



Australian
Competition &
Consumer
Commission

A collage of images related to the petroleum industry, including a red sign with the word 'unleaded', a close-up of a fuel nozzle, and a road stretching into the distance.

unleaded

Monitoring of the Australian petroleum industry – summary 2010



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Australian Competition and Consumer Commission
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Key findings



Key findings

Petrol prices in 2009–10

Over the course of 2009–10, retail petrol prices were relatively stable.¹

Average retail petrol prices (seven-day rolling averages²) across the five largest cities ranged between:

- ↪ a low of **116 cents per litre (cpl)** in October 2009 and a **high of 130 cpl** in May 2010, a range of only 14 cpl.

The relative stability of prices in 2009–10 is in contrast to price movements over the previous year – petrol prices reached a peak of 162 cpl in July 2008 and fell to a low of 101 cpl in December 2008.

Determinants of retail petrol prices

ACCC analysis has shown that the major determinants of retail petrol prices have been:

- ↪ the **international price of refined petrol** (Singapore Mogas 95), which is largely driven by the international price of crude oil. The ACCC has determined that the Australian dollar price of Singapore Mogas 95 along with taxes accounts for around 88 per cent of average retail prices.
- ↪ the **exchange rate** of the Australian dollar against the US dollar (a stronger Australian dollar reduced some of the effects of higher crude oil prices on Australian retail petrol prices).
- ↪ the established **weekly retail price cycles** that operate in the largest capital cities and affect the day-to-day prices of petrol.

¹ Unless otherwise stated prices refer to the price of regular unleaded petrol (RULP).

² Seven-day rolling average prices are used to reduce the impact of daily price fluctuations caused by regular weekly price cycles and show the underlying price.

The regular weekly price cycles have continued to be clearly evident in the largest capital cities. However this year these cycles were less stable than in 2009 with a number of instances where the price cycle failed in one or more cities. In addition, shifts in the weekly price cycle made the cheapest day on which to buy petrol less predictable.

In 2009–10 Australia had the fourth lowest retail petrol prices in the OECD.³

Profits

Based on analysis of the data obtained through the monitoring program, the ACCC has estimated that for the supply, wholesale and retail of petrol the **amount that motorists paid as profits to the petrol companies was 2.9 cpl in 2009–10.**

Over the past eight years the aggregated net profit on petrol for the supply, wholesale and retail sectors has typically been in the range of 2 cpl to 4 cpl.

This year the industry made a return on sales of 2 per cent (net profit of approximately \$1.2 billion on sales of approximately \$59 billion). In 2008-09, the downstream petroleum industry made a loss of \$945 million. This year's profit is below the \$1.5 billion average net profit over the past eight years.

Ethanol and premium unleaded petrol

During 2009–10 there has been a substantial increase in sales of E10, primarily as a result of the scaling up of the NSW government ethanol mandate and in anticipation of an ethanol mandate in Queensland (the introduction of which was suspended in October 2010).

There has also been a related increase in sales of premium unleaded petrol. This has been due, in part, to the reduction in availability of RULP in NSW and to some extent in Queensland as retailers move to become compliant with the existing and proposed mandates.

Given the increasing demand for E10, limited domestic production capacity for ethanol and a tax treatment that favours domestic production over imports, there are concerns in the short to medium term regarding the supply and price of ethanol used for automotive fuel and therefore ethanol blended fuel.

³ RET comparison of OECD retail prices June 2010.



Structural changes in the fuel industry

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

- ↪ Mobil effectively withdrawing from the Australian retail market. This appears part of a broader global movement of integrated oil companies moving out of retailing to concentrate on more profitable oil and gas exploration and extraction.
- ↪ By buying the retail assets of Mobil, 7-Eleven and Peregrine Corporation (which owns the On The Run chain) significantly increased their retail fuel presence. This continues a trend in the Australian market of specialist retailers, including supermarkets, increasing their involvement in fuel retailing.

Independent imports

In 2009–10 independent imports of total petroleum products increased substantially. The proportion of independent imports to total imports has more than doubled to over 10 per cent in the past two years.

Summary



Summary

The ACCC monitored and analysed the prices, costs and profits of petrol in accordance with the ministerial direction of 17 December 2007. 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.

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

ACCC analysis has shown that Australian retail prices for petrol have closely followed international benchmark prices of refined petrol. These international benchmark prices have in turn been driven by international prices for crude oil. The value of the Australian dollar also drives changes in domestic petrol prices.

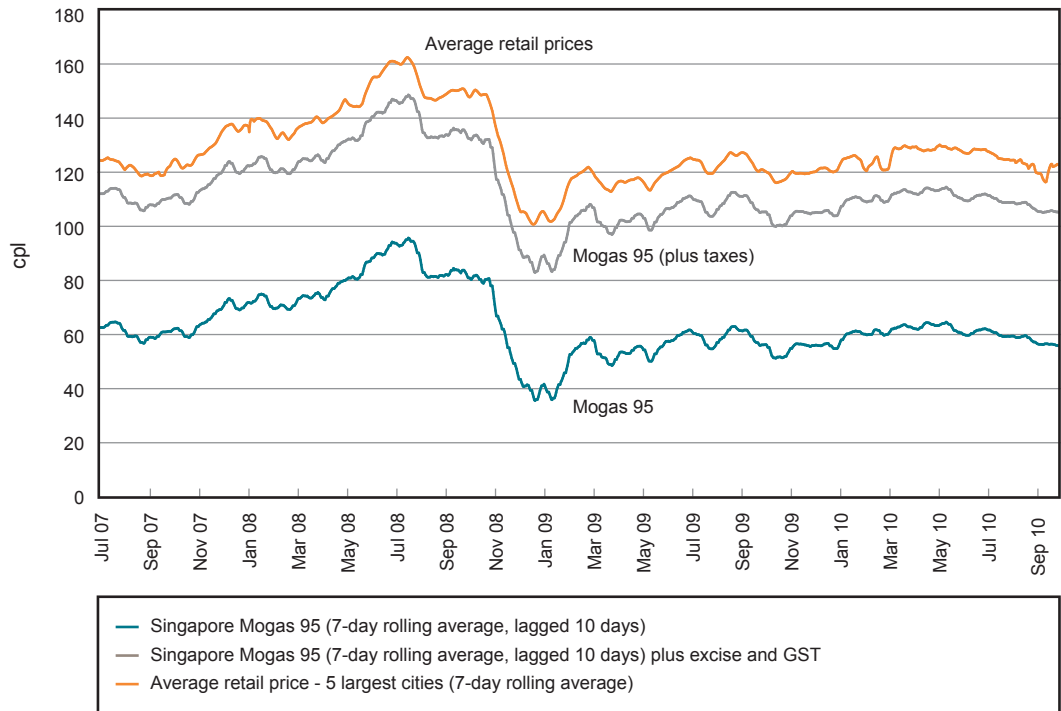
The central role of the Mogas 95 petrol benchmark and international crude oil prices

The international refined petrol benchmark for Australia is the price of Singapore Mogas 95 Unleaded (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 a basis for calculating the price of petrol in Australia.

Chart 1 shows the movements in the average retail price of RULP in Australia's five largest cities and the price of Mogas 95 in Australian cpl (these are seven-day rolling average retail prices to smooth out the effect of the regular weekly price cycles and seven-day rolling average lagged 10 days price for Mogas 95). For comparison purposes also included is a calculation with excise and GST (equivalent to that applied to retail) added to the Mogas 95 series.

From this chart it can be seen that Australian retail prices have followed the international benchmark price for refined petrol very closely. Movements (both up and down) in the international price of refined petrol over the past three years have been passed on to Australian motorists.

Chart 1 Weekly movements in retail petrol prices and Singapore Mogas 95 prices: 1 July 2007 to 30 September 2010



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

While Mogas 95 is the principal reference point 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 (Tapis is commonly used as the benchmark for crude oil prices in South-East Asia), drive changes in the price of Mogas 95 which plays a central role in setting retail petrol prices in Australia (see figure 1).

Figure 1 The influence of movements in the price of crude oil

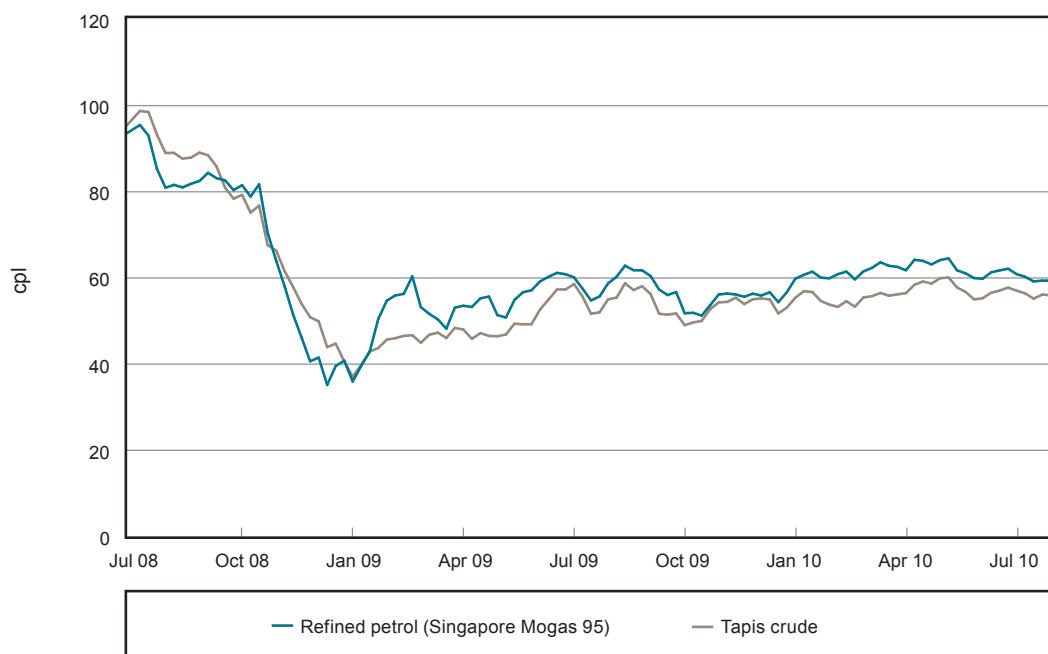




ACCC analysis has shown that the underlying movements in the overall level of retail prices in Australia are strongly influenced by movements in the Australian dollar value of the international prices of crude oil.

Chart 2 shows the close relationship between movements in Tapis crude oil prices and the Mogas 95 refined petrol benchmark. This is expected as crude oil is used to produce refined petrol.

