

ACCC INQUIRY INTO THE PRICE OF UNLEADED PETROL

Public hearing – Melbourne, 20 September 2007

Time: 9am

Address: Jasper Hotel
489 Elizabeth Street

Room: Room 3 & 4

Time	Witness	Submission
9am	Mobil Oil Australia Pty Ltd Mr Matt Bergeron, Ex Fuels Marketing Manager Mr Glenn Henson, General Manager, Altona Refinery	25 (public)

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TRANSCRIPT OF PROCEEDINGS

AUSTRALIAN COMPETITION

AND CONSUMER COMMISSION

MR GRAEME SAMUEL, Chairman

MR JOHN MARTIN, Commissioner

DR STEPHEN KING, Commissioner

PETROL PRICE INQUIRY HEARING

**CONDUCTED AT: JASPER HOTEL
MELBOURNE**

DATE: 9.00 AM, THURSDAY 20 SEPTEMBER 2007

THE CHAIRMAN: We will reopen the hearing. Mr Bergeron and Mr Henson, if you would like to come forward.

5 <GLENN HENSON, ON FORMER OATH

[9.02am]

<MATT BERGERON, ON FORMER OATH

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MR ANASTASSIOU: Mr Chairman, before Mr Henson and Mr Bergeron continue with their evidence, I wonder if I might say something briefly about the confidentiality matters raised yesterday.

15 THE CHAIRMAN: Thank you.

MR ANASTASSIOU: Mobil has cooperated with this inquiry fully, and it will continue to do so as far as it can responsibly in the public domain. It is obviously difficult, both for witnesses and counsel, to draw the line between material that can be canvassed in the public domain and material that is properly confidential, given the nature of the material that has been provided by Mobil to this Commission.

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Mobil will endeavour to provide as much information as it reasonably can in the public session, but there may be some areas where there is a difference of opinion between counsel assisting the Commission and the witnesses for Mobil about what is properly confidential and what can properly be discussed in the public domain. In the end, if it becomes necessary to do so, those issues can be resolved by way of debate or, if need be, submissions that can be provided by Mobil in relation to the question of confidentiality. We do not anticipate there is any great likelihood of dispute in that regard.

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Having said that, Mr Chairman, there is no warrant for any criticism of Mobil in relation to its approach to the question of confidentiality, both in its submissions that it has made to the Commission or, for that matter, in the evidence that has been given thus far by Mr Henson and Mr Bergeron.

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THE CHAIRMAN: Thank you. Perhaps I can put into context the comments I made yesterday and perhaps counsel was making. There can be a tendency to err on the side of caution in terms of confidentiality, and we are well aware that in some areas, some parties, business and otherwise, will simply claim commercial in confidence on everything they can and that becomes an almost standard process. I think what we are endeavouring to do is to encourage information to be put into the public domain as much as possible.

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Yesterday, I guess I had a bit of a sense that we were perhaps erring too much on the side of caution in terms of putting matters into the confidential hearing. I can see that the confidential hearing today will be potentially quite lengthy.

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One of the means of resolving this may well be that as we move into confidential hearing, there will be areas there that we will agree at a particular point of time through the course of the confidential hearing could well be put on the public record, and they will be noted in the transcript and they can then go on to the public record,
5 rather than being in the total context of the private session.

MR ANASTASSIOU: Thank you, Mr Chairman.

MR HENSON: One comment I would like to make, to clarify a question raised in
10 terms of supply to Tasmania, I would like to just clarify and confirm that per section 2.4 of our response that, we do receive supply in Tasmania from both Shell and BP.

MR MARKS: Mr Henson, that's helpful, thank you. Can you expand on that,
15 please?

THE CHAIRMAN: I should remind both witnesses, as this is a reconvening of an adjourned hearing, you are still under oath.

20 MR HENSON: That's fine.

MR BERGERON: Yes.

MR MARKS: Thank you, Mr Chairman. I would like you to expand on that, if you
25 would, please Mr Henson. Can you tell us what degree or what proportion of Mobil's Tasmanian needs are satisfied by supply from BP directly?

MR HENSON: They supply us in Burnie and Bell Bay and Shell supplies Hobart. I have got the numbers here, which will take me some time to find, but I can do that.
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MR MARKS: All right. My point really is this: we want to make sure that we understand fully. Our understanding is that, although terminal arrangements were through BP in Burnie, for example, the fuel into Burnie is supplied by Shell. That may not be correct, but we do want to make sure we understand fully exactly what
35 Mobil's supply arrangements are in Tasmania.

MR HENSON: Okay. Some we are supplied by BP and Shell. I will get the numbers, they are in here somewhere.

