Department of Consumer
and Employment Protection
Government of Western Australia
Consumer Protection

NATIONAL COMPETITION POLICY REVIEW

PETROLEUM PRODUCTS PRICING AMENDMENT ACT 2000

AND

PETROLEUM LEGISLATION AMENDMENT ACT 2001

As at 31 July 2001

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CONTENTS

EXECUTIVE SUMMARY

Consumer Protection, part of the Department of Consumer and Employment Protection (DOCEP), has conducted a National Competition Policy (NCP) review of the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001*. The purpose of this legislation is to amend the *Petroleum Retailers Rights and Liabilities Act 1982* (PRRLA) and the *Petroleum Products Pricing Act 1983* (PPPA).

This review was carried out in accordance with obligations agreed to by all State Government, under the Competition Principles Agreement. Under this agreement all new legislation that restricts competition will be accompanied by evidence that the legislation is consistent with NCP principles. Pursuant to those principles, the amending legislation was examined to identify restrictions on competition within the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001*. This review set out to identify whether the benefits to the community of those restrictions outweigh the costs and whether any less restrictive alternatives exist which might meet the same objectives.

On 6 April 2000, the Legislative Assembly appointed the Select Committee into the Pricing of Petroleum Products in Western Australia. The Select Committee had all party support and was established to look into issues concerning petrol and LPG autogas pricing. The Select Committee carried out a Statewide review of petroleum pricing in Western Australia between April and October 2000 placing particular focus on addressing the disparity between metropolitan and non-metropolitan prices.

The Select Committee's report ***'Getting a Fair Deal for West Australian Motorists'*** made a series of findings and recommendations (see Appendix - Select Committee on Pricing of Petroleum Products, Summary of Findings and Recommendations). Legislative authority by way of enquiry, investigation, price or rate fixing and enforcement procedures, to control maximum wholesale and retail fuel prices, already existed within the PPPA. However, the Select Committee identified that some amendments to the PPPA and the PRRLA were required in order for the Committee's recommendations to be fully implemented.

The main objective of the PRRLA is to protect the rights of franchisees and leaseholders of petrol stations owned by oil companies, by overriding franchise agreements requiring them to purchase all petroleum products from franchisor/oil companies. This protection was intended to give retailers a statutory right to purchase up to 50 per cent of petroleum products from the supplier of their choice in order to give retailers access to the best prices for fuel products, which would ensure greater bargaining power and, consequently, promote competition. The legislation also provides machinery for the resolution of disputes between the parties.

The PRRLA was deemed defective by a Supreme Court decision in 1991 (*BP Australia Ltd vs Dragoon Holdings Pty Ltd*). The majority of amendments to the PRRLA do not impose any new restrictions or requirements but simply correct a legal oversight identified by the Supreme Court.

The main objective of the PPPA is to prevent excessive prices (wholesale or retail) being charged for petroleum products which may be essential to the welfare of the community. The PPPA provides for this by way of providing the Prices Commissioner with the power to conduct inquiries and investigations or by price fixing.

In response to the Select Committee's report, the then Coalition Government initially proposed a program of regulation. As a first step amending legislation in the form of the *Petroleum Products Pricing Amendment Act 2000* came into effect on 1 January 2001. This program of regulation has been progressed by the Labor Government since it was elected on 10 February 2001, resulting in further amendments to the PPPA and PRRLA within the *Petroleum Legislation Amendment Act 2001*.

The purpose of the amending legislation is to:

- allow for price monitoring and price control of petroleum products at terminals declared by the Prices Commissioner, in order to establish a true Terminal Gate Price system;
- require wholesalers and retailers to clearly display prices in order to provide for transparency of pricing of petroleum products and encourage competition;
- require retailers to notify to the Prices Commissioner each day, changes in prices of each grade and brand of motor fuel, this allows the prices to be published on the *FuelWatch* website;
- obligate a supplier at a declared terminal to supply motor fuel at the price it is for sale when requested, or to give good reason in writing for refusing the sale;
- allow the Prices Commissioner when requested to decide on whether there was a proper refusal to supply and to award compensation if no good reason is found;
- empower the Prices Commissioner to be able to require by written notice that a person provide any information requested for the purposes of the PPPA; and
- provide legislative authority to monitor and control LPG pricing and ensure that the rights of retailers, otherwise committed to exclusive supply contracts, to be entitled to purchase up to 50 per cent of LPG requirements from the supplier of their choice are protected.

The review found that regulation of the petroleum industry is necessary to protect consumers, encourage stability in pricing and provide for the transparency of pricing.

The review considered whether there were any alternative means for achieving the same results, including non-legislative approaches, but found there were no viable alternatives that would ensure the same level of consumer protection and achieve pricing transparency.

The identified restrictions and the recommendations made in the review are listed on the next page.

List of Restrictions on Competition in The Petroleum Products Pricing Amendment Act 2000 and the Petroleum Legislation Amendment Act 2001

The following table provides a brief list of all of the restrictions and the recommendations.

Restriction	Restrictive Sections of Act	Recommendations
Restriction 1: LPG included as a petroleum product	PPPA Section 3	Retain
Restriction 2: Prices Commissioner given the power to fix maximum wholesale price	PPPA Section 12(2a)	Retain
Restriction 3: Declared terminals	PPPA Section 22A	Retain
Restriction 4: Prices at terminal to be displayed and Commissioner notified of changes	PPPA Section 22B	Retain
Restriction 5: Previous month's average weighted price to be displayed	PPPA Section 22C	Retain
Restriction 6: Maximum price to be displayed	PPPA Section 22D	Retain
Restriction 7: Price to be compared to maximum price fixed	PPPA Section 22E	Retain
Restriction 8: Information that supplier is to provide	PPPA Section 22F	Retain
Restriction 9: Obligation to supply from declared terminal	PPPA Section 22G	Retain
Restriction 10: Regulations to require retailers to display prices	PPPA Section 22I	Retain
Restriction 11: Retailer to notify change of price	PPPA Section 22J	Retain
Restriction 12: Power of commissioner to obtain information	PPPA Section 27A	Retain
Restriction 13: Interpretation - LPG included as a petroleum product	PRRLA Section 22H	Retain
Restriction 14: Definitions – new definition "brand" of motor fuel. Retailer to nominate prices for each brand of motor fuel as well as each grade	PPPA Section 22H	Retain
Restriction 15: Retailer to notify change of price	PPPA Section 22J	Retain

GLOSSARY

ACCC	Australian Competition and Consumer Commission.
Barrier to Entry	Factors which prevent or deter the entry of new firms into an industry even when the incumbents are earning excessive profits.
Branded Dealer	A dealer who purchases the product from and uses the brand name of the supplier and sells through a retail site.
Commission agent	A retail site operator who receives a commission for selling the supplier's product through a site owned or leased by the supplier. The supplier usually retains the right to set prices at the site.
Consumer Protection	Part of the Department of Consumer and Employment Protection.
Dealer	Service Station site operator. A lessee dealer is one who leases the business from a major marketer and therefore is obliged to carry its product and its signage.
DOCEP	The Department of Consumer and Employment Protection (formerly the Ministry of Fair Trading).
Distributor	Business operated for the purpose of receiving, storing, selling and delivering petroleum products to resellers and other end-users.
Dual-Fuel	In the Liquefied Petroleum Gas (LPG) context refers to petrol engines that can be switched between petrol and LPG. In reference to natural gas the term relates to diesel engines that operate on a mixture of diesel and natural gas. In the natural gas application a dual-fuel engine typically uses 20% diesel and 80% gas, with the diesel acting as the ignition source.
Economies of Scale	Economies which occur when the average costs per unit of output decrease with the increase in the scale of the firm.
Extraction Plant	Means of recovery of LPG from various hydrocarbon streams.

Franchisee	A person or enterprise entering a franchise agreement to operate a business selling only the franchisor's products through property and or facilities owned or leased by the franchisor.
Freight Differential	A variable element for transportation factored into total costs at different locations.
FuelWatch	A price reporting service established by the Western Australian Government and operated by the Department of Consumer and Employment Protection, comprising an Integrated Voice Response (IVR) telephone service and Internet website.
Getting a Fair Deal for West Australian Motorists	The report of the Select Committee into the Pricing of Petroleum Products in Western Australia.
Import Parity Indicator	The base indicator used by the ACCC across Australia to assess the cost of importing refined petroleum product into Australia (from Singapore). This indicator reflects movement in international prices taking into account freight from Singapore, wharfage, an assessed distribution profit and marketing component and Federal Excise Tax with an adjustment for varying State taxes.
Import Parity Pricing	Pricing of domestically produced goods and services to equal domestic market prices of equivalent imported goods.
Independent	Purchases product from the supplier and sells it through independent distributor-owned depot and equipment. May carry the brand of the supplying oil major.
Independent Retailer	Sells fuel to the public from an independently owned site may be either oil major branded or independently branded.
Liquefied Petroleum Gas (LPG)	Liquefied Petroleum Gas refers to the hydrocarbons, propane, butane and less than 2% ethane. At normal temperature LPG is gaseous but it can be liquefied under pressure and refrigeration.
MWP	Maximum Wholesale Price of petroleum products set by the Prices Commissioner.
MFT	Ministry of Fair Trading
NCP	National Competition Policy

Oil Majors	The refiner/marketer companies – Caltex, BP, Mobil and Shell.
Platts	Singapore based international petroleum prices monitoring service.
PPPA	Petroleum Products Pricing Act 1983
Price Monitoring	Activities related to the collection of prices and other market information, including consumer complaints.
Prices Commissioner	The Commissioner for Fair Trading is appointed Prices Commissioner - responsible for the administration of the Petroleum Products Pricing Act 1983 including the monitoring of prices of petroleum products.
PRRLA	Petroleum Retailers Rights and Liabilities Act 1982
PSA	Prices Surveillance Authority.
Refinery	Business enterprise where crude oil is processed into various petroleum products including fuels, lubricants and chemicals.
Reseller	Buys fuel from a terminal to on-sell to retailers.
Retailer	Sells motor fuel by retail at a site, usually through dispensing equipment
Select Committee	The Select Committee into the Pricing of Petroleum Products in Western Australia.
Service Station	Roadside outlet or site operated mainly for the purpose of retailing automotive fuels and lubricants and dispensing related services to motorists.
Terminal	Locality with the facility to receive, store and dispense petroleum products in bulk, usually situated at a refinery/fractionation plant or at population centres distant from the source
Terminal Gate Price	A single uniform price payable by or available to all wholesale purchasers for the purchase or supply of a petroleum product directly from an oil company terminal.
TPA	Trade Practices Act 1974
Vertical Integration	Occurs when a company's operations extend to cover a number of successive stages of the production and supply of a product.

1. INTRODUCTION

This report presents the results of a National Competition Policy (NCP) review of the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* undertaken by Consumer Protection, part of the Department of Consumer and Employment Protection (formerly the Ministry of Fair Trading).

Consumer Protection administers the following Acts relevant to the Petroleum Industry:

- Petroleum Retailers Rights and Liabilities Act 1982 (PRRLA)
- Petroleum Products Pricing Act 1983 (PPPA)

1.1 Background to the Review

Consumer Protection commenced a National Competition Policy (NCP) review of the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* in May 2001.

The guiding principle of NCP reviews is that legislation (including Acts, Enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

NCP principles place an obligation on all State Government agencies for proposals for new legislation that restrict competition to be accompanied by evidence that the legislation is consistent with the guiding principle set out above.

The *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* were examined in detail and restrictions on competition were identified in accordance with NCP principles.

1.2 Terms of Reference

The terms of reference for the review are formed by the requirements of NCP in relation to reviews of legislation. These requirements are outlined in section 5(9) of the Competition Principles Agreement, signed by the State and Federal Governments.

Consumer Protection's NCP review of the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* closely followed the framework drawn from the Competition Principles Agreement and procedures established by the Competition Policy Unit within the Western Australian Treasury Department.

The Competition Principles Agreement at clause 5(9) states that each review should:

1. Clarify the objectives of the legislation
2. Identify the nature of the restriction on competition
3. Analyse the effect of any identified restriction on competition and the economy generally
4. Assess and balance the costs and benefits of the restriction
5. Consider alternative means for achieving the same results, including non-legislative approaches.

These principles form the main terms of reference for the review of the Petroleum Products Pricing Amendment Act 2000 and the Petroleum Legislation Amendment Act 2001.

The methodology for this review followed the requirements of section 5(9) of the Competition Principles Agreement as outlined above, yet which were applied to each restriction in the amending legislation. The adoption of these principles is intended to ensure that there is no unnecessarily restrictive new legislation.

The Council of Australian Governments agreed that in assessing the costs and benefits of particular legislation, the following matters, where relevant, should be taken into account so that broader issues rather than solely economic ones, can be considered:

- government legislation and policies relating to ecologically sustainable development;
- social welfare and equity considerations, including community service obligations;
- government legislation and policies relating to matters such as occupational health and safety, industrial relations, access and equity;
- economic and regional development, including employment and investment growth;
- the interests of consumers generally, or a class of consumers;
- the competitiveness of Australian business;
- the efficient allocation of resources;
- avoidance of uncertainty or risks;
- avoidance of behavior deemed socially undesirable; and
- other considerations which cannot be easily measured or valued, such as quality of life.

1.3 Select Committee into the Pricing of Petroleum Products in Western Australia

A Statewide review of petroleum pricing in Western Australia was carried out by the Select Committee into the Pricing of Petroleum Products in Western Australia, between April and October 2000.

In April 2000 the then Minister for Fair Trading, Hon Doug Shave, MLA, made a Cabinet Submission proposing to enquire into the pricing of petroleum products (petrol and LPG autogas) in metropolitan and regional Western Australia, to establish the level of market fairness and competition supporting those price levels. The enquiry was consistent with the Government's fair trading philosophy for the Western Australian marketplace to be fair, competitive and well informed.

Fluctuations in the retail price of petrol had raised community concerns over fairness of the pricing structure, possible exploitation of consumers and the level of competition existing in the petrol fuel and LPG autogas markets within the State.

On 6 April 2000 the Legislative Assembly of the Parliament of Western Australia appointed a Parliamentary Select Committee, the Select Committee into the Pricing of Petroleum Products in Western Australia, which had all party support. The Select Committee was established to look into issues concerning petrol and LPG autogas pricing. The Select Committee placed particular focus on addressing the disparity between metropolitan and non-metropolitan prices and the terms of reference listed below.

1.3.1 Select Committee's Terms of Reference

To investigate and report on the wholesale and retail price of petrol fuel and LPG autogas petroleum products in metropolitan and non-metropolitan Western Australia, in particular –

- the reason for differences in the price of petroleum products in metropolitan and non-metropolitan Western Australia;
- the reasons for significant price fluctuations in petroleum products;
- the impact of State and Federal Government policies, taxes and charges on the price of petroleum products in both metropolitan and non-metropolitan areas of the State;
- the effect on the price of petroleum products of current changes in the system of petroleum product franchising throughout Western Australia;
- the reasons for the high cost of LPG autogas in Western Australia relative to other Australian States;
- whether legislative intervention is necessary or desirable to reduce the difference in the price for petroleum products within and between metropolitan and non-metropolitan areas of Western Australia; and
- recommendations for any other measures to reduce the price difference for petroleum products within and between metropolitan and non-metropolitan areas of Western Australia.

The Terms of Reference were drafted with regard to the Notice of Motion for a public inquiry from the Member for the Pilbara and with regard to suggestions received from Peter Fitzpatrick, Executive Director of the Motor Traders' Association.

The Select Committee members were the:

- Member for Mitchell, Dan Sullivan, MLA, (Chairman)
- Member for Pilbara, Mr Larry Graham, MLA, (Deputy Chairman)
- Member for Geraldton, Mr Bob Bloffwitch, MLA, (Member)
- Member for Eyre, Hon. Julian Grill, MLA, (Member)
- Member for Avon, Mr Max Trenorden, MLA, (Member)

1.3.2 Select Committee's Report

The Select Committee's review was the first review of petroleum pricing in Western Australia in seventeen years. It was carried out against a backdrop of increasing world prices and high retail prices in regional areas coupled with a high level of consumer frustration over a highly volatile metropolitan market with frequent and unexplained price fluctuations.