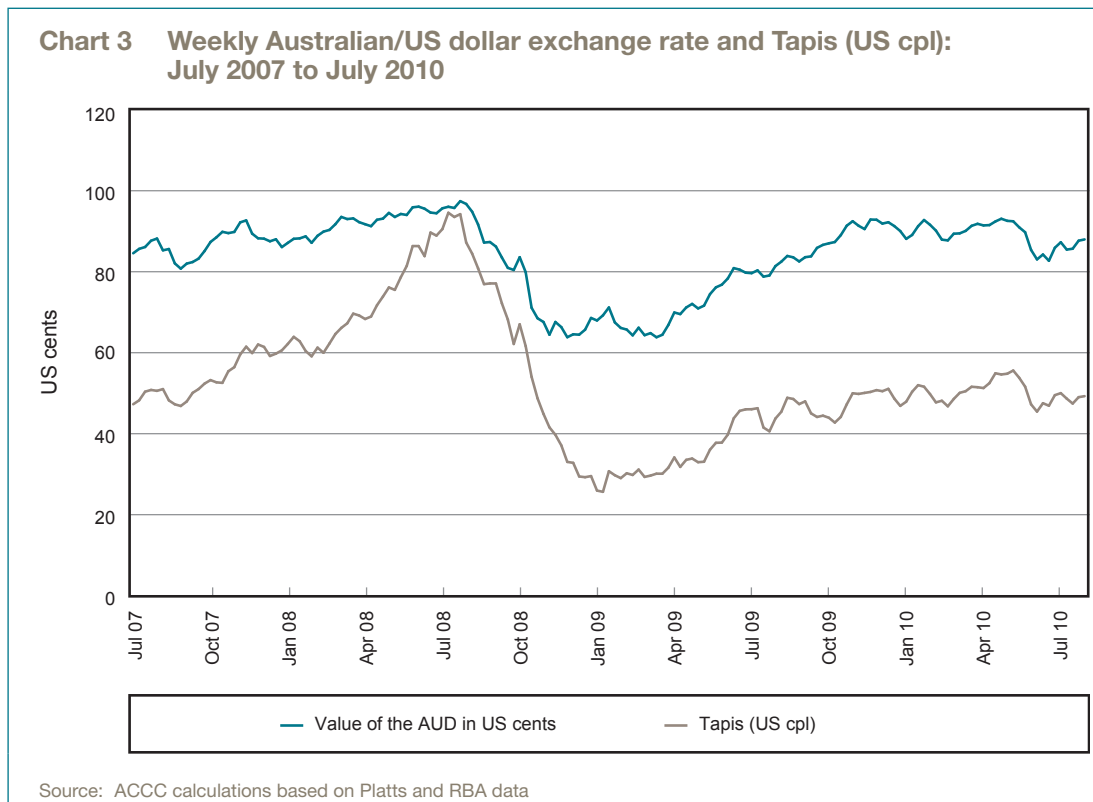
Chart 2 Weekly movements in international benchmark prices of refined petrol (Mogas 95) and crude oil (Tapis): 1 July 2008 to 30 September 2010



Source: ACCC calculations based on Platts and RBA data

Effect of the exchange rate

In the past two years movements in the value of the Australian dollar relative to the US dollar have been in a similar direction to movements in the US dollar price of oil (as shown in chart 3).



The recent correlation between movements in the Australian/US dollar exchange rate and crude oil (and thus of refined petroleum) has meant that recent oil, petrol and diesel price movements have had less impact on Australian consumers.

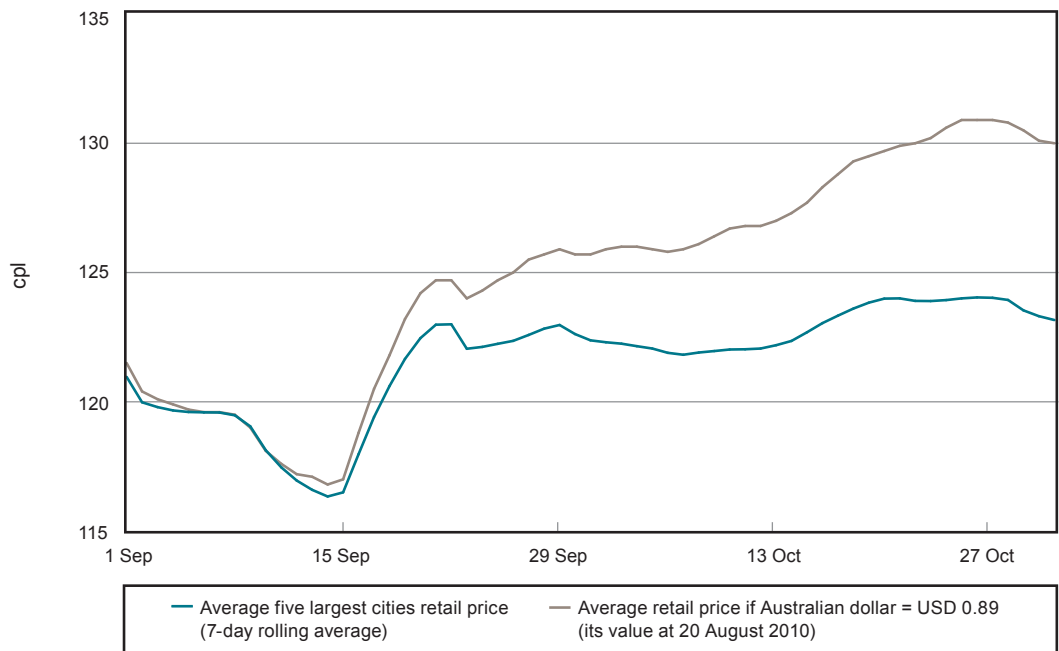
Retail prices and the exchange rate

As Mogas 95 is priced in US dollars, changes in the value of the Australian dollar against the US dollar affect the domestic price of petrol. The higher Australian dollar over the past year has meant retail petrol prices in Australian dollars were cheaper than they would otherwise have been.

The effect of the exchange rate can be seen in chart 4, which shows for the period 1 September to 31 October 2010 actual retail prices in the five largest cities (on a seven-day rolling average basis) as well as estimated retail prices if the Australian dollar had remained constant at US 89 cents (its value at 20 August 2010⁴). If the Australian dollar had been constant at US 89 cents at the end of October 2010 Australian motorists would have been paying an average of 130 cpl. The strengthening of the Australian dollar during this period meant that motorists in Australia actually paid an average of 123 cpl.

In October 2010 higher international oil and Mogas 95 prices were offset by the strengthening Australian dollar so that domestic prices remained relatively stable.

Chart 4 Comparison of average retail petrol prices with actual and constant exchange rates: 1 September to 31 October 2010



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

⁴ This is the relevant Australian/US dollar exchange rate for 1 September once the 10 day lag is taken into account.





Price cycles

Retail prices in the larger cities tend to move in regular weekly price cycles. These cycles are a cause of concern for many motorists. The regularity of weekly price cycles has enabled the refiner-marketers⁵ and other major retailers to understand and predict the likely response to changes in their own behaviour.

What is a price cycle?

The regular pattern of these cycles is clearly evident in chart 5. It shows daily prices in Sydney (where the price cycle has failed), Melbourne, Brisbane, Adelaide and Perth in March to May 2010. The price cycle has two distinct phases over the week:

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

The price increases have generally been led by the refiner-marketers.

In the discounting phase the most active retailers have usually been Woolworths, 7-Eleven, other independents (for example, United), and, to a lesser extent, Coles Express.

Regular weekly price cycles do not occur in international benchmark prices or Australian wholesale prices; they are due to the pricing policies employed by the local petrol companies in the domestic market. Petrol price cycles do occur in other countries but those in Australia tend to be larger in amplitude and more consistent.

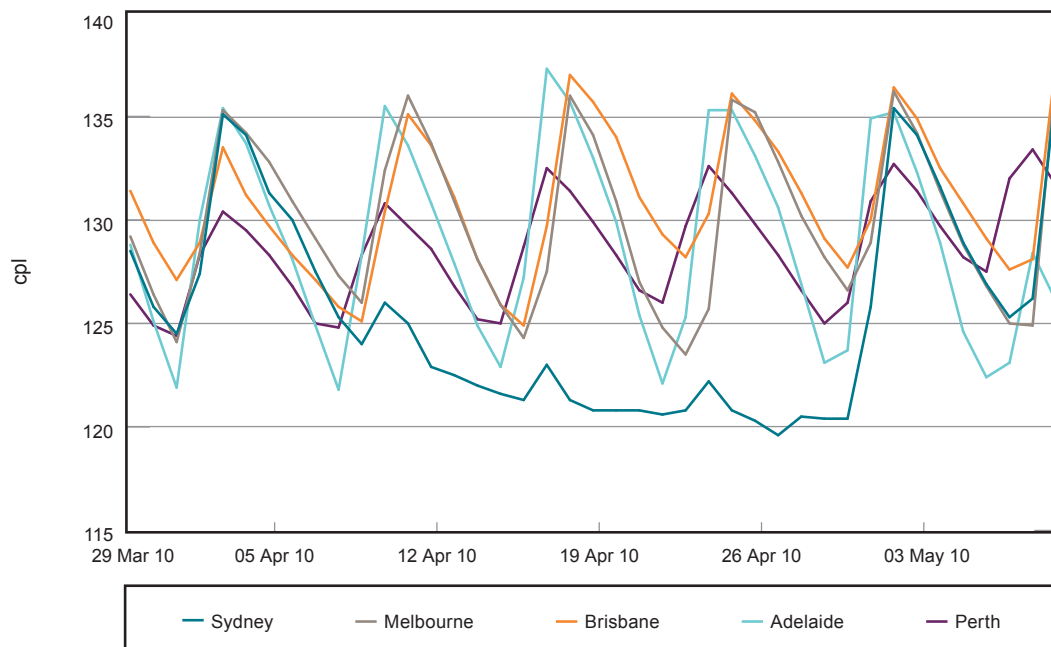
The existence of the price cycle suggests that many of the major players are actively partaking in this cyclical pricing behaviour, albeit with slightly different strategies.

Where one or more of the major players does not follow the typical pattern, the price cycle can break down. In chart 5 there is an example of the price cycle breaking down in Sydney in April 2010.

5 '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. Given this historical use the term refiner-marketer is used throughout this report. However, now that Mobil and Shell, while still marketing proprietary fuels, have effectively withdrawn from direct retailing of fuel while BP and Caltex continue to directly retail, the use of this collective term may be less appropriate in the future.



