



Australian
Competition &
Consumer
Commission

Monitoring of the Australian petroleum industry

Report of the ACCC into
the prices, costs and profits
of unleaded petrol in
Australia

DECEMBER 2011

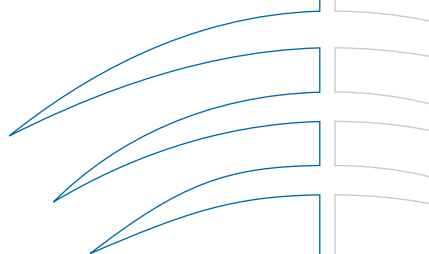


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Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory 2601

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Shortened terms

7-Eleven	7-Eleven Stores Pty Ltd
ABS	Australian Bureau of Statistics
ACCC	Australian Competition and Consumer Commission
AIP	Australian Institute of Petroleum
APAC	APAC biofuel consultants (a joint venture of EnergyQuest Pty Ltd and Ecco Consulting Pty Ltd)
APS	Australian Petroleum Statistics
ASX	Australian Securities Exchange
AUD	Australian dollars
avg.	average
bl	barrel
BP	BP Australia Pty Ltd
Btu	British thermal unit—a measure of energy
British ppl	British pence per litre
Caltex	Caltex Australia Ltd
CBA	Commonwealth Bank of Australia
CIA	Central Intelligence Agency
Coles Express	Coles Express Pty Ltd
Coogee Chemicals	Coogee Chemicals Pty Ltd
cpl	Australian cents per litre
DSEWPAC	Department of Sustainability, Environment, Water, Population and Communities
E10	see EBP
E85	see EBP
EBIT	earnings before interest and tax
EBP	ethanol blended petrol, of which E10 (unleaded petrol with 10 per cent ethanol) is a common blend. E85 is a petrol blend containing 70 per cent to 85 per cent ethanol
excl.	excluding
FCAI	Federal Chamber of Automotive Industries
FOB	free on board

FuelCC	Fuel Consultative Committee
GL	gigalitres (billion litres)
GST	goods and services tax
Gull	Gull Petroleum Group
IEA	International Energy Agency
Informed Sources	Informed Sources (Australia) Pty Ltd
IPP	import parity price/pricing
JTA	joint terminal arrangement
JV	joint venture
KL	kilolitres (thousand litres)
LHS	left-hand side
Liberty	Liberty Oil Pty Ltd
LPG	automotive liquefied petroleum gas
Marstel	Marstel Terminals Pty Ltd
mbpd	million barrels per day
ML	megalitre (million litres)
Mobil	Mobil Oil Australia Pty Ltd
MOC	market on close
Mogas	motor gasoline
MON	motor octane number
MOPS	mean of Platts Singapore (refer to Platts in the glossary)
na	not applicable
Neumann	Neumann Petroleum Pty Ltd
NZRC	New Zealand Refining Company
OECD	Organisation for Economic Co-operation and Development
On The Run	retail trading name of Peregrine Corporation
OPEC	Organization of the Petroleum Exporting Countries
pa	per annum
PSA	Prices Surveillance Authority
PULP	premium unleaded petrol
RBA	Reserve Bank of Australia
RBOB	reformulated gasoline blendstocks for oxygenate blending
RET	Department of Resources, Energy and Tourism

RFS	Renewable Fuels Scheme (United States)
RHS	right-hand side
Rio Tinto	Rio Tinto Ltd
RON	research octane number
RULP	regular unleaded petrol
Saudi CP	Saudi contract price
SEP	Strasburger Enterprises (Properties) Pty Ltd
Shell	Shell Company of Australia Ltd
SMP	Sydney Metropolitan Pipeline Pty Ltd
TGP	terminal gate price
the Act	<i>Competition and Consumer Act 2010</i> (formerly the <i>Trade Practices Act 1974</i>)
Trafigura	Trafigura Services Australia Pty Ltd
United	United Petroleum Pty Ltd
USD	United States dollars
USD/bl	United States dollars per barrel
US EIA	United States Energy Information Administration
US FTC	United States Federal Trade Commission
Vopak	Vopak Terminals Australia Pty Ltd
Woolworths	Woolworths Ltd
WSFR	Worldscale flat rate
WTI	West Texas Intermediate

Glossary

2007 ACCC petrol inquiry report	the report of the ACCC's 2007 public inquiry into the price of unleaded petrol— <i>Petrol prices and Australian consumers: report of the ACCC inquiry into the price of unleaded petrol</i> , December 2007.
2008 ACCC petrol monitoring report	the ACCC's 2008 petrol monitoring report— <i>Monitoring of the Australian petroleum industry: Report of the ACCC into the prices, costs and profits of unleaded petrol in Australia</i> , December 2008.
2009 ACCC petrol monitoring report	the ACCC's 2009 petrol monitoring report— <i>Monitoring of the Australian petroleum industry: Report of the ACCC into the prices, costs and profits of unleaded petrol in Australia</i> , December 2009.
2010 ACCC petrol monitoring report	the ACCC's 2010 petrol monitoring report— <i>Monitoring of the Australian petroleum industry: Report of the ACCC into the prices, costs and profits of unleaded petrol in Australia</i> , December 2010.
Alaska North Slope	a crude oil used as the benchmark for the acquisition cost of composite crude oil for Californian refineries.
automotive fuel	includes petrol, diesel and automotive LPG.
barrel	a traditional measure of capacity used by the oil industry: one barrel is equivalent to 158.987 litres.
benchmark pricing	the practice of pricing to an identified crude or product price; for instance, the Tapis crude oil pricing benchmark.
biodiesel	a diesel fuel based on vegetable oil or animal fat, typically made in combination with alcohol.
Brent crude	a type of oil sourced from the North Sea and usually refined in northwest Europe. The Brent crude oil marker, also known as Brent blend, London Brent and Brent petroleum, remains the major benchmark for crude oil in Europe and Africa, and is increasingly used in Australia.
buy–sell arrangements	arrangements between domestic refinery owners for the purchase and sale of petroleum products.
city–country differential	the difference between the average city retail price of petrol and the average country retail price of petrol.
commission agent	an arrangement whereby an agent receives a commission for selling a product owned by another; in the downstream petroleum sector a commission agent often operates a retail site owned by a petrol refiner or wholesaler.

crude oil	a naturally occurring flammable liquid found in rock and other geological formations, consisting of hydrocarbons and other organic compounds. Common crude oil benchmarks include Brent (North Sea), Tapis (Malaysia) and West Texas Intermediate (US).
diesel (automotive distillate)	fuel designed to run in diesel engines, widely used in the mining and transport sectors, as well as in some passenger motor vehicles.
distributor	a transport company that picks up petroleum products from refineries, terminals and depots for delivery to retailers and end users.
downstream	the refining, importing, distribution and marketing of petroleum products.
Dubai crude	a heavier more sour crude oil benchmark sourced from the Middle East.
EBIT (earnings before interest and tax)	a measure of a company's profits that excludes interest and tax expenses.
EBIT margin	EBIT divided by sales revenue.
EBP (ethanol blended petrol)	unleaded petrol that includes a proportion of ethanol (for instance, E10 is an unleaded petrol that includes up to 10 per cent ethanol).
Edmonton Par crude oil	a benchmark for crude oil in Canada.
exclusive dealing	a type of conduct prohibited in certain circumstances by section 47 of the <i>Competition and Consumer Act 2010</i> broadly involving one trader imposing restrictions on another's freedom to choose with whom, or in what or where it deals.
five largest cities	Sydney, Melbourne, Brisbane, Adelaide and Perth.
fixed costs	costs that do not vary with output.
free on board (FOB)	arrangement whereby the seller pays for transportation of goods to the port of shipment, plus loading costs, with the buyer responsible for the cost of marine freight transport, insurance, unloading and transportation from the arrival port to the final destination.
fuel	automotive, aviation, marine and other transport fuels, and non-transport fuels such as butane and heating oil.
Fuel Consultative Committee (FuelCC)	established in 2010 by the ACCC to provide a forum for the fuel industry, motoring organisations and the ACCC to discuss fuel related issues and to assist the ACCC in undertaking its role under the Act on issues related to competition and consumer protection in the fuel industry.
fuel quality premium	additional component added to a price benchmark to reflect the higher quality of Australian-grade fuel relative to the Singapore benchmark fuel.
gantry	a facility used to transfer fuel products from a refinery or terminal to trucks or rail tankers.

gasoline	commonly used term for petrol in North America
gasoline crack	the difference between the price of refined petrol and the price of a barrel of crude oil, adjusted for volume differences.
gross profit	the difference between the revenue received from the sale of products and the cost of producing or purchasing them.
import parity pricing (IPP)	the setting of domestically refined petrol in the wholesale market at a price comparable to the cost of importing fuel into a given location in Australia.
import terminal	a major terminal with a direct pipeline connection to a port—most fuel at import terminals is received via ship.
independent retailers	retailers (owning single or multiple sites) other than supermarket retailers and refiner marketers. Independent retailers can sell petrol under the brand name of one of the refiner-marketers or under their own brand name.
Informed Sources	company that collects pricing information on various fuels and provides it to subscribers.
large independent chains	larger companies—other than refiner-marketers or supermarket chains—that import, wholesale and/or retail fuel in Australia; these include Gull, United, Neumann, Liberty, 7-Eleven and On The Run.
light, sweet crude	crude oil with low American Petroleum Industry (API) gravity index (light) and relatively low levels of sulphur (sweet). These oils are preferred by refiners because of their ease of handling and relatively high yields of high-value products such as petrol, diesel and jet fuel.
major terminal	a fuel storage terminal connected to a port or a refinery by one or more pipelines. There are two broad types of major terminals—import terminals and refinery-pipeline terminals.
marginal cost	the additional cost to produce one extra unit of output.
Mean of Platts Singapore (MOPS)	the average of prices reported by Platts for Singapore traded commodities, for instance Tapis MOPS.
Singapore Mogas 95 Unleaded (Mogas 95)	the commonly used international term for the benchmark for unleaded petrol in the Asia-Pacific region, including Australia.
nameplate capacity	the potential output of a refinery running at optimum utilisation.
New York Harbour (price of)	Platts established benchmark price for unleaded petrol in the US and Canada.
notification	a process under the <i>Competition and Consumer Act 2010</i> by which a person who engages in exclusive dealing conduct may obtain prior legal protection from the application of the Act for that conduct.

Oilcode	a prescribed mandatory industry code of conduct under section 51AE of the <i>Competition and Consumer Act 2010</i> . It regulates the conduct of suppliers, distributors and retailers in the downstream petroleum industry.
other fuels	includes kerosene, biodiesel, LPG, lead replacement and aviation fuels.
other oil-based products	includes LPG, aviation fuels, industrial and marine fuels, heating oil, fuel oil, lubricant oils, greases, basestocks and bitumen.
petrol	unleaded petrol—includes RULP (RON 91), PULP (RON 95 and higher) and E10. The terms ‘unleaded petrol’ and ‘petrol’ are used interchangeably in this report.
petroleum products	any oil-based products derived from crude oil processed in oil refineries.
Platts	a private company, provider of energy market information including price benchmarks for the oil, petrol and other energy markets.
Platts assessed price for MOPS	the mean of the high and low components of a Platts assessment for oil cargoes loading from Singapore; a free onboard price for completed deals in a particular commodity, quoted in USD.
PULP	premium unleaded petrol, with RON 95 or higher.
price support	rebate provided to a petrol retailer to compensate for periods of price discounting.
refiner margin	the petroleum product revenues received by a company, less all costs for raw materials (crude oil, catalysts, etc.), product input costs and processing costs per barrel of product sold.
refiner-marketer	a company that refines, imports, wholesales and markets fuel; in Australia these are BP, Caltex, Mobil and Shell.
refinery exchange	arrangements between refiner-marketers before July 2002 for the swap of a volume of product in one location for an equivalent volume in another location where they did not operate a refinery.
refinery-pipeline terminal	a major terminal with a direct or indirect pipeline connection to a refinery that supplies most of its fuel.
refinery products	fuel and other oil-based products such as lubricants and bitumen.
refining	the production of petroleum products from crude oil.
reformulated gasoline blendstocks for oxygenate blending (RBOB)	a wholesale price for a base gasoline in California designed to be blended with an oxygenate to comply with environmental regulations for finished reformulated gasoline.

