Australian
Competition &
Consumer
Commission

Terminal gate pricing arrangements in Australia and other fuel pricing arrangements in Western Australia

December 2002

Contents

Appendixes

Abbreviations

7-Eleven	7-Eleven Stores Pty Ltd
AAA	Australian Automobile Association
AFRA	Average freight rate assessment
APADA	Australian Petroleum Agents and Distributors Association
BP	BP Australia Limited
Caltex	Caltex Australia Limited
CAV	Consumer Affairs Victoria
Commission	Australian Competition and Consumer Commission
Cpl	Cents per litre
DOCEP	Western Australian Department of Consumer and Employment Protection
Framework	Department of Industry, Tourism and Resources, *Downstream Petroleum Industry Framework 2002*
FSGS	Fuel Sales Grant Scheme
GST	Goods and services tax
Gull	Gull Petroleum (WA) Pty Ltd
Informed Sources	Informed Sources Pty Ltd
IPI	Import parity indicator
ITR	Commonwealth Department of Industry, Tourism and Resources
Liberty	Liberty Oil Pty Ltd
Matilda	Matilda Fuel Supplies
Mobil	Mobil Oil Australia Pty Ltd
MTAA	Motor Trades Association of Australia
MTAWA	Motor Trade Association of Western Australia (Inc)
MTBE	Methyl tertiary-butyl ether

MWP(s)	Maximum wholesale price(s)
Petroleum Products Act	*Petroleum Products (Terminal Gate Pricing) Act 2000*
PMAA	Independent Petroleum Marketers Association of Australia
PSPASP	Platts Singapore product assessment (spot) price
RACV	Royal Automobile Club of Victoria
RACWA	Royal Automobile Club of Western Australia (Inc)
RON	Research octane number
Shell	The Shell Company of Australia Ltd
SSA	Service Station Association Ltd
TGP	Terminal gate pricing
Trafigura	Trafigura Fuels Australia Pty Ltd
VACC	Victorian Automobile Chamber of Commerce
Variability report	Australian Competition and Consumer Commission, *Reducing fuel price variability*, December 2001
Woolworths	Woolworths Limited

Summary

Background

On 14 May 2002, the Australian Competition and Consumer Commission publicly released its report on *Reducing fuel price variability* (subsequently referred to as the variability report). That report had been prepared following a request from the Federal Government for the Commission 'to examine the feasibility of placing limitations on petrol and diesel retail price fluctuations throughout Australia'.

The Government agreed with all five recommendations in the variability report and asked the Commission to do two things.

The first was to collect and publish the information on petrol prices that the Commission considers would be helpful to consumers and provide the information to industry, motoring and consumer groups to encourage wide dissemination of this information, including on the internet. On 20 November 2002, the Commission launched an initiative on its website to provide information on petrol price cycles in the major metropolitan cities, and other information on petrol prices. The website also includes links to a number of other websites that have information about petrol prices and petrol pricing issues.

The second was to continue monitoring and report back to the Government by the end of 2002 on the outcomes of:

- the fuel pricing arrangements in Western Australia;
- the terminal gate pricing (TGP) arrangements of Victoria and Western Australia; and
- the impact of the TGP measures announced by the Shell Company of Australia Ltd (Shell) and Caltex Australia Limited (Caltex), in February and May 2002 respectively, on regional petrol prices.

In the preparation of this report, staff of the Commission consulted with a wide range of industry participants. These included the major oil companies, independent retailers and wholesalers, distributors, industry organisations, motoring organisations and relevant State Government Departments.

This report should be considered in the context of the variability report.

Western Australian fuel pricing arrangements

Since January 2001, the Western Australian Government has introduced a number of fuel pricing arrangements. These include:

- The 24-hour rule, which took effect from 2 January 2001. Under these arrangements, fuel retailers are required to fix their prices for 24 hours. They are also required to inform the Department of Consumer and Employment Protection (DOCEP) of these prices, which are made publicly available on the FuelWatch website.

- Maximum wholesale price (MWP) arrangements, which were introduced on 12 April 2001.
- 50/50 legislation, which allows a retailer to buy up to 50 per cent of their fuel from sources other than their primary supplier, came into effect on January 2001.
- A regulation was implemented in July 2001 requiring petrol price boards to be displayed in Albany. In December 2001 mandatory price boards were introduced into all regional centres in Western Australia.

Specific fuel standards were introduced in Western Australia from 1 January 2000 in a two stage process. The first stage took effect from 1 January 2000 and the second, higher, standards took effect from 1 January 2001.

In monitoring the outcomes of the fuel pricing arrangements in Western Australia, the Commission has had regard to the objectives that the arrangements have set out to achieve. These objectives included:

- greater competition at both the wholesale and retail levels;
- a fairer and more transparent petroleum market;
- greater price transparency to industry and consumers;
- a reduction in the volatility of metropolitan retail prices; and
- a reduction in the differential between city and country fuel prices.

With respect to the first two objectives, the 24-hour rule is likely to have reduced rather than increased competition. This is because it adversely affects independent operators who tend to use price as their main tool for achieving competitive advantage. Under the 24-hour rule the ability of independents to respond quickly to competitors has been diminished.

The MWP arrangements have not been working as intended. The Commission understands that only one sale has occurred under the MWP arrangements since they were introduced in April 2001. It is likely that these arrangements have had a negative effect on competition at the wholesale level by reducing supply available to the spot market. The Western Australian Government announced in October 2002 that the MWP arrangements would be replaced by other TGP arrangements.

The data analysis in this report found that Perth prices have increased relative to three benchmarks, namely: Sydney and Melbourne prices, the Commission's import parity indicator (IPI) and Western Australian MWPs. While a significant part of this increase could be attributable to the higher fuel standards, some of it is likely to be due to other factors, including the 24-hour rule, a reduction in competition as a result of the new fuel standards and the cessation of the refinery exchange arrangements and the move to buy and sell arrangements (of which only the latter is an external factor outside the control of the Western Australian Government).

With respect to the objective of greater price transparency to industry and consumers, the publication of petrol prices on the FuelWatch website (and the reporting of prices in the media) has increased price transparency for consumers and industry. However, the way some of the price data is being made publicly available has introduced distortions in the marketplace.

With respect to the objective of reducing volatility in metropolitan retail prices, the 24-hour rule has eliminated price movements within a day. However, data from the variability report indicated that, contrary to a widely held perception, petrol prices are relatively stable on average within a day. In Perth during the period 16 October 2000 to 12 November 2000 (ie. prior to the introduction of the 24-hour rule), the average number of changes per day was only 1.18. A comparison of the characteristics of price cycles in periods before and after the introduction of the new arrangements in Western Australia suggests that the 24-hour rule has had minimal effect on the variation and duration of price cycles in Perth.

With respect to the objective of a reduction in the city-country differential, the data shows that the city-country differential increased rather than decreased when a comparison is made of the 21 months after the introduction of the new fuel pricing arrangements with the 21 months prior to January 2001.

On the basis of these findings, it is hard to conclude that the Western Australian fuel pricing arrangements have been successful to date.

It appears to the Commission that a number of the Western Australian fuel pricing regulations may have been introduced quickly, without full consideration of their implications or the necessary administrative details for their successful implementation.

Furthermore, the tighter fuel standards in Western Australia compared with other states have had a detrimental effect on prices and competition. Perth motorists currently face a price premium of around 1.9 cpl as a result of these standards and there is no guarantee that the premium will not rise in the future. Competition is also affected as it is now more difficult to import fuel into Western Australia, and BP Australia Limited (BP), which operates the sole refinery in Western Australia, has become a virtual monopoly supplier in the state at the wholesale level.

The Commission is concerned at the impact on the petroleum industry in Western Australia of the combination of the extensive fuel price regulations and the tighter fuel standards. These arrangements have significant implications for the nature of competition in the market and influence the amount of investment undertaken. A number of oil companies indicated to the Commission that their investment plans had been negatively influenced by the arrangements in place in Western Australia.

These implications for competition, prices and investment should be borne in mind in considering proposals in other jurisdictions to introduce fuel price regulations and tighter fuel standards.

Victorian terminal gate pricing arrangements

The Victorian Government introduced TGP arrangements on 1 August 2001, under the Petroleum Products Act.

These arrangements require declared suppliers – currently Shell, Caltex, BP, Mobil Oil Australia Pty Ltd (Mobil) and Trafigura Fuels Australia Pty Ltd (Trafigura) – to set a terminal gate price for the sale or supply of declared petroleum products to wholesalers, distributors and retailers. The prices must be publicly advertised and can only be changed once in 24 hours. The arrangements apply to spot sales and to contracts entered into after 1 August 2001. Contracts entered into between 1 November 2000 and 1 August 2001 become void to the extent that they are inconsistent with the Petroleum Products Act.

The aim of the Victorian TGP arrangements is to increase the transparency of pricing and to provide access to product at terminals at competitive wholesale prices for all distributors and retailers. In the short term there was not expected to be an effect on prices.

In monitoring the Victorian TGP arrangements the Commission has found it difficult to form a view on their impact because the extent to which they apply to the petroleum market in Victoria is not clear. The spot market is fairly small in Victoria and there have not been many sales. The vast majority of sales are under contract. On the basis of the information available to the Commission it has not been possible to determine how many contracts fall under the TGP arrangements.

In terms of transparency, the Government's objectives appear to have been achieved. Terminal gate prices are available on the companies' websites and provide a benchmark for the industry and consumers. The requirement that invoices include the costs of any additional services provided (such as brand, credit and freight etc) allows retailers to see what they are paying for. With respect to access, some smaller independents appear to have been able to access fuel at spot terminal gate prices.

The five declared companies that publish terminal gate prices expressed a number of concerns to the Commission about the operation of the TGP arrangements. Many of these related to the formula for determining the terminal gate price. Some of the companies also commented that the TGP arrangements impose administrative costs. Some industry organisations commented that the TGP arrangements permit the declared companies to discount off the published terminal gate prices. Therefore, these prices may not reflect the actual prices paid.

A comparison of the characteristics of price cycles in periods before and after the introduction of the TGP arrangements in Victoria indicated that there had been minimal effect on the price cycles in Melbourne. However, average retail prices in Melbourne compared with the IPI increased by 1.0 cents per litre (cpl), and average country prices in Victoria increased by 0.5 cpl, since the introduction of the TGP arrangements.

This increase in average retail prices is consistent with the conclusion about the Victorian TGP arrangements in the variability report. That report concluded that TGP arrangements that require terminal gate prices to be published and which apply to both spot and contract sales could, over time, lead to higher average retail prices and short-term price fluctuations occurring in fewer local markets. This arises because discounting is reduced.