**Chart 5 Daily average retail prices in the five largest cities:
29 March to 8 May 2010**



Source: ACCC based on Informed Sources data

Unstable cycles and movement of the cheapest days

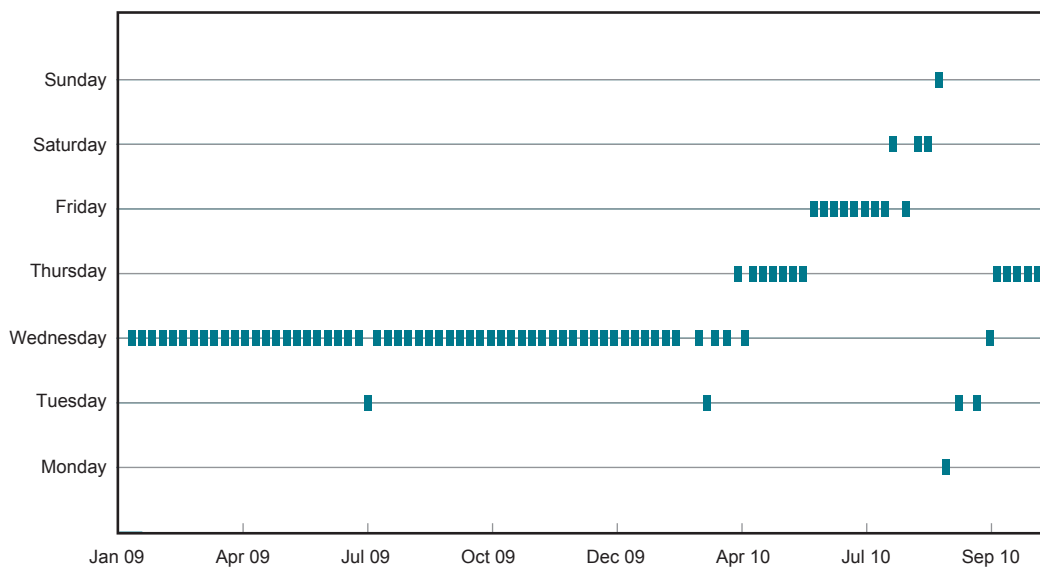
Retail pricing policies affect the size and shape of price cycles. A few years ago the trough of the price cycle occurred on Tuesdays in most of the largest cities – the so called ‘Cheap Tuesdays’. However more recently the day of the week on which prices at the bowser were lowest has moved.

In January 2009, the cheapest day of the week in most of the largest capital cities was a Wednesday and this was fairly constant over 2009. In early 2010, the cheapest day started moving through the week.

Chart 6 shows the day of the week on which each trough occurred in Brisbane in the period from 1 January 2009 to 31 October 2010. Each dot in the charts depicts a price cycle trough.



Chart 6 Day of price cycle trough, Brisbane: 1 January 2009 to 31 October 2010



Source: ACCC analysis based on Informed Sources data

Note: Each dot depicts a price cycle trough.

It is clear from chart 6 that after relative stability in 2009, from early 2010 the day of the week on which prices troughed was changing regularly (and largely moving later in the week). A similar pattern was evident for the day of the week on which prices peaked. Similar patterns occurred in all the larger capital cities.

The instability in price cycles in 2010 (reflected in both movements in the cheapest/most expensive days of the week as well as the increase in the number of failed price cycles) may be due in part to uncertainty amongst retailers amid the changing structure of the market. The ACCC's decision in December 2009 to oppose the sale of Mobil assets to Caltex may have contributed to this uncertainty.

The ACCC regularly monitors and analyses petrol price cycles and provides consumers with information on past cycles and the previous week's cheapest day on the ACCC website.



Coordinated pricing in the petrol industry

The 2009 ACCC petrol monitoring report noted that the degree of coordination observed in price cycles is a source of concern for Australian consumers and for the ACCC.⁶

Retail petrol markets in Australia are conducive to coordinated conduct. The high level of retail price transparency, mainly through the Oil Pricewatch system provided by Informed Sources, assists retailers to quickly signal price moves, monitor competitor's responses and react to them.

While price cycles in 2010 were less stable than in the previous 12 months, price cycles were still very evident in the largest cities for most weeks of the year.

The degree of coordination exhibited in the weekly price cycle remains a concern for the ACCC.

Retail price movements

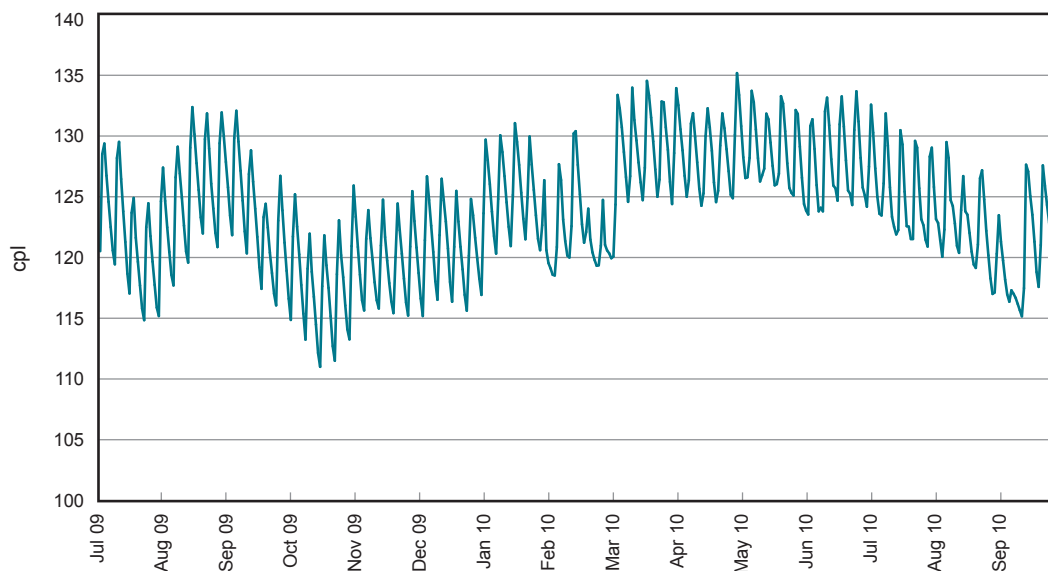
In 2009–10 retail petrol prices moved in a more narrow range than in recent years. Daily average retail petrol prices across the five largest cities (on a seven-day rolling average basis) ranged from a low of 116 cpl in October 2009 to a high of 130 cpl in May 2010. This stability is in contrast with prices in 2008–09 which reached a high of 162 cpl (in July 2008) and a low of 101 cpl (in December 2008).

Chart 7 shows average petrol prices across the five largest cities on a daily basis between 1 July 2009 and 30 September 2010. The regular weekly price cycle is clearly evident.

⁶ ACCC, *Monitoring of the Australian petroleum industry*, December 2009, page xxiii.



**Chart 7 Daily average retail RULP prices across the five largest cities:
1 July 2009 to 30 September 2010**



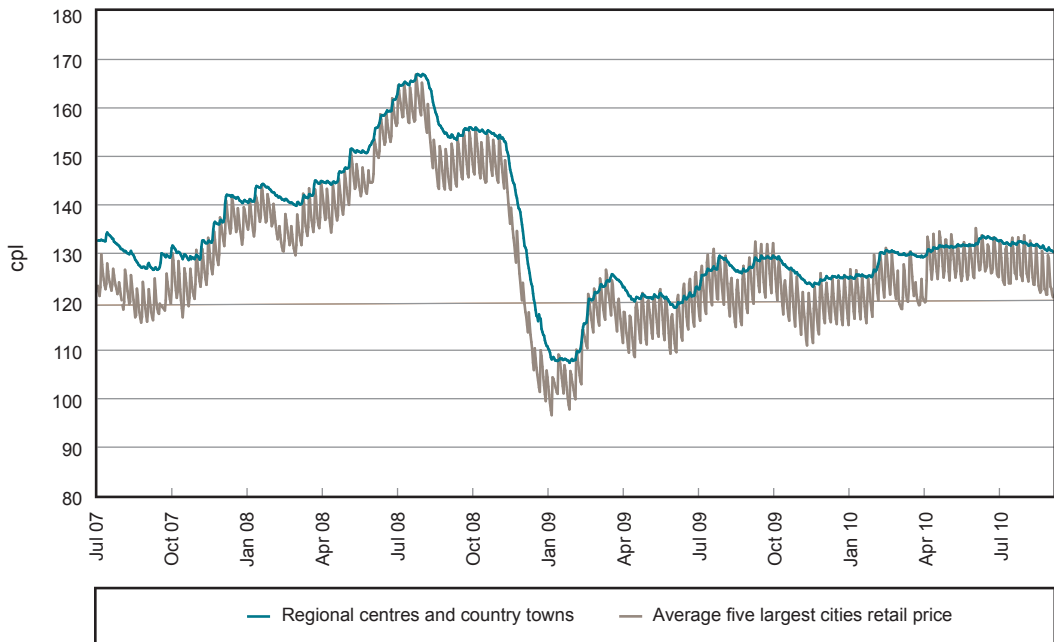
Source: ACCC calculations based on Informed Sources data

Chart 8 shows average daily petrol prices across the five largest cities and the regional centres and country towns monitored by the ACCC daily over the past three years. This chart shows that while price cycles do not operate in most regional centres and country towns, prices generally move in line with those of the largest capital cities.

Chart 8 also shows that, compared with previous years, in 2009-10 petrol prices in the capital cities as well as the regional centres and country towns were far more stable than in the previous two years.



Chart 8 Average daily retail prices in the five largest cities and the regional centres and country towns monitored by the ACCC: 1 July 2007 to 30 September 2010



Source: ACCC calculations based on Informed Sources data

Retail prices in regional centres and country towns are, like capital city prices, largely driven by international benchmark prices and the exchange rate. However, country service stations tend to sell lower volumes than city service stations and so it takes longer for product to move through the supply chain. Thus regional petrol prices tend to be more stable and price changes, both up and down, tend to lag price movements in the largest capital cities.

Prices in regional centres and country towns also tend to be somewhat higher than those in the largest cities for a number of reasons including:

- lower volumes of fuel sold; this can lead to higher costs per litre of fuel sold
- distance/location factors; for example, there may be greater freight charges for delivery of fuel and other storage costs, especially for more isolated country towns
- number of service stations; this can affect the degree of local competition
- lower convenience store sales; these may be important for some retailers in achieving adequate returns.



These factors may also explain differences in fuel prices between retail sites in different regional centres and country towns.

