What are you talking about when you refer to your education of the South Australian public?

**Ms Hanlon**—I think the gentlemen in the room representing the media are probably on the phone to Matthew here on my left virtually on a daily basis looking for some sort of information to go to air, so it refers to the television news. Adelaide's regular print media would again be in daily contact with us. But, as we have said, we have a strong online presence. The *SA Motor Magazine* is regularly looking to inform. We obviously put out our own media releases when we believe that there is something significant or unusual happening in the market that we are looking to report on. On any given day we would receive probably 10 to 20 spontaneous contacts from members of the public just wanting to verify or validate something, or ask our

views. When something unusual happens in the marketplace, quite literally, that could go up to 50 calls a day that we are fielding in the office.

**Senator BUSHBY**—So you are fairly confident that through those means and others the South Australian public, and particularly the Adelaide public, have a fairly high awareness of the price cycles of petrol and how they occur.

**Ms Hanlon**—We have used quite a singular message over a lengthy period of time—the expression ‘Cheap Tuesdays: buy at the low end of the cycle.’ As I said, it is nothing new as far as Adelaide motorists are concerned.

**Senator BUSHBY**—The price cycle itself is fairly consistent? Does that fluctuate at all? Obviously, price fluctuates within a cycle, but does the cycle itself move about at all?

**Ms Hanlon**—We have had a couple of instances this year of what we call ‘extended discounting’, which has been unusual. Other than that, it is so predictable, as Matthew has already given evidence: drive past any forecourt on Tuesday morning or Tuesday night and cars will be almost out to the kerb.

**Senator BUSHBY**—Within the day—I think it is referred to as intraday fluctuations.

**Ms Hanlon**—Yes.

**Senator BUSHBY**—Are they consistent or a bit less consistent?

**Mr Hanton**—We find certainly in Adelaide under the current cycle that those price fluctuations, where they exist, are to the benefit of motorists. They tend to be of a downward nature. You find that Wednesday—as we put it, transition day—is when prices will go up. Part of the educating has been to make people aware that, come lunchtime, the price will go up. That is when we see prices rise. We do not tend to see prices rise on a Sunday afternoon by half a cent or a few cents. The trend is consistently down over the course of the week until we hit that low point, and then they go up. So your price fluctuations from day to day or intraday fluctuations would be of benefit to motorists under the current structure that we have.

**Senator BUSHBY**—Given the high level of awareness of South Australian motorists of the pattern of the cycle that the intraday fluctuations tend to be down on the whole, would you say that there is any significant level of concern by South Australian motorists about price fluctuations and particularly the intraday fluctuations? Is there any concern about that or is it something that they understand and embrace?

**Mr Hanton**—We get strong take up from diesel users, in particular, who are highly critical that their market does not operate under the same circumstances. We are hearing that potentially we want to remove this because it is a bad thing, but we have got a section of the community that would do anything to have their fuel sold under a similar structure.

**Senator BUSHBY**—From the feedback you are getting from—to coin a government term—‘working families’, who are motorists, is there any degree of concern about price fluctuations, particularly intraday fluctuations?

**Mr Hanton**—There is obviously a level of concern; we would lie if we said there were not. But we believe that that concern is being diminished because of the education that we are able to put out there. With prices higher, part of the surveying we did showed that around 50 per cent of motorists have changed their purchasing behaviour and their driving behaviours to be able to take advantage of the low price that is on offer. We look at volumes of fuel that are still being sold. We know that if we compare the first six months of this year to the first six months of last year volumes in total are up marginally. We know that people are still buying the same amount of fuel but that people are becoming more astute in the way they buy so that they can save themselves money in the first instance. Once you have exhausted all of those options—you have exhausted the Tuesday, you have exhausted combining your trips—then we might start to see some falls in the volume that is being consumed, but at the moment people are looking to save in other ways before they start to forego their driving.

**Senator BUSHBY**—You mentioned there was some level of concern. I am sorry to come back to it; your answers are good. There is some level of concern about price fluctuations, but it is not at a high level. How would that level of concern compare to the level of concern that South Australian motorists have about the price of petrol per se?

**Mr Hanton**—Motorists do not necessarily want to know what price is available on the day; they want to know when they can buy. They can do it. ACCC research says that in the vicinity of 80 per cent of motorists

shop from the board, so they know by driving around what price is available. We know that over the course of a day people will structure their purchase around what they are seeing in an area.

**Senator BUSHBY**—I have one further question—or a couple of quick ones, hopefully. The aim of Fuelwatch has been stated; I think we had it in the preamble this morning: to provide information about when and where you can buy at the best price. Given that that is the stated aim of what the government is now trying to achieve with Fuelwatch, how important is the 24-hour fixed price aspect? How do you see that fitting in with an aim of trying to provide information to motorists about when and where they can buy at the best price? If you are trying to put in a scheme to deliver that, do you need fixed prices for 24 hours, or is it just information that is needed?

**Mr Hanton**—We do not believe that the fixed pricing is necessarily needed. We know that motorists have become astute and know when to buy. The fear is that, under a Fuelwatch system where you lock a price for 24 hours, you are not going to know that you have reached the bottom of the cycle until the prices are published that afternoon to say that prices will go up the next day. You then have a small window that evening to purchase your fuel. At the moment you have 24 hours on Tuesday to purchase your fuel at the lowest price possible.

**Ms Hanlon**—Every Tuesday.

**Mr Hanton**—Each Tuesday, yes.

**Senator BUSHBY**—The chair asked how the ACCC findings fitted with what you are suggesting and so forth. Have you had a chance to examine the ACCC's data on which they base their econometric findings?

**Mr Hanton**—We have had a look. We cannot get hold of the actual data that we are doing. We are looking at the data that falls from the published report from the actual—

**Senator BUSHBY**—But you have not actually looked at the data upon which they base their findings. That is not available.

**Mr Hanton**—That is true, yes.

**Senator BUSHBY**—They have refused to release it. It is pretty hard for you, the RAA, to provide a considered view as to the veracity or otherwise of those findings without having access to the data upon which they were based. Is that a fair comment?

**Mr Hanton**—That is true.

**Ms Hanlon**—Yes.

**CHAIR**—I thank the Royal Automobile Association of South Australia for coming in this afternoon. I now call to the table the Motor Trade Association of South Australia.

[2.49 pm]

**CHAPMAN, Mr John Clifford, Executive Director, Motor Trade Association SA (Inc)**

**KRUYS, Mr Theodoor, Chairman, Service Station Division, Motor Trade Association SA (Inc)**

**CHAIR**—Welcome. Do you have an opening statement, Mr Chapman?

**Mr Chapman**—Yes, I do. On behalf of the MTA of South Australia I would like to thank the committee for the opportunity to present our submission on a legislative proposal which offers little hope for our small business members who operate in a market dominated and manipulated by large retailers and big oil companies. The MTA represents 1,000 members who are predominantly small business and multisite owners in the motor trades in South Australia. We represent the independent petrol retailers and commission agents, totalling over 122 sites across the state directly, while a number of other members also have fuel-retailing operations connected to other businesses, such as a vehicle dealership.

In brief, the role of the association is to raise awareness in the community of the significant contribution of the retail motor trade to the South Australian economy, with an estimated turnover of more than \$8 billion and direct employment of approximately 30,000 people. Its role also is to convey and promote to government the interests of the retail motor trades and to promote and enhance the reputation of the trades with its customers and the general public. Our statements today are consistent with those provided to the committee by the Motor Trade Association of Australia, of which we are a member body. For the benefit of the record, I seek permission to table a copy of that submission.