40 MR MARKS: That would be great, thanks. If it comes from BP, but comes through the Shell refinery in Geelong as its source, then that would be pursuant to a buy/sell arrangement which would be - that's an example of what I was explaining to you as a Shell source, in effect.

45 MR HENSON: Yes.

MR MARKS: I am thinking more of the imported Kwinana - - -

MR HENSON: We are aware at least of some of that BP supply to us being loaded in Kwinana. That doesn't necessarily mean all of it is.

MR MARKS: We are not sure how much yet or how frequently.

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MR HENSON: How BP supplies us is really up to BP. Look, I can tell you the numbers that BP supplied us into locations in Tasmania. I can't quantify where they would have got that, because that's up to them. I mean, you can go back to the shipping records potentially and find that but - - -

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MR MARKS: But In the end, won't that have to be taken into account in a buy/sell context? It would have to be itemised?

MR HENSON: We will have a purchase arrangement with BP which will be arranged between Mobil and BP. How BP then supply that is up to BP.

15

MR MARKS: So it may not be possible to tell?

MR HENSON: That is right. I can tell you how much volume they supplied us in Burnie and Bell Bay.

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MR MARKS: All right, then we can chase that down the track. Thank you very much.

Can I start from the end of yesterday. I wanted to ask you some questions about retail. Mr Bergeron, I imagine my questions here might be directed to you predominantly.

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MR BERGERON: That's probably a good assumption.

30

MR MARKS: First of all, can I ask you some questions about the price cycles. You know the Commission has been interested in this area because it's one which the community is concerned about.

MR BERGERON: Sure.

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MR MARKS: And it may be an area which impacts on the price of petrol. The most important issue really is trying to get to the bottom of why this cycle occurs. Now, has Mobil got a view as to how this happens and why?

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MR BERGERON: That's a very difficult answer, and I don't know that we necessarily have it figured out. I can offer you my own views based on my experience in the marketplace and based on, you know, what my - talking to people over the last couple of years. My understanding is that the price cycles have been around in Australia for quite a long time, that they have their roots primarily with the independent channel, the independent - I believe in the past perhaps they were the initiators, if you would, of discounting in the marketplace that would lead to these price cycles. My own sense is that over time, with the entry of the supermarkets into

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fuels retailing, that the influence of the supermarkets has, you know, become a greater factor in how those price cycles work. But I don't necessarily have it all figured out in terms of why. It is a rather unique phenomenon that I have seen here. I have got quite a bit of experience in my career, mostly in the United States, but also

5 in other parts of the world, and it's the first place that I have worked where I have come across this kind of dramatic discounting throughout the course of a price cycle, followed by significant increases on the street and the kind of a sawtooth pattern that happens, albeit typically every seven days, but not necessarily every seven days, so it is a rather unique phenomenon.

10

As a fuels marketer that sells product to consumers, I don't particularly like the price cycle because I think it creates a lot of volatility in the marketplace, it creates consumer confusion, perhaps anger, and doubts and misperceptions perhaps. But as just one competitor in the marketplace, I don't feel as though we have any influence

15 over its existence or not.

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MR MARKS: Let me just take some of the points you have raised and explore them further. First of all, insofar as the point you made about it being perhaps a hangover or a throwover from times gone by with independents, can you just explain that a little bit further? Are you saying really this: that at an earlier point in time in the metropolitan areas where we see these cycles, the cycles occurred because there was pressure on the market, in the market, by independents to bring the price down, and presumably that would be followed by a response at some time? Is that what you're really saying historically?

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MR BERGERON: Yes, the price - I mean, generally speaking, my experience would say that the Australian consumer is relatively price sensitive, and, therefore, responds to changes in prices and changes their buying decisions based on price of fuel, which is very transparent to them because it's posted on the street, so they can see what that is. I understand now - I was here for two and a half years, so I'm just going on what I have kind of learned and been told - that in the past the independents would use price to try and get an advantage or to try to grow their volume in the marketplace. That would not be unusual for independents to do that. Oftentimes they may have less upgraded facilities, they may be on inferior pieces of real estate in terms of

30 quality of real estate, location, those types of things, and without a major brand, so they feel as though I have to use a price war to get people into my service station. So my sense is they would be the drivers of that, from what I understand. I think that that has evolved. I think my sense is that independents will still try to use price in the marketplace today to compete, but that with the supermarkets, I don't see the

35 supermarkets giving anybody any room on the street. Therefore, I think everything happens very quickly.

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MR MARKS: Let's explore these drivers just a little bit more. You say the supermarkets look like they have changed things. What's the impact? What are the drivers in the cycle now of downward and upward movements?