Profits

The ACCC has collected extensive financial information from the four refiner-marketers and major wholesalers and retailers. This information has been analysed to estimate the profitability of the supply (including refining), wholesale, and retail sectors. The financial performance of the domestic petroleum industry has 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

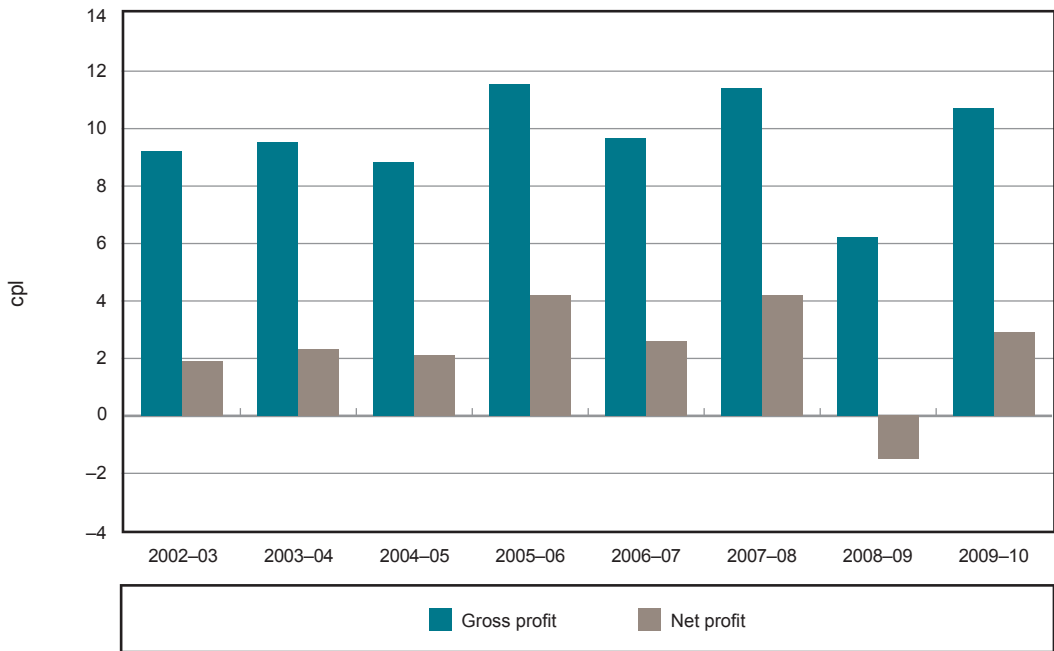
A small proportion of the final bowser price has been retained in profits by the supply, wholesale and retail sectors. The ACCC has estimated that over the past eight years the aggregated gross profit on the sale of petrol across the supply, wholesale and retail sectors has averaged approximately 10 cpl (see chart 9).

Gross profit is a measure of profit calculated by deducting the cost of goods from sales revenue. The petrol companies do not keep the entire gross profit; they need to cover other operating expenses out of this profit, including some wages, rent and maintenance.

After subtracting costs, the ACCC has estimated that in 2009–10 the amount that motorists paid as profits to the petrol companies was 2.9 cpl on the sale of petrol. In recent years, this measure of profit for the combined supply, wholesale and retail sectors has typically been in the range of 2 to 4 cpl.



**Chart 9 Petrol profits paid by motorists to the petrol companies:
2002-03 to 2009-10**



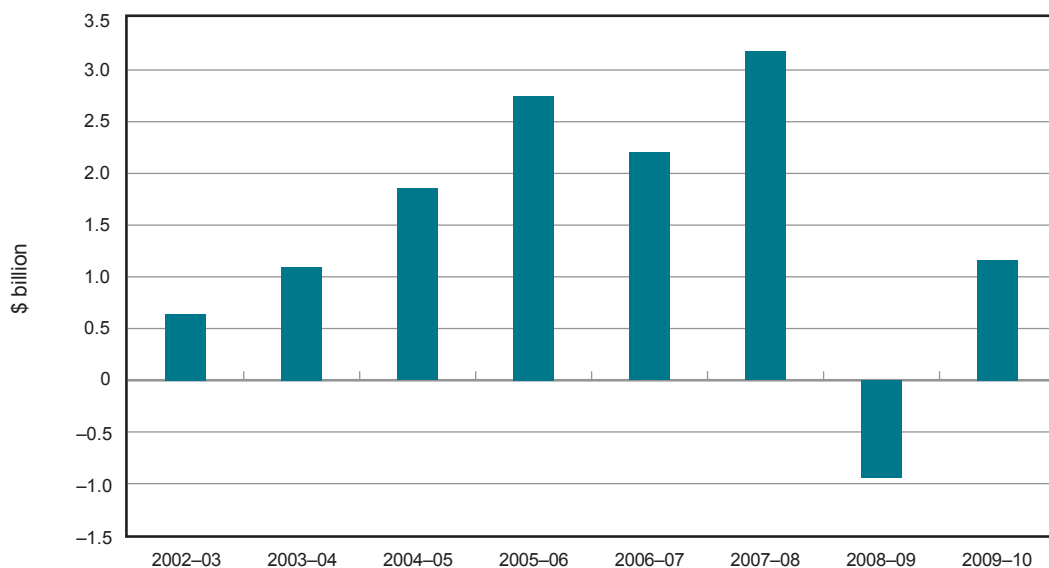
Source: ACCC analysis based on data obtained from firms monitored through the ACCC's monitoring process

Profits have been volatile over the past eight years

The downstream petroleum industry profits over the past eight years have been mixed. The petrol companies made losses in 2008-09 of approximately \$1 billion. In 2009-10 the industry made a net profit of approximately \$1.2 billion, which was well below the peak profit of \$3.2 billion in 2007-08 (see chart 10).



Chart 10 Downstream petroleum net profit (adjusted EBIT): 2002–03 to 2009–10



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

Petrol industry profits have been in line with other sectors

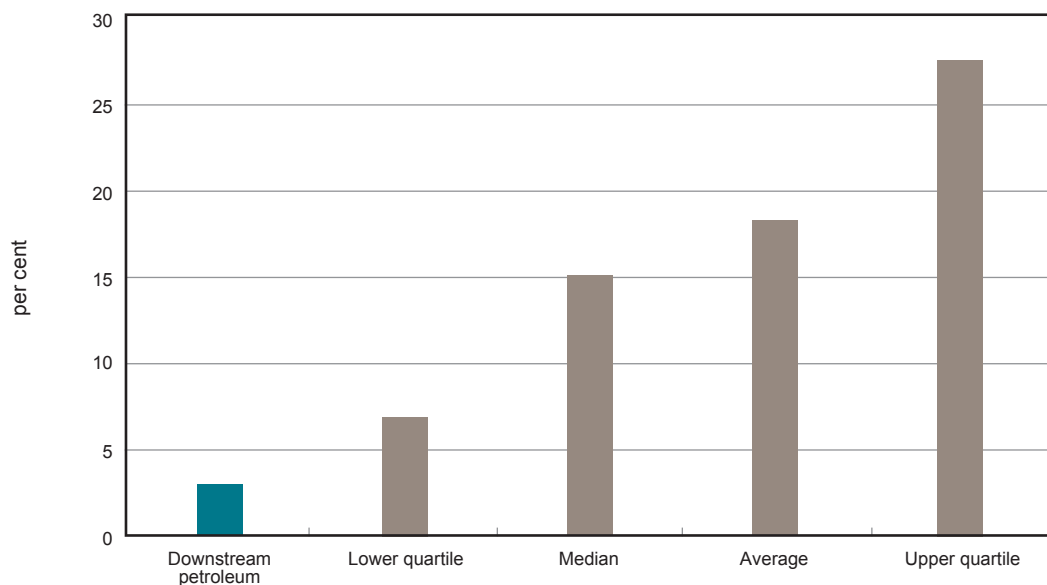
The ACCC has examined a range of profit measures or key performance indicators (KPIs) for the local petrol companies and has also compared these with other industries.

The common KPIs for the downstream petroleum industry improved in 2009–10. Return on sales was 2.0 per cent, return on assets was 6.4 per cent and return on capital employed was 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 with the estimated average for ASX 200 companies (see chart 11). When measured using return on assets the petroleum industry is approximately the average for the ASX 200 companies (see chart 12).



Chart 11 Comparison of return on sales for downstream petroleum industry and ASX 200 companies: 2002–03 to 2009–10 average



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

24 Hours

premium
unleaded

per litre

133.9

diesel

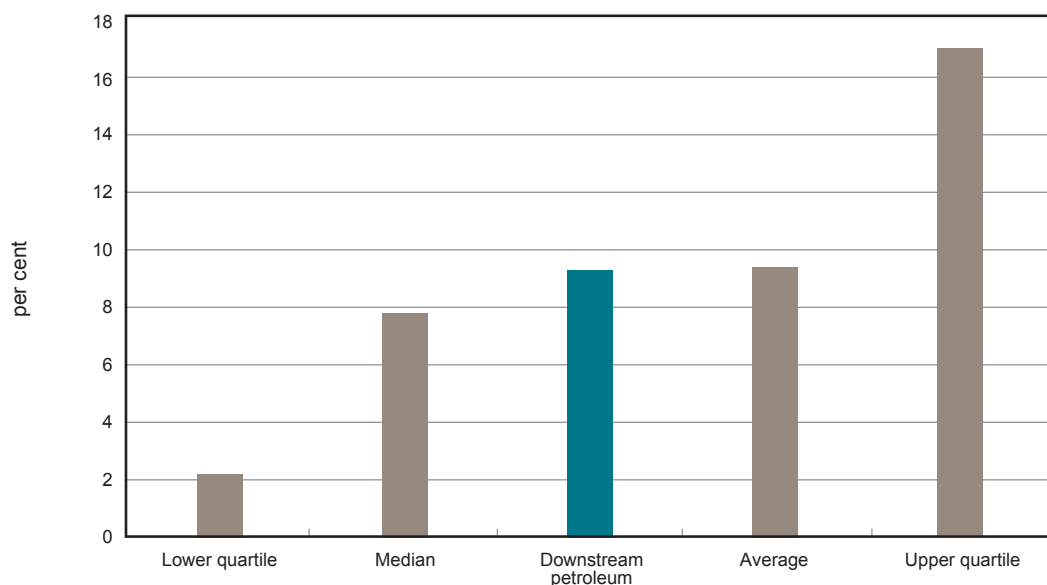
per litre

124.9

Wash Centre



Chart 12 Comparison of return on assets for downstream petroleum industry and ASX 200 companies: 2002–03 to 2009–10 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

Out of every dollar collected by the petrol companies at the bowser, less than 3 cpl is retained as net profit. 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 benchmark price for refined fuel and tax (excise and GST) – are outside the control of the local petrol companies.

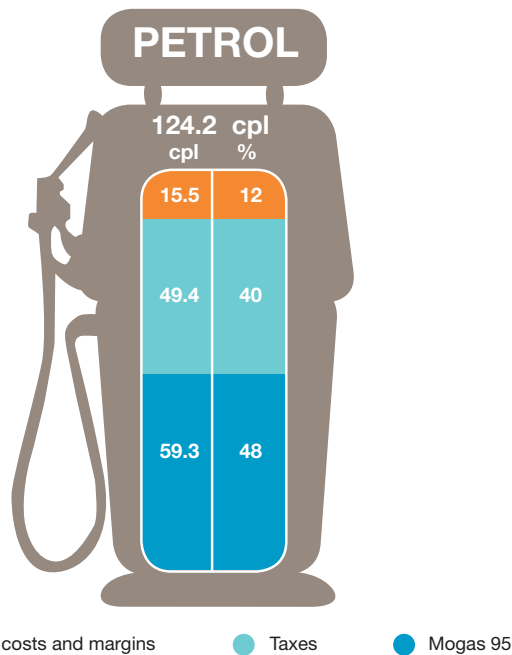
Together, these two components account for approximately 88 per cent of the price of petrol. That is, out of a retail price of 124.2 cpl, approximately 109 cpl is directly attributable to the cost of refined petrol and taxes (see chart 13).

