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

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SENATE STANDING COMMITTEE ON

ECONOMICS

Monday, 11 August 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, Cameron, Cormann, Eggleston, Fielding, Furner, Hurley, Joyce and Pratt

Terms of reference for the inquiry:

To inquire into and report on:

National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008.

The inquiry will examine:

- 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.

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Committee met at 1.54 pm

CHAIR (Senator Hurley)—I declare open this meeting of the Senate Standing Committee on Economics inquiry into the National Fuelwatch (Empowering Consumers) Bill 2008 and the National Fuelwatch (Empowering Consumers) (Consequential Amendments) Bill 2008. On 18 June 2008 the Senate referred these bills to the 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 legislation has a requirement that petrol retailers must notify the Australian Competition and Consumer Commission of the 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 eighth 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 all 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.

[1.56 pm]

BEARE, Dr Stephen, Principal Economist and Head of Modelling, Concept Economics

ERGAS, Mr Henry, Chairman, Concept Economics

ZEITSCH, Mr John, Principal Economist and Head, Cost Revenue and Productivity Analysis, Concept Economics

CHAIR—I welcome Concept Economics. Do you wish to make an opening statement?

Mr Ergas—Thank you for the opportunity to appear today before this inquiry. My name is Henry Ergas and I am the Chairman of Concept Economics. I spent many years at the OECD before founding my own consultancy. My colleagues are Stephen Beare, who is head of modelling at Concept, and John Zeitsch, who is our head of cost revenue and productivity analysis. Stephen was previously chief economist at ABARE and has been a leader in the application of statistical analysis in a wide range of markets. John has been at the Industries Assistance Commission and then in consulting for many years.

I note as a preface that the petrol price data used in our submission was provided by Informed Sources. We requested from the ACCC the data that they had used; this request was refused. We also requested that the ACCC provide us with the details of the models they had estimated, including the standard tests of statistical significance; this too was refused. Combined, the three of us have over 90 years of experience in economic analysis. This is the first time we have heard of a body such as the ACCC refusing to disclose the significance tests for results on which it has relied and on which it expects the public to rely. Our submission was prepared with the assistance of Informed Sources, who provided data, and Woolworths, who assisted with data acquisition and support costs. We are grateful to them for their support. However, the vast majority of the costs involved in the preparation of this submission were borne by Concept Economics, and the views it expresses are very much our own. I will begin by summarising the conclusions of our submission and then go into a tiny bit of detail about how we arrived at those conclusions.

Various official statements have promoted the view that Fuelwatch leads to lower petrol prices, has beneficial effects on the competitive dynamics of the petrol market and benefits all consumers by removing intraday price volatility, thus lowering search costs for consumers. We attempted to test these claims through two streams of work—replicating and extending the ACCC's analysis of differences in service station margins in Perth and the eastern states and examining the distribution of daily petrol prices by postcode in Perth and Sydney and estimating a statistical model to explain how daily petrol prices are determined at a postcode level. The model is then used to predict what daily petrol prices would have been across postcodes within and without Fuelwatch. We found that not only was there no support for these positive claims in support of Fuelwatch but there are indications that the Fuelwatch scheme could be harmful to some consumers.

The first stream of our work involved comparing the price of unleaded petrol in Perth before and after the introduction of FuelWatch relative to capital cities in the eastern states. We found that, since FuelWatch, Perth's weekly average price had decreased by close to the 1.9c per litre estimated by the ACCC. The ACCC tested whether this decrease was due to FuelWatch. We replicated the ACCC test with one slight difference that would have been, according to the ACCC itself, not crucial to the results in any case—that is, we did not adjust for fuel quality differences because of a lack of access to the ACCC's data. The ACCC concluded that FuelWatch was responsible for some part of the price reduction and potentially a significant part. However, the ACCC failed to test simultaneously both for a FuelWatch effect and an effect from the entry into the Perth market of the major supermarket chains, despite itself noting in its December 2007 report that there were not one but two clusters of lower prices, one around December 2000 and the other around July 2004, close in time to the entry of Coles into the Perth market.

When we did a simultaneous test for both a FuelWatch effect and for a structural break due to Coles entering the Perth market, we found that FuelWatch did not significantly affect the difference in the margin. By contrast, the entry of Coles led to a reduction of 1.6c per litre in the nominal price of petrol in Perth relative to the eastern state capitals. In short, our results suggest that FuelWatch had no significant effect on average petrol prices in Perth and that the negative FuelWatch effect found by the ACCC resulted from failure to test simultaneously for a FuelWatch effect and for other factors causing possible structural breaks. We also note that the ACCC failed to correct for changes in transport costs over the period. These are likely to have increased prices on the east coast relative to those in Perth. We are surprised that the internal peer review and the peer review by Treasury did not uncover and correct these points.

I now turn to our second stream of work. It was an attempt to explore the ACCC statement that FuelWatch yields significant benefits from reduced consumer search costs and additional competitive keenness in pricing. Our view is that this analysis is, at best, incomplete and potentially quite misleading. While FuelWatch ensures petrol buyers have more information, it is also likely to alter the competitive interaction between petrol stations. There are both immediate and longer term aspects to these changes. In the immediate, under a system such as FuelWatch, some retailers who previously competed for price-sensitive customers who make use of FuelWatch to identify the retailers with the lowest price will reasonably assume that they will lose those price-sensitive customers once FuelWatch comes into effect. As a result, they will work on the assumption that they will only attract the consumers who are least price-sensitive, least technologically savvy or, for other reasons, unable or unwilling to shop around. Given that, these retailers will have incentives to set their prices higher rather than lower than they would otherwise have done. Faced with this kind of situation, economic theory predicts that the distribution of prices can become more skewed to the top end, causing loss to those consumers who have the least willingness or ability to shop around.

As for the longer term, there are many reasons why a system such as FuelWatch is more advantageous to large, multichain retailers than to small independents. These include the fact that the larger retailers can afford to develop software to optimise their pricing strategies, can set prices strategically across their portfolio of outlets and are less likely to be undermined or even bankrupted by a string of pricing errors. Here, too, standard economic theory teaches us that the long-run result will be greater industry concentration. Because we did not have access to the ACCC data set, we were not able to test econometrically for the second of these effects. However, we were able to test for the first. Specifically, we analysed pricing structures in Perth and Sydney using daily prices by postcode in Perth and Sydney for the 2007 calendar year and in Perth for the 2000 calendar year—that is, pre-FuelWatch. We converted the resulting prices into daily mean price deviations for each market, with the price in each postcode divided by the mean price of the relevant city for each day. Our results show that by 2007 Perth had a greater concentration of high-priced postcodes relative to Sydney in 2007 and Perth in 2000. Thus it would appear that the introduction of FuelWatch in Perth compressed the lower end of the price range.

To properly test for this possibility we estimated a spatial model of Perth retail petrol prices by postcode for a period prior to the introduction of FuelWatch. Under this model petrol prices in a postcode are influenced by past prices in the postcode and by current and past prices in neighbouring postcodes. The model was used to predict what petrol prices would have been had the estimated market structure in Perth in 2000 being imposed on the Perth 2007 market. This produces a hypothetical of what the market would have been like without FuelWatch to compare against the current Perth market. As the results set out in our submission demonstrate, while FuelWatch did not have a significant impact on the average market price it does appear to have led to fewer very low priced locations and a greater number of higher priced locations. Given these changes in price structures, we do not see how the ACCC could have objectively concluded that FuelWatch did not have potential adverse effects, possibly for significant numbers of consumers. Again, we stress that this kind of analysis, which looks at changes in price dispersions before drawing conclusions about the impacts on consumers and social welfare, is pretty standard stuff and readily undertaken with the data set the ACCC has.

Given our findings, we explore in our submission options other than FuelWatch which could achieve the government's stated objective of increased price transparency and reduced consumer search costs without the risk of adverse consequences. We propose that a superior alternative to FuelWatch in this respect is a system of voluntary notification by petrol stations of maximum daily prices. This would offer many of the advantages of a scheme to improve customer information but without costs in terms of administration, compliance and potential market distortion. Under such a system, petrol stations would have the option of setting a maximum price for the day, and motorists would be assured that if they chose to fill up on a given day at a given location they would not pay more than that price. We do not believe consumers would be aggrieved if, having selected a retail outlet on the basis of the maximum price, they then found that the actual price was lower than they expected.

Of course, just how any scheme will work in practice is difficult to say. We therefore suggest that this option should be trialled, say for a year, and then its effects, if any, should be assessed—perhaps by the Productivity Commission. If and only if it had clearly failed to meet policy objectives would a move to a scheme based on compulsion be considered. In our view, such an approach would be far more consistent than the proposed Fuelwatch scheme is with the government's stated commitment to best practice regulation. Best practice regulation involves intervening in markets no more than needed to achieve the policy objective. We

submit that a light touch approach should be given ago before any move to more heavy-handed forms of intervention is seriously considered. Thank you again for the opportunity of appearing.

CHAIR—Thank you. You said that this is the first time the ACCC had not provided some statistical information to you, which implies that they normally do. Is that your experience?

Mr Ergas—Yes, indeed. Our experience is that where you provide statistical results it is universal practice—and I look to my colleagues to confirm what I say—to also provide indicators of the statistical significance of those results.

CHAIR—So it is statistical significance rather than the actual data that you are talking about.

Mr Ergas—Yes, indeed. And these tests of statistical significance are generated automatically when you run the models.

CHAIR—If they are not in the figures, I believe I am right in saying the ACCC have provided that statistical significance in evidence.

Mr Ergas—I do not believe so, not for the second set of results. They have provided the statistical significance tests associated with the first set of results that were in the main report. They then disclosed or released some additional results. Those additional results, when they were released, did not have the test of statistical significance disclosed with them. We requested those tests and that request was refused.

Senator ABETZ—And those statistical analyses in the second one is what we sometimes refer to as Appendix S to the ACCC report?

Mr Zeitsch—No, I think Appendix S was the original statistical analysis of Fuelwatch. The paper that Henry is referring to is what has become known as the structural break tests that were undertaken by the ACCC and subsequently released.

Senator ABETZ—The ACCC asserts that it could not release the information because of commercial-in-confidence and that Informed Sources had not allowed them to release the information on which they had done their analysis. But would it be fair to say that the statistical significance tests, if they had released them, they, of themselves, would not have disclosed any commercial-in-confidence data?

Mr Zeitsch—First off, to answer your question, I do not believe that the tests of significance would in any way affect the issue we have just talked about, because you can still derive the series that was used with the coefficients that are reported. So there is a difference between the coefficients and the level of significance of those coefficients. In relation to Informed Sources and whether or not you can reconstruct the data, it seems to me that the key elements in the ACCC analysis were the Mogas price, Informed Sources average weekly prices, the state and federal taxes and the fuel quality premiums. If Informed Sources had provided their data, that is one element. You can purchase the Mogas price from Platts. As we show in our submission, you can extract the data on taxes and subsidies. So the only element that is really missing is the fuel quality premiums. I think it would be very hard to reconstruct the fuel quality premiums given all of that other data and given the coefficients they reported. From memory, they reported to a couple of decimal places, so you are always going to have errors. So I would find that surprising. It is a big exercise to reconstruct that data.

Senator ABETZ—Thank you for that. Can I ask, I suppose at random, about paragraph 16 of your written submission to us. It starts off with the sentence:

Price series were converted into daily mean price deviations for each market ...

The term ‘each market’ in the petrol retail consideration is a term that is well understood? The term ‘for each market’ is pretty well defined amongst those of us who have economic expertise?

Mr Ergas—I do not believe we were using the term in the strict sense in which it is used, for instance, in proceedings under the Trade Practices Act. Rather, we were using it as a geographical descriptor.

Senator ABETZ—Yes.

Dr Beare—It is metropolitan Perth, metropolitan Sydney and metropolitan Melbourne.

Senator ABETZ—And they are referred to as markets?

Dr Beare—Yes, that is correct.

Senator ABETZ—And that is standard practice, isn't it?

Dr Beare—We are very into geography and, yes, I think that it is standard practice.

Senator ABETZ—Earlier witnesses had difficulty with that term ‘market’, but it is surprising that nearly everybody else seems to use the term, including your organisation. That is just something of interest. Going back to paragraph 9 of your submission, in the last sentence you say:

Such a period is known as a structural break in the data.

I think you are somewhat concerned that the ACCC had not taken that into account. Is that right?

Dr Beare—I will try to answer that. In analysing a structural break with levels of prices, you pick an event and compare it to the prices, but we know that the world is complicated and that a lot of events occur that may influence prices. It could be FuelWatch; it could be the introduction of Coles; it could be a whole range of things, such as changes in shipping costs. Many things could affect structural breaks. It is very difficult to assert, on that sort of level, that it is one if you have not tested for others. I think there is a duty of care to look hard at the possibilities but to test one and not two or three. In our submission, there are a series of diagrams—really simple plots of prices over time—and, if you can see a structural break when FuelWatch came in, I think the data does not justify that. A pure and simplistic visualisation denies, to me, anything that I would realistically call a structural break at that time.

Senator ABETZ—Earlier in that same paragraph, you say:

The ACCC analysis looks for periods of time in the data when the calculated difference in margins is lower on average over the period in question ...

Do you believe that the ACCC, having done that, skewed the results that they then put forward?

Mr Zeitsch—I do not think we can say what drove the ACCC to report the results they did. We can only tell you that, when we actually look at what they said, it is somewhat surprising to us, given that the person who did the econometrics was competent—and I think they probably were—and given what they said, that the econometrics did not reflect their analysis of the data prior to it going into the package. Why that is the case we will never know.

Senator ABETZ—So the periods that they chose to consider are vital in relation to the conclusions they draw—is that what we are saying, in layman’s terms?

Mr Zeitsch—Yes. I think that, if one sits down and, first off, examines all the factors that you think could possibly influence that margin—and they seem to have done a reasonable job of looking at those things—then one can set up a series of hypotheses you want to test. The basic idea in econometrics is that you should test those all together because you could get biased results if you test them sequentially. That is the problem here: you do it simultaneously, not sequentially.

Dr Beare—I will give you an example. You might test the fact that it gets warmer after it gets light or after the moon goes down, but it is more important that the sun comes up. It is that kind of question. You have to combine, I guess, the notion of what you actually think is causality in a logical sense before you can allow statistics to dictate your conclusions.

Senator ABETZ—You have to be clothed with all the information. I like that analogy—that it gets warmer when the moon goes down rather than when the sun comes up. I can see and understand that. In relation to the dark art of econometric analysis, if I can describe it as that, is Professor Don Harding seen as one of those who are up there in their capacity to do that sort of analysis?

Mr Zeitsch—I have known Don since he was in the Industries Assistance Commission. In fact, he worked for me. He has a PhD from Stanford. I have read his paper, and I thought it was quite a clever piece of analysis. Given that he was confronted with not being able to get access to the data, he generated that data in quite a clever way, I thought. It was something that I did not know how to do.

Senator ABETZ—Apart from this specific paper that he has done on Fuelwatch, which he—I think quite aptly—described as ‘FoolWatch’, is he seen in general terms, among those who have practised the art of econometric analysis, as somebody who knows his trade?

Mr Zeitsch—I feel I do not have enough information to answer your question.

Senator ABETZ—What about Access Economics?

Mr Ergas—They are a competitor of ours.

Senator ABETZ—Yes, I know and I thought that you were gracious in your assessment of your competitors.

Mr Ergas—We worry about them and it is not that we worry about them because of incompetence on their part, but we worry about them because we believe that they are very good at what they do.

Senator ABETZ—We had a hint, albeit we have not seen it all, during the hearings when it became apparent that BP had undertaken an analysis, via Access Economics, on the ACCC data that it seems that they came to similar conclusions to your organisation, especially in relation to the transport aspect not being taken into account. If two independent economic policy groupings are making the same criticism of the ACCC analysis, to my untrained economic mind, I would have thought that might carry some weight, so I thank you for your assessment of Access Economics.

Senator CAMERON—Mr Ergas, you do not come here arguing that you are a dispassionate economic commentator on this issue, do you?

Mr Ergas—I believe my colleagues and I have sought to analyse the issues as objectively and rigorously as possible. We have provided all of the results of our analysis, which of course creates an opportunity for others—given that we have fully disclosed what we have done and all the standard tests associated with it—to seek to verify our analysis or criticise it.

Senator CAMERON—This is not just about analysis. There has been huge political commentary from you on this issue. You have engaged, boots and all, in a political commentary, haven't you?

Mr Ergas—I do not believe that is correct. I have engaged in commentary on the issue of whether this is sound economic policy.

Senator CAMERON—No, you have done more than that.

Mr Ergas—That would be a matter of judgement.

Senator CAMERON—Can I take you to your article in the *Australian* on Tuesday, 3 June. Basically what you say there is that you cannot understand why the ACCC would come out with the outcomes that it did on its analysis. You say:

Australian Competition and Consumer Commission chairman Graeme Samuel emerged as the white knight for the Government from which he is seeking reappointment ...