The MTA recommends that the committee take into consideration: that independent service station operators could be disadvantaged when determining their daily pricing strategy because of their lack of access to the comprehensive and extensive in-house econometric analysis undertaken by the oil companies, Coles and Woolworths; the potential costs involved for the independent motor fuel retailers in the establishment and ongoing operation of the Fuelwatch Scheme, with particular attention being given to the potential requirement for IT investment and additional labour.

The MTA believes that any introduction of a scheme which supports retail price transparency needs to be accompanied by a scheme which introduces transparency at the wholesale pricing level. A possible solution to counter the disadvantages facing independent motor fuel retailers in relation to lodging a competitive price 16 hours in advance is to allow independents one price change to meet the market within the 24-hour period. Fuel retailers who sell less than 3.5 million litres per year should be excluded from the Fuelwatch Scheme. The MTA does not believe that the Fuelwatch Scheme will have any impact on shopper docket schemes and in fact they could be used to gain the stated fuel price. The MTA is concerned that through the use of national pricing strategies there is potential for larger retailers, in their pricing arrangements, to selectively target independent retailers. Thus, MTA believes that there need to be strong provisions within the Trade Practices Act dealing with the misuse of market power and predatory pricing behaviour. The MTA is generally supportive of initiatives that provide consumers with additional product information to allow for informed purchasing decisions, such as that which is being proposed in the Fuelwatch Scheme.

The association, of course, is also mindful of the need to ensure that there is no undue compliance burden imposed on its members and that they are not unfairly disadvantaged in the market by regulatory requirements. The MTA supports any measure that would provide relief to motorists who have suffered from unfair oil company set petrol prices but noted that many of the costs borne by motorists were the product of decisions by those oil companies at the wholesale level.

The MTA believes, however, that a number of elements of the proposed Fuelwatch arrangements, particularly the impact on independent service station operators, need to be carefully assessed. The MTA would not like to see the proposed arrangements result in independent operators being disadvantaged when determining their daily pricing strategy because of their lack of access to the comprehensive and extensive in-house pricing analysis system I talked about earlier, which is thus available to oil companies, Coles and Woolworths. Without this information the capacity of independent motor fuel retailers to compete is further eroded because they cannot base their pricing strategy upon the same information available to other retailers.

The difficulty that the MTA then has is for independent operators. The proposed Fuelwatch Scheme does not provide independents with the opportunity to lower their pricing in order to be competitive with other sites in the event that they may not get their individual pricing strategy correct on any one day. The current market arrangements allow service station operators to react to competitors, many of which are large national chains,



by having pricing strategies in real time. We believe that independent operators will be severely damaged competitively by the ability of major retailers to continually take a loss leader site to promote the idea that they are providing the cheapest fuel. The MTA is concerned with the potential costs for independent motor fuel retailers involved in the establishment and ongoing operation of the Fuelwatch Scheme. Most independent motor fuel retailers are already operating on incredibly tight margins, and any increase in operating costs could have a detrimental effect on their business.

The association is therefore concerned that, in some instances under the Fuelwatch proposal, smaller independent operators could find themselves in a situation of having posted a price above the general market price in their area and not being able to react to that situation. The MTA believes that Fuelwatch should allow for one intraday pricing adjustment by independent operators. The criteria which an independent motor fuel retailer must meet to be granted the one price change a day are an issue that would require further consideration. The association does not believe that intraday price reductions would always result in a situation whereby sites would open with a high price and then lower it during the course of the day. The MTA believes that an ability for independent fuel retailers to lower their price once per day will be of benefit to consumers and those operators.

The MTA is of the view that the criteria the ACCC uses to determine whether or not particular retailers ought to be included in the Fuelwatch Scheme need to be made publicly available—that is, in relation to regional and rural areas. The criteria need to be open for public scrutiny so that it may be determined whether items such as the number of fuel-retailing sites, the location of those sites and the proximity of one site to the next are appropriate for the ACCC to base its recommendation on. The MTA believes that the key to creating fair and transparent motor fuel pricing is to have true transparency at the wholesale level. The association believes that a transparent and competitive wholesale fuel market delivers the best outcomes for all participants involved in fuel reselling and, indeed, for consumers. In the association's view, the current terminal-gate pricing arrangements under the mandated Oilcode rarely offer an accurate representation or reflection of actual wholesale buying prices. The MTA believes that any introduction of a scheme which supports retail price transparency needs to be accompanied by a scheme which introduces transparency at the wholesale pricing level. The other essential element of ensuring a competitive retail petroleum market is a strong Trade Practices Act and, in particular, a strong section 46, dealing with the misuse of market power and predatory pricing. The MTA notes that the government has introduced legislation to strengthen aspects of section 46.

The MTA is of the view that the Fuelwatch Scheme will have little to no effect on the impact of discounting in terms of the Shop-A-Docket programs. Furthermore, the MTA is extremely concerned that Fuelwatch must have specific powers to stop the major supermarket groups and large oil companies gaming the price. There appears to be no power to stop a retailer offering to double the discount on a Shop-A-Docket—for example, from 4c to 8c a litre—by simply advertising a daily special for a particular site or sites. Such behaviour would allow manipulation of the price of fuel to such a degree that the Fuelwatch Scheme would be rendered worthless, as retailers would simply use another mechanism to reset their prices. We have raised this matter with the ACCC and with fuel pricing commissioner Pat Walker but have yet to receive a response. The association believes that Coles and Woolworths will continue to operate these programs, as presently.

Currently, small operators who for whatever reason find themselves out of the market at a given point in time can immediately adjust their pricing to meet the market. That flexibility is not provided within the proposed Fuelwatch Scheme. The MTA believes that the government needs to ensure that any measures it introduces to assist transparency in the retail petroleum market do not adversely impact on smaller and independent operators. I would like to thank you for the opportunity to appear today. We would welcome any questions you may have.

**Senator ABETZ**—You have indicated to us that you largely represent the small-business, independent part of the market. What sort of share of the market do the independents have in South Australia, do you think?

**Mr Chapman**—In general it would probably be around 30 per cent.

**Senator ABETZ**—Is that 30 per cent of the sites or of the volume sold?

**Mr Chapman**—That would be the sites, I think.

**Mr Kruys**—I would say it would be less than that.

**Mr Chapman**—It is probably less than 30 per cent. I think there are 122 sites and, according to some of the data I have seen, about 900 registered, so it would be less than that. Also, there would be a number of independents that are not members of our association.

**Senator ABETZ**—I noticed the front page of your submission; it looks as though there was a ribbon-cutting exercise—the opening of a new independent station, or an SAFF.

**Mr Chapman**—Yes, correct.

**Senator ABETZ**—Just out of interest, when did that occur?

**Mr Kruys**—You might like to direct that question to our prominent member, Mr Fischer, who will give evidence shortly. That was one of his sites. That was the minister for the environment cutting the ribbon, in around 2005, I think.

**Senator ABETZ**—I understand that openings of new independent service stations all around Australia are relatively few and far between, and therefore I was interested to see how recent that photograph was. It is, I suppose, instructive to us that it is three years old, but we will ask Mr Fischer later.

**Mr Chapman**—Unfortunately I do not have a photo of Mr Fischer's new site at Mawson Lakes, which is quite stunning. I will take that on notice and update the committee.

**Senator ABETZ**—We will await that with great interest. Thank you for your submission and for the document you have provided. As I understand it, the RAA does in fact provide to the public the terminal gate price, which, in some people's view, is the wholesale price. But I understand that, between the TGP and the time it arrives at a particular outlet, there are a whole lot of other factors that come into play. I was just wondering at what level you would want to see the transparency at the wholesale pricing level. Are you just saying the terminal gate price or through all the other phases of it as well until it arrives at the retailer?