The enquiry focussed on the potential for price exploitation by non-metropolitan retail fuel sites, which do not face the competition of city outlets, selling large volumes on a thin margin. It also focussed on the duopoly of BP and Kleenheat (Wesfarmers) supplying LPG autogas. It has been claimed that this duopoly results in no competition to force prices downward.

The Select Committee tabled its report ***'Getting a Fair Deal for West Australian Motorists'*** in the Legislative Assembly on 12 October 2000. A summary of the Select Committee's findings and recommendations is set out as an Appendix to this report.

Legislative amendments within the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* were developed as a result of the review of petroleum pricing in Western Australia carried out by the Select Committee.

In preparing its report ***'Getting a Fair Deal for West Australian Motorists'*** the Select Committee gave as many people as possible the opportunity to have their say. Community feedback was encouraged through the Internet, as well as by conventional advertising methods. The Select Committee's web site recorded 34,812 hits. The Select Committee received 558 submissions via mail and email from persons and organisations.

The top five key issues raised in submissions were:

- country fuel prices;
- fluctuating prices;
- LPG autogas prices;
- high petrol prices; and
- *the price of* LPG *cylinders*

The Select Committee made a special effort to hold meetings and formal hearings around the State, holding 11 public meetings to allow members of the public to have their say on the pricing of petroleum products. The meetings were held at:

- Port Hedland
- Busselton
- Merredin
- Kalgoorlie
- Esperance
- Collie
- Bunbury
- Narrogin
- Albany
- Mandurah
- Joondalup

The Select Committee conducted 17 oral evidence hearings during the course of the inquiry at which it heard evidence from 101 key participants in the pricing of petroleum products in Western Australia.

The Select Committee also held discussions in the following locations:

- Geraldton
- Northam
- Mt Barker
- Moora
- Broome.

At these locations discussions were held with stakeholders, including representatives for oil companies, and with residents of those regional areas.

The Select Committee reported that concerns raised at public meetings and during discussions were consistent with matters raised in the submissions.

2. THE PETROLEUM PRODUCTS INDUSTRY

2.1 Industry Structure

There are currently four major refiner/marketer companies in Australia. These are BP, Mobil, Shell and Caltex. Each of these companies operates two refineries across Australia, with the majority of these refineries in eastern Australia.

In Western Australia, due to transport costs plus market size and minimal size of economic viability, a 'natural monopoly' exists with only one refinery, BP Kwinana, in operation.

The oil majors participate in formal reciprocal national product exchange agreements (known as a refinery exchange agreement) in order to guarantee supplies of petroleum products in regions where an oil major does not have refinery capacity. Refinery exchange agreements avoid the unnecessary movement of bulk fuel over long distances and reduce costs. The BP refinery at Kwinana participates in a refinery exchange agreement with other oil companies active in Western Australia. Under the terms of that agreement, BP supplies product to other petroleum companies in exchange for equal quantities of the same product from the other companies' refining facilities in those States not served by a BP refinery.

Industry assessments estimate that about 90% of the 1.85 billion litres of fuel sold in Western Australia during the 1999/2000 financial year is processed through the BP refinery at Kwinana. Relatively small amounts of fuel are also imported from Asian refineries, principally from Singapore, and from other Australian States and transported to ports in the northwest and southwest of the State. The level of importation from overseas refineries has been minimal due to the commercial advantage of buying locally refined product.

Petroleum products are sold to commercial customers and through retail sites, either directly by major oil companies or indirectly through distributors, both branded and unbranded. In the metropolitan area fuel is generally delivered in large capacity tankers direct from the refinery or terminals.

Fuel distributors operate predominantly in regional areas and purchase bulk product in the main from domestic refiners. Fuel is then delivered to either their own branded, oil major branded or non-oil major branded retail outlets. They also supply end users, such as primary producers.

As a consequence of industry rationalisation programs the number of petroleum distributors in Western Australia declined from around 1600 in 1980 to 400 in 1996. During that period there has been a move toward partnership or equity relationships with major oil companies, which has taken away the independent status of distributors. The major oil companies have between 50 per cent to 100 per cent equity in those distributors that supply branded fuel. It is estimated by industry sources that there are now fewer than 30 distributors in Western Australia. Retailers operate under a variety of distribution and marketing mechanisms and corporate arrangements. The ownership structures and supply arrangements can be classified into six types: franchise sites, commission agency sites, dealer owned sites, distributor supplied sites, independent chain sites and supermarket sites.

A small number of large companies dominate a large part of the market, either directly or through franchise arrangements, with only a little more than 10 per cent supplied by independents.

Retailing of petroleum and associated products in Western Australia is undertaken through some 848 sites:

Table 1 Retailing of Petroleum in Western Australia

Franchises	270
Multi Site Franchisees (120)	
Single Site Franchisees (150)	
Commission Agents (Oil Company)	34
Dealer Owned (Supplied by Refiner)	90
Dealer and Distributor Owned (Supplied by Distributor)	350
Independent retailers	100
Supermarkets	4

Source: Select Committee's report 'Getting a Fair Deal for Western Australian Motorists' October 2000

These ownership structures and supply arrangements are described below.

Franchise Sites

The majority of franchise sites are located in the metropolitan area. These sites are owned or head leased by the refiner/marketer, but are franchised. The franchisee has a direct contractual arrangement with the refiner/marketers through which the franchisee purchases fuel from the refiner/marketer at a wholesale list price, but may subsequently receive price and profit support, particularly during phases of intense competition (see 3.2 Price Support and Discounting).

The oil majors also retail fuel through multi-site franchisees, where a company has a franchise agreement for many sites. Franchisees benefit from fees and rentals well below the normal market rate of return for the property and equipment they use. Oil companies provide other business support, including branding and free delivery of fuel. Typically franchisees may pay significantly higher prices for their fuel than the prices paid by independent retailers. However, unlike genuine independents that bear business risk, under franchise arrangements most of the business risk is shifted from the franchisee to the franchisor.

Commission Agency Sites

These sites are owned or head leased by a refiner/marketer, are usually the sites with higher sales volume and are predominantly located in the metropolitan area.

Dealer Owned Sites

These sites are usually owned or head leased by independent dealers who have supply contracts with a refiner/marketer. Many are located in the metropolitan area. They are unable to purchase fuel on a bulk basis so have a limited ability to negotiate substantial discounts on their fuel supplies.

Distributor Supplied Sites

Many sites that are distributor supplied are located in regional areas. They can be head leased by the distributor, or independent retailer owner-dealers may operate them with supply arrangements from one or more distributors. Many of these sites are supplied by a distributor with refiner/marketer equity and may carry refiner/marketer branding, own branding or no branding.

Independent Chain Sites

These independent chains – such as Liberty and Gull - operate sites mainly in the metropolitan area and larger regional towns. They may be supplied by the oil majors or through imports. The sales at individual sites are usually on a commission agency basis. Independent chains are able to purchase on a bulk basis, therefore most of them have supply contracts with the oil majors and they may receive substantial discounts.

Supermarket Sites

These sites are owned or head leased by a supermarket chain (such as Woolworths). They are predominantly located in the metropolitan area and the larger regional centres.

2.2 Petroleum Pricing

The petroleum price level to the Australian consumer is based on a world parity pricing policy linked to the production output of the Organisation of the Petroleum Exporting Countries (OPEC), which dominates the international market for crude oil.

World parity pricing principles establish a benchmark price for the sale or purchase of domestic or internationally produced petroleum products. No relationship exists between actual production costs and the pricing regime. Fuel costs can increase regardless of production costs, which can result in windfall gains for oil majors.

Production levels are manipulated by member nations of OPEC, which determines production quotas based on international prices. OPEC largely manipulates supply/demand ratios through agreements which provide for increased production when international prices exceed a pre-determined upper limit, and for reduced outputs when prices fall below that limit, this effectively sets crude oil prices. There has been a deliberate policy by OPEC to reduce production of crude oil in order to force up world prices.

Recent United States interventions in the market and the ongoing OPEC manipulations clearly demonstrate that the world oil market is not free from interference and distortions.

The Select Committee found that international benchmark prices established for crude oil, refined petroleum product and LPG do not in any way reflect the actual production costs for those commodities. Forces of world supply and demand largely determine prices in the international oil market.

World oil prices strongly influence the price of petroleum products in Western Australia (i.e. the prices of crude oil and the refined petroleum products; and the Australian/US dollar exchange rate). Movements in Australian petrol prices generally follow movements in Singapore refined petroleum product prices. Over the last three years the domestic price has risen sharply due mainly to the pricing formula used under the OPEC policy to conserve its supplies, the declining value of the Australian dollar and the Commonwealth's excise on petroleum.

Therefore, a range of international and local factors determine retail petrol prices in Western Australia, some of which are beyond Government influence. International factors include the prices of crude oil and refined petroleum products and the Australian/US dollar exchange rate. Local factors include the level of Federal and State excise and taxes (which are stable), local supply and demand factors (e.g. shortages due to refinery maintenance and additional demand on public holidays) and the local price cycles (see 2.2.3 Price Fluctuation Cycles).

2.2.1 The Import Parity Indicator

Before deregulation on 1 August 1998 the ACCC used a base indicator called the Import Parity Indicator (IPI) to determine maximum endorsed wholesale prices in order to monitor changes in the imported wholesale price of refined petroleum products.

The IPI is a base indicator across Australia for fuel delivered into a service station with adjustments made to the varying State taxes that apply. It is used by the ACCC to assess the cost of importing refined petroleum product into Australia from Singapore, the closest likely source. The IPI reflects international price movements but also takes into account domestic costs such as freight (from Singapore), wharfage, an assessed distribution, profit and marketing component and tax. The IPI was a wholesale, not a retail, indicator and the methodology for determining the IPI has not been revised for a number of years.
The IPI, as used by the ACCC, comprises three components:

- the import parity component – the 'landed cost' for ex-refinery petrol stock from Singapore (incorporating the spot price for fuel, freight, wharfage, insurance and loss, and the Australian/US dollar exchange rate);
- the assessed local component – which reflects influences such as downstream terminalling, marketing and distribution costs as well as return on assets employed in that sector; and
- Federal Excise Tax and State subsidies and the Goods and Services Tax.

With the latter two factors being mainly constant, movements in the IPI largely reflected changes in international product prices and the Australian/US dollar exchange rate.

2.2.2 Price Support and Discounting

All major oil companies have established rebate schemes with price support payments and discounts given to allow dealers to meet competition, these can range between 2 and 8 cents per litre. Price rebate schemes are generally only available to franchise sites owned by major oil companies. Alternative price reduction arrangements are available to other wholesale purchasers.

Independent retailers negotiate supply agreements with oil companies which provide for the supply of fuel at prices discounted to mainly reflect volume. This is known as discounted wholesale pricing.

Franchisees, in addition to fuel supply arrangements, have access to oil company land, buildings and equipment. In a price discounting war when retail prices fall below a certain level, a retail franchisee cannot compete on price with independent retailers and oil company operated sites. Rather than offering discounted fuel to franchisees, oil companies offer a system of retrospective rebating. The oil company suppliers to whom the franchisee is contractually tied award these discretionary rebates.

In recent years there has been an increase in the availability of more comprehensive price information, particularly via the Internet. As a result of better market information retailers can respond to their competitors price movements rapidly. This factor may have increased the extent of retail price discounting in recent years. The increase in the number and size of multi-site franchises may also have contributed to the depth of price discounting.

The Select Committee reported that the major reason for the difference between country and city prices is that price support and discounting by the oil company majors is generally not available to retailers in regional areas where there is limited or no competition. Price support arrangements are available to high volume markets, but are not extended to regional areas where margins must provide a realistic return on investment. Consequently, motorists in regional areas pay a cost premium above prices paid in the metropolitan area.
The Select Committee formed the view that it is impossible to have any confidence that the major oil companies will, of their own accord, introduce price support or discounting in regional areas. It may be some time before price relief is available in regional areas. Motorists in regional areas would, in the meantime, be forced to pay fuel prices that are consistently and excessively above metropolitan prices.

2.2.3 Price Fluctuation Cycles

There have been community concerns and frustration over rapid fluctuations in petrol prices, often without any apparent reason, and the significant variation in prices in both the metropolitan and regional areas.

One of the major objectives of the oil companies appears to be to maintain or increase the volume of petrol sold from their sites. Petrol is basically a uniform product with competition largely based on price. The only way to increase sales volume is to have a lower price than competitors. Any resulting increase in volume may be short lived, as competitors will then reduce their prices in order to maintain or increase their market share.

Competitor price matching and undercutting results in downwardly spiralling prices to levels that are often below financial viability. Prices become unsustainable until one retailer is forced to significantly raise prices to more sustainable and profitable levels, with competitors rapidly following suit. Following this market correction, prices rise quickly as all operators seize the opportunity to restore profitability lost during the downward part of the pricing cycle. After a few days the price cycle starts again.

As previously stated, in a period of price undercutting, franchisees can receive rebated company price support when retail prices fall below a margin level, in this way the oil majors guarantee a certain margin to the franchisee. The multi-site franchises are better able to weather a period of heavy price undercutting through their ability to cross-subsidise. During the period of low prices, retailers are often dependent on oil majors for price support, however, there are some franchisees that do not receive adequate price support and they consider that they are being discriminated against by their franchisors.

Independent retailers, branded or otherwise, who buy wholesale fuel at a 'wholesale pricing discounted' price are not in receipt of price support. Their businesses can be put under extreme pressure at these times because they cannot compete with company owned sites when price support to these sites exceeds that discount. To match the market price independent retailers would need to sell at a loss until the price recovers.

Historically, price fluctuation cycles seemed to last for about a week in the metropolitan market. Many consumers have been frustrated with the fluctuations in prices, however, others benefit by purchasing petrol at lower than average prices if they buy at the bottom of the price cycle. It is difficult to measure how many consumers can either benefit from or be disadvantaged by price fluctuations. In order to benefit, the consumer has to be fortunate enough to pick the bottom of a price cycle – without advance warning of an imminent price change this is essentially achieved on a "hit or miss" basis. Similarly, a price increase can catch a motorist out.

Price fluctuation cycles may be the result of the oil majors using price support schemes to enable their franchisees to be competitive in the marketplace and/or to increase their influence over the pricing behaviour of retailers. The oil major's control of the prices of franchisees through price support schemes may be a strategy to maximise profit and also to remove or limit competition from independent retailers.

After an introductory period, for 16 months from October 1989, the oil majors operated a 'rack pricing' scheme, by which they set a wholesale price and provided no discounts. During this period there was less volatility in retail prices, indicating that price support schemes are a significant factor contributing to price volatility.

The Select Committee recommended a daily fuel price monitoring system that would alert consumers to where the lowest prices are being charged and would address daily price fluctuations. These regular intra-daily fluctuations had caused major frustration to motorists. Consumers could use the fuel price monitoring system to follow prices, in order to have a better understanding about the price cycle and its fairly regular nature, and may change the timing of their purchases.

A change in demand patterns could be created if consumers purchase fuel at the lower points of the cycle, (in the past this has been mid-week) rather than purchasing when the price cycle is at the high points (generally at or just before weekends). It is possible that price fluctuations may then diminish because this change in demand may result in prices not being increased by as much during weekends and similarly, they also may not decrease by as much during the week.

Price cycles may remain, but with a daily fuel price monitoring and reporting system motorists would be better equipped to make informed decisions about when to buy their fuel.

2.3 Liquefied Petroleum Gas (LPG)

Under its terms of reference the Select Committee investigated the reasons for the high cost of LPG autogas in Western Australia relative to other Australian States. In making its report the Select Committee referred the ACCC's draft report of September 1999, *"Review of LPG Autogas Prices and LPG Cylinder Prices in Western Australia".*

2.3.2 What is LPG.

LPG sold as autogas is generally a mixture of propane and butane. Both propane and butane are gaseous at normal temperatures, but can be liquefied at moderate pressures or by refrigeration for transport and storage. LPG used for domestic purposes is propane only.

In Western Australia LPG is produced as a by-product of petroleum refinery operations or through extraction procedures from natural gas.