regional locations	the 150 regional centres and country towns for which the ACCC monitors petrol prices.
retail margin	the difference between the cost of acquiring a product from a wholesaler and the retail selling price of that product. Effectively the retailer's gross margin.
retail sector	sector in which petroleum and other non-fuel products and services are sold to the public through retail sites.
return on assets (RoA)	figure calculated by dividing net profit by total assets, expressed as a percentage, which shows how effectively a company's assets are being used to generate profit.
return on capital employed (RoCE)	figure calculated by dividing net profit by the sum of total assets minus current liabilities and expressed as a percentage. This is a measure of earnings relative to the capital invested in the company.
return on sales (RoS)	figure calculated by dividing net profit by total sales, expressed as a percentage, which shows how much profit is being produced per dollar of sales.
RON	research octane number, a measure of the efficiency of petrol at resisting engine knocking. In Australia, grades of petrol typically include RON 91 (regular) and RON 95 and higher (premium grades).
Rotterdam (ARA)	Platts-established benchmark price for unleaded petrol in Europe.
RULP	regular unleaded petrol—RON 91; includes low-aromatic unleaded petrol.
shopper docket	a discount offer on fuel for consumers that have spent a certain amount in one purchase from a nominated supermarket or retailer.
smaller capital cities	Darwin, Hobart and Canberra.
supermarket retailer	supermarkets that sell fuel under their own name/brand.
supply sector	the fuel industry sector that refines crude oil, imports and exports petroleum products, and/or purchases petroleum products from Australian refineries. This sector also imports crude oil for use by refineries.
Tapis crude	a light, sweet crude oil from Malaysia; it is used in oil markets as the benchmark for crude oil in the Asia-Pacific region.
terminal	a storage facility from which fuel is received via ship and/or refinery and distributed to wholesalers, retailers, distributors and end users.
terminal gate price (TGP)	price for a spot purchase of petrol from a terminal; used as a benchmark price; the TGP is the price a purchaser expects to pay, usually in cash, when they arrive at a wholesaler's terminal wanting to purchase a tanker load of 30 000 litres of petrol.

terminal throughput	the annual volume received and then distributed by a refinery or terminal via truck or rail gantry.
terminal turnover	the number of times a terminal is effectively filled and emptied during a year (that is, annual throughput divided by physical capacity).
third line forcing	a form of exclusive dealing conduct prohibited by section 47 of the <i>Competition and Consumer Act 2010</i> . It involves the supply of goods or services on the condition that the purchaser acquires goods or services from a particular third party, or a refusal to supply because the purchaser will not agree to that condition.
unleaded petrol	see 'petrol' — the terms 'unleaded petrol' and 'petrol' are used interchangeably in this report.
vertical integration	the undertaking by a single company of successive stages in the process of production and/or supply.
wholesale sector	the sale and movement of petroleum products from a wholesaler to other wholesalers, to retailers or to end users such as transport, agricultural and mining companies.
West Texas Intermediate (WTI) crude	a type of crude oil; also known as Texas Light Sweet. WTI crude is traded on the New York Mercantile Exchange through futures contracts. Prices have been recently affected by a build-up of excess supplies as a result of infrastructure bottlenecks at the main trading hub at Cushing, Oklahoma. As a result the price of WTI is not currently a useful indicator of world demand and supply conditions for crude.
Worldscale	a provider of shipping freight prices and other freight market information. Freight rates are quoted by ship and port combination. The freight rate for a given ship and port combination reflects market demand and the availability of shipping.

Key points

For many Australians, petrol costs are a necessary and unavoidable outlay accounting for a significant proportion of household expenditure. For many families petrol is the biggest single weekly expense accounting for around 4 per cent of weekly household expenses¹. Not surprisingly, motorists are very interested in ensuring that petrol prices are as low as possible—in other words, that petrol prices reflect competitive forces and are not subject to manipulation by petrol companies.

Australian pre-tax prices are in line with other countries

Australian petrol prices

Australian pre-tax petrol prices reflect international prices and thus are similar to pre-tax prices paid by consumers in other countries.

Petrol prices in Australia continue to be among the lowest in countries in the OECD², largely due to tax rates on petrol being lower in Australia than most OECD countries. Pre-tax petrol prices are consistent with those of other OECD countries.

ACCC analysis has found that in Australia, as in other developed countries, petrol prices reflect international market prices and the local currency's value relative to the US dollar.

Domestic prices driven by international prices

Australian consumers pay a price for petrol that is, on average, reflective of the relevant international benchmark prices.

Australian petrol prices reflect international market prices

While crude oil prices clearly influence retail petrol prices, it is the international price of refined petrol which largely determines the price at the pump. Around a quarter of Australia's petrol is imported, mostly from Singapore and the most appropriate benchmark for the refined petrol that is sold to Australian consumers is the price of Singapore Mogas 95 Unleaded (Mogas 95).

ACCC analysis in this report shows that retail prices in Australia have generally moved in line with Mogas 95. Since 2002, average retail prices at Australia's five largest cities have risen 122.5 per cent while the price of Mogas 95 has risen 123.4 per cent.

1 In 2009–10, 'Motor vehicle fuel, lubricants and additives' accounted for expenditure of \$51.02 out of total goods and services expenditure of \$1236.28. Australian Bureau of Statistics 2009–10 Household Expenditure Survey, Cat No 6530.0.

2 According to data compiled by the Department of Resources, Energy and Tourism, in the June quarter of 2011 Australia had the fourth lowest retail petrol prices in the Organisation for Economic Co-operation and Development (OECD).

Consumers may see a change in the price of crude oil quoted in the media and expect that to be reflected in the retail price of petrol. However, most of the media continues to quote the West Texas Intermediate (WTI) oil price which bears no relationship with the price of oil that Australian refiners pay and has no influence on Australian petrol prices. In fact, WTI does not even reflect the price most US refiners pay.

Infrastructure and transportation bottlenecks near the main trading hub for WTI at Cushing, Oklahoma have resulted in a severe build-up of excess supplies, depressing WTI prices relative to other more internationally traded benchmarks.

The price that Australian refiners pay for crude oil is better reflected in the price of the more internationally traded Brent crude oil benchmark or in the regional crude oil benchmark known as Tapis.

Crude oil prices

Geopolitical events (in particular, political unrest in the Middle East) combined with stronger than expected economic recovery from the Global Financial Crisis saw world oil prices (and thus retail petrol prices) increase from September 2010 to May 2011. Prices have declined somewhat in recent months with reduced concern over Middle East tensions and renewed worries about the health of the global economy.

Oil demand continues to grow, particularly in developing Asia, while exhaustion of some traditional oil fields and additional costs involved in bringing more difficult and unconventional oil deposits online has led to an overall increase in oil prices over the last few years.

Regardless of short-term fluctuations, it appears that world oil prices (and with them Australian retail petrol prices) have reached a new, significantly higher, average price range.

Profits

Overall, the ACCC has not found evidence of excessive profits in the Australian downstream petrol industry, with rates of return in most sectors comparable with other manufacturing industries and petrol industries in other countries. Profits are generally volatile, reflecting variability in international prices. In 2010–11, the ACCC found that the revaluation of stocks in a generally rising oil market and an increase in volumes, particularly of higher yielding diesel and premium grades of petrol, provided much of the basis for increased profits in the petrol industry.

Higher world crude oil prices led to higher petrol prices in 2010–11

Evidence does not indicate excessive profits in the downstream industry

Despite the levels of concentration in the industry, there is evidence indicating competitive tension including:

- the greater availability of Australian standard fuel in the Asia-Pacific region means that Australian wholesalers are not restricted to sourcing petrol supplies from domestic refiner-marketers
- the growth of independent importers
- the announced closure of the Shell refinery in Sydney (this will be the second refinery to cease production since 2003)
- the growth of independent retail chains and the exit by two refiner-marketers from retailing.

In 2010–11 the ACCC has also reported on a number of aspects of the downstream petroleum industry that are of concern to consumers.

Price cycles

The fact that retail petrol prices in the largest cities regularly increase by significant amounts at most retail sites over a short period of time is clearly a source of considerable frustration for motorists.

Price cycles remain a concern for consumers

These price cycles, where price hikes are generally followed by several days of reductions in prices, are a source of many complaints to the ACCC. This is despite the fact that many consumers take advantage of the low point in the cycle to purchase petrol.

Petrol price cycles are not responses to changes in cost but are the result of the deliberate pricing policies of the major fuel retailers. The price increases are generally led by BP or Caltex.

The ACCC has reported in this year's monitoring report that retail price cycles are not unique to Australia and that they manifest in other countries, notably in some markets in Germany, US and Canada. However, evidence considered in the 2007 petrol inquiry and since then indicates that price cycles in Australia are generally larger in amplitude than those in other countries.

The ACCC is concerned about the level of coordination apparent in price cycles and is analysing the likely effects of this behaviour on outcomes for consumers

There are several features of the petrol industry in Australia, as well as some overseas markets, that promote regular price cycles. Despite the entry of new firms in the wholesale and retail sectors, the downstream industry remains relatively concentrated. High levels of concentration may raise competition concerns, as it is generally easier for competitors to coordinate their pricing in an industry with a few dominant firms.

In the petrol industry, coordination is potentially facilitated by the high level of price transparency. In Australia, the sharing of near real-time retail price data by the larger competing petrol retailers through the Oil Pricewatch system provided by Informed Sources assists retailers to develop an understanding of other retailers' pricing behaviour.

Regional prices

Another aspect of the Australian petrol industry that creates concern for many Australian consumers is the high level of prices in many regional locations. Petrol prices in regional locations are a major source of complaints to the ACCC from motorists.

There are a number of reasons why retail prices in regional locations can be higher than in larger cities:

- Petrol is generally refined or imported into the largest cities and so transport costs to get petrol to regional locations tend to be higher.
- Lower turnover at small regional retail sites compared with larger retail sites generally results in higher unit costs and lower convenience store revenues leading to higher prices.
- In some cases, higher prices in regional locations reflect a lower level of competition. There are regional locations where the population is not large enough to attract many retailers competing for business and which are not located in close proximity to larger centres or major highways. Motorists in these locations may have limited choice of retailers and pay higher fuel prices.

The ACCC monitors prices in regional locations to ensure that prices reflect competition in the market and are not the result of anti-competitive conduct, such as price fixing or collusion that would be in breach of the *Competition and Consumer Act 2010* (the Act).

Where a regional market looks to be of concern, the ACCC will review recent price movements and the structure of the market and may visit the town and talk to local retailers to determine whether there is a need for further investigation.

The ACCC welcomes any evidence local businesses or members of the public may have with regard to anti-competitive conduct. The ACCC takes very seriously any evidence of possible anti-competitive conduct that may be in breach of the Act and will take action through the courts where appropriate.

Regional prices are generally higher than urban prices reflecting higher costs and lower levels of competition in smaller markets

The ACCC takes allegations of anti-competitive behaviour very seriously and will investigate and take action through the courts where appropriate

Given that regional locations may only have a limited number of retail sites the ACCC pays particular attention to potential changes in ownership of retail sites in regional locations to ensure that the sale will not result in a substantial lessening of competition in that particular market.

Ethanol supply and prices

Ethanol is increasingly becoming an important part of the fuel product mix in Australia as consumers look to alternative fuels. Throughout the past year various stakeholders raised concerns with the ACCC about limited ethanol supplies.

The NSW mandate continues to increase demand for ethanol

Information provided to the ACCC suggested that during 2010 and 2011 Australian ethanol production struggled to keep up with demand. Demand increased due to increases in the NSW ethanol mandate over the year including the latest increase from 4 to 6 per cent in October 2011. Supplies were affected by weather-induced disruptions and investment uncertainty said to be caused by a tough economic climate, regulatory uncertainty and the limited viability of ethanol imports. While there are still only three domestic producers of ethanol in Australia, the ACCC understands that supply of ethanol by the existing producers is improving.

Limited ethanol supplies remained a concern for many industry participants

Last year, the ACCC reported that there was a risk that limited supply and growing mandated consumption could lead to higher ethanol prices. ACCC monitoring has found that the price differential between E10 and regular unleaded petrol (RULP) has decreased since the beginning of 2011 with E10 now only around 1.7 cpl cheaper than RULP, down from 2.6 cpl last year. This has led to comments from stakeholders suggesting E10 no longer offers consumers value for money because the price difference between E10 and RULP does not offset the reduced mileage of E10.

E10 prices have risen relative to RULP prices

The ACCC will continue to closely monitor the market structure and supply of ethanol blended petrol (EBP) as well as the price offering of EBP to consumers over the coming year.