In this context, the Commission heard from some oil companies that the Victorian TGP arrangements had led to less discounting from the terminal gate price and that any discounting is within a narrower band. One of the larger independents also suggested this was the case. The removal of discounts, particularly to the larger independent chains, reduces the degree of competition in the marketplace and leads to higher average prices.

However, it is not possible to conclude with certainty that the increase in average retail prices in Melbourne has resulted from the TGP arrangements. This is because, as noted earlier, the extent to which the TGP arrangements apply to the petroleum market in Victoria is not clear. Furthermore, the increase in average retail prices may be a result of other factors (such as the exit of Liberty from the retail market in Melbourne and the cessation of the refinery exchange arrangements between the four major refiner/marketers) unrelated to the introduction of the TGP arrangements.

Terminal gate pricing arrangements introduced by the oil companies in 2002

Shell introduced TGP arrangements on 13 February 2002 in all states and the Northern Territory, except Victoria and Western Australia. Caltex introduced TGP arrangements on 7 May 2002 in the same states and the Northern Territory. BP introduced TGP arrangements on 1 June 2002 in Adelaide, Brisbane and Sydney. The specific arrangements introduced by each company differ.

It is too early to meaningfully form a view on the outcomes of the TGP arrangements introduced by the companies from the monitoring undertaken to date as these arrangements have only been in place for a short period of time. Since the analysis in this report goes to 30 September 2002, for assessment purposes Shell's TGP arrangements have been in place for seven and a half months, Caltex's have been in place for less than five months and BP's TGP arrangements have been in place for four months.

Furthermore, while there have been sales under these arrangements, it is likely that a significant portion of the petroleum market is not covered by the TGP arrangements introduced by the companies. The TGP arrangements introduced in 2002 all apply to spot sales and only one company (Shell) applies these TGP arrangements to contracts (but excluding franchisees). It is understood that the spot market is fairly small in Australia because retailers generally prefer to obtain fuel on a contract basis to ensure continuity of supply. As more contracts come under TGP arrangements, and as the companies extend the coverage of their TGP arrangements, the proportion of the market included in TGP arrangements should increase over time.

Some of the larger independents have expressed concerns that the TGP arrangements introduced by the companies may result in less variation in prices at the terminal gate and that they may not be able to receive the same level of discounts as they have received in the past. To the extent that the discounts are less, this may have an adverse effect on competition and lead to higher prices.

There are a range of views among industry participants about the TGP arrangements introduced by the companies in 2002. Some consider that there has been an increase in transparency, while others consider that there has been no change in the market with the introduction of these TGP arrangements. One organisation considered the TGP arrangements introduced by the companies were largely a deception.

Attempting to reconcile these views is a task for the Department of Industry, Tourism and Resources (ITR). The Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane MP, launched the *Downstream Petroleum Industry Framework 2002* (the framework) on 19 November 2002. The framework comments that there appears to be broad industry support for a national approach to TGP, but that there are a range of views on which TGP model should be used. It notes that ITR will be consulting with industry participants and State and Territory Governments on a national approach to TGP. This is part of the renewed push for reform in the petroleum industry.

The Commission understands that a possible option being considered in this context is TGP with limited discounting. Depending on the form of TGP introduced, a consequence can be that there is a reduction in the level of discounts at the wholesale level. This can have adverse implications for competition and lead to higher prices. The Commission would be concerned at any proposal that sought to specifically regulate to limit discounts before or after the terminal gate.

More broadly, the Commission would hope that in the development of a package of reforms for the petroleum industry, due consideration will be given to the possible implications of any proposals on competition and prices.

1. Introduction

1.1 Background

On 14 May 2002, the Commission publicly released its variability report.[1] That report had been prepared following a request from the Federal Government for the Commission 'to examine the feasibility of placing limitations on petrol and diesel retail price fluctuations throughout Australia'.

The Treasurer, the Hon Peter Costello MP, and the Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane MP, announced the Government's response to the variability report in a media release on 14 May 2002.[2] The Government agreed with all five recommendations in that report and asked the Commission to do two things.

The first was to collect and publish the information on petrol prices that the Commission considers would be helpful to consumers and provide the information to industry, motoring and consumer groups to encourage wide dissemination of this information, including on the internet. On 20 November 2002, the Commission launched an initiative on its website to provide information on petrol price cycles in the major metropolitan cities, and other information on petrol prices. The website also includes links to a number of other websites that have information about petrol prices and petrol pricing issues.

The second was to continue monitoring and report back to the Government by the end of 2002 on the outcomes of:

- the fuel pricing arrangements in Western Australia;
- the TGP arrangements of Victoria and Western Australia; and
- the impact of the TGP measures announced by Shell and Caltex (in February and May 2002, respectively) on regional petrol prices.

1.2 Consultations

In the preparation of this report, staff of the Commission consulted with a wide range of industry participants. These included:

- the major oil companies - BP, Caltex, Mobil and Shell;

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[1] Copies of the report are available from the Commission's website at <http://www.accc.gov.au>.

[2] The Hon Peter Costello MP, Treasurer, 'ACCC report on reducing fuel price variability', press release no. 028, 14 May 2002.

- independent retailers and wholesalers – Woolworths Limited (Woolworths), Gull Petroleum (WA) Pty Ltd (Gull), Matilda Fuel Supplies (Matilda), Trafigura and Liberty Oil Pty Ltd (Liberty);
- distributors - Australian Petroleum Agents and Distributors Association (APADA);
- industry organisations - Motor Trades Association of Australia (MTAA), Motor Trade Association of Western Australia (Inc) (MTAWA), Service Station Association (SSA), Victorian Automobile Chamber of Commerce (VACC) and Independent Petroleum Marketers Association of Australia (PMAA);
- motoring organisations - Royal Automobile Club of Western Australia (Inc) (RACWA) and Royal Automobile Club of Victoria (RACV); and
- State Government Departments – DOCEP, Department of Premier and Cabinet, and Department of Environmental Protection in Western Australia, and Consumer Affairs Victoria (CAV).

The views of industry participants are outlined in appendix B (on the fuel pricing arrangements in Western Australia), appendix E (on the Victorian TGP arrangements) and appendix F (the TGP arrangements introduced by the oil companies in 2002).

1.3 Scope of the report

This report examines the three issues on which the Government has asked the Commission to report. All of the discussion of petrol in this report refers to regular unleaded petrol.

This report should be considered in the context of the variability report. The fuel pricing arrangements in Western Australia were examined in chapters 7 and 8 and appendix D of that report and the Victorian TGP arrangements were analysed in chapter 7 and appendix E. Appendix F of the variability report provided a comparison of Western Australian and Victorian terminal gate prices. The variability report also discussed TGP arrangements (see chapter 7 and appendix G).

The variability report analysed data to the end of October 2001. This report analyses data to the end of September 2002.

Since the preparation of the variability report there have been a number of changes in the industry that will have an influence on competition and pricing.

- The major change has been the cessation of the refinery exchange arrangements between the four major refiner/marketer companies in Australia (ie BP, Caltex, Mobil and Shell). Each of these companies operates two refineries across the country. The refinery exchange arrangements guaranteed supplies of petroleum products to the companies in regions where a major did not have refinery capacity. The Commission understood that these agreements were primarily articulated in volumes, although there were payments between the companies to reflect the differing fuel standards among the states. From 1 July 2002, these arrangements have been replaced with buy/sell arrangements where, in effect, the oil companies charge each other commercial prices for fuel.

- On 1 June 2002 BP announced a TGP system, commencing that day, involving the publication of a spot terminal gate price for petrol for Adelaide, Brisbane, and Sydney. These arrangements will be included in the analysis of the Shell and Caltex TGP arrangements, introduced in February and May 2002 respectively.

- Liberty withdrew from the retail market in the second half of 2001, with Woolworths taking over the leases of the majority of Liberty's sites. The remaining sites had been rented from Caltex and these reverted back to Caltex sites. Liberty remains in the wholesale market and supplies the Woolworths sites, among others. Over the years, Liberty has played a significant role in promoting competition, and it remains to be seen what the implications of Liberty's withdrawal will be on the retail market.

- The issue of fuel standards has become more prominent in 2002. Western Australia, Queensland and South Australia have different fuel standards from the rest of Australia. These standards were introduced in Western Australia in January 2000, in Queensland in July 2000 and in South Australia in March 2001. In May and July 2001, the Commonwealth Government announced national fuel standards to be progressively introduced between January 2002 and January 2006.

- The Minister for Industry, Tourism and Resources launched the framework on 19 November 2002. It addresses issues critical to the future competitiveness of the downstream petroleum sector. Associated with the framework is a renewed push for reform in the downstream petroleum industry.

1.4 Format of the report

This report contains three chapters and six appendixes.

Chapter 2 examines the Western Australian fuel pricing arrangements. This includes their TGP arrangements. Appendix A provides data on the city-country price differential for unleaded petrol for the states and the Northern Territory for the period July 1998 to June 2002. Appendix B summarises the views of industry participants on the Western Australian fuel pricing arrangements. Appendix C contains a copy of the letter of 9 August 2002 from Professor Fels, Chairman of the Commission, to the Western Australian Minister for Consumer and Employment Protection, the Hon. John Kobelke MLA, which provided the Commission's views on retail price capping in regional areas.

Chapter 3 examines the Victorian TGP arrangements. A comparison of Victorian and Western Australian terminal gate prices is presented in appendix D. Appendix E summarises the views of industry participants on the Victorian TGP arrangements.

Chapter 4 examines the TGP arrangements introduced by the oil companies in 2002. Appendix F summarises the views of industry participants on these arrangements.

2. Western Australian fuel pricing arrangements

2.1 Introduction

This chapter examines the fuel pricing arrangements in Western Australia, which were progressively introduced since January 2001. It also includes the impact of the Western Australian regulations relating to fuel standards, which were introduced in 2000.

The variability report examined the fuel pricing arrangements in Western Australia in chapters 7 and 8 and appendixes D and F. The data analysis in that report went to the end of October 2001. This report analyses data to the end of September 2002.

2.2 Background

Following consideration of *Getting a Fair Deal for Western Australian Motorists* (the October 2000 report of the Western Australian Parliament's Select Committee on the Pricing of Petroleum Products), the former Western Australian Government began implementing a package of arrangements relating to fuel prices. It passed the *Petroleum Products Pricing Amendment Act 2000* concerning the pricing of petroleum products in late 2000. The Act provided for:

- retail prices being fixed for a 24-hour period; and
- establishment of a MWP for motor fuels.

The Court Government also intended introducing legislation to allow retailers to source up to 50 per cent of their fuel from sources other than their primary supply. Other measures to be introduced (such as retail price caps) would tackle the widening gap between city and country motor fuel prices.