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MR BERGERON: Well, what we see and react to are changes in the competitive street prices in the marketplace, which we monitor on, you know, a constant basis

through the purchase of information from Informed Sources. So we have analysts in our pricing group that will monitor, you know, do six or seven runs a day in terms of what's happening on the street, based on the data that we are getting from Informed Sources.

5

MR MARKS: What are you seeing from that data?

MR BERGERON: What we see is that in the cycle there is continual discounting, oftentimes multiple discounting at particular sites in a given day. What I will say is that we, Mobil, don't necessarily initiate price decreases but we react properly to changes in the competitive market, and what we see is we see the supermarkets reacting very quickly, so presumably, they may be reacting to an independent who drops, they drop quickly, and then we have to make a decision on what we do, because we consider - in terms of how our key competitors are.

15

MR MARKS: If you were to just try and articulate who is responsible for the downward trend in price, how would you do that, who would you say is?

MR BERGERON: I don't necessarily have that figured out per se. I can theorise that it would still be either an independent or a supermarket player or some sort of combination thereof of one independent moving, then a supermarket alliance site in that proximity to that reacting, and then somebody else looks at that and reacts, and somebody - I mean, it's bit of a domino effect that I think happens in the marketplace, also with the realtime information coming through Informed Sources, things can move pretty quickly.

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MR MARKS: Yes. Just looking at the way it operates in practice, we have price cycles in Melbourne, in Sydney and in Brisbane, in major metropolitan areas.

30 MR BERGERON: Yes.

MR MARKS: The downward movements in these cycles occurs over the space of about a week; would you agree?

35 MR BERGERON: That's correct. Yes.

MR MARKS: We have a day of the week, we are calling it changeover day, or something, but when the price moves up, and then from that point in time there's a downward trend through the rest of the week till the following week. We have observed Wednesday as being the changeover day in Melbourne, Sydney and similarly Brisbane; is that so?

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MR BERGERON: Based on what's been going on in recent memory, yes. I think there have been other times when, you know, maybe it was not Wednesday, but certainly in recent history, yes, Wednesday has been the day.

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MR MARKS: So at a point on Wednesday the price will move up, and then it will trend down through the week until the following Tuesday, and by Tuesday

night/early Wednesday morning you have probably the lowest prices that you are going to find in the area for the week; would you agree?

5 MR BERGERON: Yes, that's how it's been.

MR MARKS: Then there is this upward movement. Does Mobil have a view on who the upward driver of the cycle traditionally is?

10 MR BERGERON: Well, we track it. You know, we - - -

MR MARKS: What are your observations?

MR BERGERON: We track that through the data we get from Informed Sources.

15 MR MARKS: Let's talk about Mobil. What does Mobil do in - let's take Melbourne, for example?

20 MR BERGERON: We look at it on - I have some of that data, and considering that this is information that we get from Informed Sources, I'm not overly concerned about talking about this in the public domain.

MR MARKS: That's a relief.

25 MR BERGERON: You see, that was progress. When we look at nationally across the four - four capital cities that we have an owned or leased franchised network in, we are observing ourselves to be the first competitor with increased retail street prices, just a little bit less than 30 per cent of the time. That would be year to date 2007.

30 MR MARKS: Can we talk about Melbourne for the moment, because it might be a good example - - -

MR BERGERON: That's fine.

35 MR MARKS: It might not be a good example.

MR BERGERON: Yes, it does vary by city.

40 MR MARKS: It does. So if we take Melbourne, you say Mobil is responsible for upward price movements on occasion.

45 MR BERGERON: Well, Mobil would be - we would be potentially the first to withdraw price support at a wholesale level which would initiate then Mobil branded retail prices to increase on the street.

MR MARKS: Okay. The Informed Sources data we have - and you can see we have this - you can actually flip through this and see things over time very quickly. It

shows that Mobil is the first to move the price up in Melbourne on about, and this is an analysis from July 2006 to 25 August 2007 - just to give you the range - - -

MR BERGERON: That's fine.

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MR MARKS: It's moved up first on 76 per cent of occasions.

MR BERGERON: My data would be different than that, but I don't have the same time period.

10

MR MARKS: Your data - I'm not sure over what time period, is it - - -

MR BERGERON: Year to date August 2007.

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MR MARKS: It probably should give you something have close.

MR BERGERON: By our calculation, year to date 2007 was 50 per cent.