**Mr Chapman**—At the moment, with the way the system is currently structured, there can be all sorts of rebates and other arrangements which provide a distortion into the marketplace. That can be a benefit to some outlets and a disadvantage to others. It also creates distortion when you are talking margins in terms of the retail price versus the terminal gate price, because we do not believe it is a true price. There are other variables behind that which we are often not aware of.

**Senator ABETZ**—So, as a result, when you are asking for a scheme which introduces transparency at the wholesale pricing level, that would be more than the terminal gate price. Is that what you are saying?

**Mr Chapman**—What we are saying is that anyone should be able to buy at a particular price and there should be no other under-the-table kickbacks or arrangements. For example, if one of our members would like to buy fuel at what is being given as the true price, often—and Mr Fischer may refer to this later on—he could not buy the fuel at the price that he finds some of his competitors are charging for it. He is unable under the current laws to go and fill up a fuel tanker to stock up his own tanks at the price being charged. There is manipulation going on at that pricing level. So the TGP is almost meaningless in that situation.

**Senator ABETZ**—I would be happy to agree with you to a certain extent but I dare say, were you to front up and say, 'Would you fill this jerry can?' and then ask for a two per cent discount, even a retailer might laugh you off the forecourt of the service station. But, if somebody came along wanting to buy a minimum of 1,000 litres a month and then said, 'And, by the way, would you offer me a one or two per cent discount?' chances are the retailer would say, 'Look, that sounds like a pretty reasonable request.' Therefore, the volume purchased can impact on the price at which somebody is willing to sell. That is the disadvantage independents historically have, be it in selling petrol or, indeed, groceries. I am wondering how you can insist or ask that everybody be allowed to purchase at the wholesale price, at one given price, when there are variables, one of those of course being the quantity being purchased.

**Mr Chapman**—What we are asking for is transparency because we do not know what those variables are. As a first step, if we are serious about seeing the margins in the oil price and getting the oil price down for the consumer, we need to see what those issues are. They are deliberately being used at the moment to drive our independents out of business.

**Senator ABETZ**—Would you be requesting that for all sections of the marketplace?

**Mr Chapman**—In what respect?

**Senator ABETZ**—Should that apply to groceries, to motor vehicle sales and to whatever other ranges of products or services may be available in the marketplace?

**Mr Chapman**—I think what we are saying is that, if we are being asked to be transparent in our pricing structure, so should the wholesalers.

**Senator ABETZ**—Right. But if you then did not have a Fuelwatch system you would not be making that request.

**Mr Chapman**—We have been very up front in making the request about transparency at the wholesale pricing level. This has been an ongoing issue for our industry. This is not a new phenomenon.

**Senator ABETZ**—Sorry, I am not fully following. We have the TGP, which is not necessarily indicative, you believe, of the actual price at which fuel is sold?

**Mr Chapman**—Yes.

**Senator ABETZ**—And you believe all the other variables should be publicly disclosed?

**Mr Chapman**—We believe so, yes.

**Senator ABETZ**—Then why shouldn't an independent retailer have to publicly disclose every aspect of his, her or their margin in their retail price?

**Mr Chapman**—I think you are looking at two different markets. You are looking at where people can actually source a product. The retail market, under a true retail environment, will find its own level in terms of market price. What we are seeing here with Fuelwatch is an intervention into the market as such, whereas, at the moment, it does operate. Yes, we go through cycles, but there is nothing to stop a retailer resetting their price a number of times a day. They are very different environments, I think.

**Senator ABETZ**—You do not support Fuelwatch?

**Mr Chapman**—We do not support Fuelwatch as it currently stands.

**Senator ABETZ**—Right.

**Mr Chapman**—And we really have not seen any evidence that justifies Fuelwatch but, if the government is going to go down this path, we believe that, for our members, there need to be a number of adjustments to take into account the impact on independent retailers.

**Senator ABETZ**—And that would include the wholesale price issues that you have just alluded to—

**Mr Chapman**—Correct.

**Senator ABETZ**—but in the context of Fuelwatch being introduced.

**Mr Chapman**—Yes, in the context of Fuelwatch being introduced, although we have argued for a long time about transparency in the wholesale pricing level. If Fuelwatch is not introduced, we will still argue for transparency in wholesale fuel pricing.

**Senator ABETZ**—That is what I thought you were saying. That is fine.

**Mr Krays**—I would like to make a comment about your question. We have seen prices posted at oil company operated sites and supermarket sites that were anything up to 10c below the TGP price. Clearly, there were no independent operators who could match those prices; they did not do that and in some cases they actually posted prices that were in excess of 10c above the prices at those oil company operated sites. Obviously, for whatever reason, the oil company decided to sell at a price that they could not compete with, no matter how, no matter what.

**Senator ABETZ**—That, of course, is of great detriment to the independent sector but, at least in the short term, of great benefit to the consumer.

**Mr Krays**—Yes.

**Senator ABETZ**—In relation to your suggestion that fuel retailers who sell less than 3.5 million litres per year be excluded from the Fuelwatch scheme, how do you arrive at that figure? What is the magic in that—why not three million or four million litres?

**Mr Chapman**—This figure has been arrived at after discussions with our interstate counterparts, including the Service Station Association. It really reflects the size of the operation; from memory, it equates to about 10,000 litres a day, which is a relatively small site. We believe that that is one way of differentiating those that are in and those that are out.

**Senator ABETZ**—Do you have an idea as to how many service stations might be impacted by that? Would that mean all independents are out or 90 per cent of independents are in?

**Mr Chapman**—We would need to do further work on it to establish that. There are some bigger independent operators who do larger volumes. But it was generally felt across the industry that it was a way that could help, and we are putting it forward as a proposition for further discussion.

**Mr Kruys**—I would say that that would represent only single-site operators and probably the majority of those in that volume range would be in the non-metropolitan areas. So they would be small, single-site operators in the country. Some of the oil companies have a rule of thumb that they would not operate a service station in today's environment that does less than three million litres a year.

**Senator ABETZ**—So Mr Fischer would miss out?

**Mr Kruys**—Mr Fischer is not a single-site operator.

**Senator ABETZ**—Yes, that is right. So he would miss out on this.

**Mr Kruys**—Correct. So would I. I operate four sites and I would miss out, too.

**Senator ABETZ**—On the suggestion that independents be allowed one price change within the 24-hour period, I am interested in your definition of 'independent' in that regard. Would that be the same as what we have just been discussing, that it be a single-site operator?

**Mr Kruys**—No. I would think that that would apply to people who may have more than one site. There is an incredible difference in the economics of operating a price watch scheme as an operator who has two or maybe three sites versus an oil company who operates 600 sites. Their ability to spread the costs amongst those 600 sites versus that of somebody who has three sites means there is no comparison.

**Senator ABETZ**—I fully agree with you in relation to that but I was just wanting to get a handle on what you mean by 'independent' for the purpose of being allowed to have one price change. And would you that price change to be up or down?

**Mr Chapman**—Downwards only. What we are saying is that if an independent is in the marketplace, given that they have to bid in by two o'clock the previous day, if they have missed the market price they should have the opportunity to reset that price. For example—and, again, this is subject to further examination—they should have that opportunity to submit to the ACCC by, say, midday a price to take effect at 2 pm that same day. So, okay, they may have missed the morning but they can still pick up the afternoon and their forecourt is not bare for 24 hours.

**Senator ABETZ**—What has your experience been with the ACCC in relation to what you allege is the misuse of market power and predatory pricing behaviour by the larger oil companies? We do not have all day but can you give it to us in a nutshell?

**Mr Chapman**—I have not seen any real effect of the ACCC on dealing with this issue.

**Senator ABETZ**—Thank you. On page 6 of your submission dealing with rural and regional implications, you say:

MTA is of the view that the criteria the ACCC uses to determine whether particular retailers ought to be included in the Fuelwatch scheme or not needs to be made publicly available.