Summary

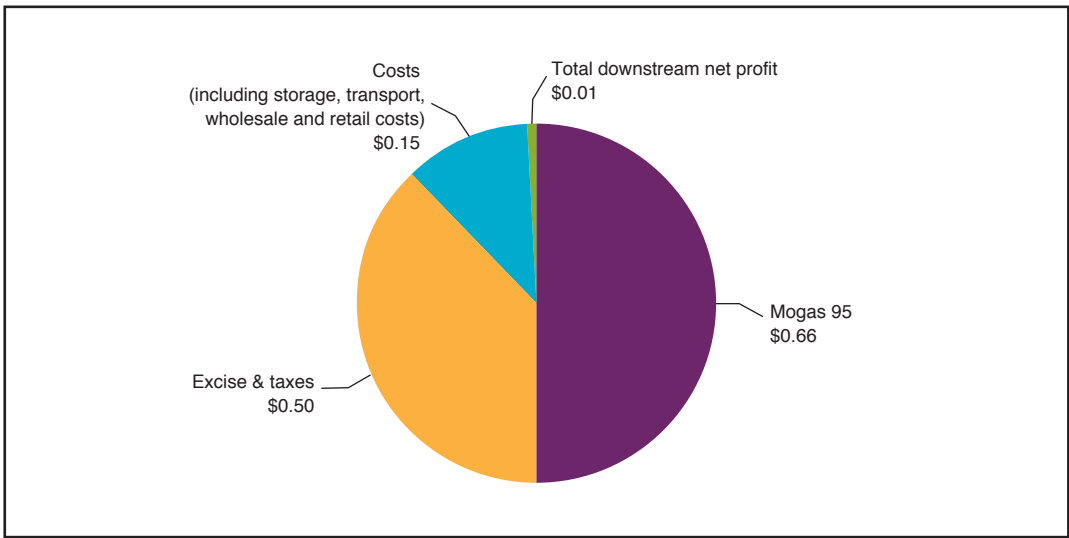
The ACCC monitored and analysed the prices, costs and profits of petrol in keeping with the ministerial direction of 13 May 2010 (see appendix A). This summary highlights the findings of the ACCC’s analysis. More in-depth analysis of each of the topics covered in this summary can be found in the relevant chapters of the report.

Australian retail petrol prices follow international benchmark prices and are influenced by the exchange rate

ACCC analysis has consistently shown that retail petrol prices in Australia are primarily determined by the international price of refined petrol (which itself is driven by the price of crude oil) and the AUD—USD exchange rate.

Chart 1, which sets out the components of Australian retail prices of regular unleaded petrol (RULP) (which averaged \$1.32 per litre in 2010–11), shows the importance of the international price of refined petrol, Singapore Mogas 95 Unleaded (Mogas 95), in the determination of retail prices.

Chart 1 Components of average retail RULP price: 2010–11 (components are to scale)



Source: ACCC calculations based on Informed Sources, Platts, Reserve Bank of Australia (RBA) and WA Fuelwatch data, and information provided by monitored companies.

The role of the Mogas 95 petrol benchmark

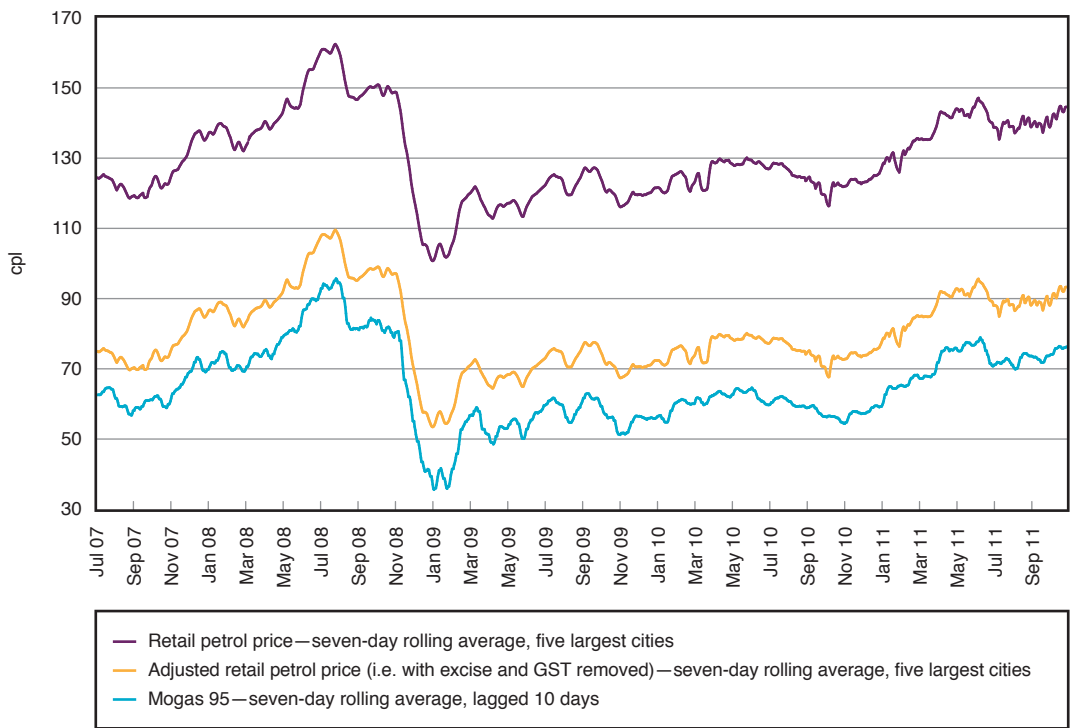
The price of refined petrol in Australia is determined with reference to international benchmark prices. The relevant international benchmark price for RULP in Australia is the price of refined petrol in the Asia-Pacific region—the price of Mogas 95.

Singapore is the regional hub for the sale of a variety of petroleum-based products into Australia and most local petrol companies use Mogas 95 as the basis for calculating the price of petrol in Australia.

Chart 2 shows seven-day rolling average retail petrol prices in the five largest cities,³ compared with Mogas 95 (lagged by 10 days) over the period 1 July 2007 to 30 September 2011. For comparison purposes it also shows adjusted retail prices (which have excise and GST removed).

The chart shows that in the medium term retail prices in the five largest cities have closely followed movements in Mogas 95 prices in AUD terms. This shows that domestic retail prices are overwhelmingly driven by the international price of refined petrol.

Chart 2 **Daily retail petrol prices, adjusted retail prices and Mogas 95 prices:**
1 July 2007 to 30 September 2011 – Australian cents per litre (cpl)



Source: ACCC calculations based on Informed Sources, Platts and RBA data.

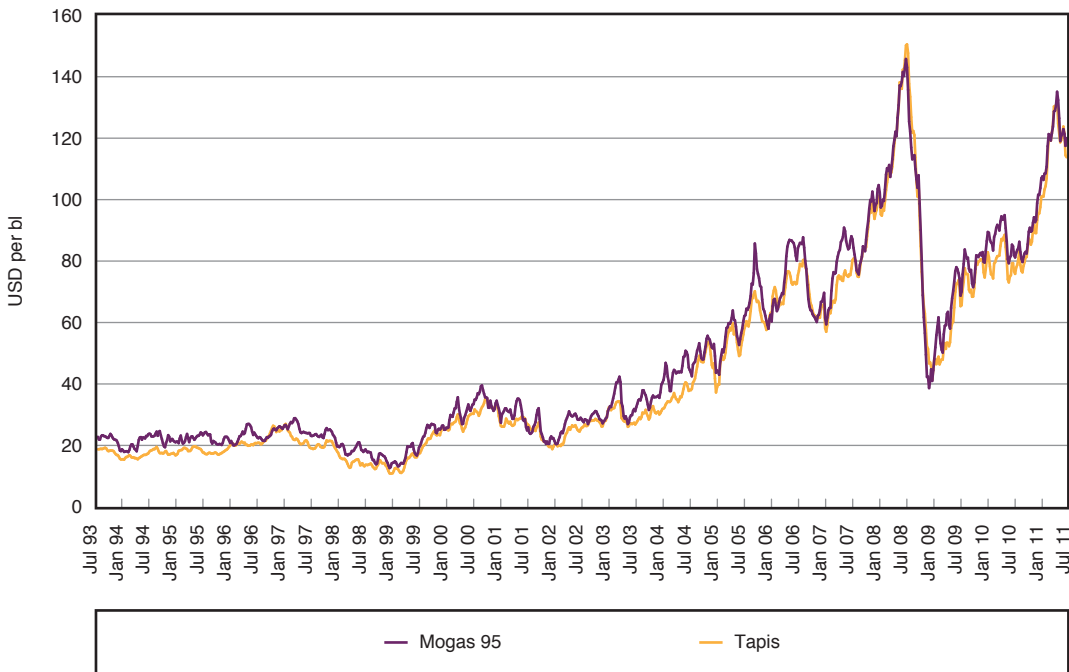
While Mogas 95 is the principal benchmark for retail petrol prices in Australia, movements in Mogas 95 have primarily been influenced by movements in the international price of crude oil. Movements in the international price of oil (the price of Tapis crude oil has been commonly used as the benchmark for crude oil prices in South-East Asia) drive changes in the price of Mogas 95. Mogas 95 in turn plays a central role in setting retail petrol prices in Australia (see chart 3).

³ A seven-day rolling average price is the average of the current day's price and the prices on the six previous days. In the case of retail petrol prices it is the average of calendar days, but in the case of Mogas 95 prices it is the average of working days. A seven-day rolling average is used to smooth out the effect of the regular petrol price cycles in the larger cities. The refiner-marketers use a rolling average price for Mogas 95 when determining their wholesale prices.

Refined petrol and crude oil prices

Mogas 95 prices are largely determined by the price of crude oil. However, like most internationally traded commodities, they are also determined by global supply and demand conditions for refined petrol, and thus the Mogas 95 price may move independently from the crude oil benchmark. Because it responds to its own fundamentals, the Mogas 95 price may also move independently of the Singapore Gasoil price (the benchmark for diesel) even though both are fundamentally driven by the price of crude oil. Chart 3 shows the close relationship between refined petrol prices and crude oil prices.

Chart 3 Weekly average Mogas 95 and Tapis crude oil prices: 1 July 1993 to 30 June 2011

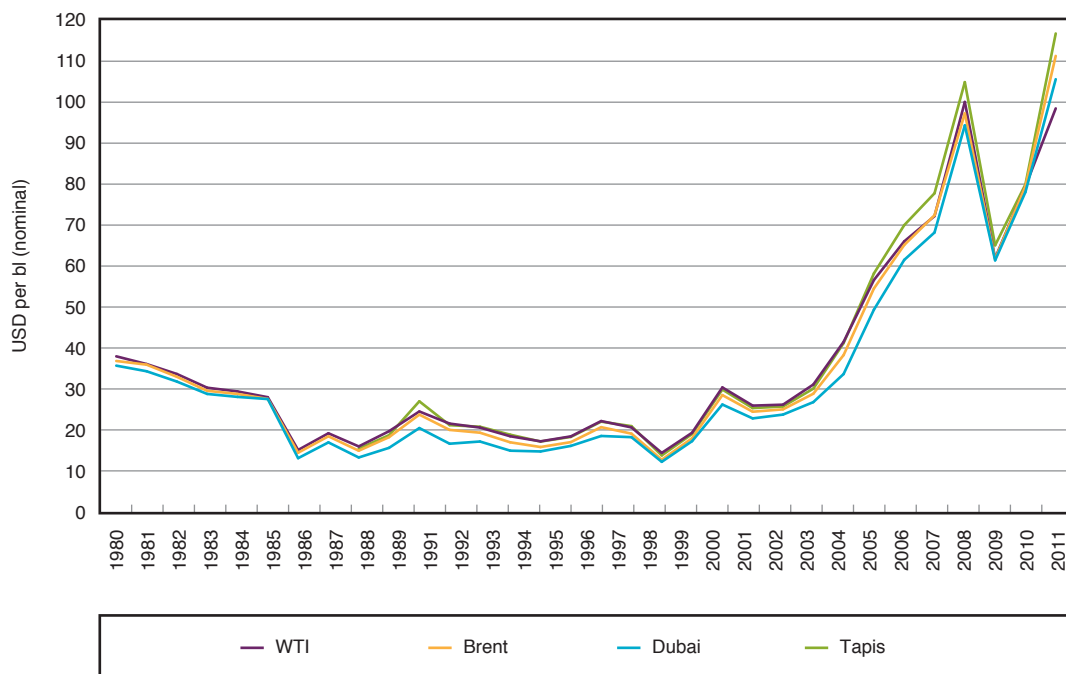


Source: ACCC calculations based on Platts data.

Crude oil prices drive higher petrol prices

Tapis is one of a number of major international benchmarks for crude oil used to set prices of crude in various regions in the world. Chart 4 shows the price of crude oil using each of the major benchmarks as well as Tapis. It is clear that world crude oil prices have moved significantly higher over the past decade.

Chart 4 Average annual benchmark prices of WTI, Brent, Dubai and Tapis crude oil: 1980 to 2011



Source: Crude price data from BP Statistical review of world energy 2011.

Given the importance of crude oil prices to the price of petrol (or diesel), this surge in oil prices has been the principal reason for higher petrol (and diesel) prices, not just in 2010–11, but over most of the last decade.

In the long term, other influences on retail prices include the degree of competition at the wholesale and retail levels, the level of excise and taxes, international and domestic freight costs, the fuel quality premium (which includes a component for producing petrol to Australian standards), and other wholesale and retail costs and margins.