The Gallop Government continued with this package as a matter of priority from February 2001. These arrangements are outlined in more detail below.

The Western Australian Government's main objectives are to bring about conditions that will deliver:

- greater competition at both the wholesale and retail levels;
- a fairer and more transparent petroleum market;
- greater price transparency to industry and consumers;
- a reduction in the volatility of metropolitan retail prices; and

- a reduction in the differential between city and country fuel prices.

2.3 Pricing arrangements

2.3.1 24-hour rule

Arrangements that took effect from 2 January 2001 included the following:

- Fuel retailers had to fix the price of all grades of petrol, diesel and LPG for each calendar day, between 12.00 midnight and 12.00 midnight.

- Prices could not be moved up or down during this period.

- Retailers were required to inform the then Ministry of Fair Trading (now DOCEP) by 2.00 p.m. each day any price change that would apply for the following day's trading.

- Pricing information was available to consumers and other retailers via a telephone hotline or the FuelWatch website.

However, there was a loophole in the legislation. Under it, retailers nominated their price for the next day, but they were not required to move to that price. They could also switch between their nominated price and the previous day's price during the day.

Under the Petroleum Products Pricing Amendment Regulations (No. 2) 2001 this loophole was closed from 24 August 2001.

This regulation also changed the 24-hour time period to 6.00 a.m. to 6.00 a.m. Retailers had been concerned that their staff would face safety risks when changing prices at midnight.

From September 2001, consumers could automatically receive daily fuel prices from FuelWatch by e-mail. The e-mail could include fuel prices for up to 10 service stations nominated by the consumer. This could be daily or on nominated days.

2.3.2 Maximum wholesale price arrangements

On 12 April 2001 MWP arrangements were introduced. The Government specified six terminals in the metropolitan areas and 11 in non-metropolitan areas that were subject to a regulated wholesale price cap.

The then Ministry of Fair Trading determined these price caps, using an import parity pricing model, which was based on:

- the relevant Singapore refined product spot price converted into Australian dollars per litre;

- shipping freight rates adjusted monthly;

- a quality adjustment for Western Australian fuel specifications (0.85 cpl);
- insurance and wharfage costs (0.4 cpl);
- terminalling costs and wholesale margin (2.5 cpl); and
- excise and goods and services tax (GST).
- The non-metropolitan terminal price caps incorporated truck freight differentials ranging from 0.7 cpl to 1.0 cpl.

Other conditions were:

- The price cap applied to resellers that were not subject to an agreement or arrangement affecting price and took delivery at the terminal.
- The price cap did not affect the right of the supplier to charge an additional component when additional services were provided to a person who was not a reseller.
- A supplier had to calculate their product prices (subject to the maximum for each product) and notify the Prices Commissioner at the then Ministry of Fair Trading by 4.00 p.m. on the day before the date of supply.
- The MWP could not be exceeded for a 24-hour period commencing on midnight on the day of supply.
- The MWP was available on the FuelWatch website.

Under the Petroleum Products Pricing (Maximum Wholesale Price) Order (No. 4) 2001 the MWP arrangements were modified from 21 August 2001 and included:

- revoking the previous MWP Orders;
- only declaring regular unleaded petrol under the arrangements — other fuels would be declared at later dates once their formulas had been revised;
- revising the formula under which the MWP for regular unleaded petrol is set. This was altered in two ways:
    - changing the relevant Singapore spot price for regular unleaded fuel to the lesser of the cost of 92 Research octane number (RON) fuel plus a quality adjustment premium or 95 RON fuel;[3] and

[3] The quality adjustment premium is based on a formula which incorporates both a fixed component and a variable component. The net effect is that since the fixed component is 1.5 cpl the quality adjustment premium is at least 0.65 cpl higher than the previous quality adjustment premium.

- incorporating an additional premium (0.8 cpl) to the freight rates;

- only specified metropolitan terminals would be subject to the price cap until the freight rates to regional terminals could be re-calculated;
- the Prices Commissioner now calculates the MWP cap, not the suppliers. However they have the opportunity to nominate a price equal to or less than the MWP.

The other conditions remained the same.

On 17 October 2002, the Minister for Consumer and Employment Protection said that '...the MWP regime has not worked as well as the Government intended....' and announced that the Government would soon introduce a terminal gate price at regional and metropolitan fuel terminals.[4] It was the Minister's intention that the new arrangements would be in operation by around mid-December.

2.3.3 50/50 arrangements

The Government amended the *Petroleum Retailers Rights and Liabilities Act 1982* in June 2001 to allow a retailer to buy up to 50 per cent of their fuel from sources other than their primary supplier. The amendments were designed to overcome problems that allowed the initial legislation to be challenged in the Supreme Court in 1991.

The new arrangements came into effect on 1 January 2001. They apply to all contracts signed after 10 February 2001 (the date of the State election).

2.3.4 Price boards

A new regulation was implemented in July 2001 requiring retailers in the district of Albany to display the prices of three products (including unleaded petrol) so that they were clearly visible to passing motorists. The arrangements came into effect from 18 August 2001.

In October 2001 the Western Australian Government decided to extend the application of the regulation to other major regional centres in Western Australia. On 23 December 2001 mandatory price boards were introduced into all regional areas.

2.3.5 Regional retail price caps

A discussion paper on retail fuel price capping in major regional centres of Western Australia was released by the Minister for Consumer and Employment Protection on 31 May 2001.[5]

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[4] The Hon. John Kobelke MLA, Minister for Consumer and Employment Protection, 'Government announces new terminal gate pricing system for fuel', media statement, 17 October 2002.

[5] The Hon. John Kobelke MLA, Minister for Consumer and Employment Protection, 'Discussion paper on regional fuel price caps released', media statement, 31 May 2002.

The discussion paper outlined the purpose of retail price caps, possible options for determining price caps and some implications of their introduction. The regional centres which were being considered were: Albany, Bunbury, Busselton, Esperance, Geraldton, Kalgoorlie/Boulder and Port Hedland/South Hedland.

In June and July 2002 DOCEP undertook public consultation on the discussion paper, including inviting submissions on the discussion paper and holding meetings in regional areas.

On 9 September 2002, the Minister for Consumer and Employment Protection announced that the State Government was reconsidering its position on regional fuel price capping, following the general lack of support during the public consultation process.[6]

2.4 Fuel standards

In 1999, the Western Australian Government passed the *Environmental Protection (Diesel and Petrol) Regulations 1999* under the *Environmental Protection Act 1996.* The regulations provided for cleaner transport fuels that reduced the levels of aromatics, benzene, lead and sulphur in fuels.

The fuel specifications were largely based on the European 'Euro 3' specification, with one major exception. Under Euro 3 the amount of methyl tertiary-butyl ether (MTBE) can be up to 15 per cent, whereas the Western Australian standard only allowed for 0.1 per cent. MTBE is an ether used for enhancing the octane rating of fuel. Australian refineries do not typically use ether-based octane enhancers (such as MTBE). However, they have been present in imported fuel.

These regulations came into operation from 1 January 2000 and had two stages: the first effective from 1 January 2000 and the second higher standards effective from 1 January 2001.

The BP refinery in Kwinana – the only refinery in Western Australia - can produce fuel that meets the Western Australian fuel standards. Under the refinery exchange arrangements the four major refiner/marketers used to effectively swap fuel across the country. BP charged the other oil companies a quality premium of 0.35 cpl in 2000, and 0.85 cpl in 2001, to reflect the higher quality fuel they received in Western Australia. DOCEP included the 2001 quality premium of 0.85 cpl in the first MWP formula.

In early January 2002 BP announced that it had made an offer to all of its refinery customers through until the end of 2002, which, from 1 July 2002, would fix the quality

[6] The Hon. John Kobelke MLA, Minister for Consumer and Employment Protection, 'Country fuel price differential being reconsidered', media statement, 9 September 2002.

premium at 1.95 cpl.[7] This represented an increase of 1.1 cpl over the quality premium in 2001.

The quality premium was based on a figure of $US 1.60 per barrel. In mid-December 2001, this equated to 1.95 cpl. However, with fluctuations in the Australian/US dollar exchange rate the value of the quality premium in Australian cpl in 2002 has ranged from 1.76 cpl to 2.0 cpl. Over the period 1 January to 30 September 2000, the value of the quality premium averaged 1.88 cpl. Therefore, in this report, the quality premium is taken as 1.9 cpl.

From 1 January 2002, the Commission understands that BP raised the quality premium it charged to the other refiner/marketers for transactions of fuel in Western Australia outside the refinery exchange arrangements. The Commission understands that around a third of the fuel supplied by BP to the other major oil companies attracted the higher premium. From 1 July 2002, with the cessation of the refinery exchange arrangements, BP applied the quality premium to all transactions.

A chronology of developments relating to Western Australian fuel pricing arrangements and fuel standards is shown in table 2.1.

[7] BP media release, 'BP calls for end to scare mongering on clean fuels', 3 January 2002.

Table 2.1: Western Australian fuel pricing arrangements and fuel standards – significant dates

1 January 2000	Fuel standards introduced - quality premium of 0.35 cpl
1 January 2001	Fuel standards tightened – quality premium of 0.85 cpl
2 January 2001	24-hour rule introduced
12 April 2001	MWP arrangements introduced
18 August 2001	Price boards introduced in Albany
21 August 2001	MWP formula revised
24 August 2001	Closure of the loophole in the 24-hour rule
23 December 2001	Price boards introduced into all regional areas
1 January 2002	50/50 legislation takes effect
1 January 2002	Fuel quality premium increased by BP to around 1.9 cpl – applies only to non-refinery exchange transactions
31 May 2002	Release of discussion paper on retail price capping in regional areas
1 July 2002	End of refinery exchange arrangements. BP's fuel quality premium of around 1.9 cpl – applies to all transactions
9 September 2002	Government announces it is reconsidering its position on regional fuel price capping
17 October 2002	Government announces MWP arrangements would be replaced by TGP arrangements at regional and metropolitan fuel terminals