LPG is sold in cylinders and can be used for traditional, domestic purposes (heating or cooking), commercial or industrial purposes and as automotive transport fuel (autogas).

2.3.3 LPG Industry in Western Australia

In Western Australia the LPG product market consists of LPG sold as autogas, LPG sold in cylinders for domestic use in heating and cooking and LPG used in industry for purposes such as petrochemical manufacturing and power generation.

Western Australia is the second largest producer but the smallest consumer of LPG in the mainland States. In 1998 about one third of total Australian production of LPG was produced in Western Australia. However, Western Australia consumed only about 8 per cent of the total national production. Only 30,000 of the 1,700,000 vehicles registered in Western Australia in August 2000 use LPG as the primary or secondary fuel source (dual-fuel).

Australian Bureau of Census and statistics 1999 figures show that over 87 per cent of all vehicles in Western Australia are powered by petrol, 12 per cent by diesel and only 1 per cent by LPG autogas.

Three LPG producers service the Western Australian market:

- BP Australia Ltd (BP) is the only producer of petroleum for the WA market. It produces LPG as a by-product of petroleum operations at its Kwinana refinery. BP's entire production is sold into the Western Australian domestic market.
- Wesfarmers LPG Pty Ltd (Wesfarmers) extracts propane and butane from the natural gas flow in the Dampier-Bunbury pipeline connected to their stripping plant at Kwinana. In 1998 approximately two thirds of the LPG produced by Wesfarmers was exported with one third being directed to the domestic market.
- BHP Petroleum Pty Ltd (BHPP) produces LPG from gas flows at its Onslow processing plant, and as a by-product of petroleum operations at the Griffin field in the North West Shelf. Approximately half of the LPG supplies from Onslow are trucked south to Perth and half to the north-east of the State, mainly in the Pilbarra region. In 1998 BHPP's entire production was sold on contract to Wesfarmers Kleenheat Gas Pty Ltd (Kleenheat).

The majority of LPG produced in Western Australia is exported, predominantly from facilities at the North West Shelf to Japan. Small proportions of LPG supplies are imported from interstate.

Wesfarmers Kleenheat Gas Pty Ltd (Kleenheat) is the sole distributor of LPG in Western Australia; it controls distribution from producers to wholesalers. Kleenheat is a subsidiary of Wesfarmers Limited, which owns Wesfarmers LPG Pty Ltd, the operator of the LPG extraction plant in Kwinana.

Kleenheat occupies a unique role in the Western Australian LPG market, it is responsible for selling the output of Wesfarmers LPG into the domestic market, and it purchases LPG from the BHPP processing plant in Onslow and surplus LPG from BP Kwinana. Kleenheat also acts as wholesaler of autogas supplied to retail sites owned by other companies in addition to its own sites. Kleenheat distributes LPG to wholesalers BOC/Elgas and Boral, and to marketers Mobil, Vital Gas, Gogas, Gull, Liberty, Peak and BP.

As the main distributor of LPG, Kleenheat controls a significant proportion of supplies. Kleenheat provides LPG transport services and is the cartage contractor for a number of LPG operators. Kleenheat also provides storage and blending services to BP.

BP and Kleenheat have a number of commercial arrangements in place. The ACCC in its 1999 report stated that it had not been possible to develop a precise understanding of the exact nature of the BP-Kleenheat relationship because the two companies had provided irreconcilable accounts on details of the arrangements in place. The ACCC identified that Kleenheat takes the majority of BP's daily output and then services BP's needs as required.

Refiners in Melbourne, at times, have excess LPG supplies due to the irregular nature of refinery-produced LPG. Those supplies must be cleared rapidly (due to inadequate storage) at reduced prices. This evokes a competitive response from other producers who will also move supplies at a lower price.

BP in Western Australia lacks significant storage facilities, but has no problem with excess supplies. Under arrangements in place with Kleenheat, BP uses Kleenheat's storage facilities and so avoids the need to quickly sell unplanned excess supplies from its refinery at lower prices. The arrangement also provides Kleenheat with detailed knowledge of the market's supply situation.

BP is in a strong position to compete aggressively against Kleenheat; in 1998 BP produced 45 per cent of Western Australia's domestic LPG requirement and owned 58 retail sites. However, BP is less active than would normally be expected and chooses not to participate in the wholesale market, allowing Kleenheat to act as distributor for any excess supplies.

The Select Committee's report identified that in Western Australia the LPG market is characterised by the inter-dependent operations of groups identified as producers, distributors, wholesalers/marketers and retailers. Vertical integration throughout production, distribution and wholesale supply lines enabled the corporate Wesfarmers organisation to control 78.4 per cent of Western Australian LPG production in 1997/98 with BP controlling 21.3 per cent, this represents most of the remaining LPG produced.

Assessment of Western Australian domestic LPG distribution confirmed the existence of a near duopoly market with the Wesfarmers/Kleenheat conglomerate controlling 69.4 per cent of LPG destined for the Western Australian domestic market in 1997/98, as detailed in the following table.

Table 2 Distributional Flows of LPG Supplies in WA, 1997-98

Producers	DESTINATION OF LPG SUPPLIES	Quantities tonnes of LPG, 1997-98	Shares of Supplies Tonnes	%
Wesfarmers LPG	Kleenheat	80,000		
BP[1]	Kleenheat	23,000		
BHPP	Kleenheat	15,000	118,000	69.4
BP	BP Autogas	20,000		
BP	Boral	19,000	42,100	24.8
Interstate	Boral	3,100		
BP	BOC	10,000	10,000	5.9
Total Domestic Supplies		170,100	170,100	100.0

Source: Select Committee's report 'Getting A Fair Deal For Western Australian Motorists' October 2000

Note 1: Includes supplies for BP's retail autogas sites and BP surplus production.

2.3.4 Price of LPG Autogas

LPG is an internationally traded commodity and its price is set in global markets. The Saudi Aramco Contract Price (CP) for propane is the internationally recognised reference price for LPG and is a benchmark for international prices. The CP is posted monthly and is determined by supply and demand constraints on Saudi producers.

Domestic producers set prices based on import parity linked to the CP. Domestic producers determine prices by adding a premium to the CP to cover international freight costs, insurance, wharfage and storage of LPG. The premium applied to the CP to arrive at import parity varies from market to market depending on local factors such as size of market and technical constraints.

In Western Australia the two main producers, Wesfarmers and BP determine producer prices based on import parity. Western Australian producer prices are higher than prices charged by those producers in large markets (e.g. Melbourne), where large volumes gain the benefits of economies of scale and where transport costs are lower. The ACCC found that the margin between average retail prices of autogas and the Saudi CP appears larger in Perth than in other capital city markets.

The ACCC's report highlighted that between July 1991 and July 1999 the average retail prices for autogas in the Perth metropolitan area were consistently higher than in other mainland capital cities. The evidence suggests that margins earned by producers, retailers and wholesalers in Perth were larger than in other cities. This can be due to the smaller size of the Western Australian market where low sales may result in unit costs and margins being higher than in large markets.

The ACCC and the Select Committee found that Perth's small market size does not appear to be solely responsible for the higher margins between retail prices and producer prices. There did not appear to be other material cost-related factors that would necessitate higher retail margins in Perth compared with other cities.

2.3.5 LPG Market in Western Australia

The wholesale sector in Perth is not as competitive as in other markets. Within the last ten years there has been vertical integration by the oil majors into wholesaling of their own product for their own retail sites. A few independent wholesalers have entered the market during this time, but the small size of the Western Australian market inhibits further entry.

In the autogas market, the wholesale arms of the oil majors purchase the majority of supplies of LPG from Kleenheat and BP for their retail sites. Kleenheat submitted to the Select Committee that a key structural impediment to competition at the wholesale level of the autogas market is its inability to obtain access to the majority of oil company controlled sites in Perth. Major oil companies collectively controlled 70 per cent of all retail sites in the metropolitan area. Exclusive supply agreements prevent most retailers from accessing alternative wholesale autogas sources.

The ACCC's 1999 report indicated that the autogas sector is the largest user of LPG, however, consumption of LPG in Western Australia is considerably lower relative to more developed markets. A far smaller proportion of motor vehicles run on LPG in Western Australia than in the developed market in Victoria. There is a potential for further growth in the consumption of LPG in Western Australia.

Comparative data on average usage of LPG in WA, VIC and QLD is presented in the following table.

Table 3 Average Autogas Consumption per Vehicle, WA, Vic and QLD

	1997-98		
	WA	VIC	QLD
Total Autogas Sales (tonnes pa)	94,000	736,000	135,000
Total Number of Registered Vehicles	1,230,263	3,038,696	2,065,517
Total Number of Retail Sites	310	715	360
Average Litres Per Vehicle Per Annum	150.4	476.9	128.7
Number of Vehicles Per Site	3,969	4,249.9	5,737.5

Sources: ACCC report Review of LPG Autogas Prices and LPG Cylinder Prices in Western Australia September 1999
Note: Includes all vehicles with and without LPG including commercial vans and light trucks.

Exports account for a large proportion of the increased production of LPG since the early 1990's. There has been a significant increase in consumption of autogas as a motor fuel, however, the level of consumption is still lower than in more developed markets such as Victoria. Table 3 illustrates the fact that the maturity of the WA market is far behind developed markets.

The ACCC's overall observation was that in Western Australian the market is less developed and mature than other Australian markets. Retail prices of autogas in Perth have been consistently higher, but more stable, than in other mainland capital cities. One reason for higher prices is that unit costs in a small market are higher than in larger markets.

The Select Committee fully recognised and endorsed the relative environmental benefits of LPG and concluded that the best way to achieve the lowest LPG price in Western Australia is to encourage competition through:

- the promotion of LPG use in vehicles, which would increase volumes of sales to drive down prices and could then encourage new market participants; and
- reducing barriers to competition at the retail level.

The Government has responded to the Select Committees call to stimulate the LPG market by the adoption of a policy to ensure the replacement of petrol and diesel powered vehicles with LPG powered vehicles in the Government Fleet and to consider LPG conversion incentives.

In conclusion, the size of retail margins is not likely to be the main reason for Perth's high retail autogas price. However, the Select Committee identified that increased volume provided the best prospect for cheaper prices. A small number of companies control a large proportion of the market in Western Australia. BP and Wesfarmers account for almost the entire production of LPG consumed and Kleenheat is in a dominant position as a primary distributor of LPG. There are few independent wholesalers and most wholesalers supply only their own retail sites.

2.3.6 Barriers to Entry into the Western Australian LPG Market

The availability of new natural gas flows or petroleum reserves restricts entry at the producer level. Wesfarmers has exclusive access to the natural gas flows owned by AlintaGas in the Dampier-Bunbury pipeline until at least the year 2006. Without alternative sources of supply there can be no entry by alternative producers.

When existing producers purchase output from new fields the scope for entry to enhance competition is limited. This was the case with Wesfarmers successful tender for BHPP's production at Onslow.

A further barrier to entry is the large capital investment required to build a processing plant and storage facilities. The ACCC's 1999 report indicated that construction of a plant, similar to the Wesfarmers Kwinana plant, is estimated to cost approximately $200 million. The construction of 500 tonne storage and loading facility, similar to BP's existing facilities, would cost approximately $15 million.

2.3.7 LPG Price Control

The Select Committee highlighted the degree of control exerted by one major oil company in the marketing and pricing of LPG in Western Australia and raised concerns in relation to the market situation. Companies compete primarily through prices; strong price rivalry suggests that competition is effective; there is little ongoing competition evident between Kleenheat and BP.

The Select Committee remained unconvinced that many regional areas could receive LPG autogas at fair competitive prices and that price control would safeguard consumers in regional areas from excessive discrepancies between the regional and metropolitan price.

Key findings of the ACCC and the Select Committee are as follows:

- The average retail price of autogas in the Perth metropolitan area has been consistently higher than in other capital cities.
- The margin between average retail prices of autogas and the Saudi CP appears larger in Perth than in other markets.

- It is common for the LPG autogas price in Perth to exceed non-discounted prices in other Australian capital cities by around 5 per cent.
- The size of retail margins is not likely to be the main reason for Perth's high retail autogas price.
- Western Australia's LPG market is highly vertically integrated.
- Wesfarmers Kleenheat, Western Australia's principal supplier of LPG, dominates the market at the wholesale level, has failed to pass on lower producer prices and benefits from substantial barriers to entry to this market.
- Key features of the supply arrangements in Western Australia include the dominance of Kleenheat in the distribution of LPG, lack of vigorous competition between BP and Kleenheat, and Wesfarmer/Kleenheat's substantial storage facilities.
- Retail prices in Perth have been highly stable over a long period. This indicates a stable relationship between supply and demand and is not indicative of a competitive and mature LPG market.
- The high price of autogas may explain the underdeveloped nature of the Western Australian market. Under-consumption of autogas by consumers in Western Australia could be due to high prices and consequently low consumption could maintain a smaller, underdeveloped market.
- Western Australia's LPG market would benefit from increased sales volume and greater competition.
- There is an urgent need to provide greater access to fuel retail sites for all LPG autogas suppliers in order to stimulate competition.
- Franchisee dealers are limited to oil company preferred or endorsed distributors for LPG supplies, even though more cost competitive sources may be available elsewhere.
- Greater use of LPG would reduce motoring costs and have significant environmental benefits, warranting direct Government stimulation of the LPG autogas market.

The Select Committee made a number of recommendations concerning LPG, in order to stimulate the LPG market in Western Australia. Many of those recommendations are not relevant to this review because they are outside the scope of the PRRLA and the PPPA. Recommendations 7 and 9 address concern within the community about LPG prices, these recommendations are within the scope of the PRRLA and PPA. The Select Committee recommended that:

- an extensive price monitoring process for LPG be established;
- that the PPPA be amended to provide legislative authority to control LPG pricing;
- an extensive audit of LPG pricing be carried out, including assessing the need to institute price control; and
- the PRRLA be amended to also apply to LPG autogas.

2.4 Terminal Gate Price

A terminal is a place at which motor fuel that a supplier intends to supply to resellers is held. The oil majors sell their product at the 'terminal gate', the oil industry uses the term 'Terminal Gate Price' (TGP) to describe the wholesale price payable by a person (distributor or other bulk purchaser) to an oil company for petroleum products supplied directly from a terminal.

However, under arrangements and practices in place prior to the *Petroleum Products Pricing Amendment Act 2000*, the TGP price was not uniform. The terms of commercial agreements or arrangements existing between an oil company and a particular purchaser could allow a purchaser to receive a discount, rebate or other reduction in price. The TGP payable by one purchaser may therefore have been different from the price payable by other purchasers. In a number of cases, these terminal gate prices included components for distribution and marketing that are not separately identified, meaning that these TGP's were not totally transparent.

One of the Select Committee's key recommendations (recommendation 7) was that the Government establish a true Terminal Gate Price system.

A TGP regime:

- provides for bottom-up pricing by oil companies, which can lead to greater competition in distribution and retail;
- can enhance the bargaining power of existing players, facilitate new entry, and lessen the market power of the vertically integrated oil majors beyond the terminal;
- may result in lower prices in some regional areas and improve the understanding of country-city differences by consumers in regional areas; and
- allows less opportunity for oil majors to discriminate in pricing between commercial sales and sales to resellers.

The Select Committee recommended that a TGP be established for petroleum products to ensure that, on any day, each major petroleum company engaged in wholesaling fuel from the refinery or storage depot must provide and advertise one open and accountable price. This would be a single price at which all persons engaged in reselling would be able to make a wholesale purchase directly from an oil company terminal.

The Select Committee suggested that a number of conditions, for example open access and no price discounting, be applied to prevent market manipulation or the creation of a secondary market favouring oil company owned sites, multi-site franchises or any other dominant player. A true TGP system would provide bulk fuel supplies at the same wholesale price to any purchaser intending to on-sell fuel, and would both address both the issue of price fluctuations and the issue of differential pricing between franchisees and independent retailers. It would also promote competition in the industry.