Most appropriate crude oil benchmark

Traditionally **Tapis** crude oil (a Malaysian light sweet crude oil) has been commonly used in this region as the benchmark for crude oil. While the Tapis price remains important in the region, there is a growing use of the benchmark price of the more globally traded Brent crude.

Tapis, and increasingly Brent, are the most commonly used crude oil benchmarks in this region and thus the most appropriate to use for pricing purposes in Australia. While different crude oils have different characteristics and respond to their own demand and supply pressures, to a significant

degree they are benchmarks for approximately interchangeable commodities in a global market. Thus, over the medium term the major benchmarks vary little from each other, as shown in chart 4.

Other crude oil benchmarks include:

- **Brent:** a light sweet crude from the North Sea, which is probably the most internationally traded crude on global markets.
- The **Dubai** index (sometimes known as Fateh), which is used primarily in the Middle East.
- **West Texas Intermediate (WTI):** a light sweet crude priced out of Cushing, Oklahoma. Recently, the relevance of WTI as a global market guide has diminished:
 - While WTI is often quoted in the media, it is not an indicator of global supply and demand and is not relevant to Australia.
 - Brent has historically traded at a discount to higher-quality WTI. Arbitrage has kept the differential small since cheaper Brent can be delivered against WTI if the gap widens too much.
 - However, the arbitrage does not work well when the price of WTI is depressed by regional infrastructure and institutional arrangements.⁴ These have led to a regional glut in WTI crude, which has brought down its price relative to other benchmarks. The infrastructure and institutional arrangements relating to WTI mean that these price differences cannot be arbitrated away in the short term. Consequently, the recent price of WTI has been less representative of global demand—supply fundamentals than either Tapis or Brent.

In 2010–11 crude oil prices (and thus Mogas 95 prices) were influenced by:

- a particularly cold winter in the northern hemisphere which increased demand for crude oil products
- a decrease in global oil supplies resulting from conflict in Libya and fears of supply problems amid geopolitical unrest in the Middle East
- the depreciation of the USD against other major currencies (since crude oil and Mogas 95 are both priced in USD)
- mounting concerns over the fragility of economic recovery in Europe and the United States.

Drivers of crude oil prices

Short-term fluctuations in the price of crude oil are affected by many factors, including concerns over short-term economic growth, geopolitical tensions and commodity speculation. In the longer term the price of oil is set by the fundamentals of the level of international demand and the costs of supply.

Global demand for oil continues to increase, driven by the developing world and in particular the rapid industrialisation in Asia. Supply of crude oil is becoming more expensive as older and easier to obtain oil reserves are exhausted and new reserves are becoming more difficult to find and develop.

The rate of new discoveries has slowed down in recent decades. New fields are increasingly found in deep water or in more inaccessible environments, which drive up costs of discovery and extraction. Heavier crudes and unconventional sources of oil, such as tar sands and shale oil, require more expensive processing and thus will only be economically viable at higher prices.

⁴ For example, most of the oil infrastructure is designed to bring crude oil imports into the US, making it difficult to export regional surpluses; and legislation (USC 6212) restricts crude oil exports from the US.

A global price on carbon may also impact on oil supplies and prices. As Caltex Managing Director Julian Segal has stated, 'In a carbon-constrained world oil prices will inevitably climb just as surely as oil supplies will inevitably diminish.'⁵

Peak oil

Oil is a non-renewable resource and once a deposit is exhausted or no longer commercially viable new supplies need to be found. Crude oil production has already peaked in a number of countries, including Australia (in the last decade), the US (in the early 1970s) and Indonesia (which withdrew from OPEC in 2008 and became a net oil importer). Many of the lowest cost oil deposits have been exploited for decades and are declining in output. New fields tend to be smaller and harder to extract and process than declining existing fields.

There is concern in many quarters of the oil industry that new discoveries are not keeping up with the decline in production rates and that the world might be at, or soon heading for, what is termed 'peak oil'.⁶

Reaching peak oil does not mean that the world is running out of oil. It means that the rate of production of conventional oil will decline and the world will become increasingly dependent on harder-to-extract-and-refine unconventional supplies of oil. Given growth in demand, this would lead to significantly higher prices for oil and consequently for refined fuels such as petrol and diesel.

The era of cheap oil and therefore cheap petrol and diesel appears over

There will still be short-term fluctuations in crude oil prices but in the medium to longer term the price of oil is likely to stay in a significantly higher range. The world is very unlikely to see average crude oil prices under USD 25 per barrel such as occurred in the 20 years to 2004. Many industry experts, including the Executive Director of the International Energy Agency (IEA), Nobuo Tanaka, have noted that 'the era of cheap oil is over'.⁷

Based on evidence and expert opinion on crude oil prices, it is apparent that the world will need to adjust to the relatively new reality of sustained higher global oil (and thus petrol and diesel) prices.

Effect of the AUD—USD exchange rate on petrol prices

The AUD—USD exchange rate has a significant impact on domestic retail prices because the international benchmark prices of refined petrol are established in USD.

The value of the AUD relative to the USD has continued to move in a similar direction to the price of crude oil, which has made retail petrol prices for Australian consumers more stable (and generally relatively lower) than they would have been otherwise. The appreciation of the AUD for much of 2010–11 thus mitigated some of the effect of rising oil and Mogas 95 prices on Australian retail prices.

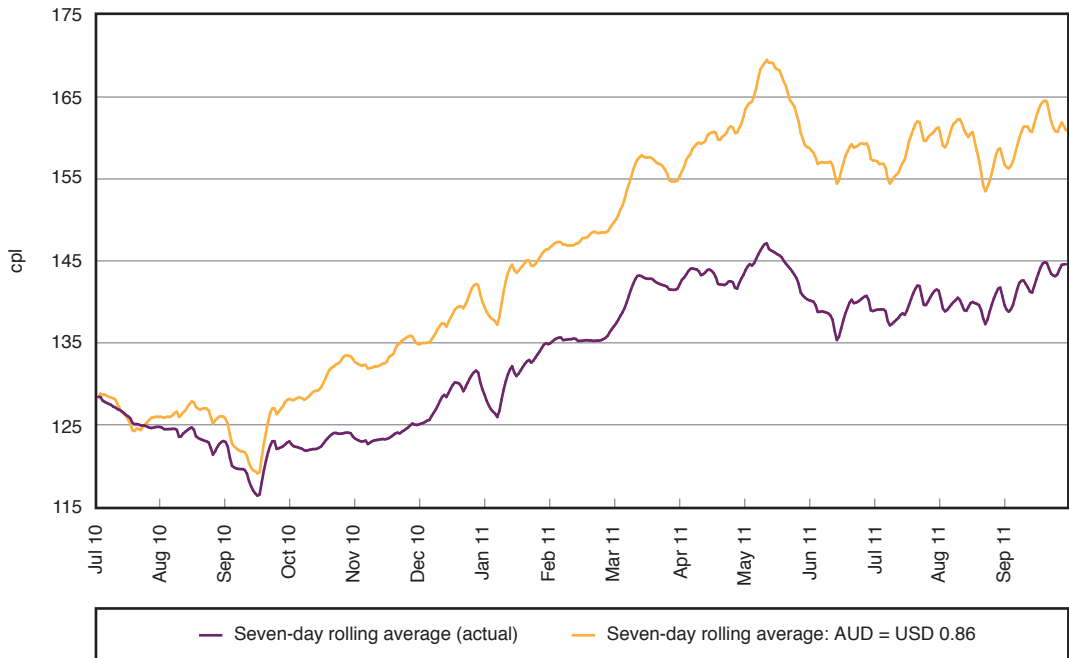
⁵ *The Star*, issue no. 50, Dec 2009–Jan 2010.

⁶ *International Energy Agency*, 'Will peak oil be a guest or a spectre at the feast', *World energy outlook 2010*, Executive summary, IEA, © OECD/IEA International Energy Agency pp. 6–7.

⁷ Nobuo Tanaka, IEA press release (08) 21, 12 November 2008, at http://www.iea.org/press/pressdetail.asp?PRESS_REL_ID=275, accessed 30 November 2011.

In chart 5, the effect that movements in the AUD–USD exchange rate have on domestic petrol prices is shown by assuming a constant AUD–USD exchange rate. Chart 5 shows actual seven-day rolling average retail prices for the five largest cities in the period 1 July 2010 to 30 September 2011 and retail prices calculated assuming a fixed AUD–USD exchange rate as at 1 July 2010 (i.e. USD 0.86).⁸

Chart 5 Seven-day rolling average retail petrol prices with actual and constant AUD–USD exchange rates, five largest cities: 1 July 2010 to 30 September 2011



Source: ACCC calculations based on Informed Sources, Platts and RBA data.

While the USD-denominated international refined petrol price increased in 2010–11, the appreciation of the AUD through the year protected Australian motorists from what would otherwise have been even higher retail prices. Retail prices in Australia would have reached a record high of around 170 cents per litre (cpl) in mid-May 2011—compared with actual retail prices of around 147 cpl—had the AUD–USD exchange rate in mid-May 2011 remained at the level of USD 0.86.

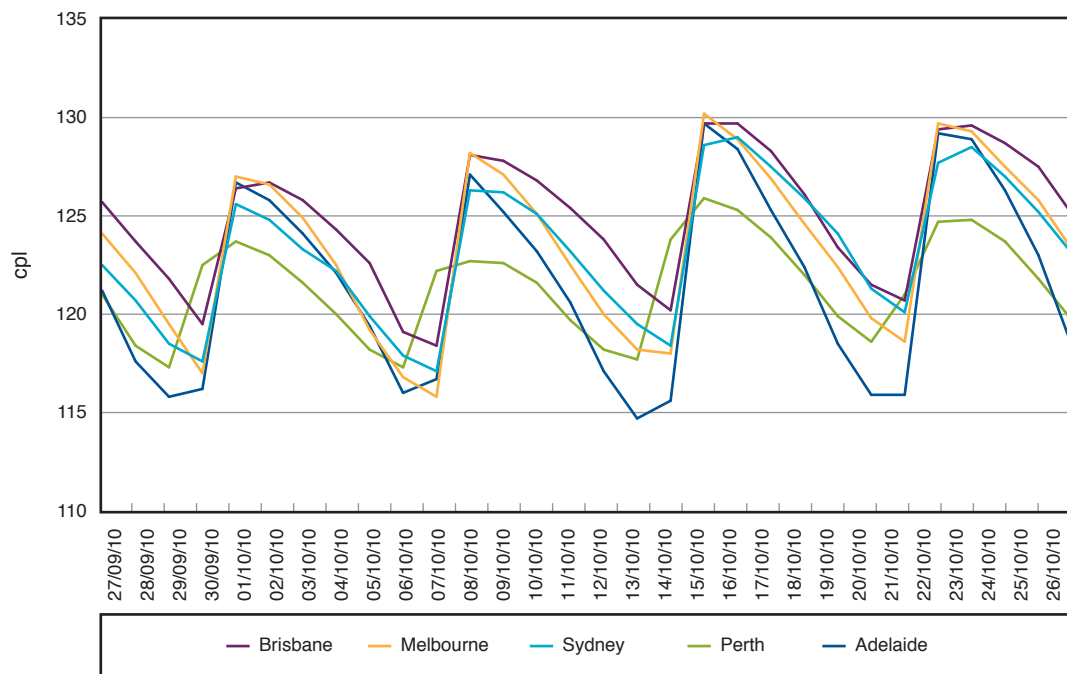
Price cycles

Retail petrol prices in the larger cities tend to move in regular price cycles which are not reflective of movements in underlying wholesale prices or international benchmarks. These price cycles used to be weekly but recently the duration of the price cycles has increased.

These cycles continue to be a feature of retail prices in the largest Australian cities as shown in chart 6 and continue to be a source of concern for many consumers.

⁸ Note that this is the seven-working day rolling average RBA AUD–USD exchange rate, lagged by 10 days, as at 1 July 2010.

Chart 6 Daily average retail petrol prices in the five largest cities: 27 September 2010 to 26 October 2010



Source: ACCC calculations based on Informed Sources data.

The regular pattern of these cycles is clearly evident in chart 6. The regularity of price cycles has enabled the refiner-marketers⁹ and other major retailers to understand and predict their competitors' likely response to changes in their own behaviour.

The price cycle has two distinct phases:

- a relatively sharp increase in prices, generally over one or two days
- a more prolonged phase of decreasing prices over the rest of the cycle.

The price increases are generally led by Caltex or BP who raise the price at several retail sites in a city by sometimes more than 10 cpl and then wait for the market to respond. If the other major retailers respond to this move with a similar increase (which is generally the case) then the cycle is continued. In some cases where competitors do not respond, or delay in responding, the price cycle breaks down and prices can remain low for an entire week or more.

While they generally do not initiate the discount phase, Woolworths, 7-Eleven and other independents have been very active in this phase of the price cycle.