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MR MARKS: That's a big difference. We have the graphs here for every single week for the year 1 July - it's a little more than a year - to 25 August of the following year. That shows Mobil was the first to move on 76 per cent of occasions and it shows that in terms of the highest price at peak, Mobil has the highest price about 37 per cent of the time. So that gives you the picture that we see from Informed Sources data.

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MR BERGERON: Okay. That's fine. You're looking at a slightly different time frame than I'm looking at. So my number would be a little bit lower, based on year to date 2007. But this data - these are facts through Informed Sources that can be verified so - - -

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MR MARKS: They are all verified. Let's work on the assumption that this data is accurate. Now, it wouldn't come as any surprise to Mobil to know that because Mobil would have retail pricing strategies and tactics that it would use in the Melbourne market, would it not?

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MR BERGERON: Sure.

MR MARKS: One of the tactics appears to be to lead prices up often in the Melbourne market. Is that so?

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MR BERGERON: I don't think it would be appropriate for me to comment on specific strategies and tactics in an open forum.

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MR MARKS: Well, it's pretty obvious from the data that that is what Mobil does. What I want to get from you, helpfully if I can, is just an explanation of what Mobil is doing. The Commission is endeavouring here to understand the cycle, to understand the impact of the cycle, and it is therefore necessary to understand what the players in the market are doing and why they are doing it.

MR BERGERON: That's fine, and we have provided you our strategy documents which outline our overall retail and wholesale pricing strategies, and I have no problem going through market by market and talking about what we do strategically or what our goals are strategically and therefore what we do tactically that is aligned
5 with those strategies. But I don't think, frankly, that it is appropriate for me to do that in an open setting because I guess I take the view that if my competitors are reading this transcript, I think that is anti-competitive behaviour for me to be telling them what my strategies and tactics are.

10 MR MARKS: Okay. Would you agree that Mobil undoubtedly is a principal mover of prices upward in the Melbourne market, among the players in the Melbourne market?

MR BERGERON: What I have said is according to my data, we are about
15 50 per cent of the time.

MR MARKS: Do you regard that as a significant amount of time?

MR BERGERON: Among the competitors in Melbourne it would be the highest.
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MR MARKS: That is right. Let's go to Sydney. Do you have any figures from Sydney?

MR BERGERON: Yes.
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MR MARKS: Our Sydney data shows that Mobil was the - and I should tell you, it's exactly the same time period, 1 July 2006 to 25 August 2007 - - -

MR BERGERON: Okay, so about 13 months?
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MR MARKS: About 13 months. It's 59 weeks, I think. That shows there were price cycles in 59 weeks and Mobil led the price up in 44 of the 59 week cycles. Is that - -
-

MR BERGERON: Your numbers seem to be a little bit higher than mine. I have BP 56 per cent, Mobil 33 per cent and Coles 39 per cent.

MR MARKS: So you have BP having a - - -

MR BERGERON: Year to date August.
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MR MARKS: You have BP having a greater influence in the upward movement of the cycle than Mobil in Sydney?

MR BERGERON: Year to date August, yes, I would.
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MR MARKS: When you say "your date August", what do you mean?

MR BERGERON: Year to date August, January 1 to basically August.

MR MARKS: I am going to give you the figures here, so we can get a better picture.

5 THE CHAIRMAN: Mr Marks, can we get a clarification of that? Simple mathematics says that adds up to well over 100 per cent.

MR BERGERON: Does it?

10 MR MARKS: It is clearly wrong but I - - -

MR BERGERON: It could be that oftentimes you see prices moving at the same time.

15 THE CHAIRMAN: Okay.

MR BERGERON: If you do a price run on Informed Sources at 10 o'clock in the morning, you may pick up movement from more than one competitor within that price run. That's how we look at it.

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COMMISSIONER KING: Also, just to clarify what data you have used, have you used site by site data or have you used city-wide average?

25 MR BERGERON: I believe, and I can confirm this because this was put together by folks in our pricing group, but I believe it would be any movement by any competitor.

COMMISSIONER KING: So if BP in - - -

30 MR BERGERON: One site.

COMMISSIONER KING: - - - one site goes up and all the other BPs don't, then that leads to a rise overall and you would consider that BP - - -

35 MR BERGERON: Yes, we look at what competitive brand was the first observed to increase prices, so it could be two sites, it could be one site, it could be 50 sites.

40 COMMISSIONER KING: Okay. So even if one BP site went up, and then five minutes later Mobil went up over the entire city, your figures would count that as BP leading the price up?

MR BERGERON: Yes. And so we just - I mean, the data is coming in. I don't think we are that far off the data - - -

45 COMMISSIONER KING: Okay.

MR BERGERON: - - - and I don't have a problem with it, it can be verified through Informed Sources. I don't necessarily understand the overall significance, but we will keep talking about it.