The Select Committee suggested that, to ensure the lowest maximum TGP, the Prices Commissioner would be required to take account of a number of essential factors, including, but not limited to:

- the prevailing level and extent of discounting;
- any profit support given by the oil companies to selected retail operations;
- any price support given by the oil companies to selected retail operations;
- costs incurred by the oil companies up until the terminal gate stage;
- the costs of marketing;
- the costs of distribution;
- refinery costs;
- freight;
- administration, etc;
- other relevant factors such as reasonable rates of return, depreciation, etc; and
- any other factors that the Prices Commissioner considers relevant.

Under the *PPPA* the Prices Commissioner can set a maximum price at which petroleum is sold at declared terminals. The oil companies can sell below the maximum price set by the Prices Commissioner, but would be required to advertise prices accordingly.

In July 2001 the Prices Commissioner declared six terminals in the metropolitan area and 11 terminals in non-metropolitan areas and has set maximum prices. The maximum price is based on:

- the landed prices of the relevant Singapore spot prices;
- freight rates adjusted monthly;
- a quality adjustment for Western Australian fuel specifications (0.85 cents per litre);
- insurance and wharfage costs (0.4 cents per litre);
- terminalling costs and wholesale margin (2.5 cents per litre); and
- excise and GST.

The non-metropolitan terminal maximum wholesale price (MWP) incorporates freight differentials ranging from 0.7 cents per litre to 1.0 cent per litre.

Other conditions are:

- the MWP applies to resellers that are not subject to an agreement or arrangement affecting price and take delivery at the terminal;
- the MWP does not affect the right of the supplier to charge an additional component where additional services are provided to a person who is not a reseller;

- a supplier is required to notify the Prices Commissioner of the maximum price for each product by 4.00 p.m. on the day prior to the date of supply;
- the maximum price cannot be exceeded for a 24 hour period commencing on midnight on the day of supply;
- the supplier is required to display the maximum price for the declared products at the terminal; and
- the MWP is available on the *FuelWatch* website.

3. PETROLEUM LEGISLATION

3.1 Commonwealth Legislation

There are three Commonwealth Acts that apply to retailing in the petroleum industry:

- The *Trade Practices Act 1974* (TPA), which prohibits corporations from engaging in a range of anti–competitive market conduct and unfair business practices. The TPA deals with mergers and acquisitions, price fixing, resale price maintenance and exclusive dealing.
- The *Petroleum Retail Marketing Sites Act 1980* (Sites Act), which restricts the number of sites the oil majors can own and operate.
- The *Petroleum Retail Marketing Franchise Act 1980* (Franchise Act), which deals with the relationship between franchisees and franchisors by setting minimum terms and conditions for franchise agreements.

Only the *Trade Practices Act* (TPA) is applicable to all of the industry players. The Sites Act applies only to the oil majors - the independent chains are excluded from the scope of the Sites Act. The Franchise Act is relevant only to the oil majors, because only the oil majors operate franchising networks. There has been an increase in the use of multi-site franchises in recent years by the oil majors. It has been argued that this has arisen partly as a way for the oil majors to circumvent the Sites Act.

The *Prices Surveillance Act 1983* (PSA) makes provision for the surveillance of prices for the supply of certain goods or services, but the ACCC cannot set prices under the PSA. Prior to 1 August 1988, the ACCC established maximum wholesale prices under the PSA.

3.2 State Legislation

There are two State Acts that specifically apply to the petroleum industry:

- The *Petroleum Products Pricing Act 1983* (PPPA), which makes provision by way of inquiry, investigation, price or rate fixing and enforcement procedures to prevent excessive prices being charged for the sale of petroleum products, whether in relation to wholesale or retail trading, or excessive rates being charged for the supply of petroleum services. The PPPA also provides for transparency of pricing of petroleum products and makes additional provisions about motor fuel prices.

- *The Petroleum Retailers Rights and Liabilities Act 1982* (PRRLA), which defines the rights and liabilities of persons occupying land for the purpose of selling motor fuel by retail. It was intended to give lessee dealers who are party to a franchise agreement the right to purchase up to 50 per cent of their fuel supplies from sources other than the landlord suppliers. The effectiveness of the PRRLA has been curtailed by a successful Supreme Court action. (*See 7.1.3 BP Australia Ltd vs Dragoon Holdings Pty Ltd*). Current amendments to the PRRLA aim at reestablishing the effectiveness of the Act by enabling the '50 per cent' rule.

Consumers are also protected in their transactions with petroleum retailers by:

- *The Fair Trading Act 1987* (FTA), which is designed to encourage fair and honest business practices, protecting consumers from misleading or deceptive conduct and unconscionable conduct. The FTA implies a number of conditions and warranties into all contracts with consumers, and imposes sanctions against a wide range of unfair trading practices. It also allows product safety and information standards to be set and Codes of Practice to be developed between suppliers and customers.

The FTA contains similar provisions to the consumer protection provisions contained in Part V of the Commonwealth Trade Practices Act.

4. LEGISLATIVE OBJECTIVES

Consumer Protection has set out to meet its term of reference requirement by identifying the original objectives of the legislation. In determining the rationale behind the original Acts, quotes from second reading speeches and debates during the introduction of each Act to Parliament have been used as key sources of information.

4.1 The Petroleum Retailers Rights and Liabilities Act 1982

The *Petroleum Retailers Rights and Liabilities Act 1982* (PRRLA) was enacted in 1982. The Act defined the rights and liabilities of persons occupying land for the purpose of selling motor fuel by retail.

4.1.1 Background

Franchise arrangements, or lease agreements, originally existing, commonly required the reseller to deal only in the particular supplier's brand of petroleum products and provided for controls over other goods and services in which the reseller might trade. The legislation enacted in 1982 gave lessee dealers the right to purchase up to 50 per cent of their supplies from suppliers other than the landlord supplier.

In his second reading speech on 12 October 1982, Mr Shalders, the then Minister for Consumer Affairs, stated that the legislation seeks *"to create improvement in the bargaining power of the lessee dealer in his negotiations with his landlord supplier and to better provide for the freedom of choice which is an essential part of the private enterprise system. The legislation is designed to promote competition and give greater freedom to the exercise of independent business judgement by resellers. A desirable effect which is believed may be achieved by this legislation is better competition in respect of product price resulting in a lowering of the wholesale price to retailers which will in turn be passed on to motorists."* [See Hansard, 12 October 1982, p 3599].

4.1.2 Objectives

The intention of the PRRLA is to protect the rights of franchisees and leaseholders of petrol stations owned by oil companies, where overriding franchise agreements and required them to purchase all petroleum products from the franchisor/oil companies. This protection was intended to give a franchisee a statutory right to purchase up to 50 per cent of petroleum products from the supplier of their choice, other than the franchisor. This provision was intended to give retailers access to the best prices for fuel products, which would ensure greater bargaining power and, consequently, promote competition. The legislation also provides machinery for the resolution of disputes between the parties.

4.1.3 BP Australia Ltd vs Dragoon Holdings Pty Ltd

BP took legal action in 1991 (BP Australia Ltd vs Dragoon Holdings Pty Ltd) in the Supreme Court of Western Australia. The Supreme Court found that the PRRLA did not override an existing franchise agreement under which a franchisee was obliged to purchase 100 percent of petroleum products from the franchisor and concluded that the legislation was therefore deficient. It determined that the PRRLA failed to actually provide the retailer with the right to purchase up to 50 per cent of fuel supplies from a supplier other than the contracted petroleum company franchisor/landlord.

As a consequence of the Supreme Court decision contracted retail outlets have no alternative sources of supply and must purchase at the price set by oil company wholesalers.

The PRRLA was therefore largely ineffective and to be effective it would need to be amended to overcome the ramifications of this Supreme Court decision (BP Australia Ltd vs Dragoon Holdings case).

4.2 Petroleum Products Pricing Act 1983

4.2.1 Background

In November 1983 Mr Brian Burke, the then Premier, introduced the *Acts Amendment (Prevention of Excessive Prices) Bill (No 2)* into the Legislative Assembly to amend the *Prevention of Excessive Prices Act 1983* (PEPA) so that it would apply specifically to petroleum products and services only. The Government had been concerned about the petroleum industry and in particular petrol prices.

In his Second Reading Speech Mr Burke said "*The Prevention of Excessive Prices Act* was passed as a result of an undertaking given by the Government prior to the election that prices would also be subject to scrutiny during the wages pause. The legislation was enacted to complement and give balance to the Salaries and Wages Freeze Act. One of the undertakings given by Government prior to the election was in regard to petrol prices. The proposed amendments honour this undertaking and the Government has been given a mandate to legislate for this purpose". [See Hansard, 24 November 1983, p 5251].

"*The Prevention of Excessive Prices Act* has a sunset clause and the legislation would, in the absence of amendment, lapse on 31 December 1983. It would be folly for the Government to allow the declaration and prices orders on petroleum products to lapse at that time. The results could well become chaotic marketing and instability within the industry. The control of petrol prices has led to a measure of stability in the industry and has the general support of service station proprietors through their association, the Western Australian Automobile Chamber of Commerce. It has also been of considerable financial benefit to consumers both in metropolitan and in country areas. It has been estimated that the motoring public have been saved at least $1.5 million for each month that has passed since price orders were enforced".

Western Australia would also be at a great disadvantage without legislation to control petrol prices at a time when the majority of other States have such control. It is desirable to have legislation to control petrol prices to ensure that prices are not manipulated to the disadvantage of the State and its people". [See Hansard, 24 November 1983, p 5252].

4.2.2 Objectives

The machinery and enforcement provisions of the *Petroleum Products Pricing Act 1983* (PPPA) are identical to those of the PEPA, but specifically apply only to petroleum products and petroleum services. The PPPA is intended (in part) to prevent excessive prices being charged for wholesale or retail petroleum products. The PPPA provides for this by way of inquiries, investigation or price fixing.

Section 6 of the PPPA states:

> *"(1) the object of this Act is to make provision by way of inquiry, investigation, price or rate fixing and enforcement procedures for the purpose of preventing -*
>
> *(a) excessive prices being charged for the sale of petroleum products, whether in relation to wholesale or retail trading;*
> *(b) excessive rates being charged for the supply of petroleum services.*
>
> *(2) Without limiting the generality of subsection (1), the Minister, the Commissioner and officers concerned with the administration of this Act shall give particular attention to those petroleum products or petroleum services which may be essential to the welfare of the community".*

The Amendment Bill sought to:

- continue the appointment of the Commissioner for Consumer Affairs as a Prices Commissioner, responsible for the administration of the PPPA, including the monitoring of prices of petroleum products; and
- allow the existing declaration and prices orders on petroleum products and services to continue with the ability for others to be added when necessary.

The Second Reading Speech and associated debates indicate that the principle purpose of the PPPA is to provide for the prevention of excessive petroleum products pricing in the following ways:

- allowing the Prices Commissioner to investigate and report on pricing policies and practices of suppliers and sellers of petroleum products;
- allowing the Prices Commissioner to fix maximum wholesale and retail prices for petroleum products; and
- allowing the Minister to establish a prices advisory committee, to advise whether petroleum products should be declared under the Act and whether maximum prices should be fixed under the Act.

The PPPA gives the Prices Commissioner the power to make such enquiries as he thinks necessary for the purposes of the PPPA and the PPPA provides that in carrying out these enquiries the Commissioner has the power to:

- call for submissions;
- require people to provide information and answer questions on oath; and
- enter premises after obtaining a warrant.

The Minister may give the Prices Commissioner a direction with respect to his functions, or as to the exercise of his powers or the carrying out of his duties under the PPPA. The Minister may also appoint one or more advisory committees to advise on:

- whether or not particular petroleum products should be declared under the PPPA;
- whether a maximum price or rate should be fixed for declared petroleum products; and
- such other matters as are referred to it by the Minister or the Prices Commissioner.

4.3 Deregulation of Petroleum Prices between 1993 to 2000

As previously stated, the *Petroleum Products Pricing Act 1983* (PPPA) was introduced in this State to prevent excessive prices being charged for wholesale and retail petroleum products by allowing for the fixing of maximum prices. Between April 1983 and April 1993 retail prices were fixed under the PPPA in the Perth metropolitan area and in specified regional locations by way of an order issued by the Prices Commissioner (the Chief Executive of the Division).

By 1993 Western Australia was the only State to apply legislated controls to retail petrol prices, although Victoria at that time did retain an informal 'trigger' point in respect to fuel prices.

The State Government deregulated controls over petrol prices in April 1993 after a sustained period that proved the setting of a maximum price for petrol fuel was not to the community's benefit at that time. The state of competition and retail discounting had sustained a market price well below that of the regulated price.

When the then Minister for Fair Trading, Hon Peter Foss, MLC, deregulated petroleum prices in April 1993 all orders fixing maximum prices for petroleum products were revoked. The application of the PPPA ceased, however the Act was not repealed in case excessive pricing re-occurred.

Deregulation took place in a climate where the Commonwealth's Prices Surveillance Authority (CPSA) was still scrutinising and determining wholesale petrol prices and freight charges. The ACCC subsequently took over the CPSA's role, but in July 1998 the Federal Government announced a package of reforms to the oil industry. The reform package was to include the following components:

- Repeal of the Sites Act and the Franchise Act. This was intended to remove regulation that was seen by Australian refiner/marketers to restrict them from competing on a level playing field with independent retailers. It would allow them the flexibility to determine the most efficient arrangements for the marketing of their products.
- A strengthened Oilcode referenced under the Trade Practices Act, to be a flexible industry code of practice to protect small business.
- Commitments by the four oil majors to provide open access to their oil terminals.
- Prices surveillance of petrol and diesel to cease. With greater competition between retailers the Federal Government envisaged there would no longer be a need for any regulatory control of wholesale prices.
- The Australian Automobile Association to conduct independent price monitoring of 100 regional towns and petrol price monitoring (with a particular focus on 'hot spots') by the ACCC.

The latter two initiatives of the reform package were implemented and the ACCC withdrew from the regulation of national petroleum prices on 1 August 1998. The Federal Government did not proceed with repeal of the Sites Act and the Franchise Act and a strengthened Oilcode because of lack of agreement by all industry participants at that time on all the components of the reform package.

The ACCC does not have the power to control petrol and LPG prices but it does have a prices monitoring role and conducts regular spot checks and so called 'hot spot' monitoring under the Commonwealth's Prices Surveillance Act (PSA). The ACCC has the power to deal with proven price fixing and collusive conduct under the Commonwealth's Trade Practices Act (TPA), however, these matters can be difficult to prove as parallel pricing by petrol wholesalers or retailers is not sufficient to prove collusion.

Since deregulation the ACCC has used the IPI, a base indicator, to track unleaded fuel at wholesale prices across Australia. This index includes international oil and refined prices, freight, distribution and marketing and the Commonwealth's excise per litre (see Part 3.1 Import Parity Indicator).

4.4 Regulation of Petroleum Prices from 2000

The Select Committee's report of 12 October 2000 made a series of recommendations (see Appendix 1 - Select Committee on Pricing of Petroleum Products, Summary of Findings and Recommendations). A number of those recommendations (recommendations 2, 6, 7, 8, 9, 11,12, 13 and 16) required the State Government, through the Minister for Fair Trading to:

- develop legislation to commence price monitoring and price control of petroleum products;
- provide for transparency of pricing of petroleum products;
- ensure the rights of retailers, otherwise committed to exclusive supply contracts, to be entitled to purchase up to 50 per cent of fuel requirements from the supplier of their choice are protected;
- establish a true Terminal Gate Price system; and
- provide legislative authority to monitor and control LPG pricing.

The State Government has legislative authority by way of enquiry, investigation, price or rate fixing and enforcement procedures, to control maximum wholesale and retail fuel prices, because the relevant legislation, the PPPA, had not been repealed. Similarly the PRRLA provided that retailers, otherwise committed to exclusive supply contracts, be entitled to purchase up to 50 per cent of fuel requirements from the supplier of their choice, although it had been deemed defective by the Supreme Court decision. Neither of these Acts, however, applied to LPG at that time. In order for the Minister of Fair Trading to fully implement the Select Committee's relevant recommendations some amendments to the PPPA and the PRRLA were required.