⁹ 'Refiner-marketers' is the traditional term referring to the four integrated fuel companies (BP, Shell, Caltex and Mobil) which used to refine, wholesale and retail fuel in the Australian market. While BP and Caltex continue to directly retail fuel, Mobil and Shell, while still marketing proprietary fuels, have effectively withdrawn from direct retailing of fuel. However, given its historical use, the term refiner-marketer is used throughout this report to refer to all four of these companies.

Movement of the cheapest days in the retail price cycle

Market dynamics and retail pricing policies affect the size and shape of price cycles. A few years ago, the trough of the price cycle regularly occurred on Tuesdays in most of the largest cities—the so-called ‘Cheap Tuesdays’. As price cycles occasionally became longer than seven days the cheap days moved later in the week. In recent months many of the price cycles have lasted for longer than seven days, thus making it more difficult for motorists to determine when retail prices are at their lowest point in the price cycle.

Coordinated pricing in the petrol industry

Given that they do not reflect movements in underlying costs or wholesale prices, retail price cycles appear to be entirely due to the pricing policies employed by the local petrol retailers in the domestic market. The ACCC observed in its 2007 inquiry report that petrol price cycles do occur in other countries but those in Australia tend to be larger in amplitude and more consistent.

In previous petrol monitoring reports the ACCC has noted that the degree of coordination observed in price cycles is a source of concern for Australian consumers and for the ACCC.¹⁰

Retail petrol markets in Australia are conducive to coordinated conduct. The high level of retail price transparency provided by the sharing of timely and comprehensive price information between major competing fuel retailers through the Oil Pricewatch system provided by Informed Sources assists retailers to quickly signal price moves, monitor competitor’s responses and react to them.

The degree of coordination exhibited in the weekly price cycle remains a concern for the ACCC. The ACCC is analysing the likely effects of the behaviour on outcomes for consumers.

¹⁰ ACCC, Monitoring of the Australian petroleum industry, December 2010, p. 190.

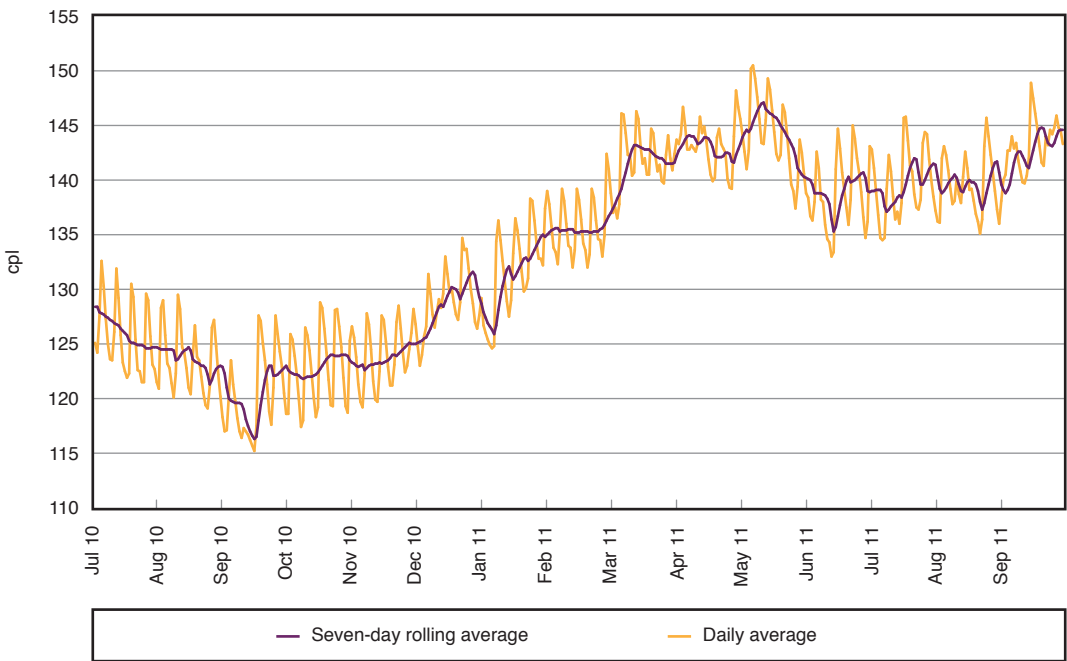
Retail prices over 2010–11

In 2010–11 petrol prices across the five largest cities (on a seven-day rolling average basis) were higher, and more volatile, than in 2009–10. Retail petrol prices were at their highest levels since October 2008.

Average prices in 2010–11 were around 132 cpl, which was around 8 cpl higher than in 2009–10.

Chart 7 shows daily average retail prices, as well as seven-day rolling average prices, across the five largest cities in the period 1 July 2010 to 30 September 2011. The regular price cycle is clearly evident.

Chart 7 Daily average retail petrol prices and seven-day rolling average retail petrol prices, five largest cities: 1 July 2010 to 30 September 2011



Source: ACCC calculations based on Informed Sources data.

Prices ranged from a low of around 116 cpl in September 2010 to a high of around 147 cpl in May 2011—a range of 31 cpl. In contrast, in 2009–10 the range between the highest and lowest prices was only 14 cpl.

Retail prices in regional locations

Retail prices in regional locations in Australia are generally higher than those in the capital cities, although they typically follow the same overall price movements.

Prices in regional locations are generally higher than in the five largest cities for a number of reasons, including:

- lower number of retail sites and therefore a lower level of local competition
- lower volumes of fuel sold
- distance/location factors
- lower convenience store sales.

These factors also explain differences in petrol prices between regional locations.

Price movements in regional locations—both up and down—tend to lag those in the five largest cities. Prices also tend to be more stable in regional locations than in the five largest cities.

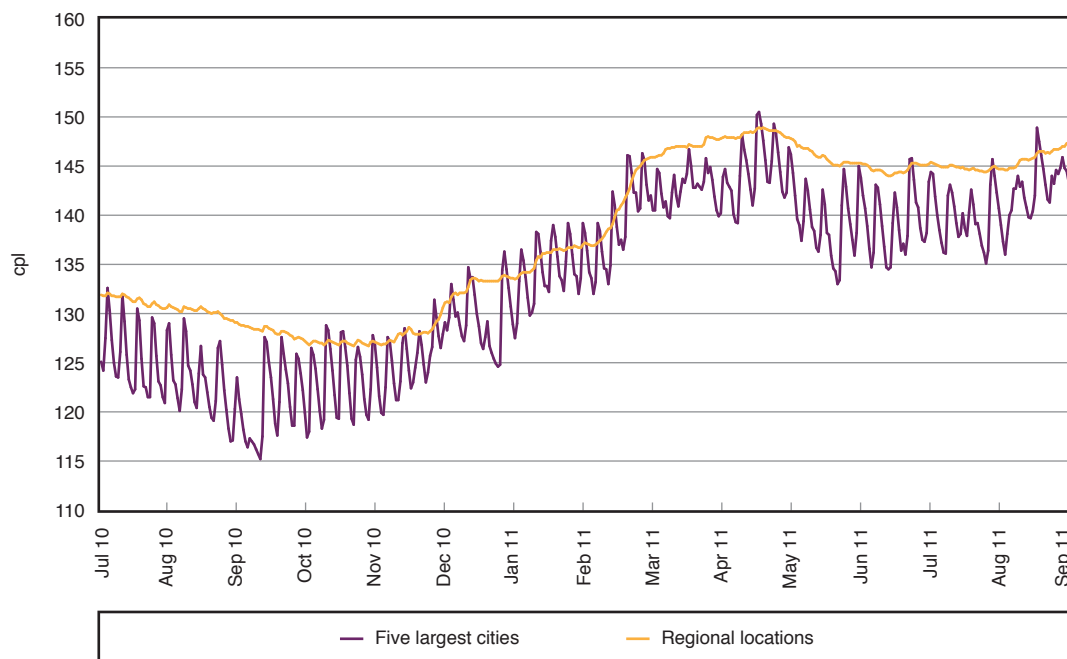
Only a very small number of regional locations have regular price cycles. These tend to be the larger population centres or locations very close to them.

Chart 8 shows daily average retail prices across all of the monitored regional locations in Australia and daily average retail prices in the five largest cities in the period 1 July 2010 to 30 September 2011.¹¹ It can be seen that:

- prices in the regional locations broadly follow prices in the five largest cities
- on aggregate, regional locations do not have the regular retail price cycles that are evident in the five largest cities.

¹¹ The specific regional locations monitored by the ACCC in each state and the Northern Territory are listed in appendix G. It also provides average annual prices for RULP, diesel and automotive LPG in 2010–11 for each of those locations.

Chart 8 Daily average retail petrol prices in the five largest cities and the regional locations in aggregate: 1 July 2010 to 30 September 2011



Source: ACCC calculations based on Informed Sources data.

Profits

As part of its analysis of the prices, costs and profits of the Australian downstream petroleum industry, the ACCC collects extensive financial information from the four refiner-marketers and major wholesalers and retailers.

This information was analysed to estimate the profitability of each sector of the downstream petroleum industry—the refining and importing, wholesale, and retail sectors.

The financial performance of the domestic petroleum industry has also been compared with other industries operating in Australia and with petroleum companies operating overseas.

Petrol industry profits have been a small proportion of retail prices

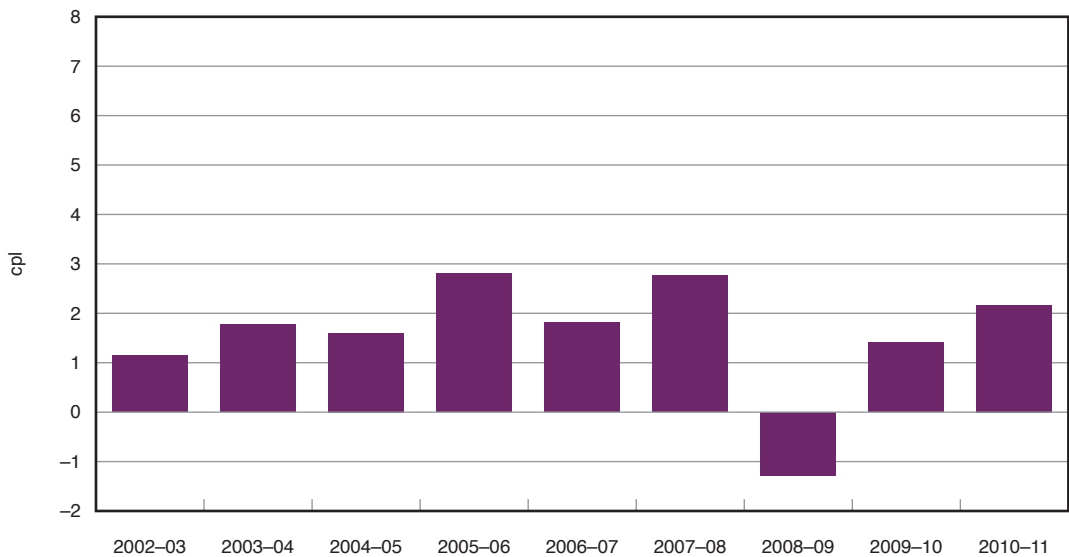
A small proportion of the final bowser price has been retained as profits by the supply, wholesale and retail sectors. The ACCC has estimated unit net profit for the downstream industry, that is, net profit for each litre of fuel sold.

Unit net profit for petrol products is a measure of the difference between the average revenue per litre of petrol sold and the average cost for the industry to purchase crude oil and process and sell the refined petrol.

After subtracting all costs, the ACCC has estimated that net profit to the petrol companies on petrol products has averaged around 1.6 cpl over the past nine years (Chart 9). The ACCC estimates that in 2010–11 unit net profit was around 2.2 cpl on the sale of petrol products. In recent

years, this measure of profit on petrol products for the combined supply, wholesale and retail sectors has typically been in the range of -1.28 to 2.81 cpl. A large part of this variability is due to fluctuations in the value of stock holdings in response to changes in international prices.