5 MR MARKS: Just let me worry about that, if you wouldn't mind, Mr Bergeron.

MR BERGERON: Sure.

10 MR MARKS: What you can say is in both Melbourne and Sydney, Mobil is a significant upward mover of prices at the end of each cycle or at the end of each weekly period; would you agree with that?

MR BERGERON: Well, you're using the word "significant" - - -

15 MR MARKS: I am using that word and I'm asking you if you agree.

MR BERGERON: I would say that we are one of several companies that are observed to be among the first to raise prices on the street.

20 MR MARKS: I think you said a moment ago that you agreed that Mobil did it more than anyone else in Melbourne?

MR BERGERON: In Melbourne, yes, but Sydney, no.

25 MR MARKS: And in Sydney, whether it is more than anyone else or whether it's a lot, you are a significant mover, I suggest to you, about the movements in prices; is that right?

MR BERGERON: Based on this data, that's fine.

30 MR MARKS: Okay. What about Brisbane, are you a significant mover there, too, upward movement?

MR BERGERON: No.

35 MR MARKS: There less so?

MR BERGERON: Yes, so far this year, we've never moved first.

40 MR MARKS: Are you able to tell me why Brisbane is different?

MR BERGERON: In terms of tactically, it's - just think, from a confidential standpoint, why - there are probably some things we are doing tactically different there, which really is - which I would certainly be happy to talk about in confidence.

45 MR MARKS: It might be might be a tactical consideration?

MR BERGERON: Yes. The overall strategy across the market is relatively similar, consistent with the documents we provided to you, but tactics can vary by city.

5 MR MARKS: Coming back then to the general picture, the upward price movements, we have talked about Mobil; obviously other majors and key players in the market have an impact as well, don't they?

MR HENSON: Absolutely.

10 MR BERGERON: Absolutely.

MR MARKS: The picture I am wanting to get help from Mobil with is how this is happening broadly. Is it really a case, at the end of the day, of the major players in the market using the cyclical movement to advance their own ends, do you think?

15 MR BERGERON: I don't agree with that at all.

MR MARKS: You don't think so?

20 MR BERGERON: No.

MR MARKS: Say, for example - take Mobil, Mobil might try to move its prices up at the end of the week, it would do it on the same day, on the Wednesday, in the expectation that if it was to endeavour to move prices on that day, others would probably follow.

25 MR BERGERON: Our overall strategy, which I don't have a problem with just talking broadly generally, is to be competitive and to try to be as consistently competitive as possible in an extremely aggressive and competitive market with full transparency to consumers in terms of what our price on the street is, with near realtime information coming in from Informed Sources and a consumer that is extremely sensitive to changes in price and other discount opportunities. So it's a very dynamic marketplace and our goal is to try to be as consistently competitive as possible. At the end of the day, we also try to generate some gross margin dollars from the sale of fuel. So there's a function of volume times your unit margin to generate some gross profit dollars, and that's what we are trying to do as well.

30 MR MARKS: Of course, and that makes sense. What I'm really asking you is around those sorts of issues. You say, we try to be competitive, and I understand all that. But forget all that mantra in a sense, and I don't mean to be rude, I'm just being realistic here. Why does Melbourne move on a Wednesday? That's changeover day. Why does Mobil move its prices up on a Wednesday and not some other day of the week? Can you tell me that? Why does it choose Wednesday?

45 MR BERGERON: If our broad strategy is to try to be consistently competitive in our offer to consumers then one of the things we need to be careful about is not being uncompetitive for prolonged periods of time. So there are certain characteristics in the marketplace that anyone can observe, and we observe and that's what we do for a

living, we sell fuel, and we know - we monitor that and we know what works and what doesn't work when we try different things. But based on our observations, it really comes down to what's the likelihood that if a movement up on a Wednesday would lead you to be able to maintain a competitive position versus a movement up on a Thursday or a Friday.

MR MARKS: You said a moment ago, you know, we know what works and what doesn't work. Do you move on a Wednesday because - - -

MR BERGERON: You can observe past - I mean, all we have to go by is history and the data that happens in the marketplace, what happens in the marketplace. That's all we have to go by.

MR MARKS: Exactly. So is the consequence of that that you move on a Wednesday because you know that is the day when it is most likely to succeed?

MR BERGERON: We don't know if it will succeed. We don't know but - - -

MR MARKS: I didn't say that, I said it's most likely.

MR BERGERON: But there is a greater likelihood of success on Wednesday, based on what we have observed in the marketplace historically.