In response to the Select Committee's report and to community concerns the then Coalition Government initially proposed a program of petroleum pricing regulation to protect the public interest. As a first step amending legislation set out in the *Petroleum Products Pricing Amendment Act 2000* came into effect on 1 January 2001. This program of regulation has been progressed by the Labor Government since it was elected on 10 February 2001, resulting in further amendments to the PPPA and PRRLA effected by the *Petroleum Legislation Amendment Act 2001* which came into operation on 13 July 2001.

The State Government, through this program of regulatory reform, intends to create conditions that will reduce volatile price fluctuations, deliver a fairer and more transparent petroleum market, improve conditions for competition at both the wholesale and retail levels and provide price certainty to industry and consumers.

For the purpose of this review, those amendments that could be restrictive are covered in detail at Part 6 - Restrictions on Competition in the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001*.

5. FUELWATCH

The *Petroleum Products Pricing Amendment Act 2000* (PPPAA) took effect from 1st January 2001. This law requires the Prices Commissioner (who is also the Commissioner for Fair Trading) to carry out prices monitoring and regulation of fuels (petrol, diesel and LPG autogas). The PPPAA also introduced new regulations for petrol retailers who must notify the Commissioner of a price change by directly uploading information about the price change using the Commissioner's *FuelWatch* website on the internet, retailers must hold notified prices for 24 hours.

FuelWatch is an initiative of the State Government, administered by the Department of Consumer & Employment Protection (DOCEP) to provide fast, first hand information about fuel prices in Western Australia. The *FuelWatch* service covers the metropolitan area and 24 major regional areas, providing free petroleum pricing information on the Internet, a telephone service, three major television networks and radio stations.

The *FuelWatch* service comprises an Integrated Voice Response (IVR) telephone service and an Internet website. Since 2 January 2001, consumers have been able to find out the next day's notified prices for fuel in the Perth metropolitan area and major non-metropolitan areas using *FuelWatch* via the telephone for the cost of a local call or via the website 24 hours a day, 365 days year.

The *FuelWatch* service aims to:

- give consumers informed purchasing choice;
- create greater confidence in the industry;
- ensure there will be less price volatility; and
- reduce the gap between city and country prices.

FuelWatch not only informs the community of fuel prices in advance, but also allows DOCEP to monitor the compliance of fuel retailers in order to ensure a better deal for consumers.

The *FuelWatch* website has attracted an average of 35,000 hits daily, with over 6.5 million hits recorded since 2 January 2001. Free media coverage has been secured on main nightly news bulletins on all commercial city and regional television and on local radio.

FuelWatch is able to:

- give consumers access to the cheapest notified prices for all nominated petrol stations, for each kind and grade of motor fuel on sale the next day;
- give consumers advance notice of any price movement creating greater price transparency;

- give the average daily price for each fuel product as well as the actual prices, allowing a firm buying choice to be made;
- give comparisons of the current day's and next day's prices;
- list those prices by suburb or region;
- give the cheapest or "Best 100" prices for the metropolitan area, and
- give the cheapest or "Best 50" prices for nominated non-metropolitan regional areas serviced by *FuelWatch*.

Since it was established *FuelWatch* has provided daily retail price information for all grades of petrol, diesel and LPG autogas for over 600 petrol stations across the State, which represents nearly 75 per cent of all those in Western Australia.

As at July 2001 411 (or 65 per cent) of the sites subject to price reporting are within the metropolitan reporting area. Table 4 below shows a breakdown of the metropolitan area by 'price setter', that is, those responsible for notifying Consumer Protection of retail price changes.

Table 4 Breakdown of Nature of FuelWatch Price Setters

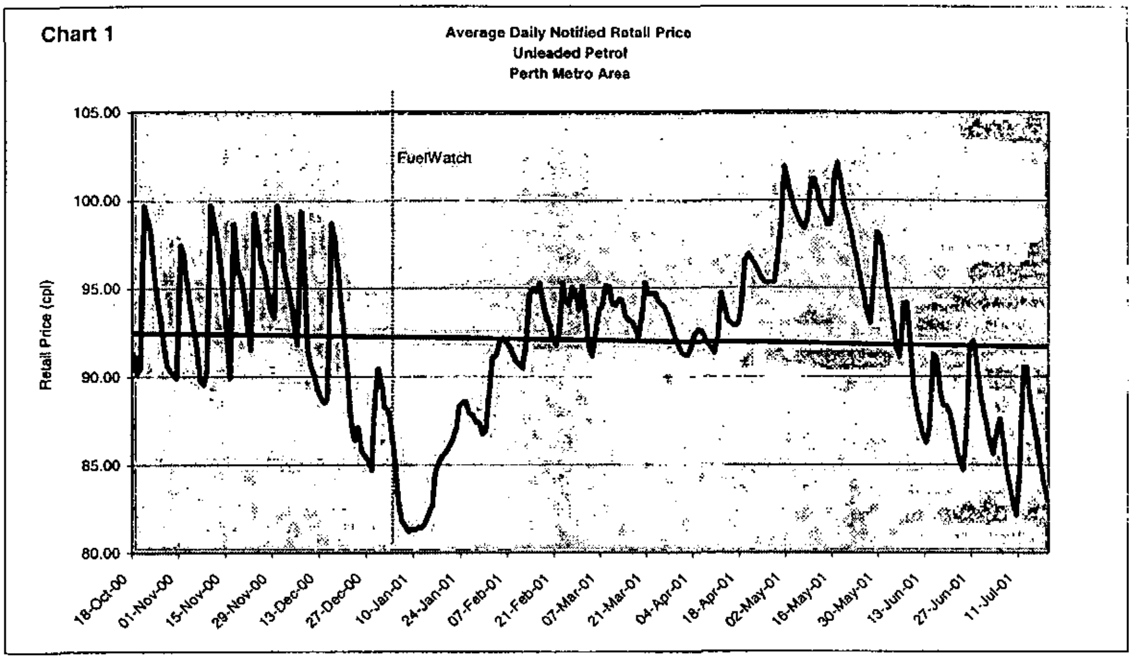
Price Setter	Percentage of Market
Smaller Independent/Unbranded	13%
Major Oil Company (including Multi-Site Franchisees, Commission Agents and Franchisees)	66%
Large Independent retailers	21%

Source: Department of Consumer and Employment Protection, *FuelWatch*, July 2001

FuelWatch has been very well received by motorists, it empowers motorists to deal more effectively with fuel price fluctuations by locating the cheapest fuel prices in both the city and the country. *FuelWatch* provides information on the price cycle giving motorists advance notice of price movements before they take place, this advance notice allows for informed buying decisions. *FuelWatch* makes information widely available allowing more people to take advantage of the bottom of the price cycle or to buy before prices increase. Without access to *FuelWatch* far more people would miss the bottom of the price cycle.

5.1 Effect on average prices, daily price fluctuations and price cycles

It has been argued that average prices increase in a regulated market. However, *FuelWatch* data shows that since monitoring of petrol prices commenced in October 2000 the average price of petroleum products in the Perth metropolitan area has marginally declined. This is reflected in Chart 1 below.



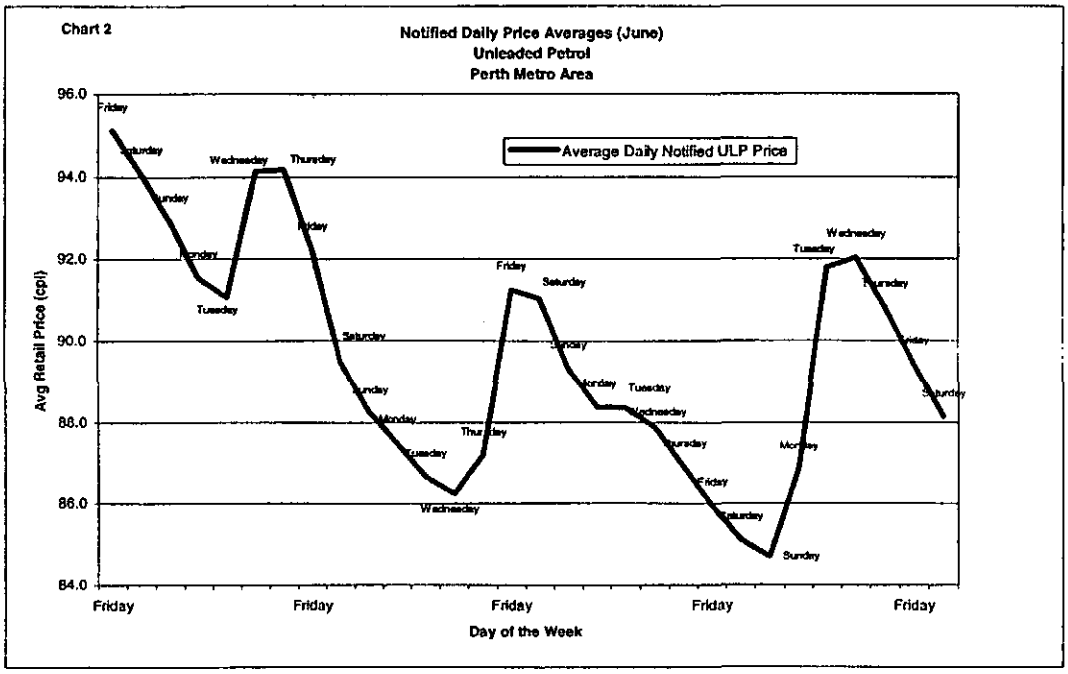
Source: Department of Consumer and Employment Protection, *FuelWatch*, July 2001

Natural price movements have not been restricted by the *FuelWatch* system despite earlier concerns raised by external commentators. Data shows that price movements are similar to price cycles evident before *FuelWatch's* introduction and price minimums in Perth are at levels seen before *FuelWatch*. *FuelWatch* has enabled more Perth motorists to purchase at those minimums and have price certainty in their purchasing decisions. Using *FuelWatch* consumers can pay less than the daily average price.

Addressing daily price fluctuations was the primary concern for the Government in developing its reforms. One of the major frustrations experienced by WA motorists prior to the introduction of the "24-hour" rule and the implementation of the *FuelWatch* system was the constant daily (and regular intra-daily) price fluctuations that meant motorists' could not make informed buying decisions. The aim of the 24-hour rule is to reduce fluctuations in petrol pricing on any given day.

Prior to *FuelWatch*, within half an hour of a major making a significant price movement, most other market participants would make a similar move resulting in consumer frustration. The 24-hour rule forces those retailers who do not notify a changed price to remain at the previously notified price for at least 24 hours. Consumers benefit in that, for at least 24 hours, they can still secure lower prices because the price cycle is extended for at least a day giving consumers that extra time to purchase at the bottom of the price cycle. With sites listed in the "cheapest 100" making up nearly a quarter of the metropolitan sites it highly likely that most motorists are within a reasonable distance from one of those sites.

Price monitoring undertaken prior to *FuelWatch* showed that fuel prices peaked at or just before weekends. Chart 2 below shows that the price cycle now reaches peaks and troughs at different times in the week indicating an increase in the average length of a price cycle which is representative of increased competition. *FuelWatch* data shows that the length of the average price cycle in Perth has increased in duration from 7 working days to 10 working days. This implies that consumers are able to secure petrol at the bottom of the cycle for a longer period (24 hours at least).



Source: Department of Consumer and Employment Protection, *FuelWatch*, July 2001

FuelWatch provides widely available information allowing more people to take advantage of the bottom of a price cycle or to buy before the price increases. Without adequate information or forewarning, the numbers of people who miss the bottom of the price cycle would generally far outweigh the number who secures petrol at this low point.

Independent retailers are generally price followers and not price setters so the regulation to set prices 24 hours in advance places an obligation on these players to price their products more competitively than in a deregulated market. Some independent retailers have expressed opposition to the *FuelWatch* reporting requirement. Despite early concerns that *FuelWatch* would have an adverse impact and potentially lead to the demise of small retail fuel outlets *FuelWatch* statistics show that the number of independent retailers that are presently within the database has remained static.

5.2 Maximum Wholesale Price

The Government has introduced a maximum wholesale price (MWP) initiative designed to increase competition and supply to the State's petroleum markets. *FuelWatch* is used to communicate the daily MWP for motor fuels.

The MWP applies to controlled terminals operated by fuel companies in designated centres. The Prices Commissioner posts on the *FuelWatch* website the MWPs applicable to petrol and diesel motor fuels at metropolitan and country terminals controlled by the current Maximum Wholesale Price Order. The prices posted are calculated in accordance with the formula as set out in the Order.

The MWP applies to new agreements for spot purchase transactions, but does not apply to existing contracts with terminals. Prices are posted on the *FuelWatch* system the day before spot sales may occur at the terminals. This initiative gives un-contracted resellers of motor fuel the opportunity to purchase their supplies at a spot price that does not include post gate services such as delivery, branding and other additions. The Prices Commissioner will not post prices for those days when terminals are not open such as on weekends, public and industry holidays.

The publication of the MWP does not guarantee product will be available for spot sale at the terminals. Wholesale purchasers have to enquire with the terminal operator regarding product supply.

6. RESTRICTIONS ON COMPETITION IN THE PETROLEUM PRODUCTS PRICING AMENDMENT ACT 2000 AND THE PETROLEUM LEGISLATION AMENDMENT ACT 2001

The terms of reference for this review require that the provisions of the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* be analysed in order to determine if they restrict competition. Common types of restrictions on competition by fair trading industry specific legislation include:

- barriers preventing or deterring new entrants into an industry;
- constraints or regulations imposed on businesses and the decisions they are able to make; or
- discrimination between types of firms or consumers.

6.1 General Restrictions

The Division has undertaken a review of the *Petroleum Products Pricing Amendment Act 2000* and the *Petroleum Legislation Amendment Act 2001* and identified the following provisions as potentially restricting competition.

6.1.1 Petroleum Products Pricing Amendment Act 2000 - Amendments to the Petroleum Products Pricing Act 1983 (PPPA)

Objectives of the amending legislation

The overall objective of the amending legislation is to achieve greater transparency in the pricing of petroleum products and greater competition in the marketplace.

Restriction 1: LPG included as a petroleum product

Section 3 of the PPPA has been amended by inserting liquefied petroleum gas (LPG) within the definition of "motor fuel". The PPPA now includes LPG as a petroleum product.

Objectives

The definition of a petroleum product and motor fuel now includes LPG and as a result the PPPA applies to LPG. Consequently a price monitoring process for LPG has been established. This implements the Select Committee's recommendation 8 by providing legislative authority to control LPG pricing.

Since the PPPA was enacted in 1983 the use of LPG as a motor fuel and for domestic purposes (cooking and heating) particularly in rural areas, has increased considerably as a consumer commodity. It is not logical to exclude LPG from falling within the realms of the PPPA when other motor fuels are included.

The Select Committee's findings in relation to LPG marketing and pricing in Western Australia highlighted the degrée of control exerted by one major company. Concerns exist in relation to the market situation. The Select Committee examined obvious discrepancies in the price of LPG between metropolitan and rural areas and were not convinced that many regional areas are able to receive LPG at fair competitive prices.

Nature of Restriction

The objects of the PPPA now apply to LPG.

The PPPA allows the Minister for Consumer Affairs:

- to declare any petroleum product or petroleum service; and
- to establish a prices advisory committee to advise whether petroleum products should be declared under the Act and whether maximum prices should be fixed under the Act.

The PPPA allows the Commissioner for Fair Trading (Prices Commissioner):

- to investigate and report on pricing policies and practices of suppliers and sellers of petroleum products;
- to fix maximum wholesale and retail prices for petroleum products and petroleum services; and
- to designate a terminal as a declared terminal.

Impacts

This legislation impacts on producers, distributors, wholesalers and retailers of LPG, which now falls within the definition of a "petroleum product" and a "motor fuel" for the purposes of the PPPA.