As I understand the draft legislation, it will in fact be the minister who will make that determination and then that determination will be by way of regulation. Chances are it will be a disallowable instrument, which in effect means that either the House of Representatives or, more likely, the Senate could in fact vote down the particular regulation, albeit it would seem that the minister would undoubtedly have a raft of areas in the regulation. Therefore it would be all in or all out, and you could not cherry pick through the list, as I understand it. But, from your point of view, would your principle that there should be full public disclosure apply irrespective of who makes the decision?

**Mr Chapman**—Our concern—and you are obviously very well informed on the legislation—at the moment is that presumably the minister will be advised by the ACCC. We do not know the criteria in terms of the number of service stations in a particular area or the issues relating to their locations, volumes or any other elements—what is going to be included in that? With respect to the respective minister, we always become very nervous when it is left to the ministerial fiat to determine whether something is in or out. Again, for the sake of transparency, I believe this information should be on the table, especially before the Senate passes it because the Senate may wish to consider whether it accepts the government's motion or makes appropriate modifications.

**Senator ABETZ**—One last quick bracket: do the independents in South Australia—tell me if we cannot speak generally—generally have smaller forecourt tanks than the larger oil companies? The reason I ask is that it has been put to me that independents have smaller forecourt tanks and therefore have to refill on a more regular basis. If you have to set your price at two o'clock in the afternoon for the 24-hour cycle the next day but you do not know at what price you can buy in your petrol if you have to buy it later on that day or the next day, you could be doing yourself a great disservice unless the two are married up. I dare say the larger oil companies would have that figured out for their retail outlets but I am just wondering about independents. Would that cause a peculiar problem for them?

**Mr Kruys**—I am not sure that independent operators necessarily have smaller tanks. I think that they would have for the simple fact that they operate smaller service stations as a rule. The significant part is the actual cash flow. The actual cost to buy a load of fuel today is \$50,000 to \$60,000, whereas a full range of fuel tanks underground may take \$200,000 worth of fuel. The restriction that would apply to many small operators would be the amount of cash that they would have available to fork out to buy that fuel with. So they would be looking to buy smaller quantities of fuel for simple economic reasons rather than limitation and capacity.

**Senator ABETZ**—I can fully understand that. Possibly that is what others were trying to tell me, but not as openly and honestly as you just have. Therefore, would it be fair to say that independents tend to buy in smaller lots but on a more regular basis?

**Mr Kruys**—Obviously I cannot speak for other people to the full extent but, yes, I would say that that would be a fair comment.

**Senator ABETZ**—And then would they potentially be caught by a fluctuation in the wholesale price of the fuel, having had to predetermine what their retail price was going to be the next day under the Fuelwatch scheme?

**Mr Kruys**—I think that that one is a bit of a fine line.

**Senator ABETZ**—All right. If you cannot comment—

**Mr Kruys**—It is very hard because you—

**Senator ABETZ**—That is fully understood. I am not saying that by any way of a criticism.

**Mr Kruys**—It could vary widely from operator to operator.

**Senator ABETZ**—Thank you very much.

**Senator BUSHBY**—I have a few questions, if that is all right, Chair. Thank you for your submission. How important are independent retailers in general in the petrol market in terms of maintaining competition in the retail market? You mentioned that you have got something less than 30 per cent of sites. I imagine that the percentage of your members and those who are not members, as against the whole market, by volume would be even smaller, because I imagine that you would probably have a smaller sell-through than most of the major retailers. How important a role do your members and non-member independents play in keeping the price down in the competitive sense?

**Mr Chapman**—Probably the easiest way I can put it is that we are a bit like the minority parties in the Senate. We play an important role.

**Senator BUSHBY**—Like the Democrats and their old slogan.

**Senator ABETZ**—Wait a minute. They are starting to lose us if they are important.

**Mr Chapman**—Everyone is important in the senate, Senator. We think independents keep a balance in the market. It is true that over the last 20 years there has been a significant decline in the independents.

**Senator ABETZ**—I am sorry. I was forgetting that we are in South Australia. You are very right.

**Mr Chapman**—Yes. But, if we look at the decline in the market, what we are concerned about is that at the end of the day the big grocers and the big oil companies will revert to type when the independents are eliminated. There have been a number of occasions in this state when they have deliberately set out to target our independents and basically tried to run them out of business.

**Senator BUSHBY**—I will come back to that in a minute. You mentioned: 'once the independents are eliminated'. Do you think it is realistic that the independent sector could be eliminated, as a force at least?

**Mr Chapman**—I think we have seen that to a large degree. Over the last 20 years the numbers show that it has gone from something like 20,000 nationally down to about 6,000.

**Senator BUSHBY**—I am not arguing against you, but at the same time the number of sites overall has contracted as well, hasn't it?

**Mr Kruys**—That is the overall number that was just mentioned. Unquestionably, the number of independents has almost totally disappeared. In the South Australian metropolitan area you could just about count the number of independents on one hand.

**Senator ABETZ**—What do we mean by 'independent'?

**Mr Kruys**—That is a difficult assessment. A couple of independent operators in South Australia operate in excess of 15 sites. Then it varies: Shell has nil, BP has one large independent operator in excess of 15 sites, Caltex has maybe 10 or 15, Mobil has two. I am talking metropolitan at the moment. When I entered the industry in 1984 there were hundreds.

**Senator BUSHBY**—Are there still sufficient numbers, though, to provide the balance that Mr Chapman was referring to?

**Mr Kruys**—Again, that question is a hard one to answer. There is very little opportunity for independents these days because of the significant cost of entering the market and the difficulty complying with some of the strict regulations that now apply and so on. Then to compete on a very, very tight market is—

**Senator BUSHBY**—Let me put it slightly differently, then. If those remaining independents were to close or be taken over by majors or supermarket chains, what effect would that have on the market and on the prices in particular?

**Mr Kruys**—My thoughts are that you would have the potential risk of higher prices because those people would be there, niggling away and trying to carve out a little niche for themselves wherever possible. They may see their opportunity to do that by being competitive in the price.

**Senator BUSHBY**—Correct me if I am wrong; you are effectively saying that those remaining few still provide a brake in some form against what a smaller number of large operators may choose to do.

**Mr Kruys**—Correct. A question has occurred to me. Earlier, when you were talking to the people from the RAA, there was a discussion about the percentage of fuels, dollars or whatever sold.

**Senator BUSHBY**—Yes, volumetric.

**Mr Kruys**—This is purely shooting from the hip without having any facts on me, but, off the top of my head, it would be fair to say that 60 per cent of the fuel we sell is sold between Monday and Wednesday and 40 per cent is sold on the remaining four days.

**Senator ABETZ**—You are being very modest for off the top of your head. Can you briefly tell us about your experience and involvement in the fuel industry? You did not start yesterday, I assume!

**Mr Kruys**—I bought my first service station in 1984 and I have been in the industry since then. Starting with one service station, I have had up to 11 service stations and currently operate four service stations and a car wash.

**Senator ABETZ**—So there is a wealth of experience behind that top-of-the-head analysis—would that be fair to say?

**Mr Kruys**—Some people would say yes.

**Senator BUSHBY**—I have a question about independents. In your view, how does the proposed Fuelwatch legislation affect the viability of independents? You have mentioned a number of factors in your submission that suggest it is not particularly positive, but can either of you summarise what direct effect you think that will have on viability?