MR MARKS: Wednesday being in recent times changeover day, if Mobil moves on a Wednesday, Mobil would have some expectation that that price move would be successful?

MR BERGERON: The chances of success in terms of - bearing in mind that oftentimes on that Wednesday morning our wholesale margins could be significantly negative, oftentimes street prices could be below import parity, and therefore the impetus or the need or the incentive, if you would, to increase price or to withdraw price support would be most severe when wholesale margins are significantly negative, and that's typically what plays out on the Wednesdays. So it doesn't always - obviously, as we know, it doesn't always hold true that prices go up on Wednesdays.

MR MARKS: I understand. But if you're working on historical bases and hoping to run a business, you might be forgiven for thinking that Wednesday is a good day, if you're going to move the price up, to have a go at it because there's a greater likelihood that on a Wednesday the market will follow.

MR BERGERON: Yes, that's a fair - - -

MR MARKS: Through the course of the week the price will then go down and, as you say, it may be that Mobil and other people in the market are trading at a low price by the end of the cycle. You say it's sometimes below cost.

MR BERGERON: Sometimes below import parity, certainly, on the street, and that would be - I mean, that's transparent.

5 MR MARKS: Mobil, you say, has budget and targets and so on. I imagine it has an annual budget for its returns, does it, from fuel?

MR BERGERON: We have targets, planned targets.

10 MR MARKS: Are they annual?

MR BERGERON: Yes.

MR MARKS: Do you have monthly targets?

15 MR BERGERON: To the extent that you take an annual plan and you seasonalise it.

MR MARKS: You divide it up, you seasonalise it. There may be times like January when there's not much demand, there will be other times when there is. But do you have a monthly budget or target?

20 MR BERGERON: We have a planning process that takes the annual plan and spreads that over months. Sometimes it's a straight divide by 12 and sometimes there's a seasonality factor, it can vary from different things. So it's not necessarily one ironclad way of doing it.

25 MR MARKS: But Mobil broadly endeavours, I imagine, to meet its targets on an ongoing basis through the month?

30 MR BERGERON: Yes.

MR MARKS: And there would be a number of cycles, and there's the opportunity, and if you have low margins at some point or very low returns at some point, you would be wanting to try to recover them at the top end of the cycle so that by the end of the month you are more or less on target. That would be the policy, wouldn't it?

35 MR BERGERON: I don't necessarily link a weekly price cycle with monthly target, with annual target. I don't make that same link.

40 MR MARKS: But in the end, it is necessary for Mobil to make a return over the longer term and to work within the cycles that are happening in the market to achieve that; would you agree?

45 MR BERGERON: At the end of the day, myself and other people on the payroll for Mobil are charged with going out and trying to meet planned targets, or to do better than planned targets, and certainly there are volume targets and margin targets and operating expense targets. So we operate in a marketplace, but at the end of the day the marketplace will oftentimes determine whether or not we meet those, for example, margin targets.

MR HENSON: We can have a planned target but if the marketplace isn't allowing that kind of margin level in the marketplace then we are not going to hit that target.

5 MR MARKS: But, Mr Bergeron, is the answer to my question yes? You gave me a very, very long answer to what was essentially a simple question. I'm asking you this: over the space of a week and then indeed a number of weeks, Mobil has to operate within the cycles that happen in the market and has to ensure, to the extent that it can, it gets its returns; would you agree?

10 MR BERGERON: We - no. I agree with some of the things you are saying. We have to - obviously, we have chosen to be in this marketplace and we operate within the marketplace, but the market is the market. We are not the market leader, we are about 10 per cent of the retail market. That might vary in range a bit from city to city. We are definitely not the market leader. We are a taker in terms of what retail
15 prices are out there in the marketplace and we have to respond in operating that market. To the extent that we can also generate a return and meet overall profit targets or planned targets, certainly we try to do that, but there's no guarantee that we are going to do that.

20 MR MARKS: Accepting there's no guarantee, that's what you try to do?

MR BERGERON: Like any business, we try to make a return.

25 MR MARKS: So the answer is yes, that's what you try to do?

MR BERGERON: Yes, we try to make money, yes.

30 MR MARKS: So at the end of the each week of the cycles, in Melbourne, Mobil goes up; would you agree?

MR BERGERON: Not always.

MR MARKS: Most of the time?

35 MR BERGERON: A large number of times.

MR MARKS: Of those large number of occasions, there are a number of times when Mobil leads the price up; would you agree?

40 MR BERGERON: Well, we would be one - among the first to withdraw price support, sure.

MR MARKS: So is the answer to my question yes?