Benefits

- Inhibits the retail price from becoming inflated. The Select Committee's report identified that in Western Australia the LPG market is characterised by the inter-dependent operations of groups identified as producers, distributors, wholesalers/marketers and retailers. Western Australia's LPG market is highly vertically integrated. The duopoly of BP and Kleenheat (Wesfarmers) supplying LPG autogas results in no competition to force prices downward. Capping the maximum price stops exploitation of the price by companies who may take advantage of the lack of competition by charging inflated prices.
- Enables the Prices Commissioner to investigate and report on pricing of LPG. This safeguards consumers from excessive discrepancies between the metropolitan and regional price.
- Protects consumers from paying unnecessarily high prices for LPG, which is an essential commodity for many people.
- Benefits motorists whose expectations are that LPG pricing will be treated in the same way as petrol and diesel motor fuels.
- Creates transparency in the pricing of LPG.
- Promotes an increase in the number of motorists using LPG, a cleaner fuel. This is consistent with Government's planned assistance for motorists to convert to LPG. Greater use of LPG could reduce motoring costs and have significant environmental benefits.

Costs

- There is the potential to create a restriction on the supplier's choice to sell LPG at a particular price should the Prices Commissioner declare that supplier's terminal.
- Introduces costs to Government to administer the Act and monitor the scheme including the cost of staff, premises, vehicles, computers, phones and other administrative costs.
- There is a potential for a maximum price fixed by the Prices Commissioner to become a 'target' or 'floor' price, it then becomes the minimum price that the product can be purchased for. In this situation competition could diminish because all players may charge the maximum price and not choose to charge below that price.

Net Impacts

The new provisions enable the Prices Commissioner to investigate and report on the pricing of LPG and to apply the same requirements to LPG as to other motor fuels. This added protection represents a net benefit to consumers of LPG.

Alternatives

There is a need to increase the number of players in the market place in order to increase competition. However, this is unlikely to happen given the small market for LPG in Western Australia.

To stimulate the LPG market the State Government has developed a strategy, in conjunction with the private sector, to promote the use of alternative fuels. This could provide much needed competition to the traditional petroleum market.

The Select Committee's report suggested further investigation of a divorcement of retail and wholesale operations, also known as industry segregation, and anti-trust legislation, which removes the oil majors from part or all of the retail industry. Divorcement legislation has been adopted in several jurisdictions in the United States of America and, given that the Western Australia's LPG market is highly vertically integrated, the impact of this could be evaluated. However, this is beyond the scope of this review. It is also recognised that oil companies have made significant investment in their retail sites and are likely to strongly oppose this approach.

Recommendation 1:

Given the fact that LPG is a motor fuel, the use of which is on the increase, the price of LPG should be treated in the same way as other motor fuels. It is in the public interest that the legislation should be retained.

Restriction 2: Determination of maximum prices and rates

New subsection 12(2a) has been inserted to give the Prices Commissioner the power to fix the maximum price of motor fuel sold at a particular terminal.

The Prices Commissioner may designate a terminal as a declared terminal. This amendment makes it clear that the Prices Commissioner can select terminals that then become "declared terminals" and fix the price at which motor fuel is sold at those terminals.

Objectives

The Select Committee's report identified that the major oil companies dominate the refining, distribution and retailing of petroleum in Western Australia. The petroleum industry is highly vertically integrated through multi-site franchising arrangements for retailing. The major oil companies also have substantial equity at the distribution level. Independent retailers see the system of petrol pricing as uncompetitive because the oil companies manipulate it.

The gap between country and city prices has widened since controls were deregulated. People living in regional areas are seen as significantly disadvantaged. The Select Committee found that country motorists paid considerably more for their fuel and this is due principally to high wholesale costs and not because of retailers' margin, higher freight costs or lower volume sales.

It is perceived that introduction of a true Terminal Gate Price system, which would provide bulk fuel supplies at the same wholesale price to any purchaser intending to on-sell fuel, would introduce competitive forces needed in the industry. This provision implements the Select Committee's recommendation 7 to establish a true Terminal Gate Price system.

The objective is that, on any day, major petroleum companies engaged in wholesaling fuel from a terminal must provide and advertise one open and accountable price which will be available to all market participants engaged in reselling. The legislation has allowed the *FuelWatch* system of price notification and monitoring to be established. The Prices Commissioner calculates the Maximum Wholesale Price (MWP) for each product type and posts this daily on the *FuelWatch* website.

The legislation does not fetter the Prices Commissioner's discretion on matters to be taken into account when fixing a MWP. The Prices Commissioner may take into account a range of factors, including the operational costs of the terminals and information obtained from petroleum companies and other sources, in order to ensure the lowest possible maximum price is set. From 1 June 2001 the Petroleum Products Pricing (Maximum Wholesale Price) Order Number 3 became applicable to the setting of maximum wholesale prices for the following motor fuels:

- Regular Unleaded Petrol
- Premium Unleaded Petrol
- Lead replacement Petrol
- Diesel Fuel

The Prices Commissioner closely monitors the impact of the MWP on the market and the formula used to calculate the MWP is to be reviewed in conjunction with industry stakeholders.

The Select Committee reported that viable rural cooperatives similar to that developed and operated by Farmers Fuel and to those in the United States, could be a *useful mechanism to help with the survival of retail fuel suppliers in small* country towns and should be supported. A true TGP system would be of immense benefit to such Cooperatives through lower wholesale prices and would also benefit other industry groups such as civil contracting companies, trucking and bus fleets.

Nature of Restriction

Subsection 12(2a) creates a restriction on the supplier's choice to sell at a particular price.

Impacts

Impacts on terminal operators who are usually major oil companies.

Benefits

- Capping the maximum price stops exploitation of the price by companies who may take advantage of the lack of competition by charging inflated prices.
- Protects consumers from paying unnecessarily high prices for fuel, which is seen by a majority of people as an essential commodity.
- Benefits resellers including those who wish to make "spot purchases" at the terminal without the need to enter into term contracts.
- Prevents market manipulation by price in favour of oil company sites, multi-site franchises or any other dominant player.
- Provides a greater degree of certainty in the market and promotes competition.

Costs

- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.
- Creates a restriction on the supplier's choice to sell at a particular price.

- Creates a potential for a maximum price fixed by the Prices Commissioner, to become a 'target' or 'floor' price, the minimum price for which that product can be purchased. In this situation competition could diminish because all players may choose not to charge below the maximum price.
- Creates the potential for wholesalers to refrain from supplying the market if a maximum wholesale price is set too low. Conversely, if the wholesale price is set too high, it will have little impact on retail prices.
- Introduces the possibility of excessive profits by the major oil companies. If the price is fixed too high terminal owners will receive windfall profits they would not normally get.

Net Impacts

Legislation allowing the Prices Commissioner to fix the maximum price for the sale of motor fuel at a declared terminal prevents market manipulation and provides a greater degree of certainty in the market, which can promote competition.

The maximum price and the terminals to which that price applies is published by the Prices Commissioner and is then kept under constant review to take account of any changes in world oil prices and other relevant factors.

The Government believes that the fixing of the maximum price for motor fuel will deliver a net benefit to the community.

Alternatives

An alternative would be to allow the oil companies to determine their own prices without any price control mechanism in place. However, the maximum wholesale price for petroleum products has not been monitored by the ACCC since 1998 and the Select Committee reported that since fuel price control in Western Australia ceased in 1993, competition in the petroleum retail market has been limited principally to the metropolitan area. During that time the gap between country and city prices has widened.

Recommendation 2:

Given the major benefits and lack of viable alternatives, it is recommended that the legislation allowing the Prices Commissioner to fix the price at which motor fuel is sold at a declared terminal be retained.

Restriction 3: Declared Terminals

New section 22A(2) has been inserted to allow the Prices Commissioner to make an order designating a terminal as a declared terminal for the purposes of Division 1.

Objectives

Section 22A(1) of the PPPA defines a terminal as 'a place at which motor fuel any of which a supplier intends to supply to resellers is held'. Once designated by the Prices Commissioner as a "declared terminal", certain requirements are placed on the supplier at that terminal.

Nature of Restriction

Specific requirements under other sections of the PPPA come into force once the terminal is designated as a declared terminal.

Impacts

This impacts on suppliers of motor fuel from a declared terminal.

Benefits, Costs, Net Impacts and Alternatives

Benefits, costs, net impacts and alternatives that arise due to requirements within the legislation once a terminal has been declared are discussed within each of those restrictions (see Restrictions 4 - 10).

Recommendation 3:

See recommendations 4-10.

Restriction 4: Prices at terminal to be displayed and Commissioner notified of changes

Section 22B requires a supplier who supplies motor fuel from a declared terminal to, clearly and legibly, display the wholesale price at which each kind of motor fuel is offered for sale. This requirement applies where the sale is to any reseller who is not the subject of any existing agreement or arrangement affecting price and who takes delivery of the fuel from the terminal.

Section 22B (3) requires that whenever the wholesale price to be displayed is changed the supplier must notify the Prices Commissioner of the new price.

Objectives

The major objective is to provide for transparency of pricing of motor fuel. The legislation enables *FuelWatch* to be used to communicate the daily maximum wholesale price (MWP) for motor fuels. Using *FuelWatch* resellers and purchasers of bulk fuel supplies have access to wholesale fuel prices on offer from declared fuel terminals statewide. This information assists resellers, including uncontracted retailers, to forward price their products at the retail level by having prior knowledge of the wholesale price for their products.

Nature of Restriction

A supplier of motor fuel from a declared terminal is required to clearly and legibly display the wholesale price of each kind of motor fuel offered for supply from that terminal. Also whenever the price is changed the supplier is required to notify the Prices Commissioner of the price change. Suppliers notify their prices to the Prices Commissioner using the *FuelWatch* price reporting service either via the Integrated Voice Response (IVR) telephone service or the Internet website.

Impacts

Impacts on suppliers of motor fuel for resale from the declared terminal and on purchasers of fuel from that terminal.

Benefits

- Allows intending purchasers to identify the price of each kind of motor fuel and then to compare prices with those at other declared terminals. This provision promotes competition between terminals and encourages more competitive pricing by suppliers.
- Improves the transparency of wholesale prices.

Costs

- Imposes a minimal cost to suppliers to display prices. This cost is usually the cost of a signboard.
- Imposes a minimal cost for suppliers to notify price changes to the Prices Commissioner.

- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.

Net Impacts

Displaying the price and notifying a change to prices of motor fuel delivers major benefits, the most important of which is the introduction of transparency of pricing. There are minor costs and therefore this provision represents a **net benefit** to purchasers of motor fuel from declared terminals.

Alternatives

There are no viable alternatives to the mandatory displaying of prices, which would deliver the same level of transparency in pricing of petroleum products with the potential to encourage competitiveness in pricing, at a lower cost.

Recommendation 4:

Given the benefits and lack of alternatives, it is recommended that the requirement for suppliers at declared terminals to display the price of each kind of motor fuel, and to notify the Prices Commissioners of any price change be retained.

Restriction 5: Previous month's average price to be displayed

Section 22C requires that in addition to displaying the wholesale sale price, a supplier is also required to clearly and legibly display adjacent to that price an average weighted price for each kind of motor fuel supplied from the terminal in the preceding month, calculated in accordance with the regulations.

Objectives

To provide for transparency of pricing of petroleum products, which is one of the main objectives of the PPPA.

Nature of Restriction

Suppliers of motor fuel from declared terminals will have to calculate the average weighted prices of each type of motor fuel for the preceding month and then display those prices alongside the current price.

Impacts

Impacts on suppliers of motor fuel for resale from the declared terminal and on purchasers of fuel from that terminal.

Benefits

- Allows for better price transparency and enables purchasers of motor fuel to compare the current prices with the average weighted price for the preceding month. Purchasers can then query any price differential.
- Purchasers can also compare the actual price paid by them for fuel the preceding month with the average weighted price for that fuel.

Costs

- Imposes a moderate administration cost to suppliers at declared terminals in order to calculate the average weighted price for each motor fuel for the preceding month and to display those prices.
- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.

Net Impacts

Creates transparency of pricing, which benefits purchasers and could promote competition at only a moderate cost to suppliers.

Alternatives

There are no adequate alternatives to the calculating and displaying of average weighted prices which would deliver the same level of transparency in pricing, and have the potential to encourage competitiveness in pricing at a lower cost.

Recommendation 5:

Given the public interest benefits and lack of alternative measures, it is recommended that the requirement for suppliers at declared terminals to calculate the average weighted prices of each type of motor fuel for the preceding month and then display those prices alongside the current price be retained.

Restriction 6: Maximum price to be displayed

Section 22D provides that if the Prices Commissioner has fixed the maximum wholesale price at which motor fuel can be supplied from a declared terminal, under section 12, then a supplier must clearly and legibly display that price at the terminal.

Objectives

To allow intending purchasers to identify that the Prices Commissioner has fixed a maximum wholesale price for a particular terminal and what that price is.

Nature of Restriction

Places a requirement on the supplier to display at the terminal the maximum wholesale price fixed by the Prices Commissioner for that terminal.

Impacts

Impacts on suppliers of motor fuel from the declared terminal and on purchasers of fuel from that terminal.

Benefits

- Allows intending purchasers to clearly identify the maximum wholesale price at which the declared terminal can supply motor fuel.
- Allows a purchaser to compare the current price for a particular motor fuel with the maximum set by the Prices Commissioner.

Costs

- Imposes a minimal cost to suppliers to display prices, normally the cost of a signboard.
- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.

Net Impacts

Displaying the maximum price delivers benefits with minimal costs and represents a net benefit to purchasers of motor fuels from declared terminals.

Alternatives

There are no adequate alternatives which would deliver the same level of transparency in pricing, and have the potential to encourage competitiveness in pricing, at a lower cost.

Recommendation 6:

Given the public interest benefits and lack of alternative measures, it is recommended that the requirement for suppliers at declared terminals to display the maximum wholesale price fixed by the Prices Commissioner for that terminal be retained.

Restriction 7: Price to be compared to maximum price fixed

Section 22E requires that if the price is for the supply of a kind of motor fuel from a declared terminal, which has been fixed by an order made by the Prices Commissioner under section 12, then the supplier is required to show both the price at which the fuel is supplied and the maximum price fixed by the Prices Commissioner in an invoice.

If the declared terminal from which the fuel is supplied is not subject to a maximum price fixed by the Prices Commissioner under section 12, but a maximum price has been fixed for another terminal, then the supplier is required to show in an invoice the displayed price and the maximum price fixed by the Commissioner for that other terminal. If the displayed price exceeds the maximum price fixed for the other terminal, details of the components of the displayed price must be given by the supplier to justify the difference.

Where a maximum price has been fixed by the Prices Commissioner for two or more other terminals, the supplier at the terminal which is not subject to a maximum price order may choose between those other terminals which maximum price to show in the invoice. This is subject to any direction made by the Commissioner.

Where a supplier is required under this section to show details of any price difference in an invoice, the supplier must provide the Prices Commissioner with these details.

Objectives

To provide for transparency of pricing of petroleum products, this is one of the main objectives of the PPPA.

Nature of Restriction

Suppliers of motor fuel from declared terminals will have to show both the price at which fuel is supplied (the displayed price) and the maximum price fixed by the Prices Commissioner in an invoice.

Suppliers of motor fuel from declared terminals not subject to a maximum price order are required to show in an invoice the displayed price and the maximum price set for another terminal. Then, if the displayed price exceeds the maximum price for the other terminal, suppliers must further show any details as to the difference between those prices both in an invoice and to the Prices Commissioner.

Impacts

Impacts on suppliers of motor fuel for resale from the declared terminal and on purchasers of fuel from that terminal.

Benefits

- Purchasers of motor fuel will benefit from having a breakdown of the price, which will enable them both to clearly, identify price differences and how those differences are made up and to make informed decisions about which terminal to buy from. This in turn could promote competition between terminals.
- Restrains terminal operators from imposing unjustified margins on prices.

Costs

- Imposes a high to moderate initial cost to suppliers who may have to upgrade computer software in order to produce invoices that will include the extra information required.
- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.

Net Impacts

Creates price transparency with little or no restriction on competition.

Alternatives

There are no adequate alternatives that would deliver the same level of transparency in pricing, and have the potential to encourage competitiveness in pricing, at a lower cost.

Recommendation 7:

The requirements deliver moderate benefits with moderate costs, but with an overall public interest benefit that outweighs the costs and gives a net benefit. It is therefore recommended that the legislation be retained.