**Mr Chapman**—In terms of viability, I think there are a couple of issues. There is the red-tape issue: by two o'clock every day, there is another burden on members to provide the information, however so, to the ACCC. They will have to make judgements on that and put structures in place to try to determine their pricing. It also removes the free market. They are stuck with that price for the next 24 hours from six o'clock the following morning. They currently, as we understand it, do not have the opportunity to reset that price, so, if they get it wrong, they will have significant issues in terms of a quiet forecourt. They do not have the resources of the big oil companies and grocers to be able to absorb that, so we believe they will be out of the market in that respect. They do not have access to the information that the majors have. The other issue that we are concerned about is the issue of the ability to gain the price by using other discount methods. That would be especially hard for

independents in that space. It would allow the grocers, for example, to offer and cross-subsidise their shopper docket system even more than they currently do.

**Senator BUSHBY**—So, effectively, if the Fuelwatch legislation were passed as it currently stands, you are saying that, upon coming into effect, viability would be reduced because of those reasons in some cases, and that may then lead to fewer independents and a greater inability to provide the balance that you were talking about?

**Mr Chapman**—Correct.

**Senator BUSHBY**—One thing you mentioned in particular that I am interested in is the predatory behaviour. Am I right in suggesting that the sorts of things you are talking about there might be, for example, where a number of outlets in the vicinity of, say, even a strong independent may choose deliberately, under the Fuelwatch, at two o'clock to price severely below the market in that area, leaving the independent to go in with a fair and keen price, but nothing anywhere near like what the others have done? That type of thing then means that he gets no business, and if they do that regularly they basically undermine that operation's viability; thus, ultimately it goes out of business. Is that the sort of thing you are talking about there?

**Mr Chapman**—Correct. It is happening now.

**Senator BUSHBY**—Is there anything either in the Fuelwatch legislation or the Trade Practices Act that you are aware of that would address a situation like that if it were apparent that it was occurring?

**Mr Chapman**—We believe that there are powers in the Trade Practices Act. But it needs to be strengthened, and we need to see the ACCC actually take on some cases in that regard.

**Senator BUSHBY**—The Fuelwatch legislation means you have to set your price at two o'clock and cannot change it again till the day after, basically—the day after the following day. Would that make it easier for the oil companies, or for the majors or other outlets, to implement such predatory action because the independent cannot actually change his price once it happens?

**Mr Chapman**—We believe so. They could target particular areas and they can absorb the loss leader, as they do in the supermarket regime at the moment, and literally target specific areas until they send an operator broke. We have seen a couple of cases where they have had a good try at it. It tests the resolve and the resources of our independent members to stay afloat in that environment; it is very difficult.

**Mr Kruys**—Conversely, at the same time the supermarkets could also post a price that is not necessarily highly competitive, which would be on the website after two o'clock or whatever given time and may well be the same price as the independent operator's. But there is nothing to stop them from putting a sign out the front and saying, 'For your shopper docket that you got yesterday for 4c, today, as a one-off, I will actually give you 12c.' That would very simply undermine the other operator, who may well be priced at exactly the same price; he would be severely undermined.

**Senator BUSHBY**—Is there anything in the legislation to say that if you buy a Mars Bar we cannot give you a docket and give you 12c off as well?

**Mr Kruys**—There is nothing. Exactly.

**Mr Chapman**—We are not saying that that is a desirable thing. That is the farce of the legislation, to be honest.

**Mr Kruys**—The independent operators of course have not got the offset where they can trade against marketing budgets in another arm of their operation. They have only their own business. It is that simple.

**Senator BUSHBY**—I guess what I was saying there was not so much about trying to compete with the game of the supermarket outlets but more that, if an independent posts a price at two o'clock, finds out later on that he has got it wrong and he is way above the game, he can put a sign up at the front saying, 'Mars Bars 50c. For every Mars Bar you buy we will knock 4c cents off the price of a litre', which makes a farce of the legislation.

**Mr Chapman**—That would make a farce of the legislation. I suppose the other part that we are concerned about is that the big operators have the ability, as we have seen in WA, to run loss leader sites or sites deliberately low so that they get all the publicity. It makes it very difficult to compete on that basis.

**CHAIR**—Thank you again, Mr Chapman and Mr Kruys, for coming in this afternoon.

[3.34 pm]

**FISCHER, Mr Andrew William, Managing Director and Shareholder, Australian Farmers Fuel Pty Ltd**

**CHAIR**—Welcome. Would you like to make an opening statement?

**Mr Fischer**—Australian Farmers Fuel has two brands in the marketplace—one is SAFF and the other is enffue, which is short for environmentally friendly fuel. Regarding the background of my company, we celebrate 10 years this year. We pioneered biofuel retailing in this country and had the first biodiesel dispenser placed on a service station forecourt in 2001. We were also instrumental in the National Measurements Institute's approval of that dispensing equipment. We have a network of branded service stations and, since August 2005, we have chosen to retail biofuel blends only; we do not offer a straight fossil product. The only straight fossil product we have on our forecourts is LPG, and we are investigating putting a methane blend with that to give it an environmental tick. We went through a name change in the last year and at the moment are rebranding our sites under the enffue banner because we had a consultant tell us that Farmers Fuel did not say a lot about biofuels. Perhaps 'environmentally friendly fuel' says a little bit more about that—and, yes, I think enffue should have an 'l' on the end of it too, but that is not what the consultants told us.

We have a large commercial network. We run our own tanker fleet. We were instrumental in the state government of South Australia adopting biofuels, and we are very proud to say that South Australia still is the only state whose metropolitan buses and trains run on a biofuels blend that we pioneered with our state government. We are very proud to say that some of our work here has been adopted. We are instrumental in the Virgin group taking their trains to a biofuels blend as a result of some of the work we did here in South Australia. We enjoy large corporate commercial support, including from the Sydney City Council, Adelaide City Council, Cummins power stations and large transport and mining clients as well.

Our mission statement is paramount in what we do—'to make Australia more environmentally friendly by championing the widespread usage of biofuel'. Obviously our brand is synonymous with that and with operating a very effective logistics model. It is very important to us.

During the time of the previous government, I was honoured to sit on both the biodiesel summit and the ethanol summit, chaired by the industry minister, Ian Macfarlane, and attended by Mark Vaile. We were endorsed by the then Deputy Prime Minister, Mr Vaile, for our initiative as the naming rights sponsors to a world's first last year, when we created the first ever motor racing category to run on 100 per cent renewable fuel—the Supertruck Racing series. We beat the IndyCar organisation by seven days in doing that. Consequently, we think we know quite a lot about biodiesel and the biofuels sector, and we think we know a little bit about the retailing of fuel in this country. By way of background, we control the retail boards at all of our branded sites because of quality issues with renewable fuels. That was certainly something that was well supported by the previous industry minister in that we had a QA process where we could guarantee there would be no issues with retailing biofuels in this country.

On the subject at hand today, our position on Fuelwatch is that we are supportive of it with some amendments. In particular, there are four areas we are concerned with, and the first is predatory pricing. We support a mechanism to prevent the selling of fuel below cost. I have tabled to the committee a report we did in February of this year. This was one of two occasions. We have presented this directly to Graeme Samuel as a result of the testimony given in the ACCC inquiry into fuel pricing. We believe there should be some teeth given to measures against predatory pricing. It was absolutely catastrophic for us. We had an 11-day period—and this is all documented in evidence—where competitors, supermarket chains, were retailing up to 11c below the cost we could buy the fuel. I run my own tanker fleet, and there is no mechanism whereby I can fill my tankers up at the forecourts of those service stations because the law says that you can only put a maximum of 20 litres into a container. That is the law. However, when supermarket chains do loss leading in other areas—cans of soft drink, cat and dog food and the like—they are normally knocked down by small businessmen at the checkout because they are in there enjoying those prices themselves and taking in that loss leader discount. We cannot. For Fuelwatch to be effective that needs to be addressed. That is our top point.