2.5 Data analysis[8]

2.5.1 Movements in average daily prices

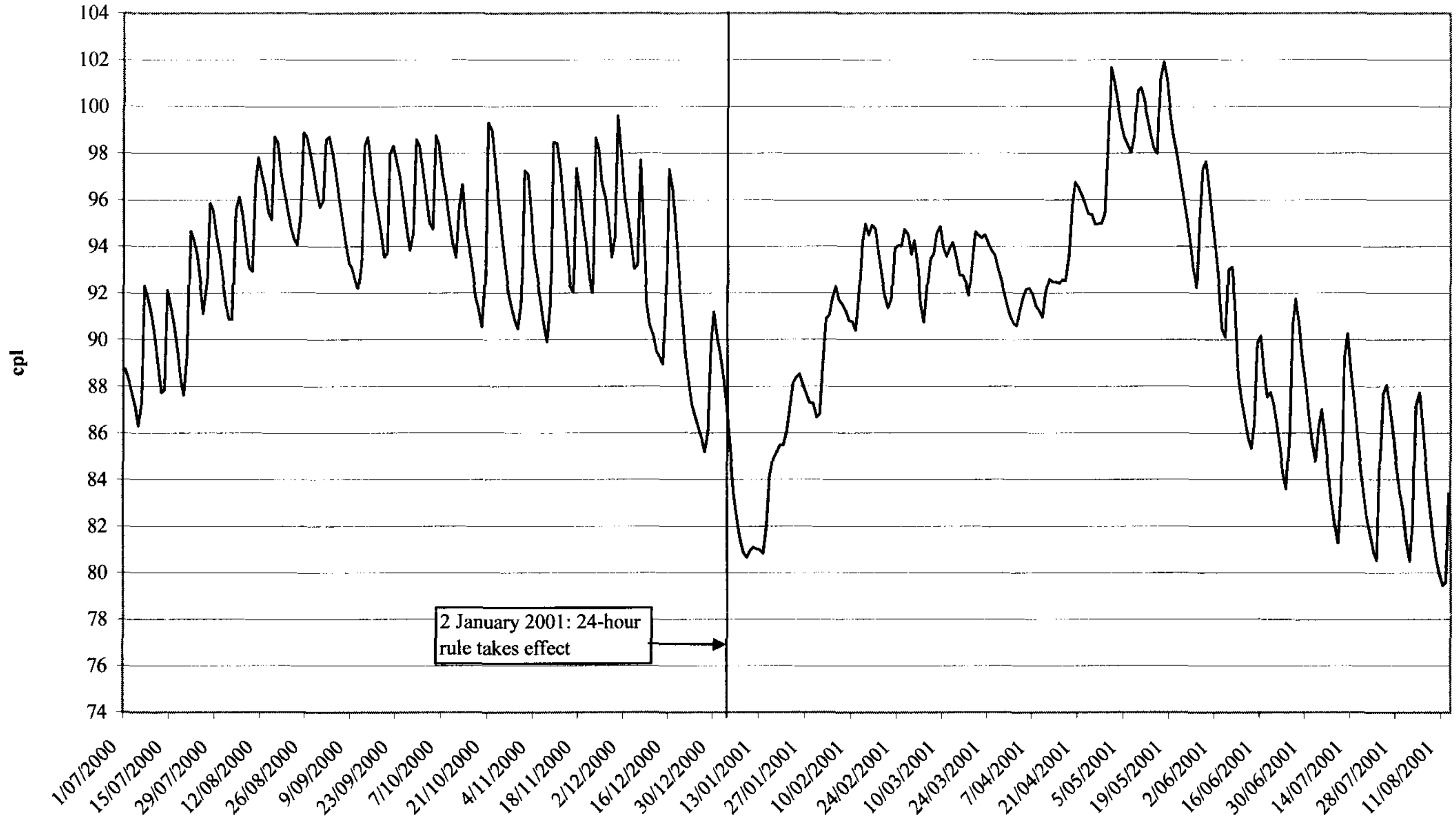
Chart 2.1 shows the movements in average daily retail petrol prices in Perth from 1 July 2000 to 30 September 2002.

The price cycles are clearly apparent in the last six months of 2000 before the 24-hour rule arrangements began on 2 January 2001. Immediately after the 24-hour rule began, the price cycles lost their regular pattern and when they did occur they were of a smaller variation and longer duration. This may have been due to industry participants taking time to adapt to the new arrangements. This trend of irregular cycles continued until the end of April 2001. From the beginning of May 2001, price cycles re-emerged on a regular basis.

During the period 2 January 2001 to 23 August 2001, due to a loophole in the legislation, the 24-hour arrangements were not operating as intended. The loophole was closed from 24 August 2001.

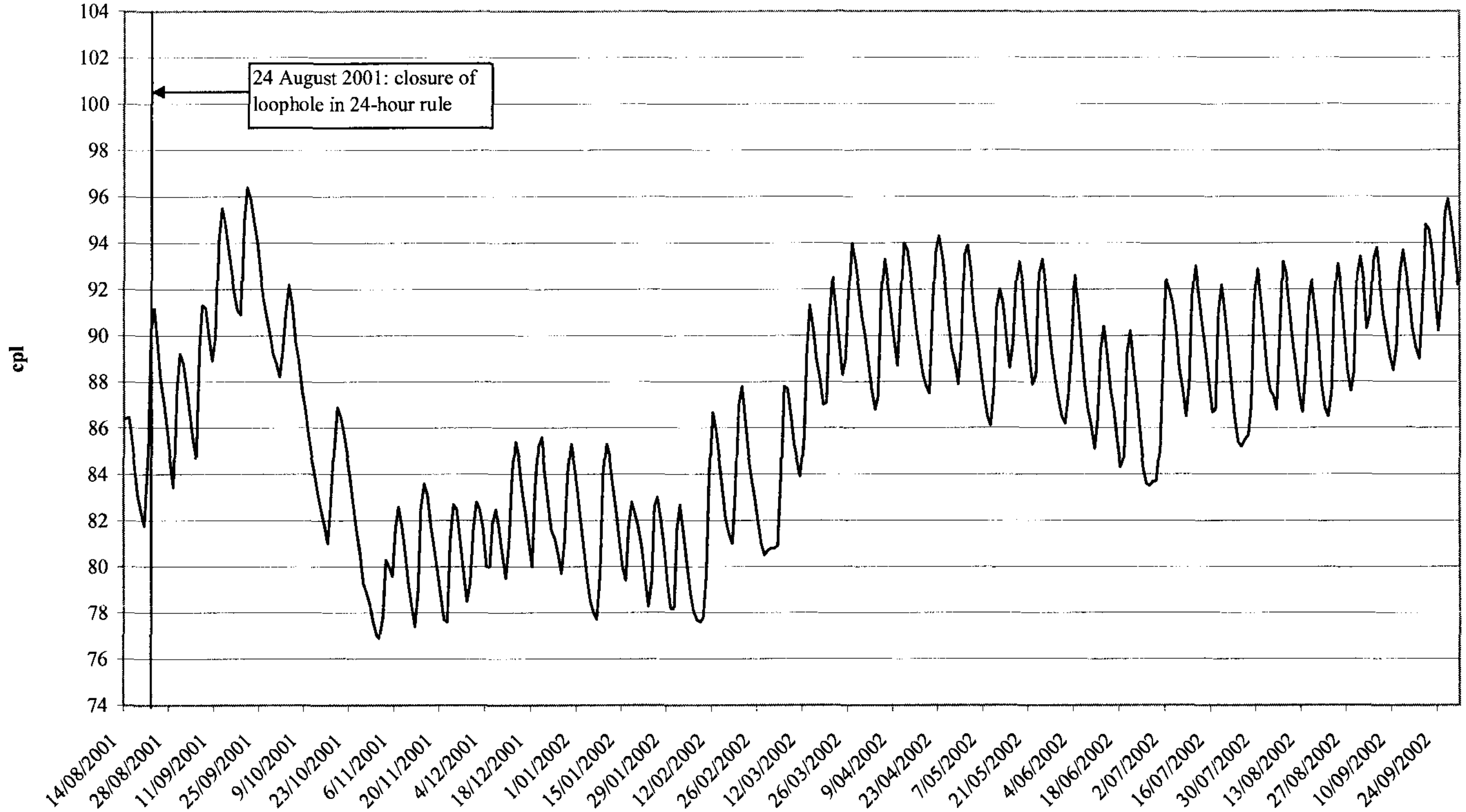
[8] In this report, unless otherwise specified, the analysis is based on price data provided by Informed Sources Pty Ltd (Informed Sources). There may be a small variation in some of the tables due to rounding. Numbers have been rounded to one decimal place, except for a few instances.

Chart 2.1 (Part 1): Average daily retail prices – Perth – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

Chart 2.1 (Part 2): Average daily retail prices – Perth – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

2.5.2 Perth price cycles

In the following discussion about price cycles:

- A price cycle is considered to have occurred if there are total price movements between a trough (bottom) to a peak (top) of one cpl or more and movements of a similar magnitude from that peak to a subsequent trough.

- The variation of a price cycle is the difference in price between the trough and the peak.

- The duration of a price cycle is the number of days between two troughs.

- The data includes all days of the week and public holidays.

- The price data used in the analysis is based on average daily prices. Therefore, the actual price fluctuations at individual service stations on any particular day would have been higher in some instances and lower in others.

Table 2.2 provides data on the characteristics of price cycles in Perth over three separate periods. These are: the year 2000 (ie. preceding the introduction of the 24-hour rule); the period between 2 January to 23 August 2001 (in the time between the introduction of the 24-hour rule and the closure of the loophole); and the period 24 August 2001 to 30 September 2002 (ie. since the closure of the loophole in the 24-hour rule).

Table 2.2: Characteristics of price cycles – Perth – 1 January 2000 to 30 September 2002

	1 Jan- 31 Dec 2000	2 Jan- 23 Aug 2001	24 Aug 2001- 30 Sep 2002
Number of cycles	45	20	45
Variation (cpl)			
Smallest variation	3.0	1.6	2.5
Largest variation	8.8	9.4	9.1
Average variation	5.9	5.4	5.8
Most common variation	4 - 4.99	7 - 7.99	5 – 5.99
Duration (days)			
Ave no. days trough to peak	2.2	4.2	3.0
Ave no. days peak to trough	5.8	6.9	5.6
Ave no. days trough to trough[9]	7.9	11.2	8.7
Most common duration	7	8 - 12	8
Peaks and Troughs			
Most common day of peaks	Friday	Thursday	Friday
Most common day of troughs	Wednesday	Tuesday	Monday/Wednesday

Source: ACCC data and Informed Sources

The following analysis compares the twelve-month period prior to the new arrangements (ie. the year 2000), with the period from 24 August 2001 to 30 September 2002 (which is just over 13 months). The period between 2 January and 23 August 2001 has been excluded from the price cycle analysis on the basis that the new arrangements were not working as intended. Furthermore, price cycles were significantly affected in the period immediately after the introduction of 24-hour rule (ie January to April 2001), possibly a result of the transition to the new arrangements.

[9] The average number of days from trough to trough is not equal to the sum of the average number of days from trough to peak plus the average number of days from peak to trough. This is because the average number of days from trough to trough represents completed price cycles during the period. It may be that at the end of the period there was a movement from trough to peak but not a completed movement from peak to trough and therefore not a completed price cycle.