Are you saying that Graeme Samuel did this because he was seeking reappointment?

Mr Ergas—I am saying no more and no less than I said in that article.

Senator CAMERON—I want you to explain it to me because I am interested. Are you saying that the ACCC came to their analysis on the basis that the chairman was seeking reappointment? That is the inference and if you are not saying that then you should put it on the record.

Mr Ergas—I believe that that is a question that you should put to the chairman of the ACCC.

Senator CAMERON—He did not write the article, Mr Ergas; you wrote the article.

Mr Ergas—He knows why he came to the views he came to and what I am doing and what I believed you were doing was testing whether those views were sound and coincided with good policy.

Senator CAMERON—I am trying to understand how much of this is good economic modelling and how much of it is your underpinning political position. Clearly, what you say about the ACCC is that their support for the scheme is a fitting subject for psychiatric investigation. Is that an economic analysis or a political analysis?

Mr Ergas—I believe you are taking my words out of context, but I would also say that what I and my colleagues have done here is undertaken a rigorous analysis of the data. We have disclosed, in its entirety, the results that we have come to, the tests associated with those results and our interpretation of those results. If others want to read more or less into them than that, then that is entirely open to you and your colleagues.

Senator CAMERON—You cannot come here and portray yourself as this dispassionate expert on economic modelling when you are engaged in this political attack on the ACCC and on the government in that article.

Mr Ergas—With respect, I believe your comments are, I regret to say, entirely inaccurate. I believe that the question of whether this is or is not a rigorous analysis of the issues is to be tested on the basis of the material we have submitted. If that material is tested and found wanting, so be it. But that is the fundamental issue. The views I have come to about Fuelwatch were based initially on this: that, when the scheme was released and when the report on which it was based was released, it was obvious to me that there were many important

questions which had not been assessed or not been properly addressed in that report. Additionally, there were significant gaps between the material contained in that report and the conclusions and inferences that were being drawn from it. At that point, I immediately raised those issues, as you would know if you had gone to the trouble of looking through the various articles I have written on this, and said the ACCC needs to respond to those issues—

Senator CAMERON—But you have said more than that.

Mr Ergas—Excuse me. I said the ACCC needs to respond to those issues if Fuelwatch is to be considered as sensible public policy. The ACCC did not respond to any of those issues. On the contrary, all it did was attempt to (a) not release data which, on any reasonable estimate, ought to have been released; and (b) constantly try to shift its position as to exactly what inferences it was drawing from the tests and analyses that it had undertaken. In response to that—

Senator CAMERON—Have you submitted your paper to the ACCC for their analysis?

Mr Ergas—Since our paper is entirely in the public domain, the ACCC will have every opportunity to respond to this paper and I imagine that, if they disagree with it, they will do so.

Senator CAMERON—Have you submitted this to any of your peers for analysis?

Mr Ergas—We reviewed it internally. My colleagues and I—

Senator CAMERON—Internally?

Mr Ergas—Yes. Just like the ACCC did.

Mr Zeitsch—We did exactly what the ACCC did.

Mr Ergas—That is a very interesting point. We are about to get to that.

Senator CAMERON—But you criticised the ACCC for not putting it widely, and now you are doing the same thing.

Mr Ergas—No, you are quite wrong. I criticised the ACCC for not disclosing their results. We have disclosed every one of our results. I have not come across another instance in Australian public policy since the 1970s where a significant issue such as this has been said to be determined on the basis of modelling and the results of that modelling have not been made available to the public.

Senator CAMERON—We are having a bit of a battle of the models here. Are you aware of the work of Professor Zhongmin Wang, who submitted a paper to this—

Mr Ergas—No, I am not.

Senator CAMERON—Professor Wang said, ‘Researchers face many methodological and data issues when trying to assess the price of petrol.’ He further said, ‘It is difficult to reach a convincing conclusion on the price consumers would pay.’ Are you aware of the Edgeworth theory?

Mr Ergas—Do you mean the Edgeworth cycle?

Senator CAMERON—Yes.

Mr Ergas—Yes.

Senator CAMERON—He says that it has ‘limited predictive power as to the impact of the 24-hour-rule’. Would you agree or disagree with that?

Mr Ergas—I do not see the fantastic relevance of it, but the Edgeworth cycle is a model of what price variations look like in markets where prices vary a great deal for an essentially homogenous commodity which faces very price-responsive demand. There is a very long literature associated with testing for Edgeworth cycles in a range of markets, including petrol markets. A significant part of that literature finds that Edgeworth cycles are not a bad way of summarising what happens on a daily and sometimes weekly basis in petrol prices. That is not terribly relevant one way or the other to this kind of analysis or to the analysis done by the ACCC, though, if you could explain to me the relevance in your mind of the Edgeworth model of unit price changes to this particular issue, I would be happy to comment on that.

Senator CAMERON—It is only on the basis that we have had continued evidence that magic Tuesday in Brisbane is the lower end of the cycle and no-one in the industry can explain how the cycle works. I find it quite distressing that we have to depend on some economic theory. Even your economic theory is contestable; you do not come here saying you are an infallible expert, I wouldn’t think.

Mr Ergas—Right.

Senator CAMERON—Expert does not mean infallible, does it?

Mr Ergas—Infallibility is not very widely observed. I am happy to tell you what the limits of the Edgeworth model are, but the essential point, nonetheless, is this: neither our assessment nor the assessment done by the ACCC particularly rely on the validity—or, for that matter, invalidity—of Edgeworth type dynamics in retail petrol markets.

Senator JOYCE—Thank you very much. I want to go back to an issue that we have been following through here for a while. I think the jury has well and truly made its decision on Fuelwatch as it stands. The conjecture in the community is how we actually got ourselves into this bind. That is really what I am interested in. You were talking about the importance of what has happened simultaneously and sequentially in econometric modelling. I think you are quite right to put down that this model going forward and the appointment of Graeme Samuel happened simultaneously. and I think this issue is something Mr Samuel can clear up by tabling—

CHAIR—Really, we have very little time. Could you please get to the question.

Senator JOYCE—the modelling that he made this call from. Do you know of any significant reasons why, with the conjecture that is currently out there, the ACCC could not table for peer review their modelling process even if they had the capacity to table that in chamber to an appropriate body such as the econometrics department of the University of Sydney?

Mr Ergas—I am not familiar with the commercial arrangements that the ACCC may have entered into to obtain the data on which they relied, and I do not know whether those commercial arrangements preclude them from disclosing that data. I also do not know whether they could go back to whoever they had obtained that data from and seek a release or variation to those arrangements. In that sense, I am not in a position to say that they were free to release the data on which they had relied. What I do know and would stress is this: whatever those commercial arrangements may have been, I cannot for a moment imagine that they would have precluded the ACCC disclosing the tests of statistical significance associated with their models.

CHAIR—This will have to be a quick question and a quick answer, please. We have the next people waiting by teleconference.

Senator JOYCE—On the tests of statistical significance, you could table the raw data without the particulars of the people and be able to keep away from the reasons. If there is anything that is commercial in confidence, that could be easily worked around because all you are really interested in is the test of the model, the test of the numbers. You do not really even need to know the people.

Mr Ergas—No.

Senator JOYCE—You could just test the model.

Mr Ergas—Exactly. The tests of statistical significance do not allow you in any way to reconstruct the underlying data. They are essentially descriptors of statistical characteristics of the data relative to the estimators that you have relied on. What is most puzzling about this, to my mind at least, is that I suspect that the ACCC's tests would not have been particularly horrifying and, had they released them, all that those tests would have shown were things that we would expect them to show. So I find it very puzzling that they refused our request to make those tests available to us. Had there been any confidentiality concerns, we would have been more than happy to enter into confidentiality undertakings with the commission so as to protect any proprietary information they might have.

CHAIR—Thank you to Concept Economics for your evidence here this afternoon.

Mr Zeitsch—I know that you are pushed for time, but there is a—

CHAIR—I am more than pushed for time; I am 10 minutes late.

Mr Zeitsch—It is important to tell the committee this: when you fit these models to the data you can only explain a very small proportion of the total variation in the data. Given that, it is virtually impossible to reconstruct the series that the ACCC used, given the coefficients, because you are only explaining 10 per cent of the data.

CHAIR—Thank you, Mr Zeitsch. You did, I think, explain that before.

Mr Ergas—Thank you very much.

[2.36 pm]

TASKUNAS, Mr Vince, General Manager, Public Policy and Communications, Royal Automobile Club of Tasmania Ltd

Evidence was taken via teleconference—

CHAIR—I have the RACT by teleconference. Welcome, Mr Taskunas. Do you wish to make an opening statement?

Mr Taskunas—Perhaps I will just make a brief statement about the organisation. The Royal Automobile Club of Tasmania Ltd, or RACT, represents the interests of approximately 180,000 roadside and access members and Tasmanian motorists in general across the state regarding issues such as maintenance of an adequate and safe road network, road safety motoring taxation and also fuel pricing and other related motoring issues. The RACT was established 85 years ago and is a constituent member of the Australian Automobile Association, the AAA, from which you have heard evidence of other constituent members.

The RACT holds dear a wide community perspective and a balanced attitude to all road users in Tasmania and deals with a number of issues in concert with the AAA in road safety research and issues like fuel prices. The RACT is the largest supplier of roadside assistance services in Tasmania. RACT's affiliated company, RACT Insurance Pty Ltd, is the leader in general insurance in Tasmania. RACT Travelworld is now the largest Tasmanian travel company since recently acquiring some new Tasmanian travel businesses. The club is also a major stakeholder in Tasmania in tourism, driver training, financial services and automotive technical advisory services.

The RACT board comprises well-respected Tasmanian businesspeople and has three regional advisory committees providing a valuable local input on road safety and motoring issues and views, which are taken into account in developing RACT's public policy. These are run by volunteer financial members of the RACT. The RACT is an active member of the Tasmanian Road Safety Council, which is the peak policy-making body within the Tasmanian government, the Road Safety Task Force, which is funded by the MAIB in Tasmania, the Road Transport Training board and a number of other similar groups. As well, it has been involved in a number of recent government working parties and planning studies at a local level.

CHAIR—Have you had feedback from your members and local organisations on the idea of Fuelwatch?

Mr Taskunas—Yes, we have. The RACT has carried out fuel price monitoring, using its own resources, for around five years and has posted those fuel prices on its website—RACT.com.au—on a weekly basis on its fuel prices update page. The issue of fuel prices has been at the forefront of the public work of the club. Much of the feedback that the club receives from its members and from the wider community is with respect to fuel prices.

If I could address the idea of a fuel watch: over a number of years, the club has supported a Western Australian style FuelWatch in its public statements. That support has been based on the need to provide reliable price information on fuel prices to Tasmanian motorists. The club has seen a need for that over a period of time and has felt that a fuel watch system such as that operating in Western Australia could also benefit Tasmanian motorists in terms of better access to information about prices.

Senator ABETZ—Mr Taskunas, could you indicate to us whether RACT believes that there will be any reduction in the price of fuel in Tasmania in the event that Fuelwatch is introduced and, if so, by how much?

Mr Taskunas—Certainly. The RACT has discussed at length in its committees the proposed introduction of a national Fuelwatch system, whether or not prices will be reduced and the effects or otherwise this will have on motorists in Tasmania. If I could initially address the first part of your question: for some time now members have complained about the way in which the market is operating in Tasmania. The reason the club supports a Western Australian style FuelWatch is that it provides additional information to motorists that the club cannot provide, because it cannot afford to do so on its own, using its own resources.

On the question of reduction in price, we have seen evidence not only from Western Australia but from all around Australia that there are different views and different sets of evidence about whether or not a national fuel watch would lead to a reduction in prices. That is a concern. There has been discussion around the fact that, if outlets were compelled to keep prices at the level for 24 hours, they may take the option to set their prices at a higher level than they would if they were not under the 24-hour rule and reductions in prices that may be occurring normally may not be passed on to motorists.

However, there is and has been very little variation in prices on a daily basis—on the 24-hour basis, if you like—in Tasmania, especially in the metro areas, especially in the Hobart area. We have been monitoring that through our prices-monitoring webpage. We run a retail price trend on that page. So the experience of other jurisdictions is not as valid in comparison to what has been experienced in Tasmania.

Senator ABETZ—Thank you for that. It does seem to me that Australia has various markets in relation to the sale of petroleum products. From the description you have given us, it would seem that Tasmania does not have the intraday price variations of other states and, in particular, capital city markets. Is that fair comment?

Mr Taskunas—That is certainly our understanding of it and what we have seen through our own monitoring, especially in recent times.

Senator ABETZ—Yes. And it is very rare for there to be an intraday price change in Tasmania?

Mr Taskunas—From a statewide perspective, that is right. However, there have been a number of smaller region and suburb-by-suburb based discounting wars that have occurred over the last period of time.

Senator ABETZ—Will stopping that from happening via the Fuelwatch legislation help the Tasmanian consumer or hurt the Tasmanian consumer in relation to the price at which they can buy their petroleum products?

Mr Taskunas—That is right. I suppose that is a fair question to ask. It would no doubt lead to more pain for Tasmanian motorists if intraday discounting was not able to occur under the proposed Fuelwatch system. However, it has to be said that intraday discounting over a period of time is in a minority in our experience in comparison to perhaps other metro areas such as Adelaide or Sydney.

Senator ABETZ—I think you are right in that regard, from my own experience there. One of the arguments put in favour of Fuelwatch is that somehow there is anxiety or anger by motorists at the intraday changes in fuel prices, and that is why fixing it for a 24-hour period would somehow be of benefit. That has been one of the arguments that have been relied upon of late, and I am just wondering whether that argument actually has much relevance given the experience of the Tasmanian market, which is that there is virtually no intraday price change.

Mr Taskunas—I think that from the RACT's perspective the most pressing concern for our members and the wider Tasmanian community in recent times—where we have seen, as no doubt the committee is fully aware, a very large spike upwards in prices for refined product and then a downwards trend on the back of the drop in commodities prices—has been the lag in prices coming down in Tasmania as opposed to other centres across Australia. That has been their main concern. A concern has been expressed in the past to the club by members and other Tasmanians that, for instance, they go to work and see one price and, when they come home, the lower price that they experienced in the morning has gone up at the same outlet. This anecdotal evidence has been passed on on a number of occasions to the club, and it has been a concern.

However, again I come back to our evidence from our own monitoring, which shows that such intraday movements are limited in Tasmania, especially in recent times. We divide our monitoring across Tasmania on our website into certain regions. In a number of those regions, the trend has been flat, day after day, week after week, for quite some time in terms of the retail prices for unleaded petrol, premium and diesel, which are the three prices that we monitor.

Senator ABETZ—How often is fuel delivered to Tasmania by large bulk carrier ships?

Mr Taskunas—That is a question which, unfortunately, I am not able to answer precisely.

Senator ABETZ—The evidence seems to be that, if you want to do something about fuel prices, you should not be fiddling at the retail end but more at the wholesale end, and, if there are large shipments into Tasmania, let us say on a weekly, fortnightly or even monthly basis—

Mr Taskunas—Yes, about fortnightly.

Senator ABETZ—then it might stand to reason that there is a lag before there is a price reduction when world prices go down, because you would have to wait for the next shipload to come to Tasmania. So I would have thought that would be an important variable in relation to the price charged to the Tasmanian motorist. Whilst on that, can I ask: what is the average number of litres pumped per fuel station in Tasmania in comparison to, let us say, Melbourne, Sydney and Perth?

Mr Taskunas—Just on the first point that you made about deliveries, that is certainly an issue. Our understanding is that it is in the order of weeks and certainly not months. There are distributors receiving

shipments. Much of the distribution in Tasmania is done, as you know, by tankers and by trucks across the land. In terms of shipments, I suppose the RACT were hoping to hear from some of the distributors and the wholesalers in Tasmania so as to better understand what is going on, because we find it difficult to get any information out in the open about these sorts of issues.

The average number of litres pumped in Tasmania in comparison, again, is a statistic which I have sought, but I do not have the exact number for the industry. If I could take that on notice, I could certainly get back to the committee with that number. Have no other witnesses provided that number, Senator?

Senator ABETZ—Not at this stage. I was also trying to ascertain the number of independent retailers in Tasmania as opposed to other states, but we might have to try and get that from elsewhere.

Mr Taskunas—We would certainly like it on the committee's record that the club are concerned that the industry is not represented in these deliberations. We are hoping to obtain further information about the chain of markets in Tasmania from the industry and its representatives, because we also have a number of questions on notice with them.

CHAIR—I have just one more question. I presume that most of the interest in Tasmania would be around Hobart, Launceston, Burnie and a few others of those major cities. Would you expect that a lot of the other towns would not be included in the Fuelwatch scheme because they are small towns and there is not much competition there in any case?