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

For automotive liquified petroleum gas (LPG), the international benchmark price and GST account for 78 per cent, in part reflecting that excise is currently not imposed on automotive LPG and higher transport and storage costs for automotive LPG relative to petrol and diesel (see chart 15).

Other costs and margins therefore account for approximately 15.5 cpl of the retail price of petrol, 14.9 cpl for diesel and 13.3 cpl for automotive LPG. This amount covers a number of costs such as freight (including freight to Australia from overseas), wages, and terminal and service station operations.

Chart 13 Components of average retail RULP prices in the five largest cities: 2009–10

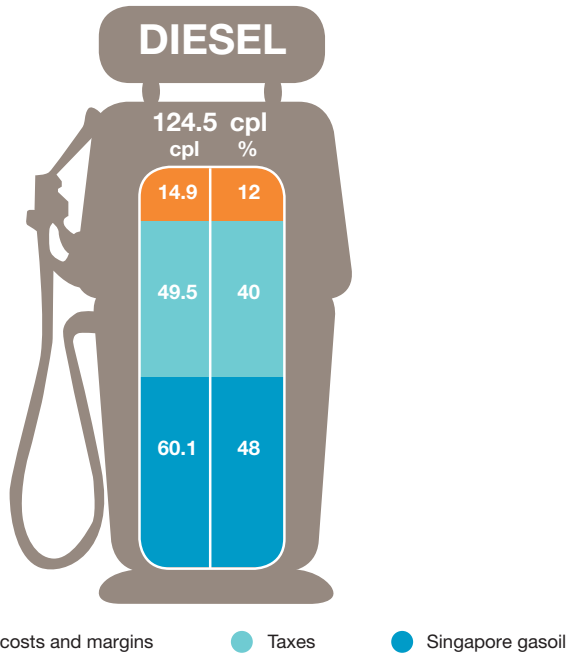


Source: ACCC calculations based on Platts, RBA, WA FuelWatch, Informed Sources data and information provided by the monitored companies

Note: Of the 15.5 cpl other costs and margins, 2.9 cpl is the net aggregated profit per litre across the supply, wholesale and retail sectors.



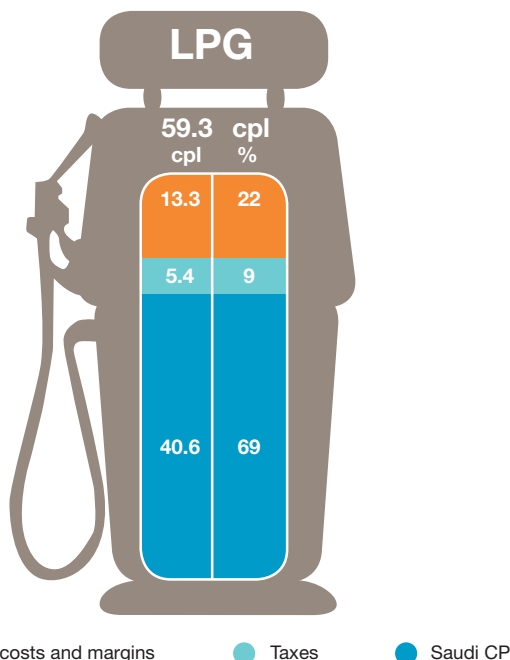
Chart 14 Components of average retail diesel prices in the five largest cities: 2009–10



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



Chart 15 Components of average retail automotive LPG prices in the five largest cities: 2009–10



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

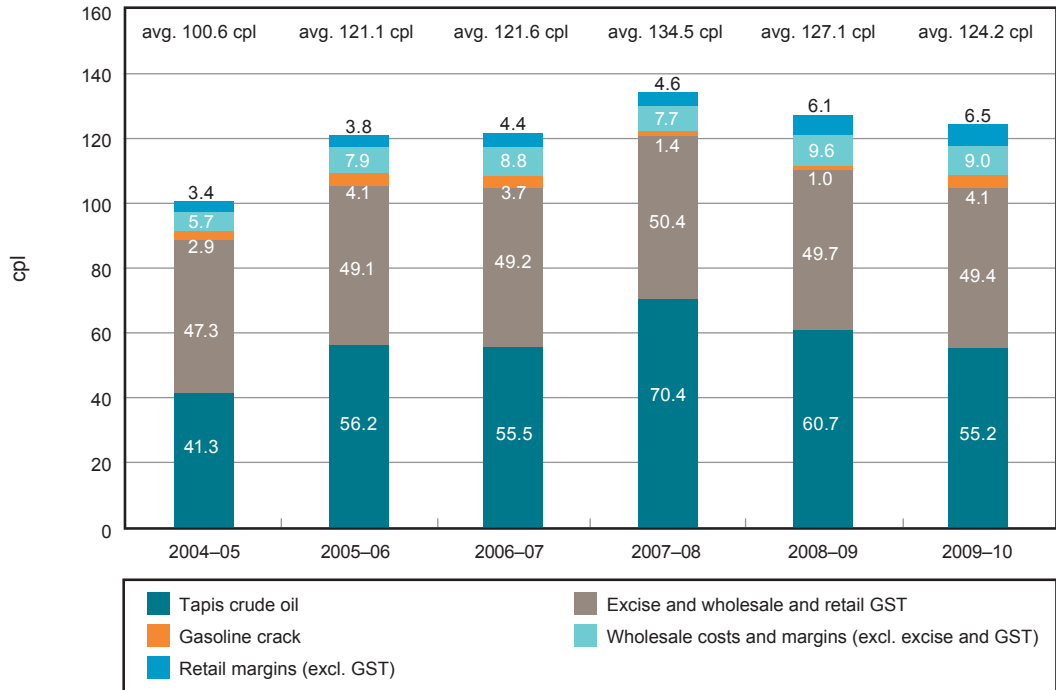
Components of the pump price

Chart 16 shows the major components of the pump price of RULP over the past six years. Movements in the pump price have been overwhelmingly due to changes in the price of crude oil. By contrast, the components relating to excise and GST and costs and margins of the local petrol companies have been relatively stable.

Between 2004–05 and 2009–10, the average pump price of RULP increased by approximately 23.6 cpl. Most of this increase, approximately 13.9 cpl, has flowed back to the suppliers (owners and extractors) of the crude oil. By contrast, the amount flowing back to the local wholesalers and retailers has increased by approximately 6.4 cpl over the same period to cover inflation and increases in freight and other operating costs.

Over 80 per cent of crude oil refined in Australia is imported. These crude oil imports are sourced predominately from countries including Vietnam, Malaysia, Indonesia and the United Arab Emirates. It is the owners of the crude oil in oil exporting countries such as these which have benefited the most from the rise in local petrol prices over the past decade.

Chart 16 Components of retail RULP prices in the five largest cities: 2004–05 to 2009–10



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





Conclusion: prices, costs and profits

- Overall movements in retail petrol prices have generally reflected movements in Singapore Mogas 95 prices (which in turn have reflected movements in the prices of crude oil).
- On any particular day retail price cycles in the major cities may cause divergences from the international benchmark prices of up to several cents per litre depending on the phase of the weekly retail price cycle.
- Retail petrol prices in Australia remain low compared with other countries in the OECD.
- Average downstream petrol industry profits in Australia do not appear high compared with other industry sectors operating in Australia.
- The underlying driver of retail petrol prices is the cost of crude oil. The owners of the crude oil have received the largest share of revenue from the petrol sold at the bowser. Since 2004-05, the retail price of petrol has increased by approximately 23.6 cpl. Approximately 13.9 cpl of this increase has flowed back to the owners of the crude oil.

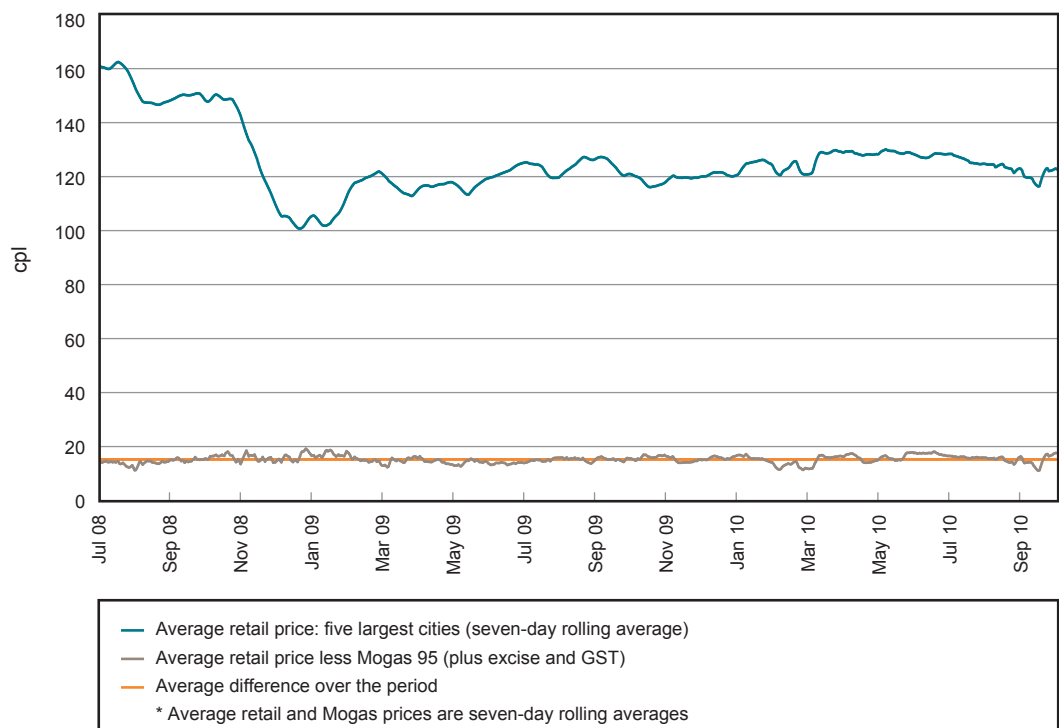


Short-term comparisons of prices and margins can be misleading

While retail petrol prices in Australia closely follow international benchmarks, the existence of retail price cycles, local price wars and other factors mean that on a day-to-day basis or even over a few days, retail prices can diverge from their long-term relationship with the benchmark price.

Chart 17 shows average retail petrol prices for the five largest cities (on a seven-day rolling average basis) and the daily difference between those prices and Mogas 95 prices (on a seven-day rolling average basis lagged by 10 days) plus excise and GST.

Chart 17 Average retail prices in the five largest cities and the differential with Mogas 95 (including excise and GST): 1 July 2008 to 30 September 2010



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



Chart 17 shows that the differential between Australian retail petrol prices and Mogas 95 prices (including excise and GST) varies from day to day around the longer-term average. The chart also shows that this differential does not explain much of the movement in retail prices.