Restriction 8: Information that supplier is to provide

New section 22F provides that where a supplier from a declared terminal sells or offers to sell motor fuel for a price, a component of which is for –

- delivery of the fuel;
- use of a brand name;
- provision of credit; or
- anything else associated with the sale of the fuel -

the supplier must provide, in writing, details of the amount for each component to a person reasonably requesting that information.

Section 22F(2) requires the supplier to include the above details in an invoice for any sale for a price that includes any of those components.

Section 22F(3) provides that a supplier is also required to provide to a person reasonably requesting it, any other information which the supplier is required under Division 1 either to display at the place of sale or disclose in an invoice.

Objectives

To provide for transparency of pricing of petroleum products, which is one of the main objectives of the PPPA. This provision is intended to provide prospective purchasers with the opportunity to ascertain all relevant pricing information before making a decision to purchase fuel from a supplier.

Nature of Restriction

The supplier must provide, in writing, details of the amount for each price component and provide any other information the supplier is required to display at the place of sale or disclose in an invoice, to a person reasonably requesting that information. The supplier must also include details of those components in an invoice for any sale.

Impacts

Impacts on suppliers of motor fuel for resale from the declared terminal and on purchasers of fuel from that terminal.

Benefits

- Provides benefits to potential purchasers of motor fuel who will benefit by having a full breakdown of the price that will enable them to both clearly identify price differences and to make informed decisions about which terminal to buy from. This in turn promotes competition between terminals.

- Provides a record to purchasers of all price components in an invoice that they could use for future comparisons.

Costs

- Imposes a high to moderate initial cost to suppliers who may have to upgrade computer software in order to produce invoices that will include the extra information required.
- Imposes a minimal cost in providing details in writing to potential purchasers.
- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.

Net Impacts

Creates price transparency with little or no restriction on competition and gives a **net benefit.**

Alternatives

There are no adequate alternatives that would deliver the same level of transparency in pricing, and have the potential to encourage competitiveness in pricing, at a lower cost.

Recommendation 8:

The requirements deliver moderate benefits with moderate/minimal costs, but with an overall public interest benefit that outweighs the costs. It is therefore recommended that the legislation be retained.

Restriction 9: Obligation to supply from declared terminal

Section 22G provides that where a reseller or a prescribed person demands to be supplied with motor fuel from a declared terminal and tenders payment at the price for which motor fuel is offered for sale, that reseller or prescribed person shall be supplied the motor fuel, unless the supplier has good reason for refusing the supply and gives the reseller or prescribed person notice in writing of that reason.

Section 22G(2) provides that a person who is refused supply may apply to the Prices Commissioner for a decision on whether there was a proper refusal.

Section 22G(3) provides that where the Prices Commissioner decides that the supplier improperly refused to supply the person with motor fuel, then the Commissioner may order the supplier to pay compensation to that person, including an amount for the cost of the application.

Section 22G(4) provides for a compensation order of the Prices Commissioner to be enforced in the Local Court as if it were a judgment or order of that Court.

Objectives

Allows a potential purchaser access to motor fuel at the maximum price fixed by the Prices Commissioner, or at the displayed price if that price is lower than the maximum price fixed by the Prices Commissioner. Also allows a potential purchaser who is refused supply to apply to the Prices Commissioner to review the decision and to award compensation if no good reason is found. A compensation order made by the Prices Commissioner can be enforced in the local court.

Nature of Restriction

Obligates a supplier to supply motor fuel for the price at which it is for sale when a request is made and payment tendered. Otherwise the supplier must give good reason in writing for refusing the sale.

Impacts

Impacts on suppliers of motor fuel for resale from the declared terminal and on potential purchasers of fuel from that terminal who have been refused supply.

Benefits

- Prevents suppliers from refusing to supply without good cause and so allows resellers greater access to fuel at the posted price in bulk purchase particularly when prices are cheaper. Access to cheaper priced motor fuel by resellers will reflect in the retail price, which will benefit consumers.
- Creates an affordable dispute resolution process.

Costs

- Removes a trader's rights to decide whom to sell to and so may restrict business freedom.
- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.

Net Impacts

The requirements deliver moderate benefits with low to moderate costs, but with an overall public interest, which gives a net benefit.

Alternatives

There is no viable alternative to these requirements. There is a need for a scheme with measures to prevent suppliers from refusing to sell at the notified price, and with the means to resolve disputes without costly court action.

Recommendation 9:

The requirements deliver moderate benefits with moderate costs, but with an overall public interest, which outweighs the costs. It is therefore recommended that the provision be retained.

Restriction 10: Retail sale – Regulations to require retailers to display prices

New section 22I provides that regulations may be made requiring a person offering motor fuel for retail sale to display the standard price at which each kind of motor fuel is offered for sale, so as to be clearly visible to passing motorists.

Objectives

This provision implements the Select Committee's recommendation 13 (part) to provide for transparency of pricing of petroleum products, which is one of the main objectives of the PPPA. This provision is intended to allow prospective purchasers the opportunity to ascertain the price and to shop around before making a purchase of motor fuel from a retailer.

The Select Committee found that lack of price signboards was a matter of considerable concern in the community, especially in Albany where few, if any, retailers advertise their prices. The display of adequately sized price boards at every retail outlet is seen as a priority to ensure greater consumer choice and to foster healthy retail competition.

Nature of Restriction

This provision will place a requirement on a retailer to display the price of each kind

Impacts

Impacts on certain retailers who have not already displayed fuel prices and on consumers of motor fuel.

Benefits

- Consumers will benefit from transparency in pricing.
- Creates uniformity in the displaying of fuel prices at retail sites throughout Western Australia.
- Encourages competition between retailers who will know what competitors are charging. If the price of petrol is more visible due to the use of prominently located price signboards there is greater incentive to discount when demand declines.

Costs

- Imposes a minimal cost to retailers to display prices, usually the cost of a signboard. This will impact mainly on retailers in selected regional centres because most retailers in the metro area already display fuel prices.
- Introduces costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.

Net Impacts

This requirement delivers moderate benefits with minimal costs and with little or no restriction on competition, but with an overall public interest, which gives a **net benefit.**

Alternatives

These restrictions deliver a net benefit to the community in the form of price transparency and have the potential to encourage competitiveness in pricing. There are no other viable alternatives that deliver greater net benefits and as such, they should be retained.

Recommendation 10:

Given that the requirement delivers public interest benefits, and considering the lack of alternatives, it is recommended that the legislation be retained.

Restriction 11: Retailer to notify change of price

New section 22J which makes it an offence for a person to offer motor fuel for retail sale at a price that is different from the price at which the motor fuel was last offered for sale before that day unless:

- the person has notified the Prices Commissioner of the new price the preceding day; and
- the price at which the motor fuel is offered for retail sale is the most recent price notified to the Commissioner.

Section 22J(3) provides that the regulations may make provision for the time at which and the manner and form in which the notification may be made.

Objectives

This provision implements the Select Committee's recommendations 2 and 13 (part) to require retail sites to advertise and charge only one price for each fuel product daily and to implement a system whereby consumers can access daily retail prices. The intention of this provision is to prevent a retailer making more than one price change per day and also to require a retailer to give prior notification to the Prices Commissioner of any change in the price at which motor fuel is offered for sale.

Prior to the introduction of this amendment fuel prices were fluctuating wildly and sometimes changing several times in one day. The legislation is intended to ensure that the declared price remained stable each day. The requirement for retailers to notify the retail prices of each type of fuel to the Prices Commissioner enables the Prices Commissioner to publish those prices on *FuelWatch* for the information of consumers. The objective is to reduce price volatility and deliver greater price certainty to consumers by assisting them to make informed decisions about where and when to buy their fuel.

The *FuelWatch* service gives consumers advance warning when prices start to rise and also lists the best buys that are under the average retail price. Fuel stations that are not competitive lose volume thereby maintaining a healthy level of competition.

Whilst consumers may be unable to change or understand import parity pricing policies or the national taxation regime they will be able to save money at the retail level by using the *FuelWatch* system. There is likely to be more stability in prices which would benefit those consumers who are disadvantaged by price fluctuations. It also enables consumers to secure prices below the average retail price.

After this legislation was enacted the oil companies discovered a loophole that enabled retailers to shift between the nominated price and the price at which fuel was last sold on the previous day. This loophole has since been closed (see Restriction 15).

Nature of Restriction

The intention is to restrict retailers to charging one price per day for each type of motor fuel. The regulations require retailers to notify the Prices Commissioner of the next days price for each type of fuel to be sold before 2.00 PM, by using telephone or e-mail. The notified price is published from 5.00 PM daily and becomes effective from 6.00 AM the following day.

Impacts

Impacts on retailers and consumers of motor fuel.

Benefits

- Enables the Prices Commissioner to publish motor fuel prices on the Internet via the *FuelWatch* website which creates greater price transparency.
- Eliminates wild fluctuations in prices that have made it difficult for consumers to shop around and eliminates some confusion about price changes.
- Provides consumers with access to information on motor fuel prices thereby creating consumer power.
- Gives consumers 13 hours prior notice of the next day's fuel prices.
- Enables consumers to use the fuel price data to seek out the lowest available prices and to make informed decisions about where and when to buy their fuel.
- Enables consumers to have access to the cheapest notified prices and make purchases at below the average retail price.
- Enables consumers to understand the price cycle enabling consumers to purchase fuel at the lower points of the cycle. Changes in demand patterns may have discouraged the oil companies from increasing or decreasing prices to the same degree during the price cycle thus causing the price fluctuations to be dampened.
- Enables consumers through *FuelWatch* to seek out and purchase from those retailers who have not yet notified a changed price at a time when other retailers have increased prices. This enables consumers to secure fuel for at least another 24 hours at the lower price.
- Encourages competition between retailers who now know competitors pricing levels, this encourages retailers to price their products more competitively. Fuel retailers that are not competitive lose volume – maintaining a healthy level of competition.

- Enables retailers to use *FuelWatch* to monitor competitors pricing levels. This can assist oil companies and independent retailers in pricing decisions. By obtaining their competitors prices they can make a balanced decision on how to price their products the following day.
- Benefits competitive retailers who through the *FuelWatch* education campaign will have their retail site broadcast on commercial television during prime time viewing at no cost to them. This marketing potential can encourage retailers to offer low prices in return for increased volume of fuel sales and increased sales of ancillary products.

Costs

- Introduced high establishment costs to Government for the *FuelWatch* Interactive Voice Response (IVR) System. Once established the ongoing costs to run the IVR System are low. The IVR System was set up mainly to benefit people in rural areas who do not have access to email. There are also other costs to Government to administer the Act and monitor the scheme, including the cost of staff, premises, vehicles, computers, phones and other administrative costs.
- Imposes minimal administration cost to retailers to report prices to the Prices Commissioner.
- Restricts a retailer's ability to respond quickly to prices charged by competitors, retailers who do not notify a changed price must remain at the previously notified price for at least 24 hours.
- By dampening price fluctuations, the ability of some consumers to purchase fuel at very low (but usually short-term) prices would be removed.

Net Impacts

The requirements deliver some stability in pricing with minimal costs, but with an overall public interest, which gives a net benefit.

Alternatives

An alternative to regulation would be to list cheap price locations, however this is flawed unless prices are fixed. If regulation is not imposed, consumers informed about retail outlets offering cheap fuel may arrive only to find the actual prices have been changed and are higher than notified. This would lead to increased consumer frustration.

Another alternative is to limit price increases to only a certain amount each day. A perceived benefit could be the removal of irregular, but large price hikes from one day to the next. In order to monitor price movements and ensure that retailers never increase prices by more than an allowed amount, retailers would have to report their starting prices and possibly report their daily price changes. This would impose a significant burden on retailers if they were required to report on prices more than once per day adding to operating costs and retailer frustration. Imposing a limit on price rises, however, will discourage oil companies from discounting to the levels motorists have witnessed since *FuelWatch* was established. The market is unlikely to reach the low levels that it currently does and this is likely to result in higher average prices that would disadvantage motorists.

Consumers have become accustomed to, and appreciative of, fixed prices. A system of limiting price rises will mean a backward move to daily price fluctuations. Although consumers can still be subject to large price increases they can avoid these price hikes by checking the *FuelWatch* service and making a purchase in advance of the increase.

It has been argued that average prices increase in a regulated market. However, *FuelWatch* data indicates that since monitoring of petrol prices commenced in October 2000 the average price of petroleum products in the Perth metropolitan area has marginally declined.

There are no viable alternatives that would deliver the same level of stability in pricing, and have the potential to encourage competitiveness in pricing, at a lower cost.

Recommendation 11:

As the public interest benefits outweigh the minimal costs to retailers, it is recommended that the legislation be retained. The *Petroleum Legislation Amendment Act 2001* (PLAA) has since been passed through Parliament in July 2001. An amendment within the PLAA repealed Section 22J, to close a loophole which had allowed retailers to revert to the previous days notified price (see Restriction 15).

Restriction 12: Power of Commissioner to obtain information

The Prices Commissioner requires a level of essential information in order to perform continuous monitoring of wholesale and retail prices of petroleum products. Section 27A gives the Prices Commissioner the power to require a person to provide information for the purposes of the Act without the need to commence an inquiry or investigation under the Act.

Section 27A(2) provides that the Prices Commissioner may give written notice to a person requiring the person to provide, within a specified time, such particulars as are specified in the notice.

Section 27A(3) provides that the notice may require that the information to be furnished be verified by statutory declaration.

Objectives

This enables the Prices Commissioner to obtain any information he believes is necessary to carry out his functions and duties under the PPPA, including the fixing of a maximum price under section 12. Previously, the Act only allowed the Prices Commissioner to require a person to provide information for the purpose of an inquiry or investigation under the PPPA.

Nature of Restriction

Requires any person engaged in the sale or supply of a petroleum product to furnish the Prices Commissioner with any information requested relating to petroleum products.

Impacts

Potentially this impacts on any person engaged in the sale or supply of a petroleum product.

Benefits

- Assists the Prices Commissioner in enforcing the PPPA by granting increased monitoring powers. There is potential for the Prices Commissioner to have access to pricing information held by industry participants.
- Enables the Prices Commissioner to access comprehensive information required in order to fix maximum prices.

Costs

- Imposes a potential minor cost to any person receiving a request from the Prices Commissioner to produce information. Any increase in administrative costs resulting from a request for information could be passed on to consumers within the price of the petroleum product. Any such cost to industry and consumers would be minimal.

Net Impacts

These sections and sub-sections deliver a moderate benefit with a negligible cost and as such are considered to deliver a net benefit to the community.

Alternatives

There are no alternatives that would result in the Prices Commissioner readily gaining the same level of information, which is required to allow the Prices Commissioner to properly administer the PPPA.

Recommendation 12:

The Prices Commissioner requires a level of essential information in order to perform continuous monitoring of wholesale and retail prices of petroleum products.

On balance, given the low nature of the cost to industry and the potential public benefits, it is recommended that the requirements to furnish the Prices Commissioner with any information requested relating to petroleum products be retained.

6.1.2 Petroleum Legislation Amendment Act 2001 - Amendments to the Petroleum Retailers Rights and Liabilities Act 1982 & Petroleum Products Pricing Act 1983

The *Petroleum Legislation Amendment Act 2001* is split into three parts. Part 1 deals with the short title, citation and commencement date. Part 2 deals with amendments to the *Petroleum Rights and Liabilities Act 1982 (PRRLA)* which provides for the right to purchase 50 per cent of petroleum products from other than the Primary Supplier.

Part 3 is the part of the Act amending Section 22H and 22J of the *Petroleum Products Pricing Act 1983 (PPPA).* Section 22H of the PPPA amends the definition of motor fuel to include "brand" as an element as well as each different grade. Section 22J is to be repealed and a new section 22J inserted that provides for regulations to be made to require retailers to nominate standard retail prices for the different kinds of motor fuel for a period fixed by the regulations.

This amendment was necessary to close a "loophole" that currently enables retailers to switch between the nominated price required under Section 22J and the price at which fuel was last sold on the previous day.

The majority of amendments to the PRRLA do not impose any new restrictions or requirements but simply correct a legal oversight identified by the Supreme Court in the BP v Dragoon Holdings Pty Ltd case (see 7.1.3 BP Australia v Dragoon Holdings Pty Ltd).