45 MR BERGERON: The end result of which is Mobil retail prices would be among the first up on the street, yes.

MR MARKS: Thank you. Now, Mobil does that, presumably, because it might have been trading for some period of the week at much lower margins and it wants to try and pick up some return at the higher point of the cycle? Is that a fair proposition?

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MR BERGERON: It would be an attempt to move from a negative, for example, margin position or an untenable margin position or a margin position whereby we don't make money, to try to move to a margin position where we might make money.

10 MR MARKS: Yes, or perhaps, just more generally, not necessarily from a position where you're not making any money but just from a lower margin to a higher margin?

MR BERGERON: That's what happens when you increase price.

15

MR MARKS: But what I'm really saying is this: you are giving the impression in your answer, at least to me, that the bottom end of the cycle, the low end, is almost invariably a point where you're operating on a negative margin. What I'm suggesting to you is on occasion you might be but quite often you might not be. Would you agree with that? The margin might be low but it might not be negative.

20

MR BERGERON: Oftentimes it's negative.

MR MARKS: But more often it's not, I suggest to you, as the figures bear out.

25

MR BERGERON: I don't have that exact data point committed to memory.

MR MARKS: It sounds generally then that we are in agreement about the way the cycle works and about the way Mobil approaches it, namely, it goes up to get a better return or a better margin at the high point, knowing that later in the cycle, as the price goes down, the margin will be more constrained. Is that a fair comment?

30

MR BERGERON: I think that oftentimes on a day where we withdraw price support there may be multiple adjustments on even that given day. There might be a movement to reinstate full price support because there weren't - either there was no other movement in the marketplace or a readjustment to a lower price based on other competitive factors. So it all can happen very quickly over a matter of hours.

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MR MARKS: The high point of the cycle, from Mobil's perspective, really is a time for margin recovery?

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MR BERGERON: I'm sorry?

MR MARKS: The high point of the cycle is a time for margin recovery?

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MR BERGERON: I think by definition that would be true.

MR MARKS: Insofar as your data that you provided us is concerned, I think there is some data in attachment Q - if you can quickly look at that - I'm not sure if it is confidential, but I will check now. I am told that's confidential, so I will have to come back to it.

5

Can I ask you, please, to answer a few questions about this point that you raised a moment ago. That's price support, because it's a kind of related topic, isn't it, from Mobil's perspective. Tell me how Mobil's price support regime works.

10 MR BERGERON: I can give it to you just broadly, and then certainly to the extent that tactically how specifically it works, I can expand upon in the private session. But, generally speaking, it's an assessment of the competitive conditions in the marketplace and an assessment on what wholesale price is offered to a particular franchise location at which whether or not that site would have the ability to be
15 competitive with the key competitors in its trade area, and therefore our wholesale price is site specific.

MR MARKS: So it is really a form of wholesale rather than retail support, is it?

20 MR BERGERON: Correct.

MR MARKS: At least it's provided at wholesale?

MR BERGERON: Correct.

25

MR MARKS: And it's done on a site specific basis?

MR BERGERON: Correct.

30 MR MARKS: Are you able to tell us any more about it in open session, how it - - -

MR BERGERON: I think that gets right at the heart of how we do pricing and I think that's a very sensitive area.

35 MR MARKS: I will pick that up with you again, if I may.

MR BERGERON: That's fine.

40 MR MARKS: The other thing I wanted to ask you about, just in the context of the retail market, was the shopper docket. You said quite a lot in your open submission about the impact of shopper docket, and I want to explore it. From Mobil's perspective, it seems there's been a significant impact over time from shopper docket. Do you want to express any views?

45 MR BERGERON: I think there's been a significant impact in the whole marketplace as a result of the shopper docket discounts. I think, generally speaking, the shopper docket program is an extremely aggressive and extremely competitive consumer proposition in the marketplace that Mobil and others have to contend with. We have

lost volume as a result of that, we have lost market share as a result of that, and I wouldn't be surprised if many other competitors had lost volume and market share as a result of that. When you consider the magnitude of a discount offered to a consumer with a shopper docket, the base offer, for example, being if you spend \$30
5 or more in their supermarket you get the 4c bar code at the bottom of your receipt. When you put that 4c per litre discount in perspective in relation to what we would view as the overall available marketing margin in the marketplace, which I would notionally describe as a rack forward margin or, you know, north of import parity plus your terminalling and distribution costs, that notionally I see that available
10 margin in the main - obviously it fluctuates every day - of somewhere around 7c or 8c a litre, and so every single day the supermarket's base offer is discounting at least, on average, 50 per cent or more of the available fuel margin in the marketplace. From time to time, they also run extra promotions. Woolworths has been running a save up to 8c a litre off, Coles has been save 6C. I know one year I spent over \$100
15 at Office Works and I got a coupon at the bottom that said, save 20c per litre at my local Coles location. There's not 20c of margin.