Most of the regional centres that we provide provide a service in that town and they only have one fuel outlet in that town, so we believe they should be exempt; however, we would be happy to publish a price on that basis. We are only moving boards in the country at best weekly, but on cost price movements is our fluctuation change in that area. These sites are nowhere near the \$3½ million per annum in these regional centres. We operate in the five states and so we are quite familiar with rural and regional services as well.



The discount voucher mechanism that the supermarkets have concerns us. All of their price boards have the ability to change the voucher value on the day. They publish a price for the voucher value and that can be changed. I take the earlier comment about a Mars bar discount: that requires advertising space to be bought. My major concern is that both major supermarket chains have digital boards at the moment and they can move that gap out. So if Fuelwatch is to come into effect and we have a price lockdown for a day, the legislation from my reading does not protect us from them adding another 4c or 8c or whatever they need to that voucher value, which is the majority of their business from our research, to be competitive or undercut the market on that day. It is pretty important for us. We are supportive as long-term members of the MTA and MTAA submission and certainly support their views on this. That covers me. What would you like to know about the industry?

**Senator ABETZ**—I found it interesting that you said you ‘support Fuelwatch if’ and then you had a few qualifications. I might suggest that, if all those qualifications were to be met, chances are we would not have a Fuelwatch scheme. Is that putting it too crudely?

**Mr Fischer**—Absolutely. We are all informed sources as such. We cannot afford what the major oil companies have but we certainly use MotorMouth and the like that are published now to see what the market is doing. So we are all doing it. The submission I have given you was sourced from MotorMouth. I do not have an issue with all boards being published. We are actually using some private boards as well for our rural and regional pricing structures to promote our biofuels network. No, I disagree with that.

**Senator ABETZ**—With Fuelwatch, I am talking about the proposed legislation, not just the provision of price information. Fuelwatch has in it substantial penalties if you reduce your price during the 24-hour period. To me, that seems anticompetitive, anticonsumer et cetera. I assume you would not favour that?

**Mr Fischer**—We have no problem with the price being locked for a period of time. The problem we have is with a marginless business—in other words, having a published price of our network and a price set for the day is not concerning to us. We all take our chances in the market as long as it is fair and equitable. We cannot have this movement under canopy where supermarkets can lower the price for the value of their vouchers to put themselves back in the market if they price themselves out of the market.

**Senator ABETZ**—But, of course, you could do the same with a Mars bar or indeed, as I put to the hearing in Western Australia—and we are going to get some advice back on this—given the price has to be locked in at 2.00 o’clock and then published at 2.30, it would not be beyond the wit of the company, should it so desire, to book a full page in the *Adelaide Advertiser* and say: ‘Rip out this page, present it to your service station and buy your fuel at,’ which might be 0.1c a litre lower than the lowest that has just been posted at 2.30. You could still potentially do that and it would then appear in the next morning’s papers and be, if you like, like a voucher.

**Mr Fischer**—Senator, you obviously have not bought a lot of advertising lately. It is not that quick. You cannot move that quickly to buy space, especially in our local press.

**CHAIR**—It is expensive too.

**Mr Fischer**—The regional stuff is weekly and the *Adelaide Advertiser* is—

**Senator ABETZ**—Regional is weekly?

**Mr Fischer**—Yes.

**Senator ABETZ**—I have been in the game during election campaigns. I have never known a newspaper to say, ‘Oh no, you can’t get a full page ad,’ but there you go!

**Mr Fischer**—The most profitable time is when you have elections, if you look at their P and Ls.

**Senator ABETZ**—Yes, different experiences, but the principle remains. We do not have to get bogged down in the detail. Be it a newspaper ad or a Mars bar, you would still have the capacity to do something similar to saying, ‘Cash in your shopper docket at 8c a litre today.’

**Mr Fischer**—We have the capacity to spend money; that is a cost of business to us, to take that advertising out, and a full page in the *Advertiser* is around \$10,000. Our competitors do not have to do that; they just have to move their board. Moving 0.1c a litre means \$1,000 cheaper than the guy down the road. To move that voucher offer—which is well published and has all been approved; and some are operating digital boards and some are operating traditional hand-changed boards—could be done without advertising, because that is what the customer or the punter sees. That is my issue. We all do marketing now; we all spend money on press to tell our story. We certainly like to tell the green story, because that is what our brand is all about. So I half take

your point, but it is more that there is a no-cost way to be a predator in this market which needs to be addressed.

**Senator ABETZ**—When does predatory pricing become predatory pricing, in your view, as opposed to just being good marketing? Chances are most retailers from time to time try to sell stock or something at below price or at a very low margin just to get people through the door et cetera. If we were to listen to the ACCC—I forget what the terminology is, but they think we have got a pretty good oligopoly or something, they were telling us, in relation to wholesale fuel sales. Given that, what confidence would you have that there would be urgent action on competitors that conduct loss leader tactics in the marketplace? You have made this complaint, haven't you?

**Mr Fischer**—Yes, twice—and confidence is zero.

**Senator ABETZ**—And with what result?

**Mr Fischer**—A lovely letter to say, 'Thanks, but it doesn't fit the parameters of predatory pricing.' I am not sure what does, because I have never been given that.

**Senator ABETZ**—That is why I am, I confess, a bit confused by your submission. You say, 'Definitely support Fuelwatch, if:'—and then your first point is 'predatory pricing'. But there is no such law in existence in Australia as would satisfy that, which I would have thought was your prerequisite—

**Mr Fischer**—I think if section 46 was changed—

**Senator ABETZ**—to Fuelwatch. Therefore, if the predatory pricing sections of the Trade Practices Act were not to be changed, can I interpret your submission as being that you would then be against Fuelwatch?

**Mr Fischer**—Certainly if that cannot be tightened up, yes, I would be, because we cannot compete on that.

**Senator BUSHBY**—So you would not support Fuelwatch as it stands under this current legislation?

**Mr Fischer**—As it stands.

**Senator ABETZ**—And then you say, in relation to country retailer exemptions: where there is only one retail site present. Assist me on that—what do you mean by 'one retail site in a country area'?

**Mr Fischer**—A population in the hundreds, and it is a service. South Australia is quite a large state where we have a hundred kilometres to the next major township, so I mean where it is more a service, where we are servicing people like the CFS and the ambulance by maintaining fuel there. Major oil companies have walked away from that business, and maintaining that business has probably been our success. But it does come at a cost. Certainly we try and keep as low a cost as possible.

**Senator ABETZ**—In fairness, there is a provision in the legislation that will take that into account. Have you read those provisions or acquainted yourself with those provisions?

**Mr Fischer**—Not in the detail probably that it deserves at this stage. We are probably waiting to see if Fuelwatch gets up first.

**Senator ABETZ**—Well, this potentially is one of the issues—about how Fuelwatch might impact—especially on the regional markets. It is going to be the minister's decision after having taken advice from the local government, but he does not have to accept their advice. He needs to ask them but then he does not have to accept their advice. As to whether that is going to apply, we do not know. Then you would want the supermarket chains' discount voucher mechanism locked—

**Mr Fischer**—Yes.

**Senator ABETZ**—also, as board prices are.

**Mr Fischer**—Exactly right. They all display a discount voucher price on their price boards, and we ask that that be locked in at the same time. So, if they are publishing a price at 2.30 pm today for tomorrow's trading, that discount voucher should be locked at the same time. My understanding or my reading of the legislation is that that is missed by the legislation, and they can move the voucher. If today's pricing is \$1.60 for a motor spirit and \$1.56 is the normal voucher, and the market is predominantly around \$1.56, they can lower that discount voucher, which is a majority of their business, to be in the market or lead the market, because it is not encapsulated within the legislation. That is our understanding.