Mr Taskunas—This is an area of interest for the RACT. It is certainly something that we are hoping to get some clarification on. We are a state-wide club; we represent all of the state. There are defined metro areas in Tasmania, as you are no doubt aware: the Launceston metro area; Hobart; and the centres on the north-west coast such as Devonport, Burnie, Ulverstone and Smithton. However, there are significant growth areas outside those CBD or metro areas—for instance, on the eastern shore of Tasmania down towards the Sorell municipality, the Kingborough-Huon Valley municipalities south of Hobart and the New Norfolk-Derwent Valley area north of Hobart, along with the Brighton municipality and some other growth areas outside Launceston and the north-west coast towns. So we are interested to see whether or not the system would work, from a national perspective, across Tasmania. The club collects information on prices from 100 retail sites across Tasmania.

CHAIR—Are those spread across regional areas or just the metro areas?

Mr Taskunas—Across regional and metro areas. We have on our website information from a number of different towns outside what you would classify as metro areas. The Australian government has in the past classified Tasmania as regional-rural for issues like bulk-bill funding and Medicare issues, so we would hope that any national system would deliver its services across Tasmania. But that is not our reading of the provisions.

CHAIR—Yes, I understand that areas can virtually opt in to the system if they wish. Being from South Australia, which is also classified as regional, I perfectly understand your position.

Senator PRATT—Fuelwatch has had some fairly harsh critics. What is it, in an overall sense, that leads you to conclude that it is of benefit to consumers? Clearly you have had some experience of your own with that because of your own fuel watch program which the automobile club of Tasmania has been conducting.

Mr Taskunas—Yes. We certainly are supportive of greater monitoring and daily price information for Tasmanians, because we have noticed some competitive behaviour changes in the marketplace. While it is probably difficult or impossible to prove causal links between what we are doing and what is happening out in the marketplace, and that probably has implications for the system as a whole, we would like to think that the club's monitoring has an effect on consumers by providing them with better information or, as I think the Tasmanian Treasurer described it, with 'the cheapest petrol, at the cheapest petrol stations, at the cheapest times'.

While it is providing more information, we would also like to think that it is providing an impetus to better competitive behaviour amongst resellers. That may not be the case, but we have certainly noticed some anecdotal information amongst some outlets. For example, we post our prices on the website on a Thursday, and we have noticed that in some areas prices are kept at a certain level on Thursday, then raised on the Friday through to the Monday and then lowered again. We have noticed that happen a couple of times in a couple of areas, and we have had members report back to us along the lines of, 'You put your prices on the website and then those particular outlets have engaged in that behaviour.' So I suppose that the support is dual there. We

want to inform our members and the wider Tasmanian public more, but we also want to see if we can influence competitive behaviours.

Senator BUSHBY—Does the RACT's stated general support for Fuelwatch exist because you support the dissemination of information to consumers or because you like the 24-hour fixed price aspect of it?

Mr Taskunas—Thanks for the question. The first part is probably the main emphasis. We would like to see better price information for motorists in Tasmania. We have previously offered to host such a monitoring system on our website. If it takes a national Fuelwatch program to achieve daily information for Tasmanians then the RACT will accept that, as long as it is implemented right across Tasmania. Any system inferior in scope to the monitoring that we already undertake is unacceptable to the RACT. In terms of the 24-hour rule, if that is part of the model then so be it. However, we have placed on record in response to an earlier question our concerns that this may initially lead to some higher prices being experienced as a sort of insurance policy that the sellers are taking out for not being able to adjust their prices. We are also aware of a number of alternative models and potential amendments to what is proposed. Our colleagues in Victoria have lobbied publicly and in our intraclub public policy forum for a model whereby retailers would be able to lower their prices without penalty during the 24-hour fixed period. So the fixed period would be just for that 24-hour period to the maximum price.

Senator BUSHBY—That would work with what you were saying before about what the RACT does—that is, once you post prices you see there is a bit of competitive pressure and people start reducing prices in certain areas as a result of the fact that people know what their prices are.

Mr Taskunas—We would like to think that and take a little bit of credit if that happens.

Senator BUSHBY—Similarly, if Fuelwatch had scope for people to drop prices after initially posting their opening price then there would be some scope for that as well.

Mr Taskunas—Yes. Of course the other alternative is live feeds. Again, that has been canvassed by other witnesses and we are aware of those discussions. We have had long and arduous discussions over this at intraclub level, as you would imagine, and that is also another option.

Senator BUSHBY—Thank you.

CHAIR—Thank you for joining us by teleconference this afternoon.

Mr Taskunas—Thank you.

[3.02 pm]

KENNEDY, Mr Jonathan, Senior Policy Officer, National Seniors Australia

CHAIR—Thank you for coming in this afternoon. I invite you to make an opening statement.

Mr Kennedy—Firstly, thank you for the opportunity to provide comment on Fuelwatch. Essentially, this is an issue that goes to the heart of our members and to the heart of the seniors community more broadly. As you would be aware, the Senate community affairs committee report *A decent quality of life* emphasised the impact of fuel prices on senior Australians, particularly those in rural and regional areas, which is pretty much why we feel so strongly about this issue. I would like to briefly give you some background on National Seniors. You are probably all aware of what we do, but I thought I would use the opportunity to tell you. Basically, National Seniors is Australia's largest consumer advocacy group for the over-50s. We have over 280,000 members Australia-wide, spread out across 170 branches. We also have five key divisions: an insurance division; a travel division; a membership division, which provides benefits and discounts to our members; a media and communications division; and of course a research and policy division. The national policy office, which is where I work, is responsible for the submission that is before you now.

To give you a bit more background on our membership, as I have already said, we have 280,000 members. I guess you could say our membership, and therefore our policy and research agenda, is broadly representative of the three key ageing cohorts: those aged 50 to 65, 65 to 75, and 75-plus. Our members also yield from varied socioeconomic backgrounds, so we have age pensioners, self-funded retirees and those still in the workforce. I might just add at this point the interesting fact that 70 per cent of our new members in the last 12 months have been in the 50 to 65 age group, so we are by no means only a pensioners' association.

I will go to the key points, which I hope are clearly illustrated in our submission. National Seniors obviously have some concerns about the proposed Fuelwatch scheme. While we have not undertaken our own empirical analysis, we have undertaken an analysis based on the publicly available information—namely, the ACCC report, the WA Department of Consumer and Employment Protection report and various other submissions—and of course member feedback and comments that we have received.

In a nutshell, I guess National Seniors' concerns fall into four camps. The first, and arguably the most important, is price cycles. We feel that the opportunity for price cycles of longer duration, smaller amplitude and less predictability is, if you will, an unintended consequence of the scheme. We do not doubt that the scheme improves transparency for consumers more broadly, but we feel that in doing so an adverse impact could be that those people who rely on price cycles may well be disadvantaged by, as I say, the possibility of longer duration, smaller amplitude and less predictability.

The other issue which I would like to raise and receive questions on is accessibility. As you are probably all aware, senior Australians typically have lower levels of internet and mobile phone use. So there are aspects of the scheme that really need to be addressed in terms of ensuring accessibility for all.

Regarding price rises and competition, again we have not done our own empirical analysis but we feel that there are sufficient grounds in what has been done by the ACCC and the WA Department of Consumer and Employment Protection to raise that as a concern on behalf of our members. Another point is appropriate evaluation. We feel that, given all these concerns, there should really be a mechanism in place for appropriate evaluation. We have recommended in our submission that that should be 12 months.

To summarise, while we do recognise that the intention of the scheme is to improve transparency for consumers, we feel rightly concerned on behalf of our members that the unintended consequence could be that it could have an effect on price cycles and accessibility and maybe could have adverse impacts on competition. Accordingly, that is why we are here today.

Senator PRATT—I note that your submission critiques the WA Department of Consumer and Employment Protection. Did you look at the graphs that that particular department had available, or are you just going on the statement that there is now a longer price cycle?

Mr Kennedy—We of course took into account the entire submission, but we did note in particular that the submission noted that price cycles have increased in duration in WA. I think we are all agreed that the submission is clear in that sense. It says that price cycles have increased to 14 days, on average, compared to seven previously and compared to seven in the eastern states. So, while we did take into account the whole submission, obviously there were certain aspects which, given our limited resources, we focused on.

Senator PRATT—I think the Department of Consumer and Employment Protection in WA would say that, in actual fact, there is overall less volatility and that the overall price cycle has stabilised. They would not necessarily say that it is now a 14-day price cycle. You speak with some concern about the loss of volatility in the price cycle, as if consumers are losing the benefit of the low point in the cycle. Have you considered, though, the fact that, under fuel watch schemes, on any given day consumers are able to identify which petrol stations might be up to 14c cheaper than other petrol stations and that, in effect, that discounting is available to consumers every day, as opposed to just on a Tuesday?

Mr Kennedy—Certainly I take those points on board. I do not deny that we fully support initiatives that increase consumer transparency. But I think the ACCC report and the WA submission are both clear about the fact that there could be adverse impacts on price cycles. You talk about volatility. More generally, decreased volatility is a good thing and increased consumer transparency is a good thing, but there is clear evidence that suggests that older motorists, in particular, rely on price cycles. They rely on the cheap Tuesdays. If we do not have the price volatility that you allude to, then those people will lose out, essentially.

Senator PRATT—Your submission notes with some concern seniors' access to information where they might learn about what pricing is available. I note that you have not acknowledged the wide use of television to demonstrate to consumers what the price volatility is on any given day. That would be widely accessible to seniors. In that sense, you would also know that everyone has a fair idea when they drive past a petrol station after they have seen the news the night before where in the price cycle volatility their local petrol station sits. Did you consider issues like that in putting together your submission?

Mr Kennedy—Yes, we did consider all those aspects. It comes to a broader issue: currently with a lot of these matters—without naming all the reforms that are on the table, but grocery choice is an example—it is almost as though senior Australians are not seen as consumers. There is just the provision of online information. I agree: as you rightly say the use of the media such as TV and radio would be useful. The bottom line, the main selling point of this scheme, is that it is a web based provision of information. That is its main selling point. Senior Australians, we all know, have a far typically lower use of computers—internet in particular—and mobile phones. The ABS figures, which I am happy to share with you but no doubt you can access them yourselves, show that on average 20 per cent of all older households in Australia have accessed the internet in the last 12 months. That compares with around 70 per cent of the Australian population as a whole. I think you need to look beyond the internet as the silver bullet solution and really engage with consumer representatives like National Seniors to look at other ways that information can be disseminated. That has not really happened, apart from my being here today. This is the first time. It is only through our submission that we have been approached.

Senator PRATT—What might some of those ways be in terms of assisting seniors to access that kind of consumer information?

Mr Kennedy—I think there is a clear role for consumer representative organisations such as National Seniors to become more involved. To give you some background: over the last 12 months we have been putting out an electronic newsletter to 25,000 members every Friday.

CHAIR—Electronic? How is that distributed?

Mr Kennedy—Clearly it is electronic; it is by email.

Senator ABETZ—That is only 25,000 out of the 280,000 members.

Mr Kennedy—I use that as one example of another medium that can be used. There needs to be a greater think on how information is disseminated rather than just relying on the internet, which is clearly the main selling point for the scheme.

Senator PRATT—If there were a greater emphasis on, say, television rolling out what the price variability is likely to be in any one day, is that something you would support the Australia wide adoption of?

Mr Kennedy—Given assurances and seeing evidence that there would be no adverse impact on price cycles, we would support any alternative or additional option for disseminating information to seniors—absolutely.

Senator ABETZ—It would be fair to say that while seniors may not necessarily be the most savvy when it comes to technology, I think it would be fair to say that they are pretty savvy when it comes to prices. Would that be a fair comment, from your observation of your membership?

Mr Kennedy—Yes, that is true from our observation of our membership. I think you will also find that is evident in the submissions. I note the ANOP survey, for instance, clearly says that older motorists are more aware and make better use of price cycles. That reflects what we hear from our members as well.

Senator ABETZ—And it is not only price cycles with petrol, either, is it? They know when to hit the grocery stores as well—when there are specials on.

Mr Kennedy—I guess they have to out of necessity. Seniors have very low fixed incomes—low levels of discretionary spending. While transportation costs in employee households are comparatively lower proportionately, seniors have less discretionary spending with which to stand sudden increases, such as the petrol price increases we have seen in the last six months or so.

Senator ABETZ—I would assume that your members would prefer to be able to buy when petrol is the cheapest in a particular trough rather than be given some certainty of a lower average price? By that I refer to the fact that the evidence in Western Australia would seem to be that the price cycle has spun out from one week to two weeks, but the cycle within which it operates is a lot flatter so that the lowest price is in fact somewhat higher than the higher price is somewhat lower. As a result, the very savvy purchaser of petroleum products is denied the opportunity to buy at the very depths of the price trough. Is that the argument you are making on behalf of your members?

Mr Kennedy—That is what I am trying to articulate. I hope it has come across clearly. I reiterate that consumer transparency would increase, but, as the senator points out, for those people who rely on price cycles, cheap days, accumulated knowledge and awareness of pricing activity there is a potential for this scheme to disadvantage them. They are reliant on those days, particularly those who live in the eastern capital cities, older motorists and particularly those in lower socioeconomic quintiles. It is an adverse impact that has not been appropriately looked at as part of the broader scheme.

Senator ABETZ—According to the ANOP survey that you refer to, your members are amongst the highest users of the shopper docket system.

Mr Kennedy—Yes.

Senator ABETZ—That undoubtedly is because they are very mindful of trying to save every cent—not only every dollar but when you are on a pension I dare say every cent. Have you been able to undertake a survey that differentiates between your membership in, say, Perth, Western Australia as opposed to the eastern seaboard capitals in relation to knowledge of when they can buy the lowest priced fuel?

Mr Kennedy—We have not actually engaged in that exact analysis or survey. We have certainly through different mediums—not just *Connect*, which I admit is electronic, but through other physical mediums—disseminated the Fuelwatch scheme as best we can to our members and sought feedback. We have received substantial feedback. The overriding concern for members whether from the east coast or from Perth—we have not noticed any discernible difference—is rising fuel costs. It is not so much the impact of Fuelwatch on them but the crashing effect of fuel prices on them given their low fixed incomes. I guess a lot of the comments reflect how the scheme has been disseminated to the broader community badly—if I may say that. That is certainly reflected in the comments we have received from our members from all socioeconomic backgrounds from both the west coast and the east coast. There has been a lot of concern about the proposed scheme.

Senator ABETZ—The evidence that we have received indicates that about 80 per cent of the motorists on the eastern seaboard are aware of the day of the week when you can buy the cheapest fuel. That is significantly lower in Perth, where, depending on which survey you look at, it is down to around 60 per cent. So you have 33½ per cent increase from 60 per cent to 80 per cent, which suggests that where FuelWatch does not operate the motorist is a lot more savvy and knowledgeable as to when they can buy the cheapest fuel.

Mr Kennedy—That it is right, and I might add to that. I have a statistic here that follows what you are saying. Aside from the 80/60 per cent difference—again this is ANOP's survey; it is not a National Seniors piece of work—65 per cent of motorists tend to buy petrol on particular days of the week in eastern capital cities compared with 35 per cent of motorist in Perth. Again, the comparison leaves room for concern from our perspective.

Senator BUSHBY—What was the reference for that?

Mr Kennedy—The ANOP survey commissioned by the ACCC in November last year.

Senator CAMERON—Thank you for your submission. You say your members are concerned about the scheme and rely on price cycles. How much of this reliance on price cycles is culture—because there is no alternative to price cycles at the moment, is there?

Mr Kennedy—The only alternative is, as you say, to pay more. I think older motorists are increasingly using price cycles out of necessity. Given their lower level of income compared to the broader community, they are more likely to rely on price cycles out of necessity. That is reflected in the ANOP survey.

Senator CAMERON—As I understand it from reading submissions to the previous Senate inquiry on pensions and senior citizens, the biggest problems they have are isolation and ill health. What happens if one of your members cannot get out to access cheap Tuesday—or ‘magic Tuesday’, as it is called? They would suffer because they do not have access to the one day a week when the price is low.

Mr Kennedy—Yes, absolutely. I keep reiterating that National Seniors completely support initiatives that increase consumer transparency but we feel that the adverse impacts of the Fuelwatch scheme are too great for us to offer our support to it at this stage. There is too much concern about the publicly available information. We have not done any empirical analysis ourselves, but there is enough concern about what is publicly available from the ACCC. I think they were being generous when they said there was a small price decrease overall in WA as a result of FuelWatch. It seems that the evidence is not strong enough to risk losing those price cycles completely for transparency and a possible small increase overall for older Australians.

Senator CAMERON—We received evidence from Stephen Marshall, the news director at WIN News in Rockhampton. They run their own mini Fuelwatch price survey. They indicated to the inquiry that there were real problems and that it had cost them a lot of money. When they approached Informed Sources, who do the national analysis for the industry, they were told it would cost them \$50,000 per region to access that information. WIN estimated they would have to pay a quarter of a million dollars a year for the Rockhampton region, and that would mean they would have to sack people if they wanted to go with Informed Sources. They said they would be very happy to put the Fuelwatch program out every night with the news, and that it would save them doing it. Wouldn't it be a benefit, and wouldn't it address the problem that only 10 per cent of your members directly access email, if WIN and the other news stations started to do this as a permanent feature? This would really enhance people's access to the lowest price.