MR MARKS: Are you talking about gross or net margins in this context?

20 MR BERGERON: Both.

MR MARKS: But when you talk about 7c or 8c a litre - - -

MR BERGERON: When you look at a marked 7c or 8c gross.
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MR MARKS: Gross, thank you.

MR BERGERON: So it's an extremely competitive and compelling offer that for those companies such as Mobil, who are not aligned with a supermarket player, have
30 to compete with, and these are dominant players in their respective market. Together I think they have somewhere around - you guys would know the numbers - 70 per cent of the grocery business in Australia. They are in all kinds of retail space, they are mass merchandisers, they are in Office Works superstores, they've got liquor stores, they are into all the space. So you can spend money at Kmart, you can spend
35 money at Big W and you get that same discount. It's a compelling and competitive offer, and there's no doubt they have grown their share in a very short period of time and they've hurt many competitors in the marketplace, including Mobil.

MR MARKS: Do you know what the current volumes that are retail-based
40 supermarkets are, combined? We have an idea. Does Mobil have an idea?

MR BERGERON: I can just give you an idea. We think it's somewhere around 50 per cent, plus or minus, and you hear that kind of number; sometimes you hear it's more than 50 per cent, sometimes a little bit less. So we say it's probably around -
45 you know, could be a bit more than 50 per cent.

MR MARKS: The impact - and obviously we have heard a lot of evidence about this, Mr Bergeron - but from Mobil's perspective, I think you say in your submission

that the initial impact was substantial. Are you able to put a bit more flesh on that bone in terms of the percentage drop in sales or in - - -

MR BERGERON: Not in the public setting.

5

MR MARKS: Are you able to say in public setting whether after the initial impact there was a change and a trend to increase volume or to improve volume again by Mobil? Are you able to give us any ideas?

10 MR BERGERON: We introduced our own fuel discount program shortly after I got here, in 2005, we tested it up to the Gold Coast and we rolled it out, the first market we rolled it out in was Adelaide, the offer being that if you spend \$5 or more at participating Mobil locations then you could instantly receive a 4c per litre discount. Since we have launched that, we have been generally pleased with our overall results
15 on that program.

MR MARKS: How long has that been - - -

20 MR HENSON: Adelaide was August 2005. The final market was Sydney in February 2006.

MR MARKS: So 2005 to - - -

25 MR BERGERON: You'll find it in place at virtually all of the Mobil branded retail outlets in the four capital cities, and several of our branded distributors have also on their own decided to go ahead run that program, but that's really one-off, that kind of varies distributor by distributor in some of the rural markets.

30 MR MARKS: When you say you have been pleased with the response, has there been - that's been really a trigger for significant volume improvement?

MR BERGERON: I wouldn't use the word "significant" but I would be more than happy to tell you more details in the private session.

35 MR MARKS: Okay. Thank you. Just again in public session, having seen the impact of shopper dockets and you have no doubt done that, do you have a view about their place in the market or what should be done about them, if anything?

40 MR BERGERON: I'm not sure it's my - I mean, it's tough competitive conditions and one might look at it and say that, you know, you've chosen to be in this business, therefore you have to compete, and we fully take that on board.

MR MARKS: Is that the view Mobil takes, that they are there and you have to compete in that market?

45

MR BERGERON: That's the view that we take. It's a reality of the marketplace and we have capital that we've invested in the retail business here, we have service stations that we own, we have branded and unbranded fuel supply, and that's the environment that we have to operate in.

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MR MARKS: Mr Chairman, I think that probably brings me to the conclusion of what I can achieve in open session. I think I would ask the Commission if it would now convene a private session, and I can pursue some of the these matters further.

5 THE CHAIRMAN: Okay, let's do that. In the course of that private session, Mr Marks, we may find that there is information that you suggest could go on to the public record, and we will note that as we get to each particular area, if it is appropriate.

10 MR MARKS: Yes, or it may be, to facilitate the speed of things, and we can do this in conjunction with Mobil, that we review the transcript at the end and there may be matters which can be jointly agreed as being public information which can be provided. That may be a quicker way of doing it.

15 THE CHAIRMAN: Thank you. I will have to ask those that are not part of either the ACCC or Mobil to please vacate the room, so we can move into closed session.

WHEREUPON THE PROCEEDINGS MOVED IN-CAMERA [9.51am]

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MATT BERGERON, ON FORMER OATH

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