**Senator ABETZ**—I think that you are right, but wiser heads than ours will undoubtedly tell us if our interpretation is right. In relation to the voucher system, what if a supermarket—not the service station but the

supermarket—were to say ‘Cash this in at a petrol station of your choice,’ so it would not necessarily be advertised on their boards, ‘and if you present this, you will get a discount of 8c a litre today,’ say.

**Mr Fischer**—I think it would be too complex to try to encapsulate that. There are so many other voucher systems in the marketplace today from other competitors operating independently as well. It is not that we are not keen to see that continue, but the silent salesman is the price board and we want that locked. If it is going to be locked for a day we want the mechanism to see both sides of that locked—not only the published price but the discounted price on that board locked. If there are vouchers in the marketplace—you referred earlier to selling Mars bars and the like—that is just good marketing. We all do that. We all have free raffles for TVs and the like to draw people onto our forecourts and into our convenience stores. That is common practice. That has been around as long as I have and I do not think that will change. It is more about what that silent salesman called a price board out the front says and about both price sets being locked.

**Senator ABETZ**—You indicated that you are supportive of the MTAA position paper—

**Mr Fischer**—As a card-carrying member, yes.

**Senator ABETZ**—Is that the South Australian one or the national one or both?

**Mr Fischer**—We are affiliated. I sit on the service station board—

**Senator ABETZ**—How many of your service stations, for example—and if this is commercial-in-confidence, tell me so—would sell more than 3.5 million litres per year?

**Mr Fischer**—Twenty-five per cent of the network.

**Senator ABETZ**—Only 25 per cent would sell more?

**Mr Fischer**—We are predominantly country—rural and regional operators.

**Senator BUSHBY**—And you only sell biodiesel?

**Mr Fischer**—No, no.

**Senator BUSHBY**—You do have full carbon—

**Mr Fischer**—The only product that we sell that is pure fossil is LPG. Every other fuel we sell is a blend of biofuel or is pure biodiesel as such. Also, with Minister Garrett’s blessing, we have just launched the 85 in this state. It also has the support of our local General Motors Holden factory out here at Elizabeth. So we have put that fuel into our fuel mix, which is 85 per cent alcohol and 15 per cent petrol. In that company profile, you will see details of a trial we tried to get up with the previous government, which Ian Macfarlane was very supportive of, but we did not get the gig.

**Senator ABETZ**—With the volume of sales, are those that have the higher turnover closer to the metropolitan areas or not necessarily?

**Mr Fischer**—South Australia has only got four regional centres or cities of any great magnitude. So the majority of them are in the city of Adelaide, and two of them are in regional centres.

**Senator ABETZ**—Are you affected by the fuel cycle that we have been hearing about today?

**Mr Fischer**—Our metropolitan sites, certainly, yes. We play in that market.

**Senator ABETZ**—Right. And what is your experience in relation to the volume of petrol sold during the fluctuations? Mr Krays told us that he thought about 60 per cent was sold in the three days around the trough and 40 per cent sold in the other four days, if I understood his evidence correctly. Does that mirror your experience, in rough terms?

**Mr Fischer**—The majority of it. I was slightly at the high end of Theo’s numbers, so 60 per cent in the three days and 40 per cent in the other four would be a fair differentiation. The market is well educated now. It is well educated by the media about buying on a Wednesday, and the industry is cycling to that. The industry has never got over that hangover.

**Senator ABETZ**—I think you may have been in the room when the automobile association were giving their evidence indicating that they have a huge number of hits on the service that they provide. Do you think Fuelwatch would provide any greater insight for the savvy motorist?

**Mr Fischer**—It would provide more accuracy, because it is delayed. We use MotorMouth and the REO’s facility as well. We watch whatever we can afford—informed sources, I guess. We are finding from our own market intelligence that they are inaccurate. It is delayed, so is not as accurate as it could be. Because of the legislation and the fines Fuelwatch would be deadly accurate, so we think that would be an advantage.

**Senator ABETZ**—Yes, but at a cost of \$20.9 million to the taxpayer.

**Mr Fischer**—I am sure you could shop that around a bit better.

**Senator ABETZ**—That is what the RAA were telling us. Although we will not hold them to it, \$30,000 might be something for South Australia, which would make it, I would have thought, substantially cheaper. Do you see Fuelwatch as narrowing the price cycle?

**Mr Fischer**—Yes, absolutely, based on the Western Australian experience.

**Senator ABETZ**—And, therefore, motorists in South Australia would be denied the opportunity to buy petrol at, for want of a better term, the ‘rock bottom’ price that is currently experienced on the cheap Tuesday.

**Mr Fischer**—Obviously I have concerns about predatory pricing. What greatly concerns us as a company is that we will go into longer spells of this below-cost marketing. South Australia is the flyover state. We do not own even 10 per cent of the national pool market, so we are the test state. We operate in Melbourne and Sydney and we make far more retail margin than we do in Adelaide in those cities. They are a lot more buoyant markets. We would be concerned that most of the battles would be fought in South Australia and certainly concerned that we are going to have a lot of the low-cost business. How do we as a company manage that? We cannot compete, consequently. So our view is we push harder into the commercial sector, where we can, to survive.

**Senator ABETZ**—If Fuelwatch were introduced, you are saying you would find it harder to survive in South Australia?

**Mr Fischer**—You missed my point. My point is that, if Fuelwatch is introduced, as long as we are protected from predatory pricing, selling below what the transparent wholesale price is, and we do not have this predatory-pricing issue, the market will be fair and will find its own level. But we have experienced in the past—and I cannot see why that would not change; in fact it would probably get worse—that it is in the small state, the market share playout state, where we see our retail prices put below cost. We will all have to suffer because Fuelwatch locks it for a longer period of time, and that will certainly cause the industry to struggle.

**Senator ABETZ**—Are you only situated in South Australia? No.

**Mr Fischer**—No. We are in five states.

**Senator ABETZ**—Yes, you operate in five states. What is the difference in the Sydney market compared to the Adelaide market?

**Mr Fischer**—It is far more profitable.

**Senator ABETZ**—In Sydney?

**Mr Fischer**—In Sydney and Melbourne. Our net cents-per-litre revenue from our sites in both those cities is far better than in South Australia.

**Senator ABETZ**—Do you operate in Western Australia?

**Mr Fischer**—Only as far as Mundrabilla, which is halfway to Perth from Adelaide; it is in the middle of the Nullarbor.

**Senator ABETZ**—I assume you have no experience to share in relation to Fuelwatch in Western Australia because you are not covered by it.

**Mr Fischer**—We have an exemption, yes, in Mundrabilla.

**Senator ABETZ**—Yes, you have an exemption. Your experience would seem to support the ACCC’s contention that Adelaide is one of the most competitive retail markets.

**Fr Fischer**—It is interesting. It certainly is a competitive retail market; however, our refinery closed in 2003. I was appointed by the government to chair an investigation into independent usage of that facility. Port Stanvac is the deepest seaboard terminal in Australia, and potentially we can import fuel to that facility. I can bring fuel from Victoria on most days, truck it in with B-doubles, cheaper than I can buy it in South Australia. What we do not have is wholesale competition in South Australia and we have a very competitive top line number, so our margins in this state are far lower than in our operations in the other states.

**Senator BUSHBY**—They are effectively squeezed because you do not have the wholesale competition.

**Mr Fischer**—Exactly right. We have choices: Mobil, BP, Shell or Caltex. We have no independent terminalling in this state, and yet in Victoria we can buy from the independent terminal and in Sydney we can

buy from the independent facility. Queensland is the same, and we have good wholesale competition because we can shop for that.