A comparison of these two periods shows that:

- The average variation of price cycles remained virtually the same.
    - It changed from 5.9 cpl in 2000 to 5.8 cpl in the period 24 August 2001 to 30 September 2002.
- The average duration of price cycles increased.
    - It changed from 7.9 days in 2000 to 8.7 days in the period 24 August 2001 to 30 September 2002.
        - The average number of days from trough to peak increased - from 2.2 days in 2000 to 3.0 days in the period 24 August 2001 to 30 September 2002; and
        - The average number of days from peak to trough decreased marginally - from 5.8 days in 2000 to 5.6 days in the period 24 August 2001 to 30 September 2002.
- In terms of the most common days of the week on which prices peak and trough:
    - Friday remained the most common day for prices to peak; and
    - the most common day for prices to trough changed from Wednesdays in 2000 to Mondays and Wednesdays in the period 24 August 2001 to 30 September 2002.
- The number of days of the week on which peaks and troughs occurred increased.
    - In 2000, prices in Perth peaked on Wednesdays, Thursdays, Fridays and Saturdays, and prices troughed on Mondays, Tuesdays, Wednesdays, Thursdays and Sunday. This meant that prices both peaked and troughed on Wednesdays and Thursdays during that period.
    - In the period 24 August 2001 to end September 2002, prices peaked on each day of the week apart from Mondays, and have troughed on every day of the week. For this period, prices have both peaked and troughed on Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays and Sundays.

In summary:

There have not been significant changes to price cycles in Perth with the introduction of the 24-hour rule. The average variation of price cycles has remained virtually unchanged and the average duration has increased by less than a day. Cycles have become less predictable in that prices are peaking and troughing on more days of the week than previously.

2.5.3 Perth prices compared with Sydney and Melbourne prices

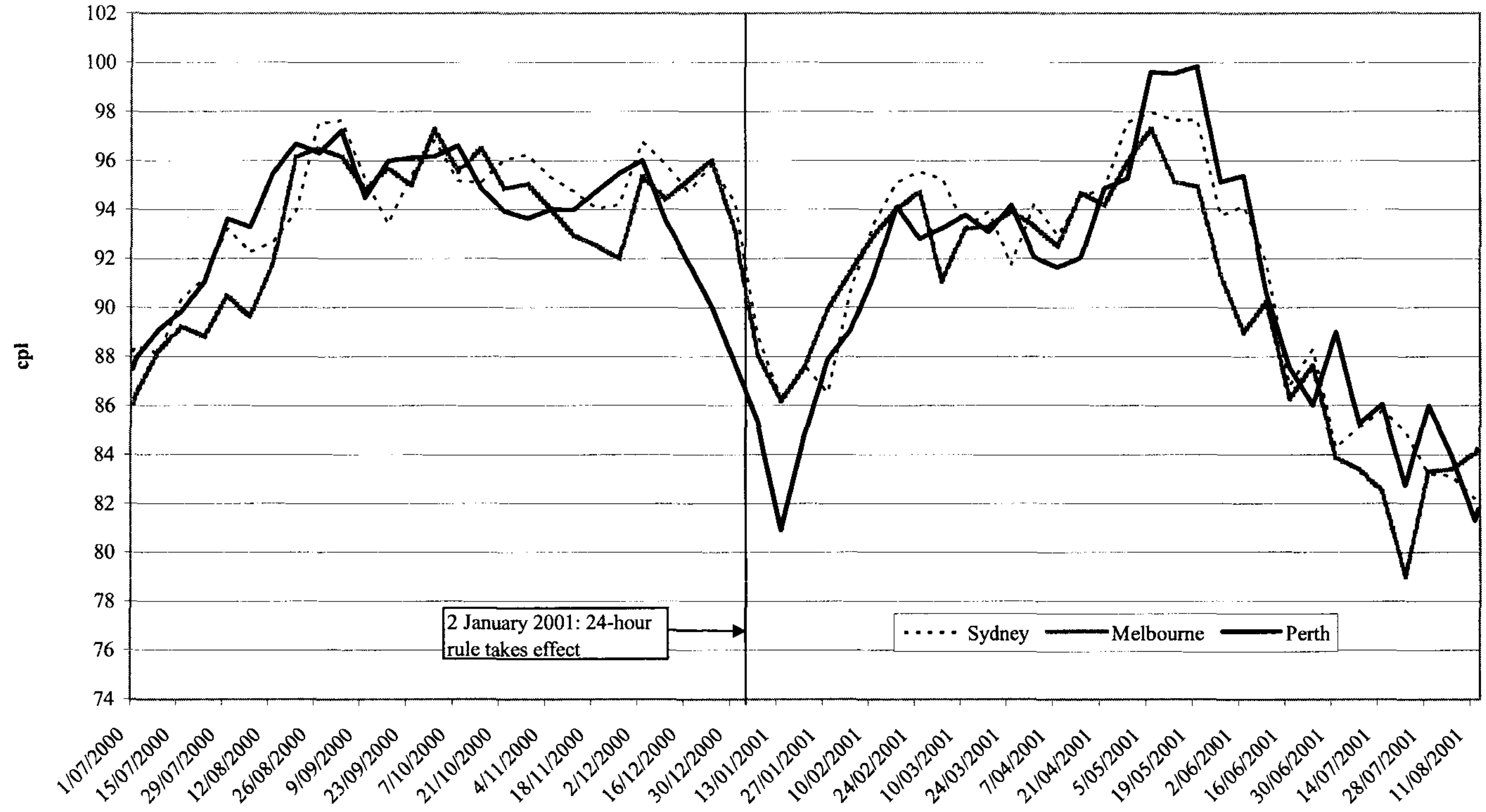
Chart 2.2 shows average weekly retail petrol prices for Perth, Melbourne and Sydney from 1 July 2000 to 30 September 2002.[10] Average weekly retail prices have been used in the analysis to remove the influence of daily fluctuations of price cycles in the three cities.

In the second half of 2000 average prices in Perth were broadly in line with prices in Melbourne and Sydney, apart from the last few weeks of December 2000 when Perth prices were below Sydney and Melbourne. After the 24-hour rule began on 2 January 2001, Perth average weekly prices were below those of Melbourne and Sydney for most of January. Between February and April 2001, Perth prices then moved back in line with prices in Melbourne and Sydney. In May and August 2001 there were periods when Perth prices were higher than Melbourne and Sydney prices. For the rest of 2001, Perth prices were broadly in line with Melbourne and Sydney prices.

From February 2002, it is noticeable that Perth prices have been more frequently above Melbourne and Sydney prices. This is particularly the case from July 2002. In the September 2002 quarter, Perth petrol prices have been above prices in both Sydney and Melbourne on all but one day.

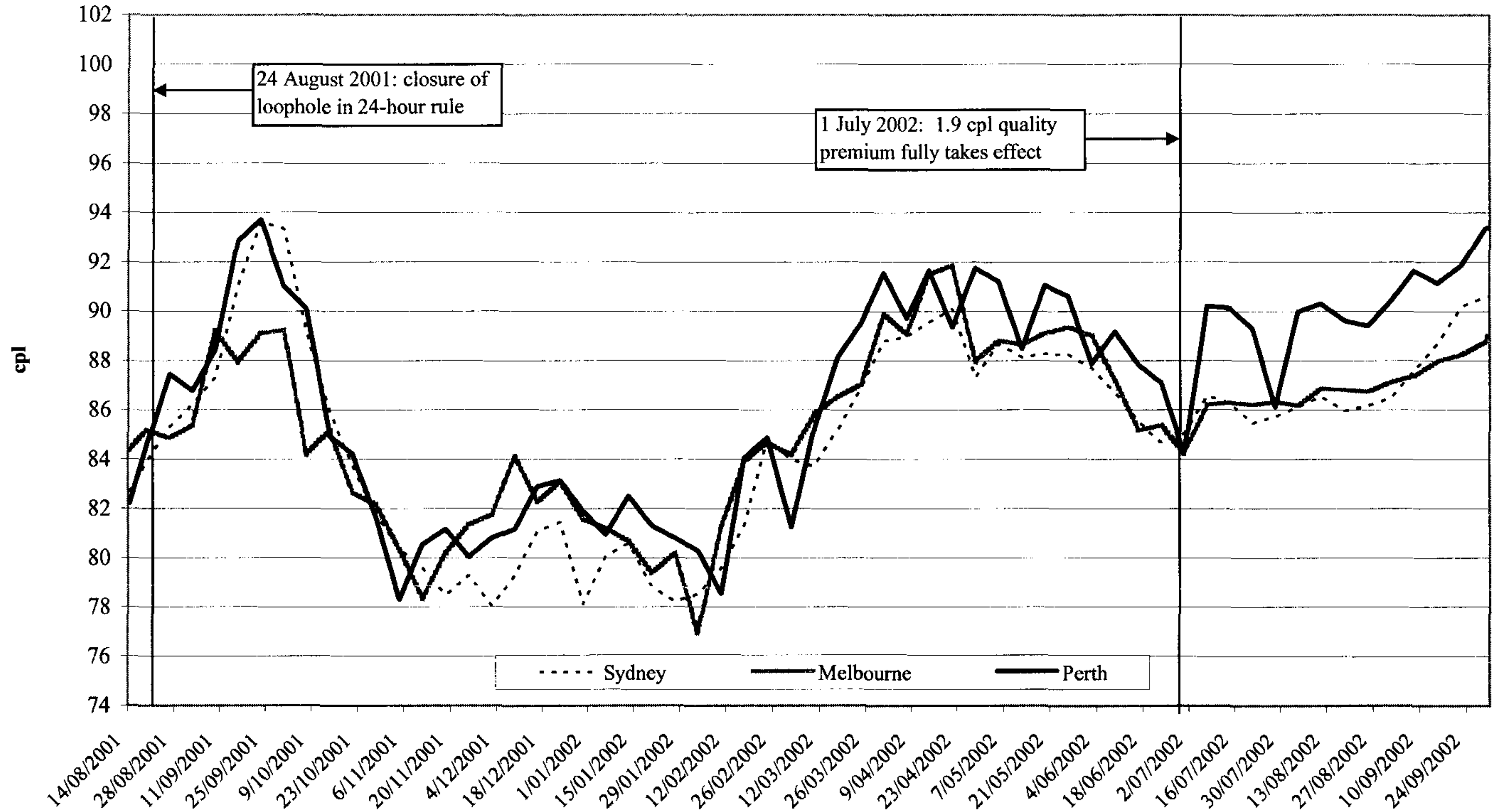
[10] It is acknowledged that each capital city market in Australia has its own special characteristics (such as geographic size, population, number of retailers, number of independents, etc).