No significant conclusions can be drawn from the value of the relationship between a price and a benchmark on any particular day or even over a few days. For any meaningful results, comparisons between international benchmarks and local prices should be viewed over longer periods of time.



The need to take a longer-term perspective

The level of retail prices in the larger cities on any particular day will be influenced by the stage in the retail price cycle that the retail market is at on that day. Therefore comparisons of daily prices can be misleading.

For example, the difference in retail prices between a country town and a capital city on a particular day will be smaller or larger depending upon whether the capital city's prices are at a peak or trough in the regular weekly price cycle.

The lags between changes in international benchmark prices and changes in retail prices will also impact on short-term differentials between international and domestic prices. Short term fluctuations in exchange rates can also impact on the Australian dollar value of international benchmarks from day to day.

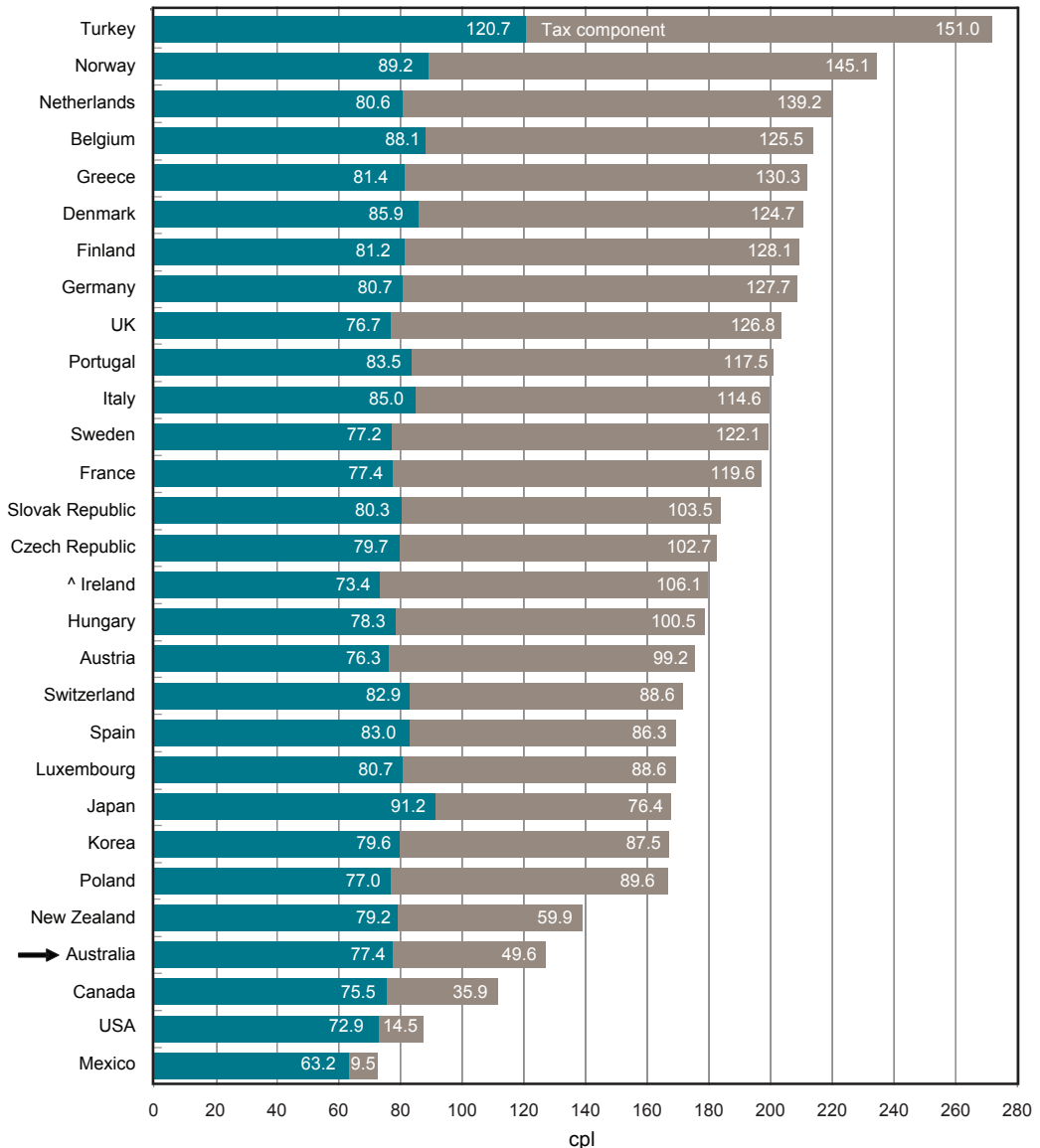
Therefore no significant conclusions regarding relative prices or margins can be drawn from prices observed on any particular day or even taken over a few days. For any meaningful results, comparisons between international benchmarks and local prices (or price differences between cities and towns) should be viewed over longer periods of time.

Petrol prices in Australia compared with prices in other countries

Overall, retail petrol prices in Australia continue to be low compared with other countries in the Organisation for Economic Co-operation and Development (OECD) (see chart 18). In the June 2010 quarter, Australia had the fourth-lowest petrol prices in the OECD.

To a large degree, lower petrol prices in Australia are due to the lower taxation applied to petrol in Australia compared with other OECD countries. If the impact of taxation is removed, the underlying price of petrol in Australia has been around the average of OECD countries.

Chart 18 Petrol prices and taxes in OECD countries: June 2010 quarter



Source: RET, Australian Petroleum Statistics, issue 170 (September 2010)

^ previous quarter data

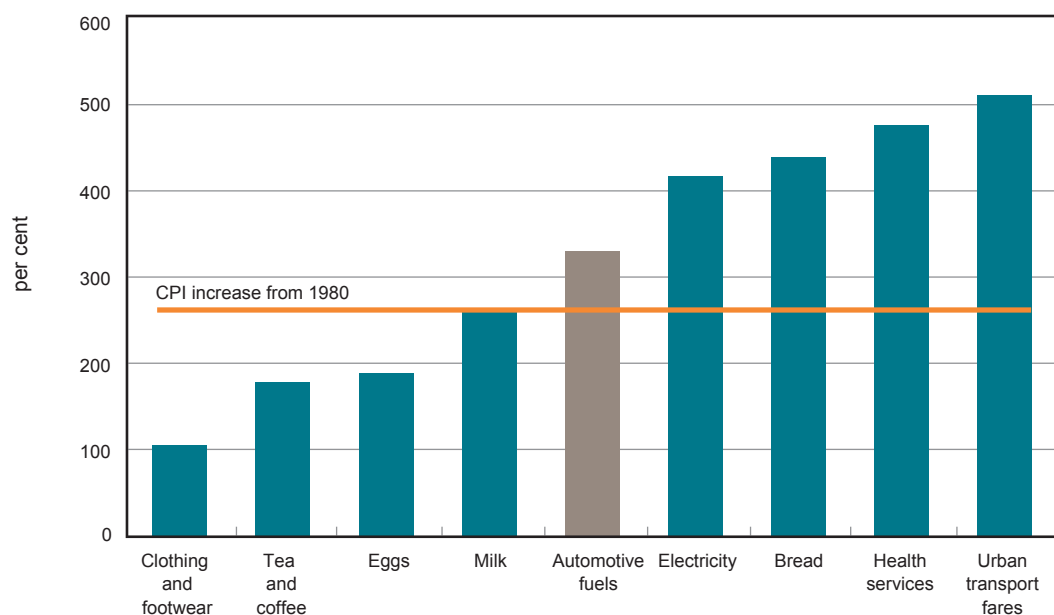
Note: Care must be taken when making international comparisons as fuel quality standards (for example, octane rating and the content of MTBE and sulphur) for the most commonly used form of petrol in each market differ between countries

Comparison of automotive fuel prices to other goods

Australian petrol, diesel and automotive LPG prices have been volatile in the past few years but over the past 30 years automotive fuel prices have risen less than many other goods, and less than other domestic energy sources such as electricity.

Chart 19 shows the percentage change in the retail price of automotive fuel and other consumer goods since 1980.

Chart 19 Comparative changes in the retail prices of automotive fuels and other consumer items: 1980 to June 2010



Source: Based on ABS data

Note: 'Automotive fuels' includes petrol, diesel fuel, automotive LPG and other gas fuels, oils, lubricants and additives.



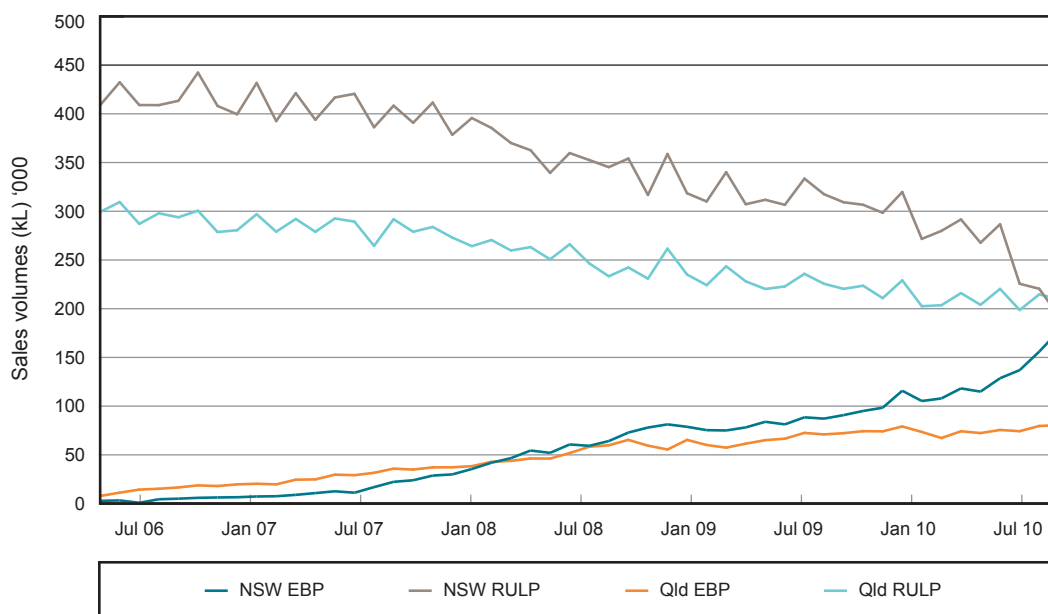
Recent developments in the fuel industry

Substantial increase in sales of E10

During 2009–10 sales of E10 increased substantially, particularly in NSW and Queensland (see chart 20). This increase has primarily been due to the operation of the NSW government ethanol mandate and to an extent anticipation of an ethanol mandate in Queensland.

In past years ethanol blended petrol (EBP) has been more popular in Queensland than the other states.