Mr Kennedy—Presuming that TV stations would provide \$250,000 each year to rent it then absolutely. As I said, we encourage all opportunities and alternative channels of disseminating information to consumers. Without a doubt, we would support as many channels of communicating that information as possible.

Senator CAMERON—Given that it is far too expensive to use Informed Sources, Fuelwatch would be the only other alternative system to do this nationally so that we can get blanket coverage of fuel prices.

Mr Kennedy—As I say, we support it. But, again, when the original proposal came out, I did not hear any talk of having it on the news; it was primarily a website based model. We welcome talk of other opportunities, but I note that it is only now at this late stage that these other opportunities are being talked of. But we welcome all opportunities, additional to the website, that would get the message through to seniors on a daily basis.

Senator BUSHBY—I have one quick question, since we are talking about TV stations. As I understand it, in Western Australia Channel 7 broadcasts some information about service stations with the cheapest fuel, but it does not broadcast information stating what the prices are at all service stations. I imagine that to be of full benefit to your members you would really need to have the information on what the prices are at every service station. Would that be a fair comment?

Mr Kennedy—It would be and, again, I cite a finding of the Senate Standing Committee on Community Affairs report *A decent quality of life*. While it noted that increased transport costs, particularly fuel costs, were impacting on all seniors, particularly aged pensioners, they were impacting most on aged pensioners in regional and rural areas. Again, there are—I would not say holes—but grey areas within the publicly available information as to how this measure would work in regional areas, and I guess TV stations are an example of that. I am not too sure whether regional TV stations would have the same information as metropolitan TV stations. But, again, the discrepancy between metropolitan, regional and rural is another concern of National Seniors, given the reliance, out of necessity, by rural, older people on their own transport.

Senator BUSHBY—Thank you for that; that is very good information. Still dealing with TV stations, we have also had evidence to this inquiry that some of the major chains in particular use the FuelWatch system in WA to, effectively, price lead. They will price fuel at one of their service stations very cheaply, which will then

be broadcast on Channel 7 as a chain selling petrol very cheaply, whereas in other suburbs it is not priced quite so keenly. Would that also be of concern to your members if that type of thing happened?

Mr Kennedy—I guess it would, yes. Obviously, I cannot comment on regional and metropolitan prices in detail but it would, absolutely, warrant concern for our members.

Senator EGGLESTON—Channel 7 do show a range of prices, first divided up into regions, so they broadcast a sample of the regional service stations and their prices. I saw it the other night. It flipped from region to region very quickly, so you have to be fairly astute and pick the cheapest station. This argument that you put forward about transparency came up last Thursday when we were talking to people from the Northern Territory. There is an informal system in Darwin whereby the prices are posted on a webpage, and I believe on the radio there, rather like the one that Senator Cameron mentioned that WIN had established in rural Queensland. In Darwin they thought the transparency factor was very useful, but they were very concerned about forcing the stations to stick to the price posted the previous day for a whole day because they saw it as being anticompetitive. I would have thought that was a big factor which might influence your organisation. In Perth the general view is that the fact that these supermarket associated service stations can set a cheap price and it is fixed for a day, while other stations are charging higher prices, means that the independents in particular cannot drop their prices to match the cheap supermarket service station prices. In fact, there is no variation in prices. The Tuesday phenomenon does not occur in Perth. Do you have any comment on that?

Mr Kennedy—Without being drawn into the detail that you are talking about, I will again try to keep it broad. Of course we welcome all measures that increase competitiveness of the market. But, to be frank, we feel that the opportunity for price cycles to be reduced in variability, to be increased in duration and to be left predictable is too great a concern. Although we welcome transparency and more competitive policies, National Seniors are here today to raise concerns on behalf of our members about price cycles, alongside the concerns about inaccessibility.

Senator EGGLESTON—Very valid concerns, I think.

Senator ABETZ—I have one last question: did you make submissions to the inquiries of the Northern Territory and Queensland governments? I understand they had inquiries into Fuelwatch—one of which was chaired by the now Labor Treasurer of Queensland—and both of those reviews or inquiries rejected adopting Fuelwatch. I wonder whether National Seniors had made a submission to those two inquiries?

Mr Kennedy—We actually did not make a submission, unfortunately. Due to our limited resources we had to concentrate on the national ones. I will just add one point. I traipsed through the various agendas for the various public hearings that you have had to date. I did not really notice very many consumer representatives. Perhaps this is indicative of the way in which this information has been disseminated—not the committee's information, but the scheme more generally. If you had had a greater dissemination of information then you would have probably had a greater presence from consumer representatives at these hearings.

CHAIR—Thank you, Mr Kennedy, for coming here today.

Proceedings suspended from 3.31 pm to 3.50 pm

BARRETT, Mr Paul, Deputy Executive Director, Australian Institute of Petroleum

DICKENS, Mr Nathan, General Manager, Policy, Australian Institute of Petroleum

TILLEY, Dr John, Executive Director, Australian Institute of Petroleum

CHAIR—I welcome the Australian Institute of Petroleum. Dr Tilley, do you have an opening statement?

Dr Tilley—Thank you for the opportunity to appear before the committee today. As Executive Director of AIP, I am speaking on behalf of the four refiner-marketers in Australia. These major oil companies operate all of the refineries in Australia and handle a large proportion of the wholesale fuel market. However, AIP member companies directly operate and control only a relatively limited part of the retail market—currently between five and 10 per cent of the market.

As outlined in our detailed submissions to the inquiry, Australia currently enjoys a free and open petroleum products market featuring a highly competitive and dynamic retail fuel market. This is clearly acknowledged in the ACCC's 2007 petrol prices inquiry report. This fundamentally competitive market has delivered low petrol and diesel prices by international standards. A feature of Australia's highly competitive fuel market is the retail discounting cycle, which currently provides heavily discounted fuel on a regular basis to consumers. Three separate and detailed ACCC inquiries into retail price cycles have provided clear evidence that the discounting cycle provides benefits to consumers. Each inquiry has reported that more than 60 per cent of weekly fuel sales were made when the average daily price was below the average weekly price. The most recent ACCC inquiry report also reports that consumers value the pattern and predictability of the regular retail price cycle in terms of guiding their fuel purchasing decisions to days of the week when fuel has been heavily discounted. Despite the frustration of some in the community with the weekly discounting cycle, market outcomes have clearly proven to be beneficial for consumers.

Against this background of competitive market outcomes, AIP's overall position on the national Fuelwatch scheme reflects our views on two key elements of the scheme, namely improved consumer information and the 24-hour rule, as well as our strong view that a net public benefit from the national scheme is yet to be clearly and publicly demonstrated. Fundamentally, AIP supports effective measures that seek to improve the quality and timeliness of information to consumers in a competitive market setting. AIP member companies would take no exception to an efficient and equitable mechanism that enabled consumers to access detailed retail pricing data like that currently provided by informed sources on a local area basis. We note that there is considerable information already freely available to consumers in the marketplace. However, we do not support government regulation which prevents the delivery of competitive market outcomes to motorists, such as banning intraday price movements, including price discounting, under the so-called 24-hour rule.

While it is ultimately a matter for government to decide if it wishes to intervene in a competitive market, AIP believes that such intervention should be based on a clearly demonstrated net public benefit. In addition the objectives and impacts of such intervention need to be clearly understood by all parties likely to be affected. For example, we expect consumers will naturally be concerned if heavily discounted fuel and the associated cost savings are not available at the pump to the same extent when the 24-hour rule commences. Analysis by the ACCC and experience with the WA scheme suggests that this is likely to occur, given the flattening and lengthening of the Perth retail cycle. AIP also believes that consumers are likely to be dissatisfied if Fuelwatch leads to less predictable retail petrol prices throughout the week resulting in less consumer certainty about the low price days of the week. The government's regulatory impact statement and the ACCC inquiry report both caution that less predictable retail prices may be an outcome of the scheme.

In addition to these two key impacts, AIP notes that the ACCC report also identified other possible anticompetitive effects or unintended consequences of the 24-hour rule. These include a possible negative impact of the 24-hour rule on independent fuel retailers and retail competition, and excessive compliance costs for business. AIP is concerned that the detailed analysis of these issues has not been made publicly available. AIP would encourage the government to release this analysis to demonstrate a clear public benefit from the impact or from the introduction of the 24-hour rule.

In conclusion, while AIP have expressed concerns about some elements of the proposed national Fuelwatch scheme, we remain committed to working constructively with the government on the details and implementation of the scheme to help ensure that it is as effective as possible for consumers and to help reduce the compliance burden on the industry. Thank you.

CHAIR—Thank you, Dr Tilley. You said the net public benefit was not demonstrated, yet we have had Western Australia operating a FuelWatch scheme for seven years now, and our reports from the Western Australian department of consumer affairs indicate that not only is it very popular; it does not seem to have resulted in the demise of independents or much of a change in the market really at all.

Dr Tilley—What we are getting at here is the basis on which the government has chosen to proceed with the introduction of a national scheme. It appeared to be based on the assessments undertaken by the ACCC and the advice provided by the ACCC. In our view, the analysis of the benefits that would flow nationally from the introduction of a national Fuelwatch scheme were not clearly identified in that report, nor were they identified in a way that would enable other players and stakeholders in the market to fully understand or even be able to replicate the analysis. So we are looking to get a clear understanding of the bases on which the decisions were made so that we can be fully satisfied ourselves that those bases are fair and rational and that there is a clear national net benefit.

CHAIR—When you say ‘the ACCC report’, it sounds in your explanation as if you are talking about the report that compared fuel prices to see whether Western Australia was up or down, but that was only part of the government’s decision, was it not? Some of it was based on the general popularity and the way that the FuelWatch system was working in Western Australia, so the price component was only one part of that decision.

Dr Tilley—It is not clear to us that that analysis of even the pricing benefits has produced clear conclusions.

CHAIR—I know this committee has had a lot of concentration on the pricing benefits because they have been a matter of contention, but the government is saying that that was only a small part of the decision to go to Fuelwatch—that it was about consumer transparency.

Mr Dickens—I certainly take your point that there were a number of impacts that were identified in the ACCC report, quite separate to the pricing impacts. I think our submission says quite clearly that part of our concerns in AIP is that there are some significant issues identified by the ACCC in their report that require detailed analysis of their potential impact, including Fuelwatch being applied on a national level. Some of those impacts were the impact of Fuelwatch on the predictability of the cycle, the impact of Fuelwatch on the structure and competition in the market, the impact of Fuelwatch on the availability of heavily discounted fuel to consumers—among other things. I believe they are outlined on page 252 of the report. Our submission was trying to clearly say that these are very serious impacts, quite in addition to price, and we would like to understand the detailed analysis underpinning those issues. We are yet to see that.

CHAIR—And we had some evidence from Professor Joshua Gans saying that he would like to see small trials, but it is extremely difficult to do a trial whereby everything else stays the same except that you trial Fuelwatch in a couple of suburbs, because people will come in and out of those suburbs. So, in some senses, given that Western Australia has been more or less trialling FuelWatch for seven years, the only way to see how it would go out in the national market, how it would operate nationally, is to do it nationally, isn’t it?

Mr Dickens—I could not comment on Joshua Gans’s proposal, but I would make the observation that most of the tenor of our submission is simply doing one thing: it is trying to identify the current benefits of our current competitive market against this proposal and the factors that we do know with some degree of certainty from the ACCC report about the impact of this scheme at the WA level. And what we know with some degree of certainty is that it has flattened and lengthened the cycle, meaning that discounted fuel is not available to the same extent in Perth as it is on the east coast. That is something we do know with some degree of certainty. In relation to the price impacts, a range of views have been put forward. In relation to the price impacts on WA, the only organisation that can make a judgement on that with some degree of certainty is the ACCC. It is the only party that has the required data to make a sensible analysis.

Senator PRATT—You have just talked about the how the price cycle in Western Australia has flattened, and you also spoke before about how, I think, 26 per cent of fuel where there is a volatile price cycle is sold at the lower points. Was that the figure you used?

Mr Dickens—That would be 60 per cent, Senator.

Senator PRATT—Sixty per cent. What analysis have you done of Western Australian fuel markets—other than just looking at the flattening of the cycle—to demonstrate what proportion of the fuel in Western Australia is sold at the equivalents of those lower price points?

Mr Dickens—The answer is contained in the ACCC report itself. They have said quite clearly that there have been three separate reviews of volume fuel sales in three separate ACCC inquiries. Each of those has

concluded that 60 per cent of fuel is sold at prices below the average weekly price—at a daily price below the average weekly price.

Senator PRATT—And that is true for Western Australia as well?

Mr Dickens—No, that is not true. What the ACCC has concluded in its report is that 40 per cent of fuel sales are below the average, and in fact there are three days of the week where the daily price is below the average price in Perth, versus four days a week where the average daily price is below the average price in the eastern capitals.

Senator PRATT—So they are still doing it on a daily basis, as opposed to looking at the price point separately from the cycle?

Mr Dickens—I am not sure I understand your question.

Senator PRATT—You have talked about how the majority of the fuel is sold at the overall price point cycle in terms of averaging out all of the price overall, whereas, in Western Australia, consumers are encouraged to differentiate on a daily basis, so there might be a greater set of volatility in any one day. It is the price point, not the day that the consumer is paying, as opposed to the different averages over the cycle, that I am referring to. I am sorry you do not understand my question and I have not expressed it particularly clearly.

Mr Barrett—By way of background, I used to sit on the Western Australian Petroleum Products Prices Advisory Committee. To explore your question a little more, there was a concept used in that committee that ran something like this, that since motorists were aware of the price via FuelWatch they would always seek out the lowest price. Is that what you are getting at?

Senator PRATT—Not that they would necessarily always seek out the lowest price but that they have the opportunity to buy fuel at those lower points in the cycle irrespective of which day of the week it is. They have the opportunity to buy fuel at the lower points in the volatility range on any day of the week rather than the days of the week within the cycle.

Mr Barrett—In our submission, we clearly highlight that the only way to really judge this question on the pricing, as the chair has raised, is to consider the volume base data, the price at which people purchased the fuel.

Senator PRATT—Yes. That is what I am referring to.

Mr Barrett—To our knowledge, nobody has done that analysis to this point. Pretty much the reason why we have not conducted the analysis is that we do not have access to that data.

Senator PRATT—Who could conduct that analysis? We know what the prices are in Western Australia, we know the price of petrol on any given day, but we do not know what volumes are being sold. Is that what you are telling us?

Mr Barrett—Yes, essentially.

Senator PRATT—So when people argue about the impact of the loss of that volatility, how are we able to compare what is really going on in Western Australia with the rest of the country? Are you telling me we cannot because we do not know the price at which the majority of the volume is being sold?

Dr Tilley—The ACCC provide some insights to that question in their most recent report. There are a series of tables that relate volume to price. The ACCC presumably would be the organisation which would have access to all of the data in order to do that.

Senator PRATT—As an organisation that represents the major retailers, what can you say to convince me that what you are telling me is independent of your commercial interests and really is about the interests of consumers? How do I know that you do not know the volume of petrol being sold in Western Australia and that in fact you do have lower profits compared to other states?

Mr Barrett—We will take a couple of those questions one at a time. Firstly, as a major retailer, there is a table in our submission which goes through the types of retailing operations in Australia—on page 7 and then there is a break-up on page 8. The first thing to say is that AIP member companies, which are the refiner-marketers, control the prices in only five to 10 per cent of the market and those are only in the company owned sites. The majority of the service station sites in Australia are what are called ‘branded independents’. Generally, the service station site has only a fuel supply contract with one of the oil majors and basically they are an independent business. So long as that person maintains the fuel supply integrity, they get to use the

brand of the person they have the fuel supply contract with and they get to set the price at their retail site. Effectively, other than the fuel supply contract, they are independent operators.

As the table on page 8 shows, out of the roughly 6,000 service stations still operating in Australia, about 1,100 are supermarket sites and 784 are what are traditionally non-aligned independents, which are the husband and wife operations with no brand whatsoever, or the chains such as United, Neumann, Liberty and so forth. That is the first part. As a major retailer, I would argue that we are not a major retailer in this country.

As to your second question, the AIP do not cross the commercial divide. That is one of our hard and fast rules. It is about effective representation of the industry. Even if such information were available, I do not think we would avail ourselves of it.

Senator PRATT—Finally, in places like Western Australia FuelWatch is widely advertised on television. There are certainly other places around the country where publicity is given to local fuel prices. Clearly, irrespective of whether or not people are actively using fuel-watching websites to seek out what is actually the lowest price, those sites give consumers information about what kind of volatility exists in the market on the day, because that information is available to them. So in a sense those in Western Australia have access to the benefits of the price cycle on any day because they will know what the overall variability is. If they drive past their local servo and see that fuel is \$1.46 a litre, whereas what they saw on the telly the previous night told them that the highest prices were up around \$1.56 a litre, they know that they are getting a good deal and vice versa. Surely there is a role for that kind of consumer information in our marketplace, so we can actually use some of these tools to get around pretending that these volatile markets are actually good for consumers.