Chart 2.2 (Part 1): Average weekly retail prices – Perth, Sydney and Melbourne – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

Chart 2.2 (Part 2): Average weekly retail prices – Perth, Sydney and Melbourne – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

Table 2.3 shows the quarterly average prices in the three cities from the March 2000 quarter to the September 2002 quarter to enable further comparison of Perth, Sydney and Melbourne prices.

Table 2.3: Average quarterly retail prices – unleaded petrol – Perth, Sydney and Melbourne – March quarter 2000 to September quarter 2002

	Perth	Sydney	Melbourne	Diff b/w Perth and Sydney	Diff b/w Perth and Melbourne
	cpl	cpl	cpl	cpl	cpl
Mar-00 Quarter	**83.0**	82.2	80.8	+0.8	+2.2
Jun-00 Quarter	84.7	**85.4**	82.8	-0.7	+1.9
Sep-00 Quarter	**94.1**	93.5	92.9	+0.6	+1.2
Dec-00 Quarter	93.6	**95.3**	94.4	-1.7	-0.8
Mar-01 Quarter	90.2	**91.7**	91.5	-1.5	-1.3
Jun-01 Quarter	**93.6**	93.4	91.9	+0.2	+1.7
Sep-01 Quarter	**86.9**	86.5	85.1	+0.4	+1.8
Dec-01 Quarter	**82.4**	81.2	82.1	+1.2	+0.3
Mar-02 Quarter	**83.8**	82.4	83.3	+1.4	+0.5
Jun-02 Quarter	**89.2**	87.6	88.3	+1.6	+0.9
Sep-02 Quarter	**90.3**	87.1	87.0	+3.2	+3.3

Note: Figures in bold represent the highest average price in each quarter of the three cities
Source: ACCC data and Informed Sources

It can be seen that Perth prices are the highest in eight out of eleven quarters since January 2000. Two of the three quarters when Perth prices were not the highest (December 2000 and March 2001) are the quarter immediately preceding and the quarter immediately following the introduction of the 24-hour rule.

From the June quarter 2001 there has been a steady increase in the price differential between Perth prices and Sydney prices - it increased from 0.2 cpl in the June quarter 2001 to 3.2 cpl in the September quarter 2002. There has been a similar trend over the last four quarters between Perth and Melbourne prices. In the December quarter 2001, Perth prices were 0.3 cpl higher than Melbourne prices. The differential has increased steadily to be 3.3 cpl in the September quarter 2002.

Perth prices are greater than Sydney and Melbourne prices by the largest amount (3.2 cpl and 3.3 cpl respectively) in the September 2002 quarter. At least some of the increase in Perth prices compared with Sydney and Melbourne prices is likely to be due to the price premium for higher quality fuel in Western Australia. As noted earlier, the premium is around 1.9 cpl in 2002. However, the 1.9 cpl premium did not apply to all fuel sold in Western Australia until July 2002.

In summary:

Of the eleven quarters between January 2000 and September 2002, Perth prices have been higher than Sydney prices in eight quarters and higher than Melbourne prices in nine quarters.

The difference between Perth prices and Sydney prices has been steadily increasing over the last six quarters, culminating in a difference of 3.2 cpl in the September quarter 2002.

The difference between Perth prices and Melbourne prices has also been steadily increasing over the last four quarters, culminating in a difference of 3.3 cpl in the September quarter 2002.

2.5.4 Average retail prices compared with the import parity indicator

Average retail petrol prices in Perth can be compared with the IPI. The IPI is a useful benchmark against which to compare movements in average retail prices as it reflects movements in the underlying influences on petrol prices without being distorted by local factors. The Commission used the IPI before deregulation on 1 August 1998 to determine maximum endorsed wholesale prices. The IPI comprises three components:

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

Since the latter two factors are fairly constant, movements in the IPI reflect changes in international product prices and the Australian/US dollar exchange rate.

While the IPI may be a useful indicator against which to compare movements in average retail prices, two points should be noted. First, the IPI is a wholesale, not a retail, indicator. Second, the methodology for determining the IPI has not been revised for a number of years. Therefore, it may not fully reflect the actual product specifications now used in Australia or the efficiencies that have occurred in the industry over that time. Despite this, the IPI is consistent over time and it remains a useful benchmark to assess price movements over time and is still commonly used by the industry.[11]

Chart 2.3 shows Perth average daily retail prices and the IPI from 1 July 2000 to 30 September 2002. It indicates that:

- From 1 July to 31 December 2000 prices moved frequently around the IPI. During this time average retail prices were above the IPI on 24 per cent of days.

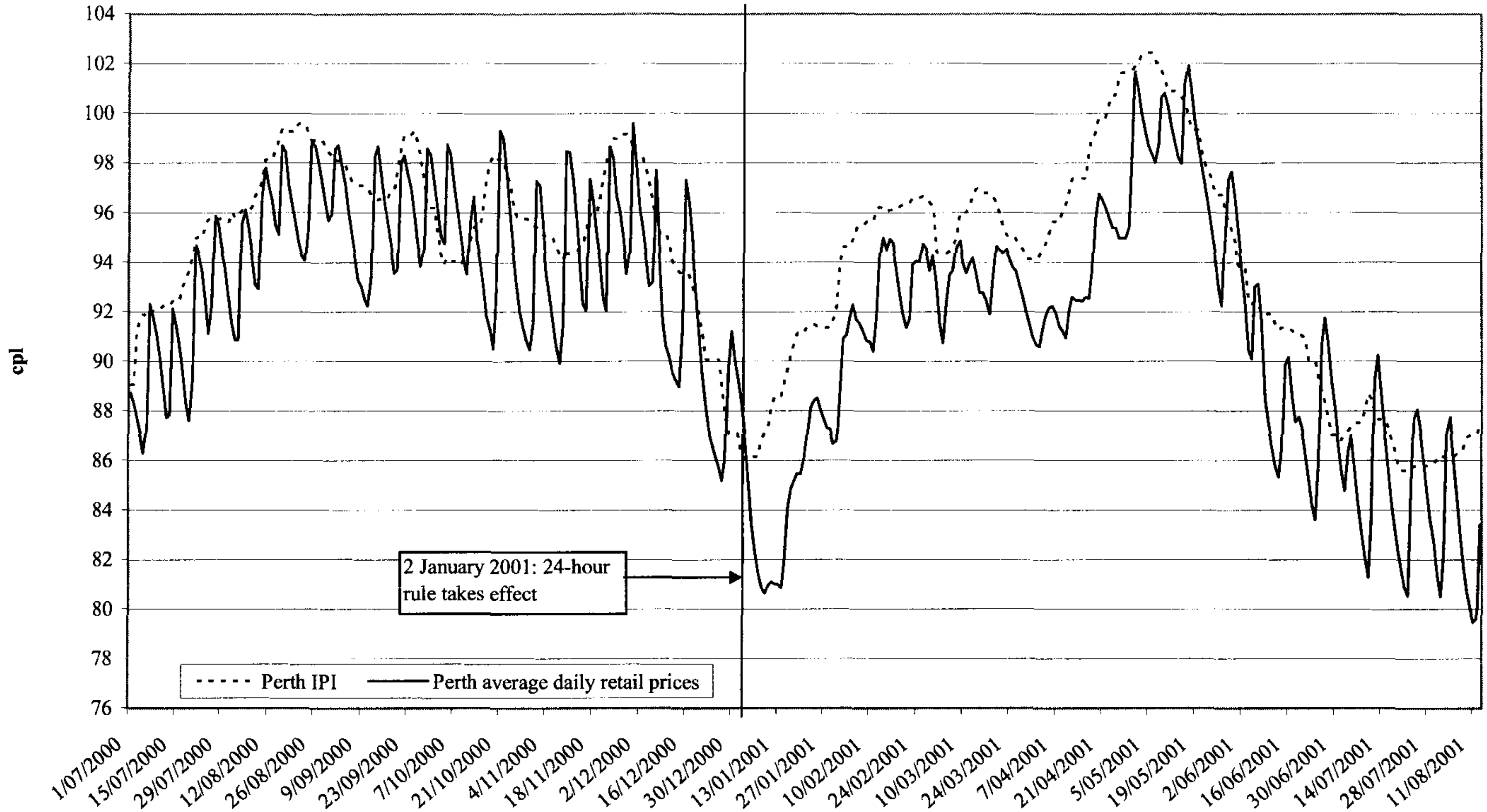
- From 2 January to 23 August 2001 prices moved around the IPI less frequently, rising above the IPI on only 12 per cent of days. For the four-month period just after the introduction of the new arrangements (2 January to 1 May 2001), average retail prices were higher than the IPI on only two days.

- From 24 August to 31 December 2001 prices began to move above the IPI more often, and in a similar fashion to the period 1 July to 31 December 2000. Over this period prices were above the IPI on 36 per cent of days.

- For the period 1 January to 30 September 2002, average retail prices have been above the IPI more often - around 50 per cent of days. This trend is particularly noticeable for the period since 1 July 2002, when Perth average retail prices have been above the IPI on 71 per cent of days.