Chart 20 Monthly sales of EBP and RULP in NSW and Queensland: July 2006 to August 2010



Source: ACCC calculations based on RET *Australian Petroleum Statistics*



NSW government mandate on ethanol

Based on the changes announced on 2 December 2010⁷ the NSW government mandate will have the following effects:

- ↪ The volume of ethanol sold makes up a minimum of 4 per cent of the total volume of petrol sales from 1 January 2010. As E10 generally consists of 10 per cent ethanol, in effect this means 40 per cent of all petrol sales must be E10.
- ↪ From 1 July 2011 the mandate will increase to 6 per cent.
- ↪ From 1 July 2012, all RULP sold by 'primary wholesalers' will be replaced with E10. This means that motorists in NSW will effectively be unable to buy RULP. Motorists that can not use E10 will be effectively required to purchase 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 indefinitely suspended in October 2010.

Some retailers in Queensland have removed RULP from sale at selected sites, possibly in anticipation of the ethanol mandate. As at September 2010, approximately 160 of the 1200 service stations in Queensland (mainly in south-east Queensland) were reported to have already removed RULP from sale.⁸

⁷ Hon Tony Kelly MLC, Media Release, Suspension of NSW Ethanol Mandate, 2 December 2010, http://biofuels.nsw.gov.au/ethanol_and_biofuels

⁸ Informed Sources



The operation of the NSW ethanol mandate will have some significant impacts on consumers:

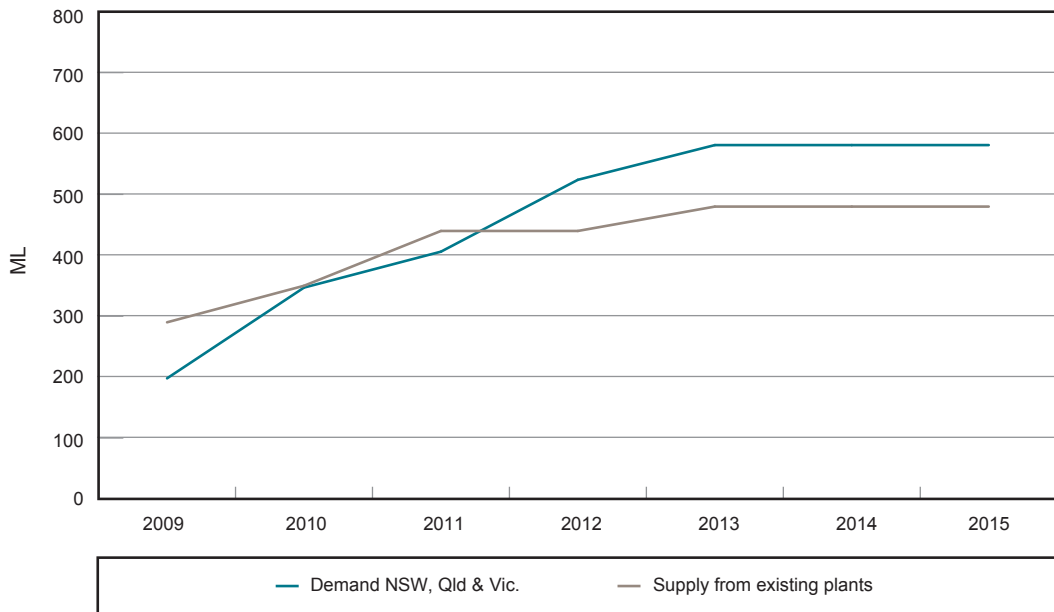
- Mandates will reduce the availability of RULP (which from July 2012 will effectively be removed as a choice for consumers in NSW and most likely the ACT).
- Motorists who cannot use E10 (or choose not to) may be forced to use PULP, which is significantly more expensive than RULP.
- Even though the scaling up of the NSW ethanol mandate has been delayed, current domestic production capacity may not be sufficient to meet demand under the mandate and there is potential for shortages of ethanol and E10.
- The tax treatment of imports of fuel ethanol makes imports unlikely to 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 PULP throughout Australia.
- There is potential for the price of E10 and PULP to increase relative to RULP.

Chart 21 shows an estimate of mandated demand from NSW (presuming NSW consumers switch from RULP to E10 rather than more expensive PULP) and assuming E10 demand from Queensland and Victoria remaining at 2009–10 levels.⁹

Although some new ethanol plants are proposed for 2013 and 2014, given the current suspension of the Queensland mandate and the delay in the full implementation of the NSW mandate and other uncertainties it is unclear if these will go ahead. Therefore Chart 21 does not take supply from proposed new plants into account.

⁹ Potential growth in ethanol demand from Queensland and Victoria as well as demand for higher blends of EBP such as E85 is not taken into account in this chart. This chart does not include demand from South Australia and Tasmania as RET does not report EBP sales from these states. Because of this and because RET does not report the bulk of sales from independent retailers, shortages could potentially be greater than estimated here. The potential shortage of ethanol will be reduced to the extent that, when RULP is effectively prohibited in NSW, motorists will switch to more expensive PULP rather than E10.

Chart 21 Current and estimated mandated ethanol demand in NSW and sales demand from QLD and Vic. and Australian ethanol production capacity (supply): 2009 to 2015



Source: ACCC analysis based on *RET Australian Petroleum Statistics (APS)* (various issues), *APAC Australian Biofuels 2010–11 data*

Note: Estimates based on 2009–10 petrol sales reported to RET (APS). Data for 2009 is based on actual sales reported to RET in all states. 2010 data is based on actual sales reported to RET in Victoria and Queensland to August 2010; average monthly sales to August 2010 are used as an estimate for the remaining four months. 2010 data for NSW is an estimate based on total petrol sales reported to RET for 2009–10 and a 4 per cent ethanol mandate. The first half of 2011 is an estimate based on 2009–10 total petrol sales and a 4 per cent mandate. The second half of 2011 and the first half of 2012 are estimated based on 2009–10 total petrol sales and a 6 per cent mandate. Estimated mandated volumes in NSW from July 2012 are based on the assumption that demand for RULP is transferred to EBP when RULP is effectively prohibited (and is estimated from 2009–10 sales). In practice it is likely that some RULP users will switch to more expensive PULP rather than use E10. Sales in Victoria and Queensland are assumed to be constant from 2009–10. Supply from existing plants assumes all existing plants produce at their maximum projected production capacity as reported by APAC. It is possible that exemptions will be granted by the NSW government so that retailers will not have to meet their full legislated requirements if there is a shortage of ethanol.

Even if the Queensland mandate is indefinitely suspended and taking account of the recently announced delays in scaling up of the NSW mandate, in the short to medium term there are still concerns over the supply of ethanol.

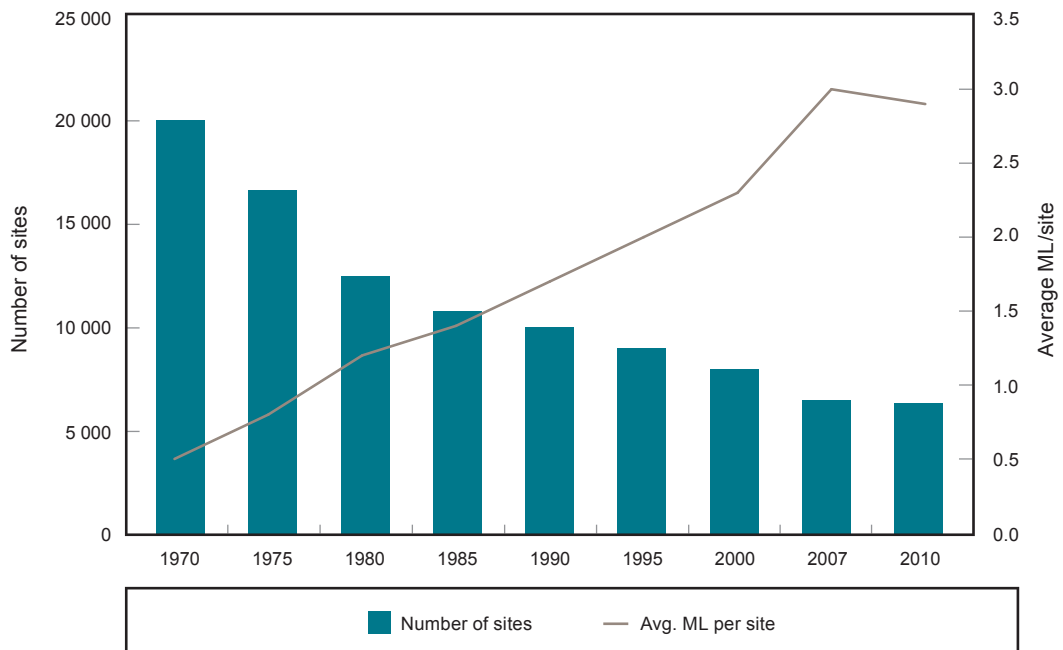
Given the potential supply and price issues relating to ethanol mandates, the ACCC intends to closely monitor the ethanol blended petrol market in the coming year.

Changes in market structure

Consolidation of service station sites

The number of petrol retail sites has been consolidating since at least 1970. This reduction combined with higher total fuel sales has led to an increase in average sales volumes per site (see chart 22).

Chart 22 Number of retail sites and average annual petrol sales volume per site: 1970 to 2010



Source: ACCC estimates based on reports of Royal Commission on Petroleum (1976), PSA (1990) and ACCC (1996 and 2007), combined with data from RET, the Bureau of Infrastructure, Transport and Regional Economics and Informed Sources

In recent years the retail market share of the refiner-marketers has declined, with Shell and Mobil now effectively out of petrol retailing. Specialist retailers such as 7-Eleven, independent chains such as Peregrine Corporation (which owns the On The Run chain), Neumann Petroleum, United and the supermarkets have been increasing their involvement in fuel retailing.



Sale of Mobil's service stations

On 27 May 2010 Mobil announced the sale of its retail assets to 7-Eleven. In addition, it was announced that Peregrine proposed to acquire from 7-Eleven those former Mobil service stations that were located in South Australia.

The ACCC commenced a public review of each acquisition on 27 May 2010.

On 22 July 2010 the ACCC decided not to oppose the sale of Mobil's retail assets to 7-Eleven and the on-sale of the South Australian assets to Peregrine Corporation, conditional on receiving undertakings from each acquirer to divest certain retail sites.

On 1 October 2010 the ACCC accepted a section 87B undertaking from 7-Eleven for the divestiture of three retail petrol sites in (Mount Druitt in NSW and Ashmore and Riverhills in Queensland) to purchasers approved by the ACCC. On the same date, the ACCC also accepted a section 87B undertaking from Peregrine for the divestiture of one retail petrol site at either Noarlunga Downs or Christies Beach to a purchaser approved by the ACCC.