Chart 9 **Total downstream unit net profit, petrol products (cents per litre): 2002–03 to 2010–11**

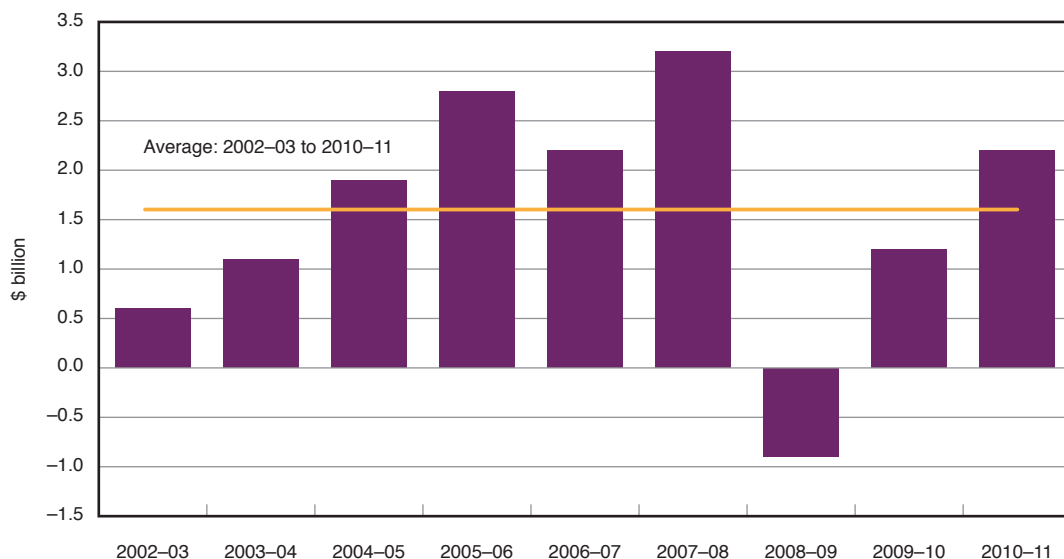


Source: ACCC analysis based on data obtained from firms monitored through the ACCC’s monitoring process.

Downstream profits have been volatile

The downstream petroleum sector profits over the past nine years have been mixed. The petrol companies made a profit of about \$1.2 billion in 2009–10 after losses in 2008–09 of about \$1 billion. In 2010–11, the industry made a profit of about \$2.2 billion (see chart 10).

Chart 10 Total downstream net profit (adjusted EBIT), all products: 2002–03 to 2010–11



Source: ACCC analysis based on data obtained from firms monitored through the ACCC's monitoring process.

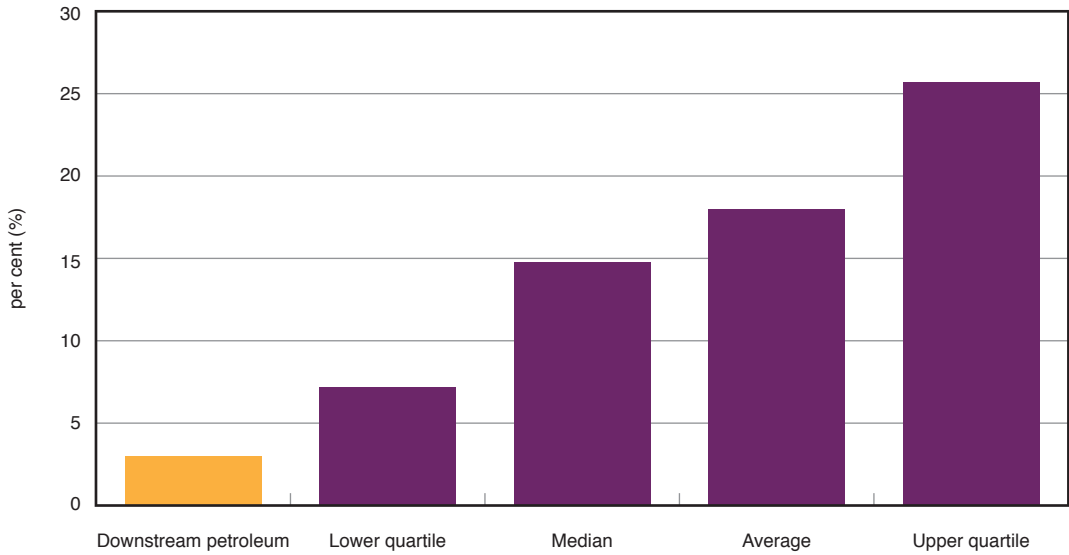
Petrol industry profits relative to other sectors

The ACCC has examined a range of profit measures or key performance indicators (KPIs) for the local petrol companies and has also compared these with other industries.

In 2010–11 return on sales across all products was 3.2 per cent, return on assets was 10.3 per cent and return on capital employed was 15.8 per cent. This compares with the 2009–10 figures for return on sales of 2.0 per cent, return on assets of 6.4 per cent and return on capital employed of 9.4 per cent. All three KPIs were negative in 2008–09.

In terms of return on sales, the local petroleum industry has ranked low compared to other industry sectors represented in the ASX200 index (see chart 11).

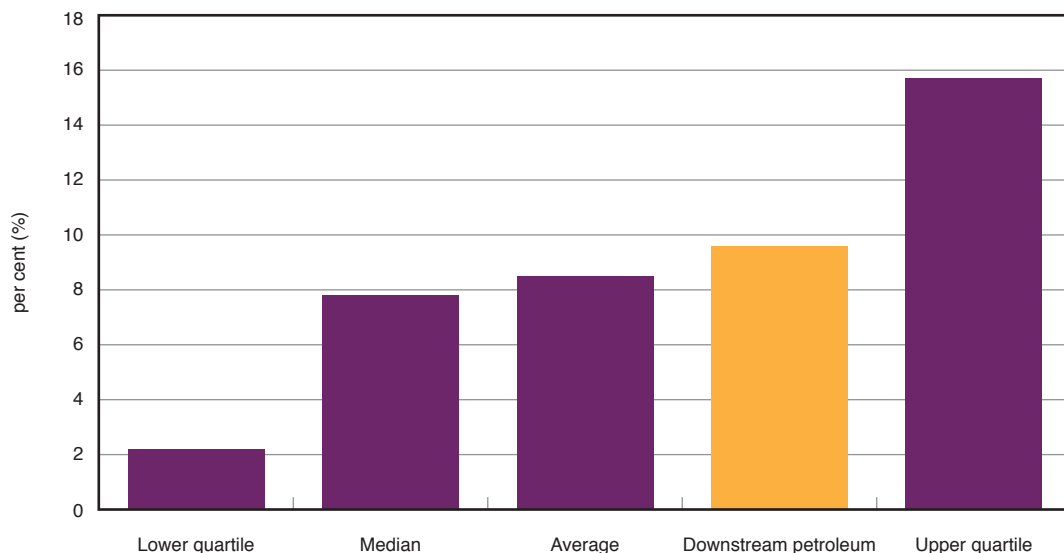
Chart 11 **Comparison of return on sales for downstream petroleum sector and ASX200 companies:**
2002–03 to 2010–11 average



Source: ACCC calculations based on data obtained from firms monitored through the ACCC’s monitoring process; Bloomberg and Bureau van Dijk Orbis database.

When measured using return on assets the petroleum industry is around the average for the ASX200 (see chart 12). Results of analysis of comparative return on assets must be treated with caution. Asset data is based on depreciated historical cost values provided to the ACCC by the monitored companies. The values of these assets are not market-based as they are not generally traded in a liquid market. Estimates of return on assets are affected by the use of different asset valuation approaches and by the asset age profile. For example, all else equal, a company with old assets valued on the basis of depreciated historical cost will generally have a smaller asset base than a company which either values assets on a replacement cost basis or which has a younger asset profile. Some assets in the Australian downstream petroleum industry, particularly in the refinery sector, may have a higher than average age profile.

Chart 12 Comparison of return on assets for downstream petroleum sector and ASX200 companies: 2002–03 to 2010–11 average



Source: ACCC calculations based on data obtained from firms monitored through the ACCC's monitoring process; Bloomberg and Bureau van Dijk Orbis database.

Costs

For every litre of petrol products sold by the petrol companies across supply, wholesale and retail, approximately 2.2 cpl is retained as net profit. For RULP this figure is 1.2 cpl. This means that the underlying costs of supply account for the remainder of the bowser price.

Nominal components of cost

Australian petrol prices are not regulated and local petrol companies are free to set prices in the market. However, the two largest components of the pump price—the international price of refined petrol and tax (excise and GST) are outside the control of the local petrol companies.

The two largest components in petrol, diesel and automotive LPG prices are:

- the international benchmark prices for refined fuel
- excise (for petrol and diesel—there is currently no excise imposed on automotive LPG) and GST.

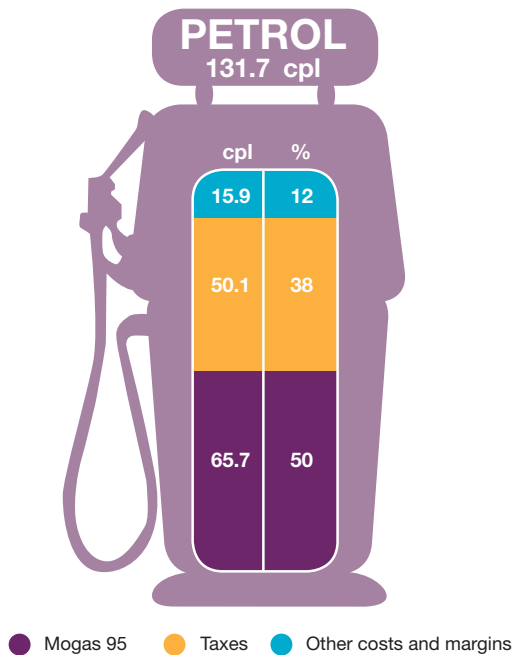
Together, these two components account for about 88 per cent of the price of petrol. That is, out of a retail price of 131.7 cpl, around 115.8 cpl is directly attributable to the cost of refined petrol and taxes (see chart 13).

For diesel, these two components also account for 88 per cent of the bowser price (see chart 14).

For automotive LPG, the international benchmark price and GST account for 80 per cent, in part reflecting the lack of excise on automotive LPG and higher transport and storage costs relative to petrol and diesel (see chart 15).

Margins and other costs therefore account for about 16 cpl of the retail price of petrol, 16 cpl for diesel and 12 cpl for automotive LPG. This amount covers a number of costs such as freight (including freight to Australia from overseas), wages, and terminal costs and retail site operations.

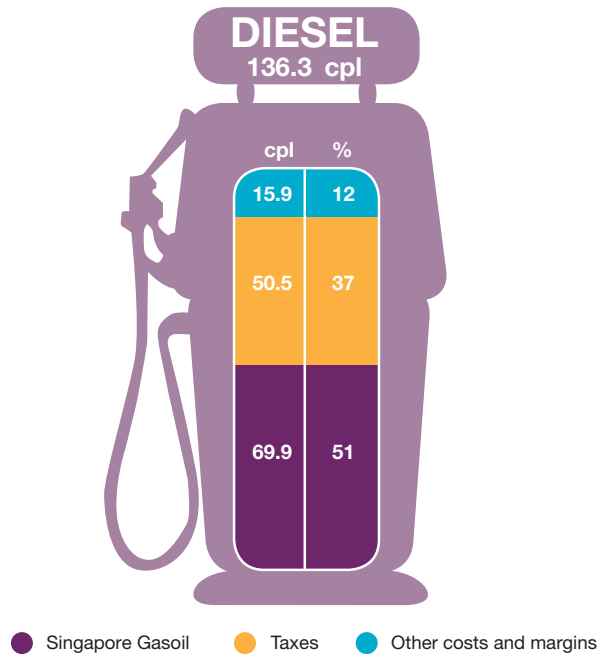
Chart 13 Nominal components of average retail RULP prices in the five largest cities: 2010–11



Source: ACCC calculations based on Informed Sources, Platts and RBA data.

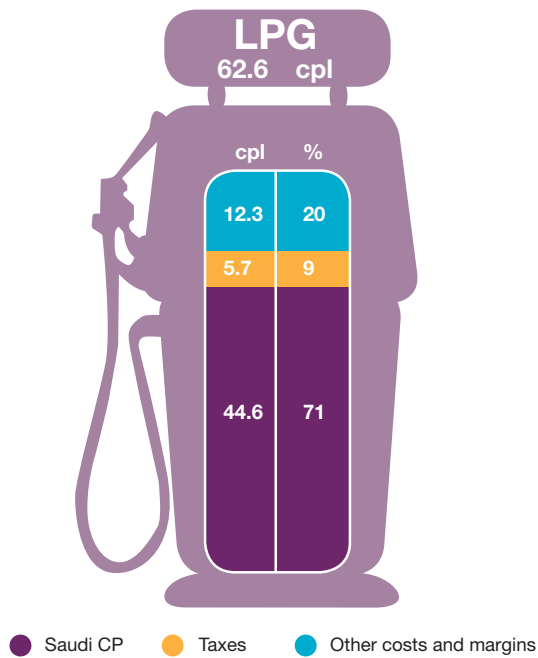
Note: Of the 15.9 cpl other costs and margins, 1.2 cpl is the total downstream net profit per litre across the supply, wholesale and retail sectors.

Chart 14 Nominal components of average retail diesel prices in the five largest cities: 2010–11



Source: ACCC calculations based on Informed Sources, Platts and RBA data.

Chart 15 Nominal components of average retail automotive LPG prices in the five largest cities: 2010–11



Source: ACCC calculations based on Informed Sources, LPG Australia and RBA data.