Dr Tilley—We have acknowledged quite publicly that we do see benefits from greater and more timely information for consumers about pricing. In fact, we would note that in quite a lot of the capital cities there is quite a lot of media reporting on petrol pricing—and it is even in regional centres—indicating what the highest or lowest prices around the city—or town—are at particular times. There is also quite an amount of detail on various internet sites. We are quite open in our support for a range of other mechanisms that could be put in place to increase consumer awareness of pricing.

Senator PRATT—I have noted that in your submission.

Mr Dickens—Just to supplement Dr Tilley's comments, fundamentally the ACCC for many years has advised consumers on its website about the low-priced days of the week for purchasing and indeed about the benefits of the price cycle to consumers. It has done that for some time.

Senator ABETZ—Would you agree with this statement? It is:

... there is an arbitrariness in simply adopting the Western Australia model ... a policy with such broad implications should get more investigation.

Would you agree with that statement?

Mr Dickens—I think that is certainly consistent with what was said in our submission.

Senator ABETZ—That was a statement made by Professor Joshua Gans, who was quoted earlier, and that is to contextualise his views. What percentage of fuel is sold—and I do not know if you know this or not—on cards or accounts? I know you claim not to be in the retail sector by representing five to 10 per cent of it, but do you know, from your general knowledge of the industry, how much or what volume of fuel is sold courtesy of cards and accounts?

Mr Barrett—We have not had access to that information.

Senator ABETZ—Are you able to tell us about the regularity of deliveries to the state of Tasmania?

Mr Barrett—Only that Mobil largely sold out of Tasmania, and my understanding is that it is an independent wholesaler in Tasmania. I could be wrong.

Senator ABETZ—But the shipments?

Mr Barrett—I could not tell you anything specifically about those.

Senator ABETZ—Nothing at all? All right. In relation to Western Australia in particular, I understand that, whilst you are not into the retail area, you do represent Mobil Australia. As I understand it, Mobil sold out of its retail sites at some stage a few years ago. Are you able to shed any light on when that was?

Dr Tilley—I think Mobil has been selling out of its retail sites for a number of years.

Senator ABETZ—Yes, that is right.

Dr Tilley—I am not familiar with the exact time when they started, but it has been a process over a number of years that I have been aware of.

Senator ABETZ—They were not selling to other major chains?

Dr Tilley—I am not sure what arrangements Mobil had for sale—whether it was put out to tender, it was private negotiation or what.

Senator ABETZ—So the organisation that represents Mobil cannot tell us.

Dr Tilley—It is heading into an area of commercial relationships that AIP does not enter into, as a matter of course.

Senator ABETZ—When the AIP talks about the number of independents in Western Australia and elsewhere, I think we need to take into account when a major chain like Mobil sells all its sites—as I understand it, mainly to independent operators who were making their money out of the Mobil site and who therefore could either vacate the industry completely or seek to buy the site or to make some agreement with Mobil so that they could keep pumping petrol. That therefore, if you like, artificially increased the number of independents in the Western Australian market, and I am just trying to get a bit of a handle on that figure throughout these hearings. I was hoping you guys, as the second-last port of call, might be able to provide an answer to that question, but it is not so.

Dr Tilley—We have not got a detailed breakdown by state, but I am aware that Mobil has been selling off sites in a number of states, not just in Western Australia. I think the Mobil sites in Tasmania were sold off not too long ago.

Senator ABETZ—I think they may have gone to United Petroleum. I was just wondering, then, whether you call United Petroleum an independent. That does distort the figures in relation to the independents out there. It was put to us by the department in Western Australia that, in fact, the percentage of independents in the market had grown from two per cent to six per cent. Of course, with those sorts of figures you have to take into account all the variables and factors that have occurred in the marketplace. Anyway, you cannot shed any more light on that. So be it.

In relation to the setting of the retail price, are you telling us that you, as suppliers, only control the retail price at five to 10 per cent of the market? Are you able to impact or provide a bit of a discount to the various trademarked fuel outlets and thereby, in a de facto way, set the price? Sure, the franchisee or owner can still determine the price, but if there is some price support provided it assists them in setting their price.

Mr Barrett—This issue was given a lot of detailed consideration during the market reform debate, which was on the repeal of the sites and franchise acts and the enactment of the Oilcode provisions under the TPA. I suppose the first thing to note is that the number of franchisees, which is not actually shown on this table here, has diminished quite markedly, so the opportunity for price support to actually act as a de facto pricing mechanism has reduced quite substantially along with the franchisee numbers. The second thing is commercial in confidence. We are not privy to the arrangements between branded independents and their supplying oil company, although evidence given within the market reform debate showed that the AIP members considered that to be an arm's-length transaction.

Senator ABETZ—Figure 2 on page 12 of your supplementary submission sets out components of national average retail prices. The refined product cost at 30 June 2006 was 57 per cent and at 30 June 2008 it was 63 per cent. Is that the terminal gate price? What is included in that refined product cost?

Mr Dickens—As per our weekly pricing report that is the cost of MOPS95 unleaded out of Singapore plus freight, insurance and loss, and wharfage. That is consistent with the price build in the ACCC report.

Senator ABETZ—So the terminal gate price, I would assume, is higher than 101c per litre for the purposes of figure 2 as at 30 June.

Mr Dickens—That would be a reasonable assumption. I think the best way to look at it is that the 101 would be a landed cost.

Senator ABETZ—Thank you for that; that helps explain that aspect. In relation to the volume of fuel sold, are you privy to that from your—

Mr Dickens—We have no access to volume data.

Senator ABETZ—So you would only be commenting on other people's data, like the ACCC's?

Mr Dickens—Correct. The ACCC are the only party that have detailed volume data across the industry, by virtue of the formal price-monitoring provisions of the Trade Practices Act.

Senator ABETZ—On page 19 of your supplementary submission you tell us:

- Only 17% of Perth Motorists tend to buy petrol on particular days of the week (compared to 68% in other capital cities)
- Only 28-34% of Perth motorists buy petrol when it is cheapest.

I assume that information follows on from the paragraph above—that is, that it is an ANOP survey.

Mr Dickens—That is correct.

Senator ABETZ—Thank you for that. Then, in relation to the relatively low cost of petrol in Australia, you say at the bottom of page 20:

Australia continues to have among the lowest petrol and diesel prices of all OECD countries—both on a pre and post tax basis ...

A number of things have been mentioned, but not the value of the Australian dollar. The high value of the Australian dollar has also kept our domestic fuel prices substantially lower than would otherwise be the case.

Mr Dickens—That is certainly the case in the last six months, keeping in mind that the data in figure 10 in our submission is on a comparable dollar basis. It is all in Australian cents per litre, so the effects of currency are removed from this comparison.

Senator ABETZ—You have indicated to us that you consider there has been:

... no clear, consistent and easily understood explanation available to Australian consumers of the primary objective of the National Fuelwatch Scheme.

Can I tell you, you are not Robinson Crusoe in relation to that. A lot of people are struggling as to what the actual purpose of Fuelwatch is, and you note, I think quite appropriately, the changing emphasis along the way. But, in your analysis, will Fuelwatch deliver any cost benefit to the consumer? Also—and possibly, given the confidential aspects that you have within the AIP, you cannot comment on this—we understand from Woolworths, if my memory serves me correctly, and also another major oil company that you represent that they claim they get their highest margins in fact in Western Australia. Are you able to comment on that?

Mr Dickens—We cannot confirm or deny that.

Mr Barrett—However, we could probably comment on some of the other econometric analyses that have been conducted, notably by Don Harding, which essentially qualify some of the ACCC conclusions in appendix S. Under his analysis it is conceivable that prices could increase in Australia rather than there being a 2c reduction, which was highlighted in appendix S of the ACCC report.

Senator ABETZ—Yes, and this afternoon we had evidence from Concept Economics, who are also questioning the ACCC analysis. Usually if you have two economists you get three opinions, but on this occasion both Access Economics and Concept Economics are in fact agreeing on what they consider to be a major flaw in the ACCC analysis, and that is a matter of some concern to us as a committee—or at least to some elements of this committee. It is interesting that you highlighted that as well.

Senator CAMERON—I am not sure who is going to take up these issues, but I will ask generally. You argue that, before there are any changes to the approach on Fuelwatch, there should be a clearly demonstrated net public benefit. In the 11½ years of the Howard government, how many submissions did you make to them about a clear net public benefit having to be demonstrated for every piece of legislation? Did you make submissions like that?

Dr Tilley—I am not sure whether we have used exactly those sorts of words but, in every submission we believe we have made in the last few years at least, we have always set out to test whether or not there is a net public benefit in the proposal being raised by the government.

Senator CAMERON—Did you make a specific submission on the most controversial piece of legislation and the choices on that basis?

Dr Tilley—AIP has had a policy for a number of years now of focusing on issues that directly relate to refining and marketing. We have deliberately had a policy of not entering into the broader range of issues, given that each of the AIP member companies is involved in a number of other industry based organisations which have a broader range of coverage of issues before the parliament.

Senator CAMERON—Could you provide extracts to the committee of any submissions you have made in the last 11½ years where you argue that clearly demonstrated net public benefit must be achieved?

Mr Barrett—I think we can do that on market reform and fuel quality standards legislation. I am happy to take that on notice and provide that to the committee.

Mr Dickens—In all our submissions we try to lay down the key principles of good public policy—that it is based on good and rigorous science and would have a demonstrated benefit.

Senator CAMERON—Senator Abetz said that when you get two economists you get three opinions. Just to set the record straight, we have actually had three economists at this committee in the last few days, and one of those economists was quoted by Senator Abetz—and I am quite pleased that he did quote Joshua Gans in his question to you.

For the record, can I just indicate what Joshua Gans put in his written submission. He said:

The National FuelWatch scheme should be explicitly regarded as a work-in-progress. While it can safely be rolled out in capital cities, the option to improve the system should remain and its structure should be revisited—including an econometric investigation—in 2 years. In addition, we should trial alternative systems in regional areas and evaluate them.

That is what Professor Gans put to the committee.

Senator ABETZ—That is hardly a ringing endorsement, I would have thought, of Fuelwatch.

Senator CAMERON—When Gans says that it can be safely ruled out in capital cities, isn't that a sufficient proposition to meet your test that it can be ruled out safely?

Mr Dickens—I would like to understand how he has arrived at that judgement.

Senator CAMERON—But you looked at Professor Harding's work; you did not look at Professor Gans's work.

Mr Dickens—I think we have looked at a range of competing views on Fuelwatch.

Senator CAMERON—But you can comment on Harding but not on Gans?

Mr Dickens—I cannot recall. I thought we might have referenced it. I am happy to take that on notice.

Senator CAMERON—Can you give your views on the submission from Assistant Professor Zhongmin Wang to this inquiry?

Mr Dickens—We have not sought to make judgements on any of the evidence presented by any—

Senator CAMERON—Have you read his submission?

Mr Dickens—Yes, we have.

Senator CAMERON—You have only got a point of view on Professor Don Harding's—

Mr Dickens—I do not think we expressed a point of view. I think we just reported the findings of his analysis.

Senator CAMERON—Would you like to put on record what Professor Wang says? It is only Don Harding you want to put on the record?

Mr Dickens—We were seeking to demonstrate that there are a range of views in relation to Fuelwatch and to emphasise our case that we would like a rigorous analysis to be conducted. We cannot make any judgement on any economist's perspective on this proposal unless we are able to assess the data and do the analysis ourselves.

Senator CAMERON—Would it be unkind for me to say you only want a rigorous analysis on those models that suit your political position?

Mr Barrett—I think, Senator, that would be an extreme comment to make.

Senator CAMERON—Would it?

Mr Barrett—Certainly I used Don Harding as a 'for instance' and I did not mention any of the other economists' work. They are well known to this committee.

Senator CAMERON—I have had a quick look at your publication *Downstream petroleum 2007*. Page 12 shows return on assets—your EBIT and your post-tax profit per litre of fuel sales. It shows a peak post-tax profit that is way up on the graph. It goes above 4. I suppose that is four cents per litre of fuel—is that right?

Mr Barrett—That is correct.

Senator CAMERON—That is a record level. It trends back a little bit, and I suppose if you stretch that out a little bit more it would not look as dramatic as that. It is one of the tricks of graphs that you can make them look a little less dramatic, isn't it. Where is that post-tax profit now?

Mr Barrett—I am just collecting the 2007 returns. I guess that in the ASIC reports that have been submitted by our member companies the profits certainly have dropped somewhat over the last couple of years. The thing about the refining industry is that it is a highly cyclical industry and it is characterised by large peaks and troughs. Certainly in 2001 the industry demonstrated a net record loss of over half a billion dollars, and that was largely due to the collapse of refiner margins in the Asian region driven by excess supply in the Asian region. Really, to understand the profitability of the refining industry you have got to look at the capital investment cycles of the refining industry.

Senator CAMERON—You say that the increase in profits and cash flow have been accompanied by commensurate increases in investment. Have there also been commensurate increases in executive salaries?

Mr Barrett—I do not have specific information regarding that.

Senator CAMERON—Can you provide that information as the—

Dr Tilley—Senator, we do not have access to that sort of information.

Senator CAMERON—You do not have access to that information?

Dr Tilley—That sort of information would be in ASIC returns or company annual reports. That would be our only source of information.

Senator CAMERON—You also say in your submission that the industry is highly competitive and dynamic. I read it as if that has been endorsed by the ACCC. The ACCC said that the market was fundamentally competitive. Are you then taking this to a new level and saying that, by the ACCC saying it is fundamentally competitive, it is highly competitive and dynamic, or is that just your assertion on the industry?

Mr Dickens—I think that is an assessment that is shared by the ACCC and has been reflected in preceding ACCC reports as well. I think you will also find in the assessment of the retail market in particular that the ACCC finds it fundamentally competitive and dynamic.

Senator JOYCE—I think everybody is feasting over the bones of Fuelwatch while the Olympics is on and I am sure this is the most unwatched part of parliament at the moment. I want to bring you back to some of the things Senator Cameron has said. The ACCC talks about a fundamentally competitive market and you talk about a highly competitive market. Without a shadow of doubt I think that Fuelwatch is a complete farce, but, just going to those statements, if I am in Western Australia and I do not feel I am getting a good deal from the BP refinery at Kwinana, where do I go as an alternative?

Mr Barrett—There are also imports from another AIP member and an independent company as well.

Senator JOYCE—For proportional volume can you give us an answer then?

Mr Barrett—I would not have that to hand.

Senator JOYCE—If I am in South Australia and I do not feel I am getting a good deal from the Mobil refinery, where do I go?

Mr Barrett—The Mobil refinery was decommissioned in 2003.

Senator JOYCE—So I go nowhere. It just does not exist.

Mr Barrett—There are import terminal facilities which I understand a number of participants import into.

Senator JOYCE—You are saying the Mobil refinery was decommissioned in 2003. What day did you put this thing out?

Dr Tilley—That is about to be released, so you have an advance copy.

Senator JOYCE—On this one Port Stanvac is still there.

Dr Tilley—There is a footnote there that says it has been mothballed. That is on page 5.

Senator JOYCE—That is on the next page. Okay. Why do you say it is highly competitive and dynamic when quite obviously in so many of these areas the refining capacity is tightly controlled and there are buy-sell arrangements at the terminal gate?

Mr Barrett—It is an open market with free access to buy imports.

Senator JOYCE—Free access to imports from anywhere or is that controlled by sulphur content laws?

Mr Barrett—Supplies have to meet Australia's fuel standards which are set by the Australian government. Certainly, China and a number of the other Asia-Pacific nations do not have fuel standards which are commensurate with Australian standards.

Senator JOYCE—So where do we get our fuel? If I want to bring in a load of fuel, where am I going to go to get it?

Mr Dickens—If you turn to page 5 in our *Downstream Petroleum* publication, it can show you where the sources of imports of petroleum products were for the 2006-07 financial year.

Senator JOYCE—Predominantly Singapore.

Mr Dickens—Certainly, for that financial year.

Senator JOYCE—What portion of fuel is that compared to what we refine in Australia?

Dr Tilley—That is about 25 per cent. Imports amount to 25 per cent approximately of total demand.

Senator JOYCE—Have any of your members ever participated in any predatory-pricing programs when those fuels have been brought in by independents in certain areas by just dropping the price so that the person who is bringing them in is basically unviable by the time the ship arrives here?

Dr Tilley—I am not aware of any of the AIP members participating in any such programs.

Senator JOYCE—You said, 'Franchises have reduced dramatically since the repeal of the sites and franchises acts.'

Mr Barrett—No, they have decreased over a period of five or so years.

Senator JOYCE—What you actually said was 'dramatically'; I wrote it down. You said, 'Franchises have reduced dramatically since the repeal of the sites and franchise acts.'