The provisions within the PRRLA give retailers the right to purchase up to 50 per cent of fuel supplies from sources other than contracted petroleum company franchisor/landlords, and give retailers better bargaining capacity which may promote competition. Under the Amendment Act these rights will also apply to all retailers and not just to franchisees.

The ability of retailers to shop around is perceived as the key to driving prices down by increasing price competition in the wholesale market. Without this provision, it is believed, no incentive exists for wholesalers to reduce their prices if price reduction results in a drop in profit margins and no additional volume sold.

Petroleum Retailers Rights and Liabilities Act 1982

Restriction 13: Interpretation

Clause 5 amends a number of definitions within Section 3 and inserts some new ones. However, only the new definition for motor fuel imposes a restriction.

Objectives

The definition of a petroleum product and motor fuel now includes LPG so that the PRRLA applies to LPG. This implements recommendation 9 of the Select Committee.

Since the PRRLA was enacted in 1983 the use of LPG as a motor fuel and for domestic purposes (cooking and heating) has increased considerably. It is not logical to exclude LPG from falling within the realms of the PRRLA when other motor fuels such as petrol and diesel are included.

Nature of Restriction

A provision in an agreement requiring a retailer to purchase 100 per cent of the retailer's fuel requirements from a particular supplier, will be made subject to a statutory right of the retailer to purchase up to 50 per cent of his or her fuel requirements from other suppliers. This will prevent a supplier from entering into a franchise or other supply agreement with a retailer that requires the retailer to purchase 100 per cent supply of LPG from any particular supplier.

Impacts

Impacts on suppliers and retailers of motor fuel.

Benefits

- Gives retailers the right to purchase up to 50 per cent of supplies from sources other than the primary supplier. This gives retailers the opportunity to shop around for 50 per cent of fuel supplies, with any cost savings being passed on to consumers.
- Puts pressure on franchisors to ensure they supply franchisees at competitive prices thereby leading to greater competition at the wholesale and retail level.
- Restricts the ability of major oil companies to misuse marketing power to force retailers to accept one price.
- Limits the ability of suppliers to use discriminatory pricing to favour certain retailers.

Costs

- Restricts business freedom of suppliers on the contract terms that can be agreed between the supplier (franchisor) and the retailer (franchisee).
- The franchise system allows small businesses to enter into a business (franchise agreement) without outlaying huge set up costs. Major oil companies may not wish to invest in a fuel site if they cannot enter into exclusive supply contracts. This may make franchising, as a marketing method, unattractive or not viable. This in turn may discourage entry into the industry at the retail level, so could deprive small business of the opportunity to enter into a franchise contract.

Net Impacts

The amendment should increase competition at the wholesale level, this increase in competition should flow on to retail prices. The potential costs are moderate but the benefits are high, thus producing a net benefit.

Alternatives

There are no viable alternatives that can achieve similar benefits. Major producers dominate the wholesale market, they are able to exercise control at the retail level by controlling the wholesale price at which they sell to franchisees, and given the size of the Western Australian wholesale market, it is unlikely that new producers will enter the market place.

Recommendation 13:

The potential public benefits of the amending legislation outweigh the costs and the amendments should be retained.

Petroleum Products Pricing Act 1983

Restriction 14: Definitions

Clause 18 amends Section 22H of the PPPA by inserting a new definition of "kind of motor fuel" that includes "brand" as an element, as well as each different grade.

Objectives

This is a consequential amendment to the introduction of the "50/50" rights within the PRRLA and is to cover the situation where a retailer may have two different brands of the same type or grade of motor fuel being sold from his site.

In those circumstances, the retailer would have to nominate prices for each of the brands.

If such an amendment were not made, then the retailer would only be able to nominate a single price for the different brands notwithstanding that he may be selling them at different price.

Nature of Restriction

Places a further requirement on the retailer to nominate prices for each of the brands of motor fuel for sale. It therefore extends the requirements within Section 22J of the PPPA so that they also apply to different brands of motor fuel. The restrictions imposed by Section 22J have already been identified within Restriction 10 of this report.

Impacts

Impacts on retailers and consumers of motor fuel.

Benefits

- Consumers benefit from transparency in pricing which means that consumers have more choice about the brand of fuel they wish to buy and the price they pay.
- Retailers who acquired one brand at a cheaper price than another may pass on some of that saving in the form of a cheaper retail price.

Costs

- There will be a cost to Government to make software changes to the IVR System and changes to the *FuelWatch* website. There are also costs to Government to administer the Act and monitor the scheme including the cost of staff, premises, vehicles, computers, phones etc.

- Imposes minimal administration costs to retailers to report prices of each brand of motor fuel to the Prices Commissioner.

Net Impacts

Creates price transparency with little or no restriction on competition and so delivers a net benefit to the community.

Alternatives

There are no viable alternatives that would deliver the same level of transparency in pricing, and have the potential to encourage competitiveness in pricing, at a lower cost.

Recommendation 14:

Given the net benefits and lack of alternatives, it is recommended that the requirement for retailers to nominate prices for each of the brands of motor fuel for sale be retained.

Restriction 15: Retailer to notify change of price

Clause 19 repeals Section 22J and inserts a new section 22J that provides for regulations to be made to require retailers to nominate standard retail prices for the different kinds of motor fuel for a period fixed by the regulations.

Objectives

The current legislation requires retailers to nominate standard retail prices, but due to a "loophole" in the legislation they are not required to move to the nominated price. Furthermore, retailers can switch between their nominated price and the previous day's price during the day.

It is necessary to close the loophole that currently enables retailers to shift between the nominated price required under Section 22J and the price at which fuel was last sold on the previous day.

It is intended to close the loophole and to provide greater flexibility to respond to changes in market behaviour by creating a regulation making power to control price nomination arrangements.

Nature of Restriction

This amendment does not introduce a new restriction. The current Section 22J has already been considered at Restriction 11.

The amendment will close a loophole that currently exists by requiring retailers to sell fuel at the price notified to the Prices Commissioner. This amendment simply corrects a technical deficiency and does not create any new restrictions over and above those already discussed earlier in relation to Section 22J of the PPPA, within Restriction 11.

Impacts

Impacts on retailers and consumers of motor fuel.

Benefits

- See benefits already discussed within Restriction 11.
- Will restore consumer's confidence about the accuracy of price information recorded by *FuelWatch*. The prices the consumer sees will be the price that they pay. In the event of a discrepancy, consumers can feel confident that their complaint will be investigated and appropriate action taken under disciplinary provisions within the *PPPA*.

Costs

See costs already discussed within Restriction 11.

Net Impacts

The amendment ensures that the price recorded by *FuelWatch* is the price consumers can expect to pay and will remove some confusion experienced by motorists.

Alternatives

There are no viable alternatives that would deliver the same public benefits.

Recommendation 15:

As the public interest benefits of requiring a retailer to notify the Prices Commissioner of price changes outweigh the minimal costs, it is recommended that the legislation be retained.

APPENDIX

Select Committee on Pricing of Petroleum Products – Summary of Findings and Recommendations

Term of Reference 1

Reasons for differences in the price of petroleum products in metropolitan and non-metropolitan Western Australia.

Finding
The impact of high country fuel prices is compounded by heavy reliance on road transport.

Finding
The gap between country and city prices has widened since controls were deregulated in 1993.

Finding
Since fuel price control ceased in 1993, competition in the petroleum retail market has been limited principally to the metropolitan area.

Finding
Freight costs are not a major factor in the differential in prices between country and city prices.

Finding
Country motorists paid considerably more for their fuel, due principally to high wholesale costs and not because of retailers' margins, higher freight costs or lower volume sales.

Finding
Low volumes do not explain high country fuel prices in areas where relatively high turnover is evident, especially in major regional centres.

Finding

A greater retail involvement by major oil companies in retailing would not necessarily reduce fuel prices in the country.

Finding

Country retail margins vary considerably, but some appear excessive.

Finding

The major reasons for the difference in prices between larger country locations and those in metropolitan Perth are:

- lack of price support;
- lack of discounting;
- limited competition at wholesale and retail levels;
- high wholesale margins; and
- sometimes high retail margins.

Term of Reference 2

Reasons for significant price fluctuations in petroleum products.

Finding

Current diesel prices are due to strong pre-winter demand for diesel fuel in the northern hemisphere which, through world parity pricing, dictates a high price for Australian refineries and importers.

Finding

World parity pricing can increase fuel costs independently of production costs, resulting in windfall gains for oil majors.

Finding

The major oil companies dictate and manipulate retail prices at franchisee sites.

Recommendation Two

That legislation be developed and implemented requiring retail sites to advertise and charge only one price for each fuel product daily.

Term of Reference 3

The impact of State and Federal Government policies, taxes and charges on the price of petroleum products in both metropolitan and non-metropolitan areas of the State.

> Finding
>
> The way GST is applied on fuel is discriminatory and inequitable to country consumers.

> Finding
>
> The Committee rejects the need for a CPI linked increase on excise on 1 February 2001.

> Finding
>
> The lack of diesel rebates for operators in remote communities is inequitable.

> **Recommendation Three**
>
> That remote communities dependent on diesel for power generation be assisted to transfer to more economically viable fuel sources over a five year transition period.
>
> That these communities be entitled to the Commonwealth Diesel Fuel Rebate during the transition period.
>
> That the State Government establish a scheme to assist with conversion costs.

> Finding
>
> The obvious and well publicised anomalies in the Commonwealth Fuel Sales Grant Scheme have not been rectified.

> **Recommendation Four**
>
> That the Commonwealth forgo the February CPI adjustment to excise on petroleum products.
>
> That the Commonwealth and State Governments return any windfall gains to motorists as:
> - lower fuel prices;
> - additional road projects; and
> - the development and promotion of alternative vehicular fuel.
>
> That the Fuel Sales Grants Scheme be reviewed to remove anomalies.

Term of Reference 4

The effect on the price of petroleum products of current changes in the system of petroleum product franchising throughout Western Australia.

> Finding
>
> The petroleum industry, from wellhead to bowser, is highly vertically integrated.

> Finding
>
> Multi-franchising arrangements operated by BP Australia Limited enable BP to directly control retail prices.
>
> The operations of BP multi-site franchises are consistent with those of commission agencies which appear to circumvent the intentions of the Commonwealth Petroleum Retail Marketing Sites Act 1980.

Term of Reference 5

The reasons for the high cost of LPG Autogas in Western Australia relative to other Australian States.

> Finding
>
> Western Australia's capacity to produce LPG far exceeds current local demand.

> Finding
>
> It is not uncommon for LPG Autogas prices in Perth to exceed non-discount prices in other Australian capital cities by around 5 percent.

> Finding
>
> There exists an urgent need to provide greater access to fuel retail sites for all gas suppliers, to stimulate competition.

> Finding
>
> Western Australia's LPG market is highly vertically integrated.
>
> Western Australia's LPG market would benefit from increased sales volumes and greater competition.

Finding

Greater use of LPG would reduce motoring costs and have significant environmental benefits, warranting direct Government stimulation of the LPG Autogas market.

Recommendation Five

The State Government should:

- subsidise the conversion of private vehicles to LPG Autogas, in accordance with the principles outlined in this report;
- consider other conversion incentives including but not limited to reduced vehicle registration fees for LPG converted vehicles;
- convert at least two thirds of the State Government's car fleet to dedicated LPG within three years;
- develop a strategy to achieve further LPG use within the private and public sectors generally, including corporate agencies such as the Water Corporation and Western Power;
- *implement these LPG promotion programs in such a way as to create a* substantial unified market for LPG, enabling more secure and lower prices to be negotiated; and
- implement an extensive community education and promotional program in conjunction with industry in relation to LPG use for motoring, promoting the fuel's environmental attributes, its price advantage, and its widespread availability.

Recommendation Six

That an effective subsidy scheme be introduced to alleviate the cost of bottled gas for seniors.

That an extensive price monitoring and promotion process be carried out in regard to bottled gas prices and service fees, including the widespread publication of prices designed to facilitate consumer choice.

Term of Reference 6

Whether legislative intervention is necessary or desirable to reduce the difference in the price for petroleum products within and between metropolitan and non-metropolitan areas of Western Australia.

Finding

The State Government currently has legislative authority to control maximum wholesale and retail fuel prices.

Finding

The petrol market in Western Australia is not characterised by healthy processes of market competition at all levels.

Genuine competition will deliver the lowest possible prices into the future.

Both the wholesale and retail levels in the industry require a greater degree of genuine competition.

Finding

A true Terminal Gate Pricing policy would introduce competition at the wholesale level of the industry.

Recommendation Seven

That the Government establish a true Terminal Gate Price system, as described in this report.

Finding

There are grounds for a system of monitoring LPG autogas prices with a view to imposing price control should retail prices exceed acceptable levels, based on appropriate commercial considerations.

Finding

Retailers should be legally entitled to purchase a substantial proportion of their stock from the supplier of their choice.

Recommendation Eight

That the Minister for Fair Trading arrange:
an extensive price monitoring process for LPG to be established;
for the Petroleum Products Pricing Act 1983 to be amended to provide legislative authority to control LPG pricing; and
for an extensive audit of LPG pricing to be carried out including assessing the need to institute price control.

Recommendation Nine

That the Petroleum Retailers Rights and Liabilities Act 1982 be amended to ensure that the discretionary 50 percent purchasing objectives are met.

That the Petroleum Retailers Rights and Liabilities Act 1982 be amended to also apply to LPG autogas.

Recommendation Ten

That legislation be enacted to prevent the use of conditions of sale covenants which prevent service station sites being reused for that purpose.

Finding

Oil company credit cards could be used to circumvent normal commercial arrangements.

Recommendation Eleven

That the Minister for Fair Trading arrange to monitor the use of all oil company credit cards to determine their impact on retailers' margins and to ensure they are not used to circumvent normal commercial arrangements.

Recommendation Twelve

That the Minister for Fair Trading immediately establish a Prices Advisory Committee and institute procedures for price control of petrol and diesel in country Western Australia.

Term of Reference 7

Recommendations for any other measures to reduce the price difference for petroleum products within and between metropolitan and non-metropolitan areas of Western Australia.

Finding

Regardless of the future of world parity pricing, it is essential that a coordinated effort is made to break the nation's dependence on petroleum products by promoting alternative natural sources of energy.

Recommendation One

That the State Government request the Commonwealth Government to conduct an extensive review of the nation's current world parity pricing and supply arrangements regarding petroleum products.

Recommendation Thirteen

That the Minister for Fair Trading arrange for:

- the establishment of an ongoing and transparent fuel price monitoring system;
- implementation of a system whereby consumers can access daily retail prices; and
- all retailers to be required by law to display adequately sized price boards for all of their fuel products.

Finding

A positive State Government involvement to stimulate the LPG market and pursue alternative fuel options especially CNG and LNG would provide much needed competition to the traditional petroleum market.

Recommendation Fourteen

That the State Government develop a strategy, in conjunction with private sector participants, to promote the use of alternative fuels such as LNG and CNG, especially for freight use.

That the use of alternative fuels such as LNG and CNG, be promoted, especially for freight use.

Recommendation Fifteen

That a peak body, possibly a Cabinet Sub-Committee, be established to coordinate vehicular energy policy matters in Western Australia.

Recommendation Sixteen

That the State Government pursue legislation with the Commonwealth to ensure that sufficient LNG and CNG production in Australia is hypothecated to domestic consumption.

That the domestic price of LNG and CNG be regulated to reflect actual costs and reasonable profit returns.

That the prevailing pricing formulas and arrangements, as well as true costs of production, be identified and taken into account when enacting the two preceding recommendations.

Recommendation Seventeen

That there be further evaluation of the USA divorcement and anti-trust legislation relevant to the petroleum industry, possibly by a Committee of Parliament.

Recommendation Eighteen

That the peak body established to coordinate vehicle energy policy actively work to promote rural and industry cooperatives and alliances to reduce fuel costs.

Recommendation Nineteen

That the technical and operating problems experienced with diesel and LRP be examined in detail.

That the Ministers for Fair Trading, Environment and Primary Industry report to Parliament detailing progress.

Recommendation Twenty

That the Minister for Fair Trading review the exemption of franchise agreements in relation to turnover rents.

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