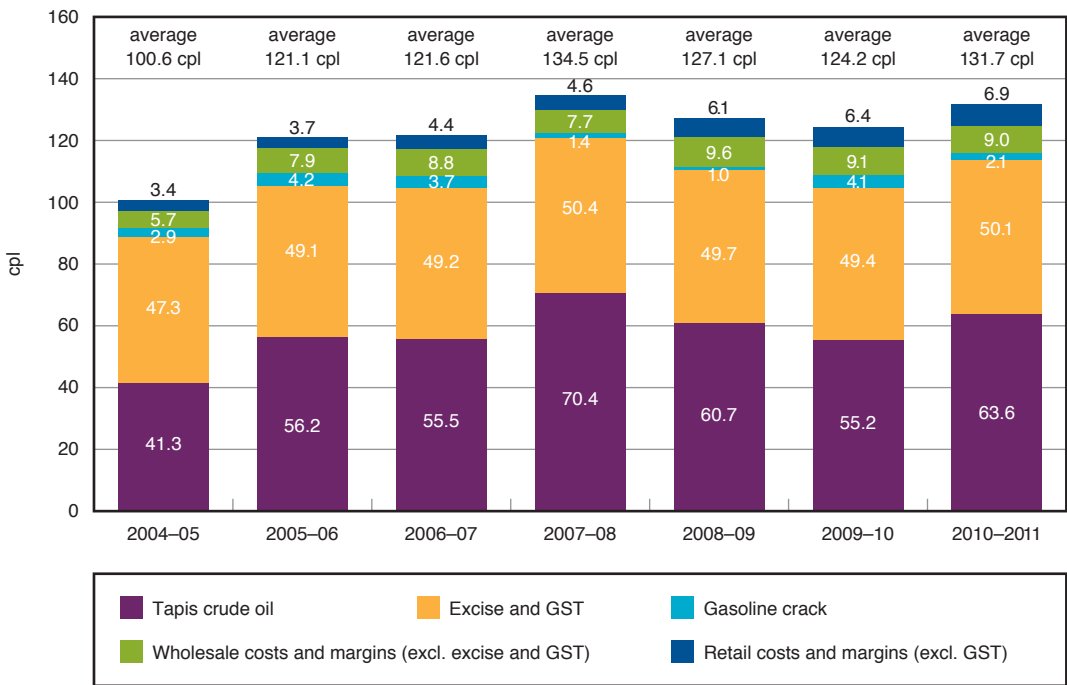
Components of the pump price

Chart 16 shows a more detailed breakdown of the components of the annual average retail petrol price across the five largest cities from 2004–05 to 2010–11.

Each bar represents the annual average retail price disaggregated into the following:

- Tapis crude oil—the benchmark for crude oil in the Asia-Pacific region (including Australia)
- gasoline crack—the difference between the price of Mogas 95 and Tapis crude oil
- wholesale costs and margins (excluding excise and the GST)¹²
- retail costs and margins (excluding the GST)
- excise and the GST—this is excise (which is set at a constant 38.14 cpl) and the GST.

Chart 16 Components of Australian retail petrol prices in the five largest cities: 2004–05 to 2010–11



Source: ACCC calculations based on Informed Sources, Platts and RBA and WA Fuelwatch data, and information provided by monitored companies.

Chart 16 shows clearly that changes in the international price of crude oil have been overwhelmingly responsible for movements in retail petrol prices.

The components attributable to excise and GST and the local petrol companies have been relatively stable.

12 Note that prior to July 2009, the Queensland Government provided a subsidy at the retail level of 8.4 cpl (around 9.2 cpl when GST is included). Therefore, terminal gate prices prior to July 2009 in Brisbane have been reduced by 9.2 cpl to put the wholesale and retail prices on a consistent basis.

Between 2004–05 and 2010–11, the average pump price of RULP increased by around 31 cpl. Most of this increase—over 22 cpl—has flowed back to the suppliers (owners and extractors) of the crude oil. By contrast, the amount flowing back to the local petrol companies has increased by about 7 cpl over the same period. This increase includes increases in costs to cover inflation as well as increases in freight and other operating costs.

Conclusion: prices, costs and profits

ACCC analysis has shown that petrol prices have generally been in line with the underlying costs of supply and international benchmarks:

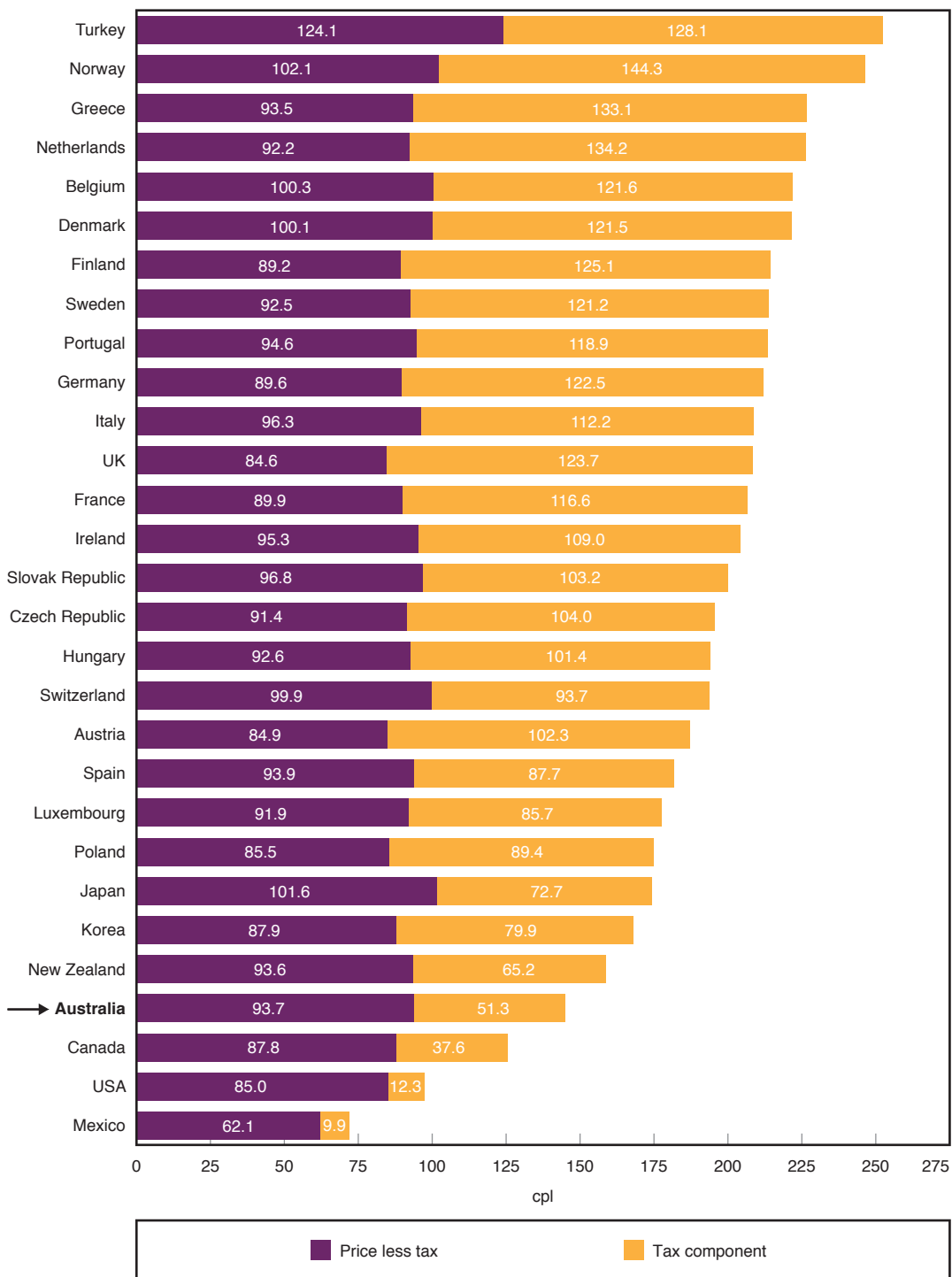
- Movements in the international price of crude oil have driven movements in petrol prices in the region (as reflected in the Mogas 95 benchmark price) that in turn have driven movements in Australian retail petrol prices.
- In any particular week, retail price cycles in the major cities may cause divergences from the benchmark prices of several cents per litre, depending on the phase of the cycle.
- Average downstream petrol industry profits in Australia do not appear high compared with other industry sectors operating in Australia.
- Most of the benefits from recent higher fuel prices have been captured by the owners and producers of crude oil. Of the increase in petrol prices from 2004–05 and 2010–11 of 31 cpl, over 22 cpl flowed back to the suppliers of the crude oil. Over the same period the amount flowing back to the local petrol companies increased by about 7 cpl.

Petrol prices in Australia compared with prices in other countries

Retail petrol prices in Australia remain low compared with other countries in the Organisation for Economic Co-operation and Development (OECD) (see chart 17). In the June quarter of 2011, Australia had the fourth-lowest petrol prices in the OECD.

To a large degree, lower petrol prices in Australia are due to lower fuel taxes. If the impact of taxation is removed, the underlying price of petrol in Australia is around the median of OECD countries.

Chart 17 Petrol prices and taxes in OECD countries: June quarter 2011



Source: Department of Resources Energy and Tourism, *Australian Petroleum Statistics*; issue no. 182, September 2011.

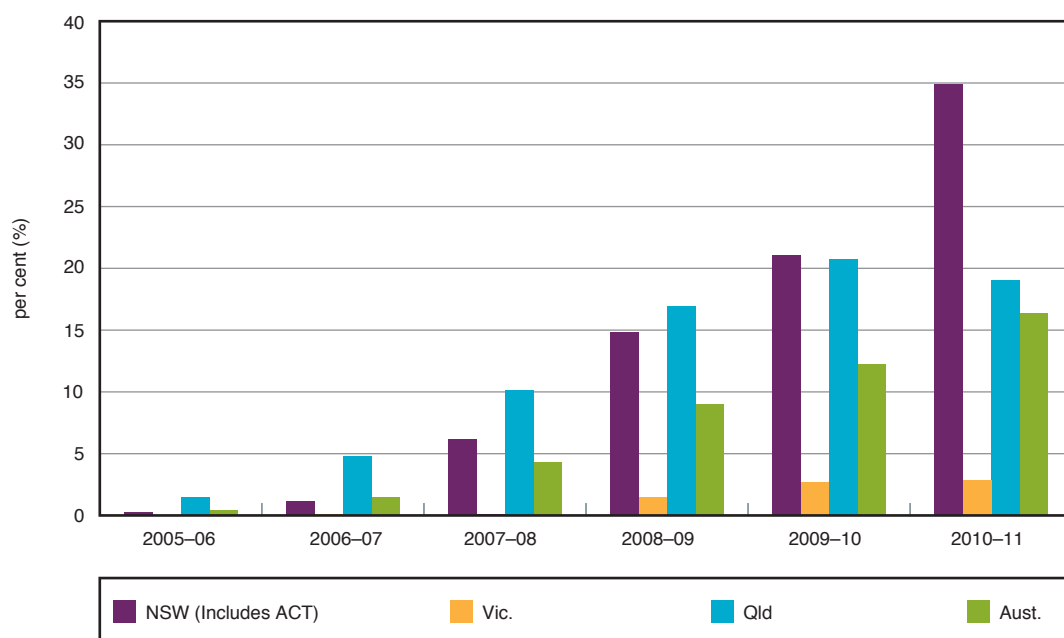
Note: Care must be taken when making international comparisons as fuel quality standards (for example, octane rating and the content of MTBE and sulphur) for the most commonly used form of petrol in each market differ between countries.

Recent developments in the fuel industry

Continued increase in sales of E10

During 2010–11, sales of ethanol blended petrol (EBP) continued to increase substantially. This increase has primarily been due to the operation of the NSW Government mandate (see chart 18). On the other hand, in Queensland, where plans for the introduction of a mandate were suspended, sales have fallen slightly.

Chart 18 Ethanol blended petrol as a percentage of total petrol sales: 2005–06 to 2010–11



Source: ACCC calculations based on RET data, *Australian Petroleum Statistics*, various issues.

NSW Government mandate on ethanol

The NSW Government mandate specifies the following:

- From 1 January 2010, the volume of ethanol sold should have made up a minimum of 4 per cent of the total volume of petrol sales.
- From 1 October 2011, the mandate increased to 6 per cent. As E10 generally consists of 10 per cent ethanol, in effect this means that 60 per cent of all petrol sales must be E10.
- From 1 July 2012, 'primary wholesalers' must not sell RULP unless it is E10.
This means that most motorists in NSW will effectively be only able to buy E10 or PULP.