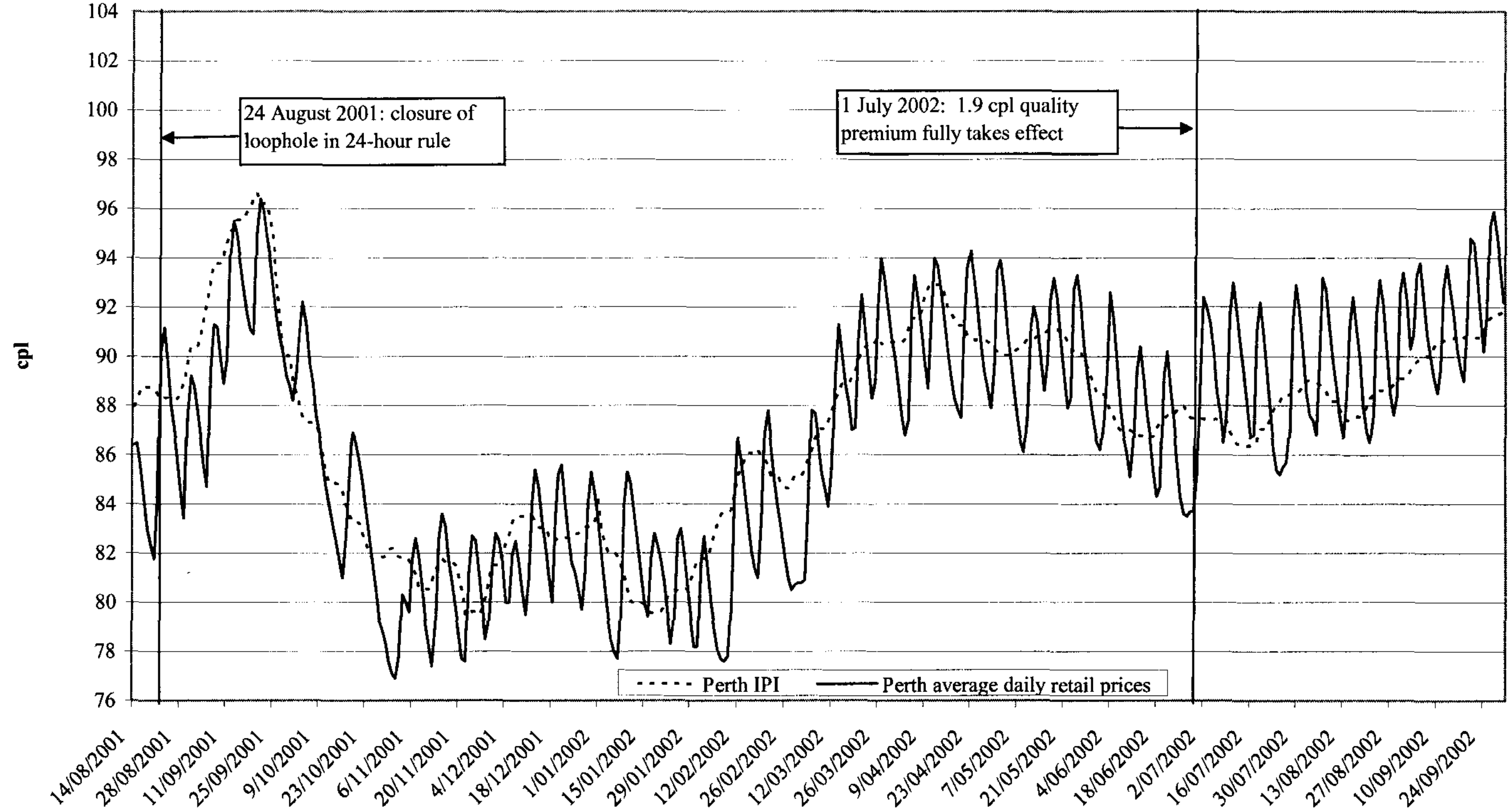
[11] The IPI is calculated by the Commission. It is not produced for weekends and public holidays. For this comparison, the IPI of the previous working day was used for those days when the IPI was not produced.

Chart 2.3 (Part 1): Average daily prices and the import parity indicator – Perth – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

Chart 2.3 (Part 2): Average daily retail prices and the import parity indicator – Perth – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

Table 2.4 shows the number of days average retail prices in Perth have been above the IPI, in percentage terms, for various periods: the years 2000 and 2001, the first half of 2002 and the September quarter 2002. It also shows the difference between average retail prices in Perth and the IPI for those periods. A negative number indicates that average retail prices were below the IPI, and a positive number indicates that average retail prices were above the IPI.

Table 2.4: Average retail prices and the IPI – Perth – unleaded petrol - 2000 to September quarter 2002

	2000	2001	Jan-Jun 2002	Sep Qtr 2002
Days average retail prices were above IPI (%)	34	21	39	71
Difference between average retail prices and IPI (cpl)	-1.3	-2.2	-0.7	+1.5

Source: ACCC data and Informed Sources

The table shows that Perth average retail prices in 2000 were above the IPI on 34 per cent of days. In 2001 this decreased to 21 per cent of days. However as noted earlier, this period included the transition to the new 24-hour rule arrangements and before the loophole in the 24-hour rule was closed. For the first half of 2002 Perth average retail prices were above the IPI on 39 per cent of days. This increased in the September quarter 2002 to 71 per cent of days.

In 2000 Perth average retail prices were below the IPI by 1.3 cpl. This increased in 2001 to 2.2 cpl. In the first half of 2002, Perth average retail prices were below the IPI by only 0.7 cpl. In the September quarter 2002, Perth average retail prices were above the IPI by 1.5 cpl. Therefore, between 2000 and the September quarter 2002, Perth average retail prices increased by 2.8 cpl against the IPI.

In summary:

Perth prices have increased significantly compared with the benchmark indicator, the IPI. Between 2000 and the September quarter 2002, Perth average retail prices increased by 2.8 cpl against the IPI.

2.5.5 Average retail prices compared with maximum wholesale prices

Chart 2.4 shows Perth average daily retail prices and MWPs from 12 April 2001 (when the MWP was introduced) to 30 September 2002.[12]

The chart shows that average retail petrol prices in Perth have been above MWPs on virtually all days during that period.

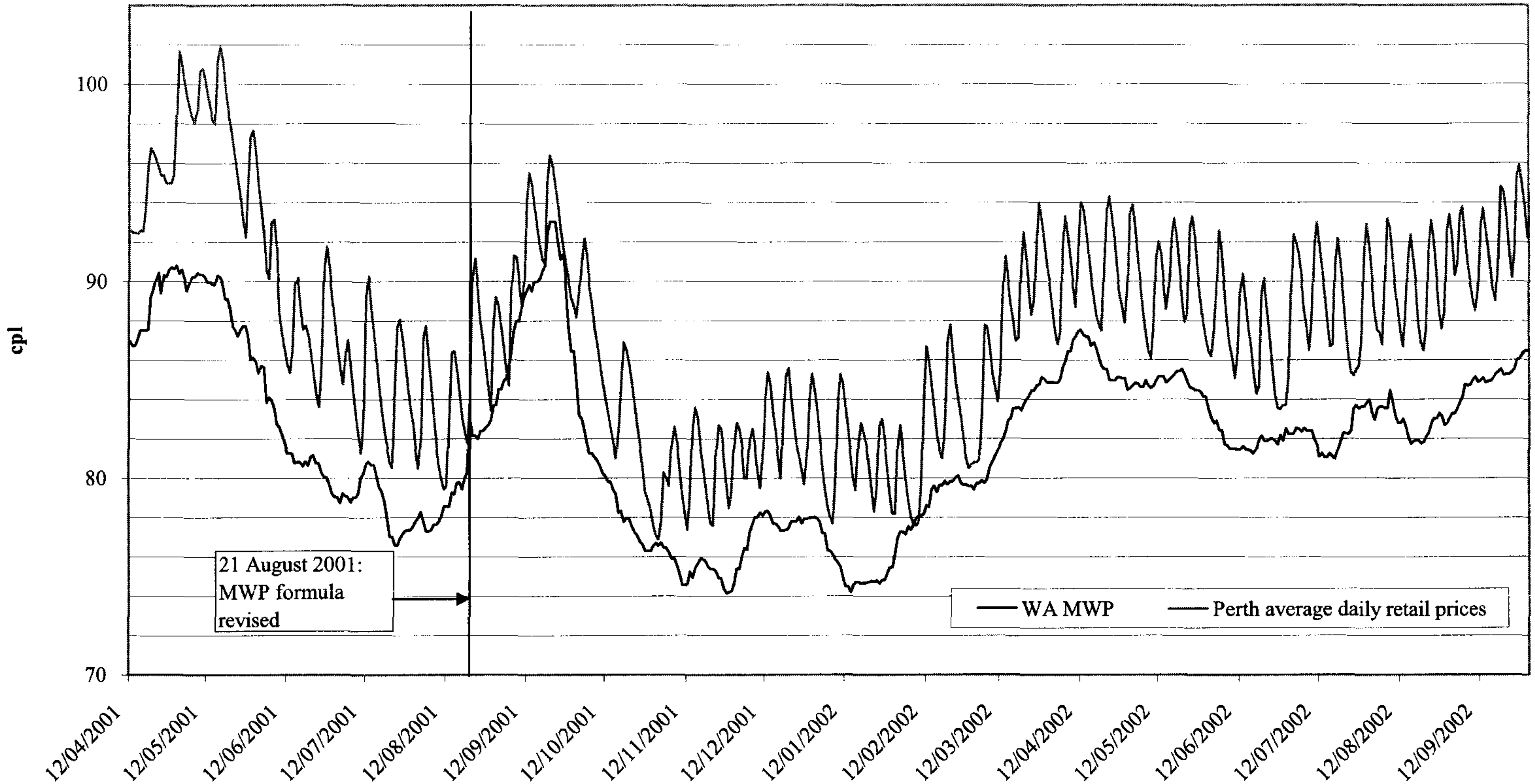
- On only three out of 537 days were MWPs above Perth average retail prices.
  - These days were: 5 September 2001 and 8 and 9 February 2002 (the differences were 0.9 cpl, 0.4 cpl and 0.3 cpl respectively).
- The largest amount by which Perth average retail prices were higher than the MWP was 11.7 cpl on 17 May 2001.
  - On that day the Perth average retail price was 101.9 cpl and the MWP was 90.2 cpl.
- Over the whole period Perth average retail prices were higher than the MWPs by 5.6 cpl on average.

The formula for determining the MWP was changed on 21 August 2001. On that day the MWP increased to 82.9 cpl – an increase of 2.6 cpl from the MWP on 20 August of 80.3 cpl. The chart shows that the difference between Perth average retail prices and the MWP narrowed significantly once the MWP formula changed. Since the beginning of 2002, the difference began to increase again.

This is shown clearly from the data in Table 2.5, which shows the average difference between Perth average retail prices and MWPs for various periods. These periods are: 12 April 2001 to 20 August 2001 (when the first MWP formula was used); 21 August 2001 to 31 December 2001 (the remainder of 2001 following the revision to the MWP formula); 1 January 2002 to 30 June 2002; and 1 July 2002 to 30 September 2002.

[12] The MWP data was provided by DOCEP.

Chart 2.4: Average daily retail prices and maximum wholesale prices – Perth – unleaded petrol – 12 April 2001 to 30 September 2002



Sources: ACCC data, Informed Sources and DOCEP

Table 2.5: Average differences between average retail prices and MWPs – Perth – unleaded petrol – 12 April 2001 to 30 September 2002

12 Apr – 20 Aug 2001	21 Aug – 31 Dec 2001	1 Jan – 30 June 2002	1 Jul – 30 Sep 2002
cpl	cpl	cpl	cpl
6.9	4.4	4.9	6.9

Source: ACCC data, DOCEP and Informed Sources

The average difference between Perth retail prices and MWPs in the period 12 April 2001 to 20 August 2001 was 6.9 cpl. This declined to 4.4 cpl in the period 21 August to 31 December 2001, following the change to the MWP formula. In the first half of 2002, the difference increased to 4.9 cpl. In the September quarter 2002, the average difference increased significantly to 6.9 cpl.