Mr Barrett—Sorry, I misspoke then, Senator.

Senator JOYCE—We can check *Hansard* to check your quote, if you like. Why do you think franchises have, in your words, although you have changed them now, 'dramatically reduced since the repeal of the sites and franchise acts'?

Mr Barrett—Again, if I said that, which I do not believe I did, then I misspoke.

Senator JOYCE—I will ask you the question then: have franchises reduced since we repealed the sites and franchise acts?

Mr Barrett—It has only been a year since that time, so I do not believe it has been significant.

Senator JOYCE—Have they reduced?

Mr Barrett—I believe they have slightly, yes.

Senator JOYCE—Why?

Mr Barrett—For a range of reasons. People prefer commission agents rather than franchises, for instance. This is something that came out in the market reform debate and in evidence we gave to the committee at the time, which you will remember, that a number of people prefer to have commission agent arrangements because it gives them a regular and definite flow of income.

Senator JOYCE—So you think that reform was a good piece of legislation to increase competition? Or do you think it worked in your favour?

Mr Barrett—We argued strongly for the repeal of the sites and franchise acts and the imposition of oil code provisions under the Trade Practices Act. We believe now, as we believed then, that it increased competition in the retail fuel market. It gave increased tenure to commission agents; it gave increased surety for participants in the retail fuel market.

CHAIR—Thank you to the Australian Institute of Petroleum representatives for coming in and giving evidence today. It is appreciated.

[4.42 pm]

MARTINE, Mr David, General Manager, Department of the Treasury

MURPHY, Mr Jim, Executive Director, Department of the Treasury

CHAIR—Welcome. Do you have an opening statement?

Mr Murphy—Yes, I will just make a couple of comments. It is worthwhile outlining some of the design features of the scheme. I know there have been a lot of submissions, but it may address some of the issues that have been raised. The government's policy objective in introducing this scheme is to address the existing imbalance in retail price transparency between retailers and consumers, along with reducing intraday price volatility. Of the three options that were considered in the ACCC's report, Fuelwatch is the only option that will address both of these objectives. Fuelwatch will introduce the requirement for petrol retailers to notify the ACCC of the standard retail price for each kind of motor fuel they offer for sale by 2 pm on the immediate preceding day and a requirement to maintain their notified standard for a 24-hour period. The ACCC publishes that information and civil penalties apply if the retailer fails to provide the information, if the retailer notifies the ACCC of a price but does not sell fuel at any price at all during that period, and the retailer notifies the ACCC of its price for fuel but sells fuel at another price. Fuelwatch will apply to all petrol retailers who offer motor fuel for sale. The advice from the Australian Government Solicitor is that a national Fuelwatch scheme can be implemented on the basis of the corporations power in the Constitution. The design of the scheme is such that it will seek to minimise compliance costs for all petrol retailers and we expect net compliance costs to be negligible.

I note that the effect of Fuelwatch on independent fuel retailers is a key issue for this inquiry. In this regard, I add that we are not aware of any evidence to suggest that the introduction of Fuelwatch will have a negative impact on independent retailers. The experience in Western Australia suggests that the proportion of sites operated by independent retailers increased slightly during the time of Western Australia's FuelWatch scheme. I note that the committee is examining the impact of Fuelwatch on the price consumers will pay for fuel. While it is difficult to determine the exact impact Fuelwatch will have on price, I note the results of the ACCC economic analysis, which examined the price effects of the introduction of FuelWatch in Western Australia. The ACCC concluded:

... there is no evidence that the introduction of Fuelwatch in Western Australia led to any increase in prices and it appears to have resulted in a small price decrease overall.

We also note that, in some of the submissions to the committee, it has been suggested that the design of the scheme should be modified so that retailers are required to notify only their maximum prices for the next day and have the ability to reduce prices throughout the day. In Treasury's view, this would undermine the key objective of the scheme, which is to provide greater price transparency in the retail market and empower consumers to make an informed decision about where to buy the cheapest petrol in their area. Thank you.

Senator ABETZ—Thank you for your submission. First of all, you told us in that submission that the government objective was to address the imbalance, price transparency and intraday volatility. Then, just as you were finishing, you were talking about the key objective being price transparency. Can I take it from that that the government has now abandoned any pretence that Fuelwatch is going to decrease petrol prices?

Mr Murphy—No, the policy objective was to empower consumers to seek out and to get the best price and, in effect, to arm them to make a well-functioning market for petrol prices at the retail level. I would suggest that, if you had a market whereby there was equal bargaining power between the consumer and the petrol retailer, you may not need to have a Fuelwatch. But, with the introduction of informed sources, where the retailers are now in a very advantageous position, the government is seeking to address the imbalance between the consumer and the retailer to try to get better price transparency and to try to address this intraday volatility, which, from the ANOP survey of consumer preferences, came out very strongly as a concern to consumers. In a nutshell, you are looking at trying to get more transparency into the market for petrol by giving people the opportunity to find out what the fixed prices are for that day. You are also looking at addressing this issue of intraday volatility, which was a concern through the market surveys.

Senator ABETZ—Thank you for all that, but when Fuelwatch was first mooted we had the Assistant Treasurer and others asserting—and this was their up-front line—that people could expect to save on fuel prices. What I have just asked is: has the government abandoned that now?

Mr Murphy—No.

Senator ABETZ—It seems that most of the submissions to this committee have tracked the changing terminology and the changing justification for Fuelwatch, and it does appear, in fact, that the government has abandoned any pretence or suggestion that fuel prices will go down. So it would be very interesting for us to hear if you are telling us that the government has not, in fact, abandoned that proposition.

Mr Murphy—I do not have it in front of me where that specific proposition was put, so I will take it as you have noted. In terms of looking at the analysis, the market in Australia and the ACCC's report, we all know that fuel prices are largely determined by the price that is set overseas—petrol is imported into Australia. As to what the government is trying to do, and I think this happens in lots of other areas as well, it seems to us that the consumers are not active or energetic enough in seeking out bargains and in seeking to put pressure back on suppliers of services—be it petrol or be it other things. What can we do? The government does not want to be in a position where it sets petrol prices. There is no need to do that in this market. You have seen the problems in Indonesia where they set prices and there is a huge impost on the budget when the price moves internationally.

Realistically, if you want to get the best deal you can for Australian consumers, you have to start looking at getting pressure coming, at the grassroots level in my view, from consumers to be seeking out the best prices for petrol. Hopefully they will then put pressure on the retailers to actually compete more aggressively in the supply of petrol. The only way you can do it, given the introduction by the retailers of this informed sources device or mechanism, is to actually try to redress that and get an energetic consumer awareness out there. I cannot really say, and I do not think that anyone is really saying, that this Fuelwatch will dramatically reduce fuel prices. I think the ACCC found that it would not have a detrimental affect and would not increase fuel prices. I think it is very difficult for anyone to come out and say, 'We are going to reduce fuel prices.' We all know fuel prices have just recently declined and I do not think the government has been putting its hand on its heart and saying, 'Thank us for the reduction in fuel prices.' It is just a market working.

Senator ABETZ—The Assistant Treasurer was out there promoting a reduction in fuel prices through Fuelwatch. We had the unfortunate incident of the now-resigned fuel commissioner mentioning 5c a litre, which at Senate estimates he said he did not say, albeit he did not put out a clarifying statement. That was clearly part of the armoury of arguments that they put forward. The government's view is that consumers are not active enough in this area. Is the government therefore considering any other areas to try to agitate consumer activity to ensure that they get the best prices? The interesting thing is that all the undisputed evidence to us is that the most savvy petrol purchaser is, in fact, in the states that do not have FuelWatch. The consumers know when the lowest prices are obtained and they know about the fuel price cycle et cetera. They shift greater volumes of petrol when the price is cheapest as opposed to the experience in Western Australia. If we are trying to agitate consumer activity or consumer savviness, it really seems that FuelWatch has dumbed down the Western Australia consumer as opposed to those that were surveyed by the ANOP, which is the survey that the ACCC quotes in its report.

Mr Murphy—I will comment on that indirectly. The ACCC, over the last few years, have actively promoted the concept of the cycle. We all know that Tuesday is the best day to buy petrol and the price increases as the week goes on. Why that happens in Australia no-one knows, which is a good question in itself. The ACCC have sought for a number of years to try to do the right thing by consumers in telling them to do that. They have now come out with their more recent December 2007 report and obviously, with that in their minds, have still recommended that consumers would benefit from a Fuelwatch scheme.

Senator ABETZ—We know that.

Mr Murphy—I would have to say that I do not know. I would have to look at the submissions which demonstrate that the introduction of FuelWatch in Western Australia has led to people being less active and less savvy about what petrol prices are.

Senator ABETZ—We know what Treasury's views were in relation to Fuelwatch, and I understand that the Australian Federal Police are currently investigating how that information got out into the public domain. But has Treasury undertaken independent modelling of the ACCC's modelling? When I refer to the ACCC's modelling I am referring to that which is in appendix S, which is the new-found justification for Fuelwatch and the ACCC's justification for having, if I might politely say, a fairly substantial change of mind in relation to this matter.

Mr Murphy—To directly answer the question: we were provided with the economic analysis which is in appendix S of the report. We ran the ruler over that. We examined that. We have gone through this before, but I

will repeat it. We then asked further questions of the ACCC, for explanation, and they came back with that further economic analysis.

Senator ABETZ—Are you able to tell us what questions you asked and what answers the ACCC provided to you?

Mr Murphy—The questions we asked and the answers that were provided were largely put out in press releases by the ACCC. They released the report and then they put out press releases which dealt with the questions that we asked and provided a further analysis. I can direct you to those.

Mr Martine—They put out press releases on 29 May.

Senator ABETZ—So there is nothing which Treasury is privy to from the ACCC which is not in the public domain. The matters that you raised, you say, have been answered by ACCC press releases. Is that correct?

Mr Murphy—I would say so.

Senator ABETZ—So there is no further information that could give us comfort that the ACCC got it right? Concept Economics, Access Economics, Professor Harding and a number of others have concerns, albeit that there are one or two on the other side of the equation who say it is all good. Some of us would like to know what the ACCC actually did. But you did not undertake any independent peer review of the ACCC's analysis.

Mr Murphy—We did not originate our own analysis, but we looked at the ACCCs analysis to see if it stacked up. We looked at what it was purporting to show and then, through further questions, we tested what their analysis was. We have looked at the analysis which has been done by other parties. People can take different views on this. You can question some of the assumptions. The problem with any economic analysis is that it is going to be built off the assumptions in place.

Senator ABETZ—That is exactly right.

Mr Murphy—We would suggest to you that the ACCC took a reasonable approach. Its assumptions are reasonable. When we tested it we felt it was a valid and robust—

Senator ABETZ—Did you test it independently or not?

Mr Murphy—We tested it, but we did not originate our own analysis. We tested theirs. To say that is peer review may be going a bit far. The way we tested it was that we went through the analysis and we checked it out. We looked at where it adds up and where it is sensible. By asking them questions on which they did further work, we would say that there was a sufficient examination of it.

Senator ABETZ—One of the major criticisms has been that transport costs were not factored in correctly in the ACCC analysis. Has Treasury taken that on board and run its ruler over the ACCC's analysis to see whether that is a valid complaint or not?

Mr Murphy—Is this the transport costs of petrol to the site?

Senator ABETZ—Yes—that the cost of getting petroleum product from Singapore to Perth is substantially cheaper than getting it from Singapore to Brisbane, Sydney and Melbourne—and, I would assume, Adelaide as well, and even my home state of Tasmania—and that with that extra cost, if you want the opportunity costs et cetera on top of that, you have to allow for margins for that as well. According to Access Economics, according to Concept Economics and according to Professor Harding, the ACCC did not take that into account in its analysis. I am wondering whether Treasury, in putting its ruler over it, put its transport ruler over it as well.

Mr Martine—There is not a specific answer. I am aware that the issue of transport costs has been raised recently. Our view would be that if there is any effect it would be quite marginal. The ACCC analysis talked about a price differential of 1.9 cents per litre.

Senator ABETZ—That is at the very best.

Mr Martine—That is right. You are talking about a range, and it depends on the day of the week. I think the ACCC talked about range from 0.9 to 1.9.

Senator ABETZ—If that is your range, with the cost of getting fuel to the eastern seaboard at a minimum of 0.7 cents per litre, you start getting potentially into that negative area that the ACCC were not willing to countenance. In their analysis they said: 'Definitely no increase in price. As to the rest, that is all a bit rubbery, but we think possibly a saving from 0.9 to 1.9.' Well, if they have the transport factor wrong, then that lower end of benefit could in fact be sneaking into negative territory. I would have thought that is something that

Treasury would have been seeking to analyse with a great degree of vigour. I am wondering whether it in fact had done that, which would explain why Treasury was against Fuelwatch in its submission to cabinet.

Mr Murphy—No, it was not.

Senator ABETZ—I will withdraw that last bit of the question—that is mischievous. Has Treasury done the testing in relation to transport, for example?

Mr Murphy—If you look at the econometric analysis the ACCC did, they are trying to compare the petrol prices in one state and another. They went to a lot of trouble to try to take out all the additional add-on costs. I would have to go back and look at it. If Access said they did not take full account of transport costs, you would have to see whether it is going to make a difference not. There are various things you could say—how far does the consumer live away from the petrol station? There are lots of factors in this. The ACCC sought, to the greatest extent possible—and I thought they did a pretty good job, to put it bluntly—to compare apples and apples in this case. If you look at the analysis, they said, ‘You’ve got to take this into account and take this out and that out.’

Senator ABETZ—But we do not necessarily know everything that they took into account. One of the criticisms is that the ACCC have not publicly disclosed everything. They say that is because of commercial-in-confidence. As a result, people like Professor Harding, Access Economics and Concept Economics have to try to deal with that which is in the public domain to try to replicate the ACCC study. I would have thought such a major policy change would be worthy of allowing full independent analysis of the ACCC’s econometric analysis.

Mr Murphy—I cannot really comment on that. My understanding was that the ACCC gave other econometricians access to a lot of this information, actually.

Senator ABETZ—No, they did not, and the fact that Treasury is of that view is a matter of genuine concern to me because it indicates that Treasury has not undertaken a rigorous analysis and has just been willing to accept the ACCC view of the world, which has now come under severe questioning.

Mr Murphy—I cannot accept that. On behalf of Treasury and my officers, we provided an appropriate level of scrutiny to the report. The report was not picked up and run with immediately. There was a lot of work to-ing and fro-ing with the ACCC. That is just—

Senator ABETZ—Can we see the appropriate level of scrutiny that you placed the ACCC’s analysis under? I understood earlier on in the questioning that, in fact, you had asked them questions which they had then answered by way of press release—

Mr Murphy—That is right.

Senator ABETZ—and, therefore, the evidence that the Treasury has is in the public domain courtesy of ACCC media releases. I thought we agreed earlier that there was no other evidence that Treasury had from the ACCC other than its report and those media releases. Is that still the case or has it changed in the last 20 minutes?

Mr Murphy—No, but there is a continuous dialogue. They gave us the report, we have dialogue and we have meetings. We should put that on the record, but at a previous meeting we discussed this. There is the report, there are the media releases, there is the RIS—the regulatory impact statement—which was provided by Treasury; there is sufficient information there.

Senator ABETZ—But is there anything else from the ACCC that is in the hands of Treasury and is not in the public domain? We have the RIS, we have the media releases and, of course, we have the report.

Mr Martine—To clarify: leading up to the announcement of Fuelwatch, there were discussions between the Treasury and the ACCC about econometric analysis. The answers to questions we had were not just in the press release. One of the outcomes of the discussions was the ACCC choosing to release more analysis on 29 May.

Senator ABETZ—So that was that extra document of about eight pages?

Mr Martine—There was a news release from the ACCC dated 29 May—

Senator ABETZ—It was just the matter of a few pages—four pages—

Mr Martine—It was two lots of four pages.

Senator ABETZ—Of which about two replicated exactly the information that was part of appendix S; therefore, we only got two pages of new information in the public domain. So that is the other information, which is also in the public domain?

Mr Martine—Yes.

Senator ABETZ—Is there anything else?

Mr Martine—Is there anything else that has been provided to Treasury?

Senator ABETZ—Yes.

Mr Martine—There are, but only to the extent of information provided to Treasury in the context of the discussions that Treasury had with the ACCC from the period from the release of the report to, effectively, late May. There would have been discussions, questions and information provided to satisfy Treasury that the econometric analysis is robust in terms of the conclusion that Mr Murphy referred to at the start, which is that there is no evidence that Fuelwatch would lead to an increase in petrol prices.

Senator ABETZ—But aren't you guys far too academic, according to one of your ministers? That is why your views ought be dismissed, I thought—

Mr Martine—That is all right.

Senator ABETZ—but that was on the public record. Sure, there were discussions, but is there anything else that the ACCC provided to Treasury that is not in the public domain and might be of some persuasive impact or influence? Is there any actual information to assist us as a committee to determine whether Fuelwatch is good, bad or indifferent?