The Queensland Government had proposed to introduce an ethanol mandate for petrol sold in Queensland by 31 December 2010. The draft bill stated that the volume of ethanol must not be less than 5 per cent of the total volume of RULP and EBP sold in Queensland from 31 December 2010. Plans for the mandate were suspended in October 2010.

The operation of the NSW ethanol mandate is having and will continue to have some significant impacts on consumers:

- The mandate reduces the availability of RULP (from 1 July 2012, RULP will effectively be removed as a choice for consumers in NSW and, as an indirect consequence, the ACT).
- Motorists who cannot use E10 (or choose not to) may be forced to use premium unleaded petrol (PULP), which is significantly more expensive than RULP.
- Despite recent increases in production, some industry participants have raised concerns that current domestic production capacity may not be sufficient to meet demand under the full effects of the mandate and that there is the potential for shortages of ethanol and E10.
- The tax treatment of fuel ethanol imports makes it unlikely imports will be able to provide competitive pressure on Australian prices in the short to medium term.
- The move to PULP by some consumers could lead to a shortage of premium unleaded petrol (PULP) throughout Australia.
- There is potential for the price of E10 and PULP to increase relative to RULP.

In the past, the ACCC has acknowledged industry concerns about the potential supply and price impacts of the ethanol mandate. Given ongoing industry concern over supply and price issues relating to ethanol mandates, the ACCC intends to continue closely monitoring the EBP market in the coming year.

Changes in market structure

The structure of the domestic fuel market continues to evolve in line with international trends. Integrated refiner-marketer oil companies continue to move away from lower margin downstream activities to concentrate on oil exploration and extraction.

This year saw a number of important developments in the Australian fuel industry.

The announcement of the end of refining at Shell's Clyde refinery will bring the number of refineries in Australia down to six from eight a decade ago. Shell will convert the refinery along with the Gore Bay terminal into an import facility.

In 2010–11, 7-Eleven and Peregrine Corporation (which trades as On The Run) completed their takeover of the former Mobil-owned retail sites, significantly increasing their retail presence. This continues a trend in the Australian market of specialist retailers, including supermarkets, increasing their involvements in fuel retailing.

In recent years, the retail market share of the refiner-marketers has declined. Shell and Mobil are now effectively out of petrol retailing. Specialist retailers—such as 7-Eleven, independent retail chains such as On The Run, the retail operations of independent wholesalers Neumann, United and Gull, and the supermarkets—have been increasing their exposure to fuel retailing.

Reflecting these trends, data provided to the ACCC indicates material changes in market shares in the retail sector.

For example, table 1 shows that in 2010–11, the sale of the Mobil retail network to 7-Eleven and On The Run boosted the independent retail chains' share of branded retail sales from 10 to 17 per cent. While some Mobil retail sales may have been picked up by BP and Caltex branded retailers, the four refiner-marketers' combined share of total branded retail sales fell from 45 per cent to 39 per cent.

Table 1 Share of volume of retail petrol sales by brand: 2002–03 to 2010–11

	BP %	Caltex %	Mobil %	Shell %	Coles Express/Shell (co-branded) %	Woolworths Caltex (co-branded) %	Independent retail chains %
2002–03	20	24	19	20	0	10**	6
2003–04	20	22	17	3	16	14	7
2004–05	18	18	12	3	25	18	6
2005–06	19	16	11	3	25	20	6
2006–07	19	16	11	3	22	22	7
2007–08	20	17	11	2	20	22	8
2008–09	19	16	10	2	22	23	9
2009–10	17	16	10	2	22	23	10
2010–11	19	18	*	2	22	23	17

Source: ACCC analysis and estimates based on data obtained from firms monitored through the ACCC's monitoring process.

Notes: *2010–11 sales for Mobil sites sold to 7-Eleven and On The Run are included in the 'Independent retail chains' column.

**In 2002–03 Woolworths was not co-branded with Caltex.

Totals may not add to 100 per cent due to rounding.

2010–11 also saw significant developments among the major independents. United Petroleum purchased the Dalby ethanol refinery, which had been operating under administration. Darwin-based Ausfuel took over the operations of Perth-based Gull Petroleum and Neumann Petroleum completed its pipeline in Brisbane, improving its access to imported fuel.

Increase in independent imports

During 2010–11, the amount of petrol imported by independent operators continued to increase. While still relatively small, these independent importers provide a competitive discipline on the larger players.

In the last three years, while the total volume of petrol imports has declined slightly, independent imports of unleaded petrol have increased from less than 5 per cent to around 40 per cent of total unleaded petrol imported into Australia.

Role of the ACCC

Petrol is similar to other products in that well regulated and competitive markets generally provide consumers with the lowest sustainable prices.

The ACCC has no role in setting petrol prices. Petrol prices in Australia are set by market forces.

The ACCC has two broad roles in relation to the petrol industry:

1. The ACCC enforces competition and consumer protection laws across Australia

The ACCC is an independent statutory authority that administers the *Competition and Consumer Act 2010* (the Act) (formerly the *Trade Practices Act 1974*) and other laws. The purpose of the Act is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection. These laws apply to all industry sectors, including the fuel industry.

The most relevant enforcement work of the ACCC in the fuel industry relates to its role in enforcing compliance with the Act, assessing mergers and acquisitions and authorisations and notifications.

2. Monitoring the prices, costs and profits relating to the supply of unleaded petroleum products in the petroleum industry

In December 2007, the Minister directed the ACCC to monitor the prices, costs and profits relating to the supply of unleaded petroleum products in the petroleum industry in Australia for three years to the end of 2010. On 13 May 2010, the Minister subsequently extended the direction for a further year to the end of 2011. This is the fourth report on the ACCC's petrol monitoring activities. On 10 May 2011, the Minister issued a further direction for the ACCC to prepare a monitoring report to the end of 2012.

The ACCC collects fuel prices in each capital city and around 150 regional locations. The ACCC reviews these prices and compares them with the international benchmarks. Each year, the ACCC also obtains cost and profit information from the petrol companies. The ACCC uses this information to compare Australian prices, costs and profits against international benchmarks. In addition, the Minister has asked the ACCC to also focus on the prices of diesel and automotive LPG.

If ACCC analysis indicates there are factors impairing competition in fuel markets, it can alert the government and community to the problem as it did with its concerns on the prices and supply of EBP.

Enforcement and compliance

Misleading conduct and false representations

Many of the contacts the ACCC received in 2010–11 related to alleged misleading and deceptive conduct and false or misleading representations. Conduct will be in breach of the Act where it misleads, deceives or is likely to mislead or deceive consumers. Such conduct may include lying to consumers, leading them to a wrong conclusion, creating a false impression or making false or inaccurate claims.

Similar to 2009–10, the main issues raised by consumers in 2010–11 included concerns about pricing practices, labelling on fuel pumps, advertising promotions (such as discount schemes), fuel quality claims and concerns about inaccurate fuel measurements. Of the total complaints further assessed, the ACCC achieved an enforcement outcome in relation to Prime Fuel Distributors Pty Ltd (see chapter 2). A number of complaints remain under investigation.

Business-to-business dealings

In 2011, the ACCC continued to examine allegations of anti-competitive conduct, such as price fixing and predatory pricing in the downstream petroleum industry. During this time the ACCC assessed a number of matters, however to date no allegations have been substantiated.

Markets in regional Australia

As part of its monitoring activities in 2010–11, the ACCC continued to actively monitor fuel prices in around 150 regional locations.

The ACCC uses this information to assess the competitiveness of fuel prices in regional locations. Where there is an allegation of anti-competitive conduct, it will make targeted inquiries to investigate the issue. After making inquiries, if there is information available to the ACCC that a breach of the Act is likely to have occurred, it can take action to enforce the Act.

Given that many regional locations only have a limited number of retail sites, the ACCC pays particular attention to potential changes in ownership of retail sites in regional locations to ensure that the sale will not result in a substantial lessening of competition in that particular market.

Improving business practices

From the complaints and inquiries received, the ACCC became aware of some practices that were causing concern for consumers and raised these concerns with industry. In September 2011, the ACCC wrote to the major petrol companies and industry associations to request that they review their business practices and take corrective action where necessary. The practices raised in these letters included the following:

- Labelling of petrol containing ethanol—consumers raised concerns that in some instances petrol containing ethanol had not been adequately differentiated from regular unleaded petrol. This appears to be a particular problem on signboards where only petrol containing ethanol is sold at the retail site.
- Advertising and labelling—consumers complained about the failure of retailers to clearly display terms and conditions of offers, unclear labelling of different fuel products, and inaccurate representations about the performance, grade or composition of fuels.

The ACCC will continue to monitor the issues and take enforcement action where it is appropriate.

In addition, as a result of discussions with industry about specific compliance issues, the ACCC was requested to contribute an article about predatory pricing for the Australasian Convenience and Petroleum Marketers Association (ACAPMA) magazine. This article was published in mid 2011 to assist industry players to understand their rights and obligations under the Act.

Mergers and acquisitions

Section 50 of the Act prohibits acquisitions that would have the effect, or likely effect, of substantially lessening competition in a market. The ACCC administers and enforces the merger provisions under Part IV of the Act.

Over 2010–11, the ACCC completed public reviews of one fuel-related merger proposal, the outcome of which is summarised below.

[Caltex Australia Petroleum Pty Ltd: proposed acquisition of the Mobil assets at the Caltex–Mobil joint fuel terminal Gladstone](#)

Caltex proposed to acquire the Mobil assets at the Gladstone fuel terminal, which was operating as a joint fuel terminal by Caltex and Mobil.

On 15 October 2010, the ACCC commenced a public review of the acquisition. The ACCC published a Statement of Issues on 2 December 2010, seeking comments by 23 December 2010 and had initially proposed to announce its findings on 27 January 2011, but this was extended to allow the merger parties to provide further information.

On 26 May 2011, the ACCC decided to allow the merger to proceed, as it was determined that it was unlikely to substantially lessen competition.

Authorisations and notifications

In certain circumstances, the ACCC can grant immunity from legal action for potential anti-competitive conduct. Businesses may obtain immunity by applying for an authorisation or submitting a notification with the ACCC.

Authorisations

Authorisation is a process under which the ACCC can grant immunity for potential breaches of the competition provisions of the Act if it is satisfied the conduct delivers a net public benefit. There were no fuel-related authorisations lodged with the ACCC in 2010–11.

Exclusive dealing notifications

Notification of exclusive dealing conduct, which includes conduct such as requiring a person to purchase goods from a third-party supplier (known as third line forcing) or requiring a person not to purchase goods from other competitors, provides immunity for potential breaches of the applicable sections of the Act.

Immunity for third line forcing conduct takes effect 14 days after the notification is lodged with the ACCC, and remains unless it is revoked by the ACCC. Immunity for other exclusive dealing conduct takes effect from the date on which the notification is validly lodged with the ACCC.

In 2010–11, the ACCC considered 15 fuel-related exclusive dealing notifications and allowed immunity to continue in each case. The notifications fall into two broad categories:

- proposed shopper docket third line forcing arrangements
- third line forcing arrangements in relation to acquiring goods or services from a nominated preferred supplier.

Administration of the Oilcode

The Oilcode came into effect on 1 March 2007 as a prescribed industry code of conduct under the Act. The Oilcode formed part of the Australian Government's Downstream Petroleum Reform Package. In general terms, the Oilcode aims to regulate the conduct of suppliers, distributors and retailers in the downstream petroleum retail industry.

The ACCC's role is to ensure compliance with the Oilcode and the Act by informing downstream petroleum industry participants of their rights and obligations under the law and by enforcing the law if necessary.

In 2010–11, the ACCC received four Oilcode-related complaints and six inquiries. The complaints related to the supply of declared petroleum products and fuel re-selling agreements. Of the four complaints, one complainant was advised to pursue private legal action, two complaints were not pursued because the evidence was insufficient to establish a breach of the Oilcode or the Act and one was referred to the police.

In 2009, the Department of Resources, Energy and Tourism released its review of the Oilcode and made 11 recommendations.

In 2011, the government accepted all the recommendations. A further review of the Oilcode will be conducted in 2013. Further information is available from the Department of Resources, Energy and Tourism website.¹³

Conclusion: level of compliance with the Act

Over 2010–11, the ACCC received around 1000 complaints and inquiries about the fuel industry. The majority of these complaints related simply to the fact that market prices were high rather than allegations of a breach of the Act. The ACCC undertook a number of investigations into conduct that may breach the Act.

Of the total complaints further assessed, the ACCC achieved an enforcement outcome in relation to Prime Fuel Distributors Pty Ltd and has a number of other cases currently under investigation.

The ACCC will continue to monitor the operation of the fuel industry and will take appropriate action where there is evidence of a breach of the Act.

¹³ See http://www.ret.gov.au/resources/fuels/petroleum_refining_and_retail/downstream_petroleum_legislation/oilcode_review/Pages/OilcodeReview.aspx, accessed 30 November 2011.