Sale of Gull's Fremantle terminal

On 10 March 2010 the ACCC commenced reviewing Coogee Chemicals' proposal to acquire Gull Petroleum's storage facilities at Kwinana south of Perth.

Coogee operates a chemical terminal on a site adjacent to the Gull terminals. Coogee and Gull advised the ACCC that the acquisition would enable Coogee to better coordinate the operation of the two sites, leading to more efficient operations.

The ACCC conducted public market inquiries and completed its review of the acquisition on 23 March 2010. The ACCC concluded that the proposed acquisition was unlikely to substantially lessen competition in the relevant markets.

Gull continues to have access to the terminal on a user-pays basis and continues to operate its retail service station network. Coogee advised the ACCC that it intended to offer hosting services to other fuel suppliers in Western Australia on a commingled basis.



BP purchase of Reliance Petroleum

On 24 August 2010 BP informed the ACCC of its intention to acquire all of the shares in its branded distributor Reliance Petroleum.

The ACCC commenced a public review of the proposed acquisition on 25 August 2010, and subsequently published a statement of issues outlining certain issues which may have raised competition concerns.

On 17 November 2010 the ACCC announced that it would not oppose the acquisition, concluding that the proposed acquisition was unlikely to substantially lessen competition in the relevant markets.

Increase in independent imports

During the past two years the amount of petrol imported by independent operators more than doubled. In large part, this increase has been due to an expansion of Neumann's importing activities.

The increase in independent imports of petrol has taken place in the context of a longer term increase in the amount of refined petrol imported into Australia. In the past two years, independent imports of unleaded petrol have increased from less than 5 per cent to over 10 per cent of total unleaded petrol imported into Australia. This year, the ACCC has considered in depth issues relating to the importing of refined petroleum products. This is reported in chapter 5 of the full report.





Role of the ACCC

Well regulated and competitive markets generally provide consumers with the lowest sustainable prices and prevent excessive profits. This is as true for petrol as it is for most other products.

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

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

1. The ACCC monitors the prices, costs and profits relating to the supply of unleaded petroleum products in the petroleum industry

In December 2007, the Minister for Competition Policy and Consumer Affairs directed the ACCC to undertake monitoring for three years to the end of 2010. In May 2010, the Minister subsequently extended the direction for one further year to the end of 2011. In December each year, the ACCC provides the Minister with a report on its monitoring activities. This is the third report.

The ACCC collects fuel prices in each capital city and 150 regional centres and country towns. The ACCC reviews these prices and compares them with the relevant 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. The Minister has also asked the ACCC to informally monitor 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.

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

The ACCC is an independent statutory authority that administers the *Trade Practices Act 1974* (the Act) and other laws. On 1 January 2011 the *Competition and Consumer Act (2010)* will come into operation replacing the Act. 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 work of the ACCC in the fuel industry relates to its role in enforcement of the Act, assessing mergers and acquisitions and adjudications.



Enforcement

The ACCC has enforcement powers, functions and strategies to achieve compliance with the Act. The ACCC investigates complaints and can take action when sufficient evidence exists that a business has misled consumers or behaved in an anti-competitive way. The Act provides the ACCC with a range of enforcement remedies, including court-based outcomes and court enforceable undertakings. The ACCC resolves many matters administratively, applying the enforcement response which is proportionate to the conduct and resulting harm. The ACCC's approach is set out in its Compliance and Enforcement Policy.

The ACCC also encourages compliance with the Act by educating and informing consumers and businesses about their rights and responsibilities.

Mergers and acquisitions

The ACCC has powers under section 50 of the Act to stop mergers and acquisitions of shares and assets in any industry that have the effect, or would be likely to have the effect, of substantially lessening competition in a market. The ACCC's decision in December 2009 to oppose the proposed acquisition of Mobil Oil Australia's retail assets by Caltex Australia Ltd is an example of the ACCC's work in this area.

Adjudication

In certain circumstances, businesses may obtain immunity from legal action under specific parts of the Act if it is in the public interest. By lodging a valid notification parties may engage in collective bargaining or exclusive dealing which would otherwise be likely to contravene the Act, so long as the ACCC does not object. If the relevant test is met the ACCC may authorise such conduct that may otherwise breach the Act. The ACCC will only permit businesses to engage in such conduct when it is satisfied that the public benefit outweighs any public detriment.

This report outlines the ACCC's activities and findings in relation to its monitoring role, its enforcement of the Act, and mergers and acquisitions and adjudications in the fuel industry.

Compliance with the Trade Practices Act

When the ACCC receives information that suggests a breach of the Act may have occurred, it investigates and gathers further information by making targeted inquiries. After making inquiries, if the information available to the ACCC shows that a breach of the Act is likely to have occurred, it investigates the issue in depth and may take legal action to enforce the Act.

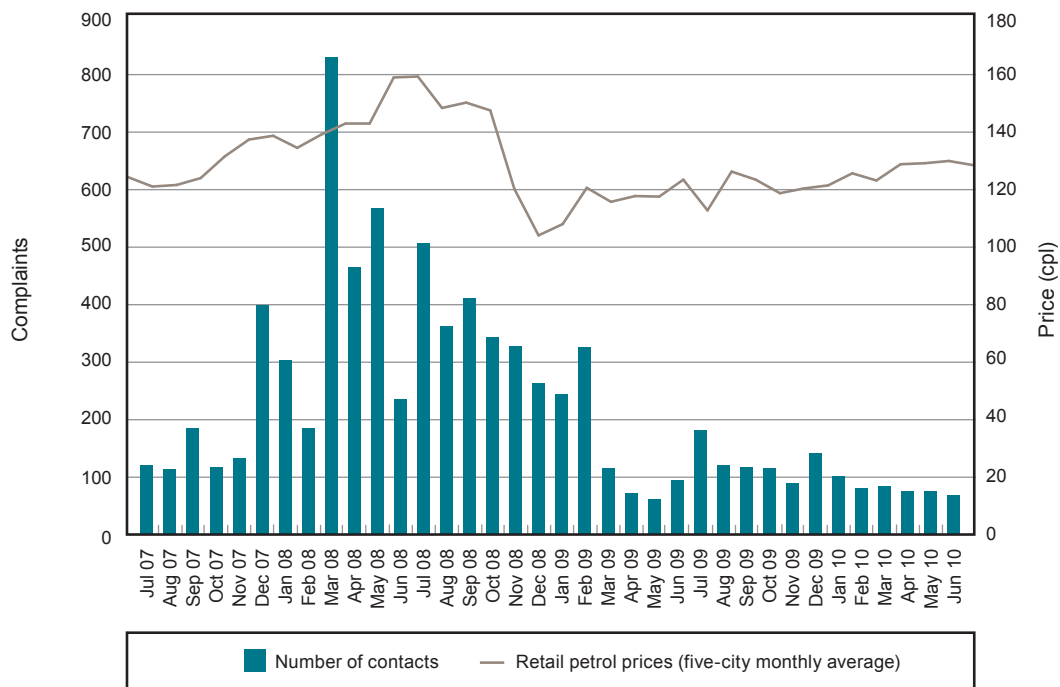


The ACCC received fewer complaints and inquiries about the petrol industry in 2009–10 compared with previous years. In 2009–10, the ACCC received about 1250 complaints and inquiries regarding the fuel industry. This compares with around 3000 complaints and inquiries in 2008–09.

These contacts came from every state and territory but were broadly in proportion with the population of each state. The number of complaints increased sharply when petrol prices increased sharply in 2008, and has declined since (see chart 23).

A large proportion (42 per cent) of these complaints and inquiries were in relation to high prices. The ACCC has reviewed the complaints about high prices to identify common issues and has examined these issues in the context of its monitoring work.

Chart 23 Fuel issues contacts received by the ACCC by month and average petrol prices in the five largest cities: July 2007–June 2010



Source: ACCC and Informed Sources data.





ACCC review of conduct that may breach the Trade Practices Act

The ACCC takes potential breaches of the Act seriously. Over the course of 2009–10 it has undertaken a number of investigations of conduct to determine whether the conduct might breach the Act.

Misleading conduct and false representations

Most of the complaints the ACCC received in 2009–10 about conduct that could potentially breach the Act related to misleading and deceptive conduct and false or misleading representations. Under the Act, conduct may be in breach where it is likely to or has the effect of misleading consumers. Such conduct may include lying to consumers, leading them to a wrong conclusion, creating a false impression or making false or inaccurate claims.

The main concerns raised by consumers included pricing practices (particularly price boards), labelling on fuel pumps, advertising promotions (such as discount schemes), fuel quality claims and inaccurate fuel measurements. The ACCC was able to achieve compliance outcomes in a number of the matters during 2009–10.

Business-to-business dealings

The ACCC also received a number of contacts alleging conduct such as price fixing, predatory pricing, certain types of exclusive dealing and general anti-competitive agreements that may substantially lessen competition. While most of these matters were addressed directly with the complainants, over the 2009–10 financial year the ACCC identified around 25 matters for further inquiry or assessment, which led to a number of matters being investigated. To date, no allegations of this nature have been substantiated although some investigations were continuing in late 2010.

The ACCC also examined three fuel related public merger matters in 2009–10. In December 2009 the ACCC opposed the proposed acquisition of Mobil Oil Australia's retail assets by Caltex Australia Limited. The ACCC's decision to oppose was based on the likely effect of the proposed acquisition on local market competition for the supply of petrol, diesel and automotive LPG, as well as broader concerns about the effect of the acquisition on the stability and effectiveness of coordination between the major fuel retailers in determining petrol prices.

The ACCC examined the sale of Mobil's retail assets to 7-Eleven and the on-sale of the South Australian assets to Peregrine Corporation. The ACCC announced on 22 July 2010 that, conditional on receiving undertakings from each acquirer to divest certain assets that raised local competition concerns, it did not propose to intervene. These conditions were met and the sale went ahead.

Improving business practices

In October 2009 the ACCC wrote to the major petrol companies and industry associations about complaints regarding some practices which were causing concern for consumers. The ACCC asked the petrol companies to review their business practices and take corrective action where necessary. The ACCC has continued to monitor these issues closely during 2010. The issues the ACCC raised in its letter included:

- ⤿ labelling of fuel containing ethanol
- ⤿ businesses' obligations not to engage in collusive conduct such as price fixing
- ⤿ discrepancies between advertised board prices and prices displayed at the fuel pump
- ⤿ fuel quality
- ⤿ advertising and labelling.

Conclusion: Level of compliance with the Act

Over 2009–10 the ACCC received around 1250 complaints about the petrol 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. To date none of these investigations have produced sufficient evidence to warrant legal action.

The ACCC will continue to monitor the operation of the industry and will take action, including through the courts, where necessary to enforce the Act.





ACCC contacts

ACCC Infocentre: business and consumer inquiries 1300 302 502

Website: www.accc.gov.au/fuel

Callers who are deaf or have a hearing or speech impairment can contact the ACCC through the National Relay Service www.relayservice.com.au

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