Mr Martine—There would no doubt be documents that the ACCC provided that relate to their econometric modelling and that they have decided not to release.

Senator ABETZ—Right.

Mr Martine—I do not have a list in front of me, but no doubt there would have been an exchange of information and questions—

Senator ABETZ—Did that actually occur?

Mr Martine—No doubt there would have been—

Senator ABETZ—Did it occur or didn't it occur?

CHAIR—I think Mr Martine is trying to answer the question. He is struggling with interruptions.

Mr Martine—Thank you, Chair. Let me try my best. There were oral discussions but there were also documents provided which would have involved datasets. So, in terms of the raw data and information that is not included in this press release, yes, there would have been physical documents provided from the ACCC—

Senator ABETZ—So there were?

Mr Martine—Yes, which effectively relate to data.

Senator ABETZ—And that has not been publicly released to anybody else?

Mr Martine—As far as I am aware, that is correct.

Senator ABETZ—It does not help us in our analysis. In relation to the legislation, the terminology and the definitions, has the department been engaged in consultations with the industry sector? Are you working on any amendments to the legislation?

Mr Murphy—Not at this stage.

Senator ABETZ—Not at this stage?

Mr Murphy—We are not engaged in any amendments.

Senator ABETZ—Have you been engaged in any consultations to better clarify the terminology in the legislation?

Mr Murphy—We have had meetings with industry groups. No, we think that the legislation as drafted is sufficient—but there is a parliamentary committee—

Senator ABETZ—Undoubtedly you have read submissions from a number of contributors who have suggested that some definitions are a bit doubtful—for example, if shopper dockets can or cannot be included and if they will still be allowed.

Mr Murphy—That is clear.

Senator ABETZ—It was not in relation to one submission. So I am just wondering how much that is being clarified and what sorts of consultations are taking place as we speak.

Mr Murphy—The definition of ‘standard price’ says it means the price at which the petrol retailer offers that kind of motor fuel disregarding any shopper document. Some people may feel that that is not clear enough but—

Senator ABETZ—But other than by shopper docket can I then put a sign outside my service station that says, ‘Come in and say your name is Jo and I’ll give you a 4c a litre discount on the board price’? Would that be allowed under this scheme?

Mr Murphy—I would say no.

Senator ABETZ—Interesting. What if I were to say that you could get a 4c a litre discount on petrol if you bowl into my service station and buy a Mars bar?

Senator JOYCE—Or a Cherry Ripe.

Senator ABETZ—Yes, or a Cherry Ripe—sorry, Senator Joyce.

Mr Murphy—No.

Senator ABETZ—So that would not be allowed?

Mr Murphy—I do not think it would be allowed.

Senator FIELDING—What about with a Family First member?

CHAIR—We have got a number of senators wanting to ask questions. Can we get on with it.

Senator ABETZ—All this, if I might say, is a vital area.

CHAIR—Yes, certainly.

Mr Martine—Senator Abetz, if I could come back to your general question up-front in terms of consultation and address that first, we see this inquiry, where there are submissions from the public and from different organisations, as in a sense replicating what we would often do in terms of draft legislation.

Senator ABETZ—Yes—what you would normally do if you were not drafting it for 37 hours around the clock. We understand you could not consult.

CHAIR—Senator Abetz, could you allow an answer to the question.

Mr Martine—We, and the government, will clearly be looking at the issues that are raised and at the outcome of this inquiry in terms of definitions and other provisions in the bill. If something arises through the course of these consultations that warrants careful consideration, I am sure the government will look at that. So, in terms of the general proposition, yes, we are looking at what is being raised and no doubt the government will be responding at the appropriate time on those issues.

Senator ABETZ—I think you have agreed that this process with Fuelwatch was not necessarily the normal process, given the rush. But given the consultation that you are now engaged in, are you able to provide us with a list of the industry groups that have you consulted with since the Fuelwatch legislation was tabled?

Mr Martine—What I said was that we were reviewing the submissions that have been provided to this inquiry. We do not have a parallel process underway in consulting publicly on this bit of legislation. It is not unusual for government to make a policy announcement, which it did on Fuelwatch, and then go through a process of preparing legislation. But we are not running a separate, parallel process in terms of consultation.

Senator ABETZ—As I understand it, normally what happens is that the government might say it wants to embark on a Fuelwatch exercise and then take submissions on how to best go about it. We had an unearthly rush. We have been there and done that. We can quarantine it. But we have had a number of submissions that have been in the public domain for some time. I was hoping that Treasury, being the last witnesses today, would have been able to advise us in relation to some of these concerns. The quicker you can get a response to us as to whether the Mars bar example or the ‘Hello, I’m Joe, give me a 4c a litre discount’ example would be allowed the better. If you have a shopper docket system, that would be allowed specifically under the legislation. But the Mars bar or Cherry Ripe example would not be allowed. That potentially has a huge impact on the independents, which is another area I need to canvass with you.

Mr Murphy—I think you have to have a look at the underlying policy behind the legislation, which is to give certainty of price over a 24-hour period. Shopper docket is a well-recognised discount process. The definition of ‘standard price’ talks about disregarding any shopper docket or other discounts. You would undermine the scheme if you had random discounts on a Mars bar or a Cherry Ripe.

Senator ABETZ—Random acts of kindness by the retailer!

Mr Murphy—I would suggest that it is not the intention of the government for that to occur. If it was not clearly set out and you could not address that uncertainty through the explanatory material or the second reading speech or something like that, you would move an amendment to try to address that.

Senator ABETZ—What are we to understand, then, as ‘other discounts’? Someone up the road will offer 8c a litre off their advertised billboard price on a given day—and Coles and Woolworths sometimes do that—courtesy of shopper docket. As an independent retailer, I am under real pressure on my apron. I, possibly foolishly, read ‘other discounts’ as allowing me, if I were an independent retailer, to put out a sign that says, ‘Today, if your name is Joe, I’ll give you an 8c a litre discount,’ or ‘If you buy a Mars bar, I’ll give you a discount.’ Otherwise, if you cannot foresee any other example under the definition of ‘other discounts’, this legislation will play into the hands of Coles and Woolworths, who are stealing a huge share of the retail market at the expense of the independents being able to compete. It looks as though we will not be clarifying that this evening.

Mr Murphy—The intention of the legislation is that ‘other discounts’ is applicable to other fuel-card schemes. I do not think the intention of the government is to enable discounts through non-fuel merchandise. The independents know that there is a petrol station up the road, with a big sign, which gives the Coles shopper docket discount. So I would suggest that the independent is in no worse a position as a result of this legislation. They see what is happening, they see the price set, and if they want to match the price of a retailer up the road who has Coles they can estimate that it is going to be a 4c a litre discount and set their own price. The other thing about this is that you set a price for 24 hours, not 12 months. So there is going to be volatility; there is going to be change.

Senator ABETZ—Yes, but the independents are least able to deal with these constant onslaughts unless they are able to match the price during the course of the day. Does your analysis of the number of independents that are still in the marketplace in Western Australia take into account Mobil selling all its sites in Western Australia, getting out of the retail market and, therefore, artificially inflating the number of independent operators in Western Australia?

Mr Martine—We would need to take that on notice.

Senator ABETZ—All right, take that on notice.

CHAIR—Senator Abetz, are you nearly finished? We might come back to you; you have been going a fair while now, and I have other senators patiently waiting.

Senator ABETZ—I have been going a fair while, but there are a whole bracket of questions. I will ask another two at this stage if I may.

CHAIR—Okay.

Senator ABETZ—Have you had any legal advice in relation to unincorporated service stations?

Mr Murphy—Yes, we have.

Senator ABETZ—You said in your opening statement that that was definitely covered, but how can the corporations power apply to a partnership of Joe Bloggs and Sons, or J and J Bloggs?

Mr Murphy—For anyone who is dealing with a constitutional corporation as defined under the Constitution, the advice we have is that that would cover the dealings by a third party.

Senator ABETZ—In other words, the corporations power is used to say that a fuel company cannot sell to a partnership—that would be the only way to do it, wouldn’t it?—unless it included in the deal that they had to subscribe to and abide by Fuelwatch.

Mr Martine—No. The advice from the Australian Government Solicitor in preparing the legislation is that the corporations power is not restricted to laws addressed to constitutional corporations. It also supports laws addressed to noncorporations insofar as a constitutional corporation acts through them—that is your example of a partnership structure at the retail level—or where a noncorporation’s conduct is, or is capable of, affecting a constitutional corporation’s activities, functions or business. Your example is the first one, which is a

constitutional corporation acting through a noncorporation—that is, a partnership. The advice from the Australian Government Solicitor in preparing the legislation is that that is covered by the corporations powers under the Constitution.

Senator ABETZ—How many times removed would you have to be for it to no longer apply? I would have thought that potentially you could get a partnership buying from the fuel wholesaler. They might be bound but, if they then on-sell to somebody else who is not a corporation, and the buyer then on-sells to another noncorporation, does the corporations power reach that far?

Mr Murphy—We cannot advise on that.

Senator ABETZ—You have carriage of the legislation; that is why I am asking the question.

Mr Murphy—We are just looking at where the petrol wholesaler sells. You have a refiner; then you have the retailer. The best advice we can get is that, obviously, everyone is caught.

Senator ABETZ—Have you done any modelling on what increase in GST might be obtained from Fuelwatch being introduced Australia-wide? Has any modelling on the tax impacts been undertaken? The evidence seems to be that, on average, the price of petrol sold may well be higher, and as a result the tax take will be higher. I am just wondering whether Treasury has done any analysis of that.

Mr Murphy—There is lots of analysis that goes on about fuel prices and the tax take from fuel prices, but I do not think there is any specifically about this.

Senator ABETZ—You do not think so? There was none?

Mr Murphy—No.

Senator FURNER—Mr Murphy, in your opening comments you said the net compliance costs would be negligible. We have identified in the submissions of the previous witnesses—from the Australian Institute of Petroleum—a statement that, in their view, the retailer compliance cost would be \$4,000. I understand that the bill purports to recommend a proposal for a toll-free number for retailers to use.

Mr Murphy—Yes.

Senator FURNER—Have you got any suggestion why they would draw that conclusion that it would be \$4,000 as opposed to your point you made in your opening submission?

Mr Murphy—I really do not know; I cannot understand that. The government sought to ensure that compliance costs would be as low as possible, and that is why they changed their approach to use a much more streamlined approach for the retailer to inform the ACCC. Initially it was thought that they would have to have computer systems and everything, but now you can do it on a toll-free number.

Mr Martine—The other important point here is the concept of net compliance costs. In a sense Fuelwatch will replace Informed Sources, where, at the moment, fuel retailers are advising Informed Sources on a far more regular basis than they would be under Fuelwatch, where they would be providing the ACCC information once a day.

Senator FURNER—Compare this with current requirements on a retailer. There was evidence provided to this committee in Melbourne last week that a substantially large retailer was using its employees to drive around in the morning and the afternoon, using tankers, scrutinising its competitors' costs. I imagine this proposal would alleviate those sorts of imposts on businesses such as that.

Mr Martine—That is correct. The best we can say is what is in the explanatory memorandum, which is based on net changes to compliance costs. Given what current retailers do under Informed Sources versus what they would do under Fuelwatch, we say it is negligible.

Senator CAMERON—We heard evidence today from Henry Ergas from Concept Economics and I questioned him on an article—I am not sure whether you have seen it—in the *Australian* on 3 June headed 'Kevin 24-7 or 7-11'. In this article he starts off by saying that Graeme Samuel, the ACCC chairman, is the 'white knight for the government' and that this is being done at a time when he is seeking reappointment to the post. It then goes on to say that there should be some detective writers looking at this and there should be some psychiatric investigation arising from this. It is quite a serious situation that the chairman of the ACCC is being perceived in this article to have ulterior motives in relation to Fuelwatch and the modelling that he has put out into the public area. Is there any evidence, is there a skerrick of evidence, from your analysis of the ACCC modelling that there could be some underhand motives involved in this whole approach from the ACCC?

Mr Murphy—The answer is obviously no. The only other comment I would make is that the report provided by the ACCC is provided by the institution, which is well regarded and has a number of commissioners. Mr Samuel is not an independent contractor. He reports, but everyone is responsible for that.

Senator CAMERON—We have had the battle of the econometric models before the committee. Some of the analysis has been that the 24-hour rule will be the end of dynamic competition within the petroleum-retailing industry. I know that Treasury over the years has been concerned to ensure that we have a dynamic and competitive economy. If this is such a big problem why hasn't Treasury flagged that this is the end of real competition in the retail petroleum industry?

Mr Murphy—With the introduction of Fuelwatch?

Senator CAMERON—Yes.

Mr Murphy—We would take the opposite view.

Senator Abetz interjecting—

Mr Murphy—No, that is not the case. Can I answer the question, please, Chair?

CHAIR—Yes, please do.

Mr Murphy—As I said earlier on, we think Fuelwatch will actually improve competition. Given that petrol is imported from overseas, there is little that government can do. As I said, my thinking on it is that what you are trying to do is empower consumers to be actively seeking out prices. We have listened to what consumers have said, and they find that they want certainty and a reduction in intraday volatility. That is what Fuelwatch is giving. So I think you will find—and you will not find it tomorrow but over a period of time—it will improve competition in retail petrol pricing.

Senator CAMERON—I would like to go to the issue of information asymmetry. You raise the concept of Informed Sources providing a very sophisticated and powerful tool of information for the retail and the supplier side of the industry with nothing of a similar power for ordinary consumers. Are there any other areas of the economy where this sort of information asymmetry is so stark as in the petroleum industry?

Mr Murphy—It is hard to speak in general terms. Australia is a relatively small economy. It is a very successful open economy, but it is whether you can get greater levels of competition. We do see at the retail end much more competition in the US market, where there is a bigger market with more suppliers. The majority of Australians are reasonably well off—I know we have some poor people in Indigenous areas and other very low income areas—and possibly we are a bit lacking in competition through consumers trying to push to get better functioning markets. It is hard to speculate on other industries, but the government is concerned about petrol pricing and I think they should be.

Senator CAMERON—Professor Don Harding has done two papers entitled 'Foolwatch'. Professor Joshua Gans's approach basically says give it a go, monitor it and test it. Mr Ergas's approach basically says that this is all terrible; it is the end of competition. If I, as a noneconomist, were inclined to favour the Gans approach would that make me a fool in the eyes of economists? That is the sort of position that is being put—you are a fool if you do not see the problems. If that is the case, is Treasury foolish on this as well?

Mr Murphy—No. It is where you want to put your policy emphasis. You can look at all these facts and figures, but, if you accept that there is an information asymmetry between consumers and retailers, this is how you address that. Do you see that as a high priority or a low priority? I think it is a high priority in this particular market. But it is how you weight those policy criteria. I make no comments about the other econometric evidence, but it is more than that. It is a policy decision, and that is why in the Treasury analysis we tried to put it in a policy context and come up with what we think is the best recommendation for the Australian community. That is why we support Fuelwatch.

Senator FIELDING—I have been listening to this debate. Given the Australian public and Family First were of the understanding that Fuelwatch would put downward pressure on petrol prices and even possibly save 1.9c a litre, we are all very keen to see something happen in that regard. That was the basis, but we have heard raised through this inquiry some rather large questions regarding whether it will save. Even in your presentation we heard that it is not the savings; it is to do with volatility and dampening that.

Mr Murphy—Yes.

Senator FIELDING—Let me keep going. This is a long preamble to the question and I know that time is short, but this is an important issue. We are not talking about the price of bananas; we are talking about the

price of petrol. Australian consumers certainly want downward pressure on petrol prices. We are hearing more and more that Fuelwatch is more about dampening the volatility. If you asked the Australian public whether they wanted less volatility, I think they would say yes. But, if you asked them whether they wanted less volatility if it meant they had to pay higher prices on average, I am not so sure what their response would be. I will leave that there for a second.

We have had the 45th petrol inquiry report—the previous government did this one and we were not that keen on seeing the 45th one done. I do not think from what we have heard that we are any closer to getting lower petrol prices. Given also that various departments of this government have got different views on the issue, don't you think we owe the Australian public for Treasury themselves to get to the bottom of this and actually have a look at the figures? Frankly, I am a bit concerned from what I have heard in these inquiries.

Mr Murphy—The ACCC is a Treasury agency. We accept the proposition that the introduction of FuelWatch in Western Australia—you have to look at the system that has already been introduced—did not lead to an increase in petrol prices. It led to some decrease. It is very difficult—and I do not think anyone can say that any change in this market will lead to reduced prices. I think the introduction of Fuelwatch will, but no-one will commit to that because it is so difficult to determine because largely our fuel prices track the price of oil overseas—we are buying from Singapore largely—and there are other factors involved.