**Senator ABETZ**—In Queensland would that be through Neumann's?

**Mr Fischer**—Yes, and Freedom as well.

**CHAIR**—Are there any other questions?

**Senator BUSHBY**—I have a few. First of all, it is an interesting and quite exciting product that you are dealing with. It is interesting stuff. I notice that you mentioned that you were in 'the five states'—there are six states in Australia.

**CHAIR**—The five states!

**Mr Fischer**—Seventy per cent of our market is east of the Great Dividing Range.

**Senator BUSHBY**—According to where your red dots are on this piece of paper, your future plans have you going into all sorts of rural and regional areas, including—

**Mr Fischer**—It is only embellishing our present network.

**Senator BUSHBY**—But still not in Tasmania.

**Mr Fischer**—No. Again, it is the ability to get products supplied at a reasonable price in Tassie. In fact, we wholesale buy diesel to Tasmania and we do quite a bit of work with your people down there. But the set-up in Tasmania is still a reasonably closed shop; Caltex have that pretty well nailed down.

**Senator BUSHBY**—You have stated that you would not support Fuelwatch as it stands without those four amendments that you mentioned.

**Mr Fischer**—In our opinion that would then certainly make it a robust facility.

**Senator BUSHBY**—Do you think that Fuelwatch as it stands, regardless of your support or otherwise, would have any impact on prices to motorists in the short term, long term or medium term?

**Mr Fischer**—Once the initial settling-in period takes place, I would like to think, as the MD of a company that struggles to maintain fair margins, that the market may get some sense and that we may see realistic margins again. Remember, our company had growth of 41 per cent last financial year. On 30 June 2007 we had a cost of almost a dollar, or thereabouts, per litre. On 30 June 2008 a dollar bought less than half a litre. We had a 68 per cent increase in inventory cost. You can imagine: we had growth of 41 per cent and we had our inventory eroded by over 60 per cent, so that has put a massive impost on our business. We are in the middle of a credit squeeze. When we were retailing in that 89c to 99c bracket, a 4c a litre margin was effectively maybe four to five per cent or thereabouts in percentage terms. Now that we are in the \$1.59 to \$1.70 bracket, that same margin is only two to three per cent. So we are hopeful that perhaps one of the great things that may happen for our industry—and I have been around this industry a bit longer than Theo, actually—is that we may see some sense and actually see the margin come back onto our side of the business, the downstream side of the business.

**Senator ABETZ**—And what does a realistic margin actually mean? An increase in price for the consumer?

**Mr Fischer**—If we cannot get wholesale competition—and that has been overlooked again by Fuelwatch; we need wholesale competition, the ability to buy better—and if we cannot buy better, accordingly we need to get a better margin for ourselves.

**Senator BUSHBY**—What you are looking for out of Fuelwatch under these changes is a smoothing out—

**Mr Fischer**—Absolutely.

**Senator BUSHBY**—which is desirable from your position—and I understand and fully support your right to desire that—so that you can actually see a more consistent margin that is more realistic for the long term. You think that this may well deliver the smoothing out of prices which will enable you to get that more consistent margin.

**Mr Fischer**—Let me answer your question. In my time in this industry I have been involved in something like 30 to 40 petrol price enquiries, and it is sex on a stick—every year or so someone wants to have a talk about it. If you put that in perspective, every year we publish the Christmas sales. We have record Christmas sales prior to Christmas and we all say, 'Yes, the retail sector has had fantastic spends.' Three days after Christmas we have the sales, where the same products are discounted by up to 80 or 90 per cent. I have never yet seen an inquiry into that industry because they discount. That same product that we paid \$10 for before

Christmas goes out the door for \$2 straight after Christmas. And yet in our industry we are bashed daily about how much money we can make out of this industry. The money is not made in the downstream sector.

**Senator BUSHBY**—I am not having a go at you.

**Mr Fischer**—I know that.

**Senator BUSHBY**—I understand your right as a small business, and the right of every independent in particular, to try to make a decent living out of what you are doing.

**Mr Fischer**—Agreed.

**Senator BUSHBY**—That is fine, but what I am trying to work out is what you see as the ultimate outcome of this legislation. If you are saying that you see this leading to more consistent and more realistic markets, then ultimately that probably means, without addressing the wholesale side of it, a consistently high price for the motorist.

**Mr Fischer**—I agree. That would be our wish, yes.

**Senator BUSHBY**—I have no criticism of you.

**Mr Fischer**—We will not survive otherwise.

**Senator BUSHBY**—Exactly.

**CHAIR**—Have you had a chance to look at what has happened with independents in Western Australia? Have you had any feedback from how they have fared under the FuelWatch system there?

**Mr Fischer**—There has been a gobble-up: Gull has taken over Peak now, so that is another independent gone. Back in the eighties—prior to FuelWatch, I guess—we saw Mobil and BP do what is called an asset micro swap, so BP controls the market. From a wholesale point of view, it is very hard for me to get a competitive price in Perth at the moment. It is not available because BP controls most of the market. We have witnessed some periods—certainly this has been raised in the discussions I have had—where FuelWatch has been below cost for weeks at a time. And it is only now just starting to get to a level where they are making some reasonable margins.

**CHAIR**—Right, so following on from Senator Bushby's point, the fact that it has been below cost for long periods of time means motorists have benefited.

**Mr Fischer**—Absolutely, but the downside of it is we are quite a large employer; we employ some 250 staff and we are looking to rationalise that where we can. If we do not make our margins, we have to do that. That is where wholesale competition has to be taken into account in this, because we do not have wholesale prices that are effective. Or perhaps there should be a mechanism—if we have this predator issue come in—so that we can be like other small businesses who buy that can of dog food or that bread cheaper from these operators. I am happy to pull my tankers up at the forecourt, but it is a \$150,000 fine for putting more than 20 litres into an empty vessel. It is wrong; it needs to be addressed as well.

**CHAIR**—I used to buy my fuel at a service station on Glynburn Road in, I think, the suburb of Leabrook.

**Mr Fischer**—Yes, bought out by a major oil company. They only like our good sites.

**CHAIR**—Since buying it out, I have noticed they have greatly increased the deli section. Do you think that that is one of the reasons that there is that demand for non-petrol, convenience food store items?

**Mr Fischer**—Absolutely. The American model is built on the same thing; 7Eleven was built on convenience with fuel. It is certainly an area of growth and margin growth. A former managing director of the Shell oil company came out in the early nineties and said that he made more money out of a can of Coke than he did in retailing fuel. That is on the public record. And we also see now that they do not retail anymore because they are not experts. They gave that to Coles, which is now Wesfarmers, to operate that section of their business. There is an expertise in being a convenience store operator as well. We do not profess to be experts at it—we are in that space, but we do not profess to be experts at it.

**CHAIR**—And I guess you do not have the buying capacity either.

**Mr Fischer**—No, we do not, and that is important to us. I guess we can bubble along doing our thing with our loyal customers who believe in lowering their carbon footprint. Thank goodness for the announcement on CTS. This will be great for our renewable fuel sector in that we will have a magnificent advantage with a proposed nine per cent increase to fuel costs due to the carbon trading scheme when it is announced. That will give us a tremendous edge on the market. How that will integrate with Fuelwatch is too early to tell, but we

certainly see from our business platform and our loyal customers that grow daily—we had 41 per cent growth last year: 50 per cent of that was incremental business from new business and 50 per cent was increased trading because people want to do something about the environment—that it is important to us. So we see that as our growth sector and we are working very hard on our renewable products. We are pioneering second-generation feedstocks and the like to put more margins in our business.

**CHAIR**—Thank you for coming in this afternoon, Mr Fischer.

**Committee adjourned at 4.10 pm**