So what are we trying to do with a Fuelwatch scheme? The government is seeking a better functioning market and is saying that the way to get a better functioning market is by giving consumers more information and addressing this imbalance between the consumer and the retailer. I do not think anyone can promise or say categorically—I do not think they can—that you will get reduced fuel prices but, when you look at the analysis that has been undertaken by the ACCC and what has happened in Western Australia, it seems that we will not have increased fuel prices through the introduction of this and more likely than not we will have decreased fuel prices. So that is where we have got to. We are looking at it from the point of view of a better functioning market. We look at it from the point of view that largely the bargaining power between the consumer and the retailer has been disproportionately leaning towards the retailer because of the introduction of Informed Sources.

Once we get this report, what should the government do? Should it take it on board and say, 'We will do nothing'? More likely than not, if you introduce Fuelwatch, you will not have a detrimental effect but a positive effect on fuel prices.

Senator FIELDING—I appreciate you taking the time to answer that question. What about the other information that is being fairly strongly presented about squeezing out independent service stations, how Fuelwatch could work against independents, how we could end up with less competition in the long term and it being worse?

Mr Murphy—There are other factors in petrol markets. I do not think Fuelwatch is going to put independents in a more disadvantageous position than they are at present; it may benefit them.

Senator FIELDING—I take that statement, but, if we were to move you from those chairs and put the independents there, they would talk about their livelihoods. I am thinking not only about them but also about the Australian public and less competition. With all respect, to say, 'We don't think so,' is not enough; I need more assurance than that. I have asked the ACCC to come back with a detailed response to one of the independent chains' submissions, which went through quite a number of their concerns. I have been looking forward to the ACCC's response. Hopefully it will not be lip-service. I am not reassured by statements that generally say, 'We don't think so.' It is a bit late. If it happens, we do not have laws in Australia which say, basically: 'Sonny, you've got this market by the neck. We're going to break you up and make sure we have real competition here.' We do not have those laws here in Australia.

Mr Murphy—We do. We have had Fuelwatch, but the overlay there is all the Trade Practices Act if there is predatory pricing.

Senator FIELDING—Don't start me.

Mr Murphy—I know that, but that is the law of the land. You have those and at the same time I know independents will argue a particular case. What we are looking for from Treasury—and I think the ACCC—is well-functioning markets. We want competition, but at the same time competition can be pretty tough on people. Competition is hard. That is the way you get the best results for consumers in the short term and in the long term. We are not dismissive or uncaring in any way about the role of independent retailers. They are a

good catalyst within the market. We would not be seeking to bring in measures or I do not think the government would be seeking to bring in measures which are discriminatory against independent retailers.

Senator JOYCE—On one point brought up by Senator Fielding on which you contradicted him—actually Senator Fielding was right—there are no divestiture powers in the Trade Practices Act; there are only limited divestiture powers after mergers and acquisitions. Senator Fielding was right on that.

Mr Murphy—I was talking more about predatory pricing.

Senator JOYCE—You were talking about having the market by the neck and whether you would have the capacity to break it up. You said that there is the capacity under the Trade Practices Act, and there is not. If you want to recommend divestiture powers, I will be your biggest supporter. I do not know who I feel for more, whether I feel more for your poor self having to support Fuelwatch or the supporters of Canterbury-Bankstown. I prefer to be a Canterbury-Bankstown supporter at the moment, compared to where this one is going.

You are in an invidious position because either you are going to agree with the veracity of the modelling or you will disagree with the veracity of the modelling, or you were not made aware about the veracity of the modelling. They are your only three positions. So you agree with the modelling that sits underneath the premise of Fuelwatch—you agree with it, you disagree with it or you did not know about it. Fuelwatch is dead. Forget about it. It is all over. The real issue is how we got this far with such a paucity of information. What is your position on the modelling?

Mr Murphy—I support the modelling.

Senator JOYCE—You agree with the veracity of the modelling?

Mr Murphy—Yes.

Senator JOYCE—So you have seen all the details of the modelling and have been through it?

Mr Murphy—Yes, Senator, and I do not think it was accepted overnight. As I say, when this was first presented there was an interchange to try to get better information. So we support the modelling.

Senator JOYCE—At a later stage, when this is sent off to someone for a belated but nonetheless blind peer review, as it should be, you will be surprised if they come back and say, ‘We had a look at the correlation of coefficients, we had a look at the knock-out clauses and we completely disagree with the premise of modelling.’

Mr Murphy—As I think I said earlier, you can make basic assumptions and then there is the technical side of what the regression analysis shows you. To me, the assumptions underlying the modelling are reasonable assumptions to make and the facts and figures are correct. The mathematical side of it is correct. Someone else can come along and say: ‘No, you should not make that assumption. You should take this into account. You should do this and that.’ That might lead to a different answer, but my position is that what was put forward by the ACCC when it was looked at by Treasury was held up as reasonable and was worthwhile supporting. Different economists and different lawyers will have different views on these things; it does not matter. The government is trying to ensure that it can put its support behind what it is doing.

Senator JOYCE—You have said you supported it. In that case, I have to lead on to the next question. In your opening statement, you talked about the modelling. You said ‘motor fuel for sale’. Does that ‘motor fuel for sale’ include diesel?

Mr Murphy—Yes.

Senator JOYCE—So you are happy with Fuelwatch’s involvement in the diesel market?

Mr Murphy—Yes, and all that is retailed: diesel, ethanol and all this. This is a definition: motor fuel means fuel suitable for use in an internal combustion engine, excluding aviation gas.

Senator JOYCE—So you are happy with the modelling’s effect into the diesel market, how that is priced and how this is going to give it greater transparency. I agree with Senator Fielding. At the start, all and sundry, the whole of Australia, were of the belief that this was going to reduce fuel prices. It came through the Senate estimates, where Graeme Samuel finally came out and told us it was about giving us more information about fuel prices, not necessarily reducing them, which was a big surprise to all and sundry. So you are happy with how this has affected its modelling around diesel prices and you think that it has been a fair and applicable model in that issue?

Mr Murphy—I would say so, but I did not look at the modelling yesterday on diesel. I can go back and look at it, but I would say so.

Mr Martine—As a general proposition, we are comfortable with the ACCC modelling. Just to pick up the point that there has been some sort of shift, nothing has changed in terms of the statement that Mr Murphy quoted at the start, which was the quote from the ACCC. Their advice on 29 May was:

... there is no evidence that the introduction of Fuelwatch in Western Australia led to any increase in prices and it appears to have resulted in a small price decrease overall.

That is their conclusion. We can have debates about whether it is 1.9, 1.73 or 1.2 or whatever, but the ACCC conclusion was that statement both now and back in May.

Senator JOYCE—We are aware of that statement and I think we will go to an election quoting that statement and revolving around that statement. No doubt we are going to revisit this whole modelling exercise in whatever it is called—the ‘grocery watch’ or the ‘grocery look scheme’ or whatever idea is parked away in the celestial heights of the government at the moment. You are aware that if you truly want to bring lower prices about, they are going to come from higher supply or lower demand. Would you say that is a fair analogy, that if I wanted to really lower prices, I am going to either increase supply or lower demand?

Mr Murphy—Yes.

Senator JOYCE—Did anybody ever approach you and say, ‘How are we actually going to go about lowering demand or increasing supply?’ Was that discussion ever had?

Mr Murphy—The previous government gave this reference. The price of oil is an international market. If you talk about supply and demand, it is just like saying, ‘I will pay less for petrol if I get the bus.’

Senator JOYCE—We are talking about the effect on the Australian economy. There are parts of the world that certainly have lower fuel prices.

Mr Murphy—Australia has the fourth lowest in the world. If you are looking at fuel prices—and that, to some extent, says that it is a reasonably efficient market.

Senator JOYCE—I am looking at Brazil and places like that that have the capacity to get much lower prices. You know that ethanol is my hobby horse, so I will stay away from that. But I want to know whether you or anyone had a discussion saying, ‘I think we should lower prices, so we are going to look at getting an increase in supply or lowering demand.’ But you have said that discussion was never had with Treasury.

Mr Murphy—People look at these markets, but—

Senator JOYCE—The current government—

CHAIR—Senator, Mr Murphy is trying to finish his answer.

Mr Murphy—It is pretty—how would I put it?—simplistic. I know where you are coming from and, I think, the previous witnesses. It is whether the Australian market would be prepared to buy lower grade petrol from Singapore?

Senator JOYCE—Actually it is not that at all. What I am coming to is that when the government was in opposition they said that they were going to reduce the pressure on working families, and one would imagine that would mean reducing prices, but they never actually had a discussion with you about increasing supply or lowering demand, so they never really had any intention of doing anything to the price.

Mr Murphy—I would not say that. All governments are concerned about the price of petrol. To be fair to all governments, annually there will be appearances before committees looking at petrol prices.

Senator JOYCE—Thank you, Mr Murphy, but you have answered the question—they have never had those discussions with you. I want to go to the next thing. You said you wanted to improve competition. You said that you believe it will improve competition, but in your initial opening you also said that it will reduce volatility. Do you see that there is a bit of a confusing juxtaposition—

Mr Murphy—No.

Senator JOYCE—between reducing volatility but somehow improving competition when competition comes from the volatility in the market?

Mr Murphy—No. Intraday volatility is what I am talking about. That was the key thing that came out of the ANAO report.

Senator JOYCE—So you think that even introducing intraday volatility improves competition?

Mr Murphy—Yes. I think competition will improve between people being able to shop around. Look at it from the consumer's point of view. There are going to be pegged prices. If everyone is pegging the same price—

Senator JOYCE—We are looking at it from the consumer's point of view.

Mr Murphy—you start to wonder, don't you? I think it could even lead to a signal to the ACCC that there is something going on on petrol prices. I think we quickly forget that the ACCC has had successful prosecutions in Ballarat and other places on collusion by retailers on petrol prices.

Senator JOYCE—The Cherry Ripe example was given before. We have actually had evidence given in Sydney that you could buy a Cherry Ripe and get a shopper docket system on that. But putting that aside, because I have only one question left, I am going to go to the information asymmetry that this is supposed to address. Do you have the evidence—and has it been provided to you—as to how the actual consumer will be affected now so as to give veracity to the answer that it will improve information asymmetry, or is that an anecdotal statement? In drawing your answer, can you also refer to the information asymmetry in such areas as regional areas and what the effects will be, considering that 48 per cent, I think, of the market deals with Coles and Woolworths. They have a shopper docket system which, for all intents and purposes, excludes them from this model because they have the capacity to change prices without anybody knowing about it through the shopper docket system—or, as it has been called, the 'shocking docket' system or the 'shopping document' system; let us just call it the 'shopper docket' system. I am asking: how is the information asymmetry assisted when 48 per cent of the market is still excluded from it?

Mr Murphy—With the rural and regional areas and the way the legislation is drafted, it picks up the regional areas and other designated areas. So there is a regulation-making power within the legislation to extend the scheme where it would be thought worthwhile to extend it.

Senator JOYCE—Evidence was given that it put the price up in regional areas.

Mr Murphy—I do not know, but I think that in terms of competition one would expect some information to be provided to the public when this scheme commences to ensure that people exercise their new-found rights—put it that way—to make the scheme work. It is largely dependent on people taking advantage of this scheme, and you will have to do that through an information campaign.

Senator EGGLESTON—Mr Murphy, I would like to ask you some questions which relate to the ACCC's modelling and to something which quite deeply troubles me about all of this: that is, the Sinclair Davidson view from the IPA that the ACCC modelling did not take into account the impact of the entry of supermarkets into the Western Australian fuel-retailing market—and apparently they came into the market a year before FuelWatch was introduced—and that rather than FuelWatch having produced the observed effects, which include the more stable price and so on, in fact it was the entry of the supermarkets into the Western Australian market which produced those effects. I wonder what your comment on that is. As I said, it quite deeply troubles me because I am told the supermarkets now represent 60 per cent of Western Australian retailers. They are obviously a big factor in that market, and if there is a misconception I would feel unhappy and uncertain about the wisdom of Fuelwatch.

Mr Martine—I can perhaps attempt to answer your question. In the additional analysis released by the ACCC on 29 May, they did some further testing to particularly look at that issue of whether there are factors other than FuelWatch that may have led to a reduction in petrol prices in Western Australia. I am quoting from page 3 of the document they released on 29 May. They came to the conclusion:

The analysis of the structural breaks indicated that the entry of Coles into Perth was an event that may have had a price impact. However, its impact was small compared to the break around the time of the introduction of Fuel Watch.

So the ACCC did, in their subsequent testing, specifically look at the issue of the introduction of Coles and came to the conclusion that yes, it had a small effect. I am not quite sure what the actual number was, but it was small compared to the introduction of FuelWatch.

Senator EGGLESTON—That is the ACCC reconfirming its own analysis. I think we heard in Melbourne the other day from Professor Harding that he was more inclined to support the IPA Sinclair Davidson point of view. I wonder whether you think there is any value in you commissioning a totally independent analysis—not the ACCC doing its analysis and reworking its figures but an independent view of the impact of the supermarkets on the Western Australian retail fuel market—because, as I said, they do represent now 60 per cent of the market. It is a very big factor, and one would hope that we are not basing a proposal on a

conclusion from the ACCC which has perhaps ignored a major factor in producing that outcome. I am saying: do you think there is a case for an independent assessment?

Mr Martine—As Mr Murphy indicated, we are fully comfortable with the ACCC analysis. As was discussed previously, the issue of assumptions and the assumptions one uses are quite critical in this area. Take Professor Harding, for example. Our understanding of Professor Harding's analysis is that his comparison is actually between prices in Perth and Sydney. The difference is that the ACCC did the analysis based on the eastern states. That in itself draws a particular bias, whether it is up or down, in the analysis, so the assumptions that you use become quite critical here, as Mr Murphy was discussing. As we have indicated today and previously, we went through the ACCC econometric analysis at the time, we had discussions with them, we are comfortable with the assumptions they have used—the numbers add up—and we therefore support the concluding statement they made, which is that there is no evidence that introducing FuelWatch in WA led to an increase in prices. If anything, it led to a small decrease.

Senator EGGLESTON—Nevertheless, the view is out there that it was not really FuelWatch; it was the entry of the supermarkets into the Western Australian market. You have talked about coefficients and variables. All you are really telling me is that there is a divergence of opinion. One wonders whether it is wise to proceed when there is such a divergence of opinion and whether one could not have a broader based assessment made that went back to basics and looked at the impact of the supermarkets, which, as I said, are a very big factor and an anticompetitive factor in Western Australia. One of the things you talk about is encouraging competition, yet you do not seem to heed the fact that the supermarkets are anticompetitive in terms of the pressure they put on independents and that the disadvantage that causes leads to consumers suffering in this market.

Mr Martine—As I mentioned, the subsequent ACCC analysis did attempt to look at the issue of the impact of the introduction of Coles into the Perth market. The ACCC conclusion was that it had a price effect but its impact was small compared to the introduction of FuelWatch in WA. So they did actually look at that issue.

Senator BUSHBY—How have the prices of diesel, premium unleaded and LPG been impacted by FuelWatch in WA?

Mr Martine—We would have to take that on notice.

Senator BUSHBY—Thank you. The pricing info provided by informed sources is legal but is also the source of the alleged dissymmetry complained about. Has the government asked you to look at outlawing that practice, thereby getting rid of that asymmetry?

Mr Murphy—No.

Senator BUSHBY—Thank you.

Senator PRATT—We had a discussion before about the benefits to consumers of removing price volatility. There was some conjecture about costs to the transport industry. Clearly the transport industry is very price sensitive, as fuel is a large proportion of their cost base. They are also not necessarily able to buy on the cheapest days, and they are probably likely to be highly motivated to access the relevant consumer information. What benefits can you see to the transport industry from the Fuelwatch scheme?

Mr Murphy—I think they would benefit, like all other consumers of fuel, in that they will have greater price certainty. They should benefit like everyone else will. I do not see how Fuelwatch would be detrimental to the transport industry.

Senator PRATT—No, no—I am a supporter of it.

Mr Murphy—I think they will benefit from the general policy of trying to get greater certainty into this market through the things we have discussed this afternoon—better information to consumers of petrol.

Senator PRATT—It has been put to me that people in the transport industry in WA are able to shop around for the best fuel price based on the transparency of information that is available there and that they have been freed from that weekly volatility so that they are not forced to buy at a higher price at the end of the week. Clearly they have to buy their fuel throughout the week. Does that seem like a reasonable assessment for consumers that are actually prepared to seek out information and empower themselves to find the lowest price on a daily basis?

Mr Murphy—We have to be reasonable. When you think about it, people are going to purchase petrol within a small geographical area. It is all right to say to me that on another side of Canberra there is a cheaper price, but it is just unrealistic for me to seek that price. With Fuelwatch people can access that information, and

if they wish to travel a distance and they think it is worthwhile on a cost-benefit analysis they will get a cheaper price. The policy underlying Fuelwatch is to try to give more information to the consumer and give them some certainty over a 24-hour period as to when they want to buy fuel.

CHAIR—Thank you, Treasury. I understand that it has been a long session for you. Thank you for going over time and for your evidence here this afternoon. That concludes the Fuelwatch inquiry.

Committee adjourned at 6.05 pm