In summary:

The difference between average retail prices and the MWP has increased by 2.5 cpl between the periods 21 August to 31 December 2001 and 1 July to 30 September 2002

2.5.6 City-country differential

This section examines the city-country price differential in Western Australia. [13] Specifically, it looks at the city-country differential for the 21 months after January 2001 and compares the results with the city-country differential for the 21 months before January 2001. City-country differentials for the other states and the Northern Territory are also included to facilitate a comparison.[14]

It is recognised that comparisons of the city-country differential can be significantly influenced by the time periods being compared. To enable these results to be considered in a wider perspective, data on city-country differentials for all states and the Northern Territory over a four-year period from July 1998 to June 2002 is provided in appendix A.

Table 2.6 shows the city-country differential for the six states and the Northern Territory for the 21 months prior to the introduction of the fuel pricing arrangements (ie. April 1999 to December 2000); the 21 months after the introduction of the fuel pricing arrangements (ie. January 2001 to September 2002); and the change over those two periods.

The table also shows the price differential between the IPI and country prices and the IPI and city prices for the same periods.[15] As noted in section 2.5.4, comparing price movements against a benchmark such as the IPI can be useful. In this case, it is possible to determine whether it is changes in city prices or changes in country prices that are influencing the change in the city-country differential.

[13] All of the city-country differentials in this report are calculated using FUELtrac data. This is the only publicly available source of historical country price data. The FUELtrac data, which goes back to April 1998, is available on the Australian Automobile Association's website (www.aaa.asn.au). FUELtrac has price data for Perth and six Western Australian towns (Albany, Bunbury, Carnarvon, Geraldton, Kalgoorlie and Mandurah). The Australian Capital Territory (ACT) is excluded from the analysis because the only prices collected in the ACT are prices in Canberra.

[14] The city-country differential is the difference between the average country price and the average capital city price.

[15] The IPI-country differential in this and similar tables in the report is a positive number because the IPI is lower than country prices. On the other hand, the IPI-city differential is both positive and negative because the IPI may be above or below city prices.

Table 2.6: City-country differential, IPI – country differential and IPI – city differential – six states and the Northern Territory – April 1999 to September 2002

	City-country differential			IPI-country price differential			IPI-city price differential		
State/Territory	Apr 1999-Dec 2000	Jan 2001-Sept 2002	Change	Apr 1999 - Dec 2000	Jan 2001-Sept 2002	Change	Apr 1999-Dec 2000	Jan 2001-Sept 2002	Change
	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl
New South Wales	5.0	4.9	-0.1	4.8	3.8	-1.0	-0.2	-1.0	-0.8
Victoria	6.0	5.2	-0.8	3.9	3.3	-0.6	-2.1	-1.9	+0.2
Queensland	7.0	5.4	-1.6	5.4	4.8	-0.6	-1.7	-0.7	+1.0
South Australia	6.2	5.7	-0.5	4.2	4.5	+0.3	-2.0	-1.2	+0.8
Western Australia	**8.7**	**9.0**	**+0.3**	**7.4**	**7.8**	**+0.4**	**-1.3**	**-1.2**	**+0.1**
Tasmania	1.6	1.1	-0.5	8.0	6.9	-1.1	6.3	5.8	-0.5
Northern Territory	6.8	8.4	+1.6	14.6	15.6	+1.0	7.8	7.2	-0.6

Source: ACCC data and FUELtrac

The table shows that:

- The city-country differential in Western Australia for the 21 months prior to January 2001 was 8.7 cpl and for the 21 months after January 2001 it was 9.0 cpl. Therefore, there was an increase in the city-country differential of 0.3 cpl.
  - Over this period, there was a decline in the city-country differential in all of the other states. Only the Northern Territory had an increase in the city-country differential.
- The differential between the IPI and country prices in Western Australia for the 21 months prior to January 2001 was 7.4 cpl and for the 21 months after January 2001 it was 7.8 cpl. This indicates that country prices increased relative to the IPI by 0.4 cpl.

  - Over this period, there was an increase in country prices against the IPI in only one other state (South Australia) and the Northern Territory. In all of the other states, country prices decreased relative to the IPI.

- The differential between the IPI and city prices in Western Australia for the 21 months prior to January 2001 was -1.3 cpl and for the 21 months after January 2001 it was -1.2 cpl. This indicates that city prices increased relative to the IPI by 0.1 cpl.

  - Over this period, there was an increase in city prices against the IPI in three states (Victoria, Queensland and South Australia) and a decrease in two states (New South Wales and Tasmania) and the Northern Territory.

- The main influence leading to the increase in the city-country differential in Western Australia over this period was the increase in country prices.

The data in appendix A provides data on the city-country differential in the states and the Northern Territory from the period July - December 1998 to January – June 2002. It shows that:

- Over this period the city-country differential in Western Australia ranged from a high of 10.2 cpl in the period January - June 2001 to a low of 7.5 cpl in the period January - June 1999.

  - Comparing the city-country differential over the periods July 1998 – June 2000 and July 2000 – June 2002, the city-country differential in Western Australia increased by 1.2 cpl.

    - In only one other state (Tasmania) and the Northern Territory was there an increase in the city-country differential over this period. In all of the other states there was a decrease in the city-country differential.

In summary:

Comparing the city-country differential in Western Australia for the 21 months prior to January 2001 with the differential for the 21-month period after January 2001 shows that the city-country differential increased by 0.3 cpl. All other states had a decrease in the city-country differential over the same period.

The main influence leading to the increase in the city-country differential in Western Australia over this period was the increase in country prices.

2.6 Assessment

As noted in the introduction, the staff of the Commission consulted with a wide range of industry participants. Their views on the Western Australian fuel pricing arrangements are summarised in appendix B. The following views on the Western Australian fuel pricing arrangements take into account the views of the industry participants and the results of the data analysis in section 2.5.

2.6.1 24-hour rule

Operation

Between 2 January and 23 August 2001 the 24-hour rule was not operating as intended because of the loophole in the legislation. This was rectified on 24 August 2001. Since then, the Commission understands that there have been no problems with the operation of the 24-hour rule and the level of compliance has been high.

Price certainty

By fixing prices for a 24-hour period from 6.00 a.m. to 6.00 a.m. the following day, the 24-hour rule provides for certainty in the price of petrol on a particular day. It has been suggested that consumers like having this certainty.

However, this benefit may be more apparent than real. As noted in the variability report, contrary to a widely held perception, petrol prices are relatively stable on average within a day. That report noted that in Perth for the period 16 October 2000 to 12 November 2000 (ie prior to the introduction of the 24-hour rule) the average number of changes per day in Perth was 1.18 and the average price duration was 13.6 hours.

A feature of the 24-hour rule is that tomorrow's prices are known by around 4.00 p.m. on the current day. This means that if prices are going up tomorrow, consumers have a window between 4.00 p.m. on the current day until 6.00 a.m. the following day to purchase petrol at the lower prices. Given this window, it would have been expected that consumers would have increased demand during those times.

However, consultation with the companies suggested that this may not necessarily be the case. Some companies noted that there is generally an increase in demand when DOCEP put out a media release saying that prices are increasing significantly the following day, but they were generally unaware of a significant increase in demand when this window exists but there is no media release issued.

Price transparency

The 24-hour rule has increased price transparency. All of the retail sites in Perth and around 75 per cent of sites in country areas are required to inform DOCEP of their prices which are placed on the internet. This increases the availability of price information for consumers.

Between the inception of the 24-hour rule in January 2001 and the end of September 2002, there have been over 26 million hits on the FuelWatch website. It is not possible to tell how many of these hits are from consumers and how many of these are from participants in the industry. The provision of pricing data on the FuelWatch website means that retail site operators no longer have to drive around to check their competitors' prices.

The FuelWatch website lists the best (ie lowest priced) 100 metropolitan sites and the best 50 non-metropolitan sites. There are also reports on television with the best 10 or 20 sites in the metropolitan area.

Effects on competition

Independent operators appear to have been most affected by the 24-hour rule. This is because they tend to use price as their competitive advantage and their ability to respond quickly to competitors has been diminished. If they fail to predict the right price, they may be left out of the market for a day.

It has been suggested to the Commission that since the introduction of the 24-hour rule some independents have exited the market. Some industry participants have claimed that the 24-hour rule has either led to these departures or at least exacerbated them. However, it may be that these departures from the market are merely part of the trend towards fewer service stations that has been occurring in Australia over the last 30 years (the number of service stations has declined from around 20,000 in 1970 to around 8,370 at December 2000).

The Commission considers that independents have a significant role to play in promoting competition in the retail market. If their ability to price competitively is impeded, this can have adverse effects on pricing and competition.

As noted above, the FuelWatch website provides lists of the best 100 metropolitan sites and the best 50 non-metropolitan sites, and there are reports on television with the best 10 or 20 sites. A number of industry participants noted that if a retail site is included in these categories it experiences increased sales.

However, it was also noted by some industry participants that the publication of these categories could also create distortions in the market and may be subject to manipulation.

- The market distortion arises where there are a number of sites with the same price and some are included in the best 100 and some are not. If there are 20 sites that would be ranked between 90 and 110, the first 10 in alphabetical order would be included in the best 100, while the other 10 would not. This is arbitrary promotion of some companies at the expense of others.

- A further distortion of the market may occur when DOCEP sends e-mail or SMS messages along the lines of 'buy fuel today, prices are going up tomorrow'. This disadvantages those retailers that were not increasing prices on the following day.

- The manipulation arises because companies with bigger retail networks are able to take advantage of FuelWatch publicity by posting lower prices at a number of sites (so as to be included in the best 100 or best 20). It has been argued that they can recoup the lesser profit margins in these locations through higher prices and profit margins at other sites. The smaller networks are less able to do this. Furthermore, the publicity would also assist the companies in increasing sales and improving brand image.

- The inability to respond to competition within 24 hours can have a dramatic effect on local markets. A retailer who has posted a high price may have no sales and be out of the market for a day, whereas a retailer who has posted a low price may have a large queue of customers and cannot meet demand.

An additional effect on the market of the 24-hour rule is an increase in the incidence of service station operators running out of fuel. The reason for this is that if a retail site nominates a lower price than its competitors the demand for fuel at the site is likely to increase. If the increase in the demand is substantial it also increases the possibility of stock run-out, especially since the operator is restricted from increasing the price over the 24-hour period to manage supply and demand. If this occurs frequently, the retail site may get a reputation for unreliability. It has been argued that this is likely to be more of an issue for smaller operators because larger operators may be able to transfer fuel from other sites.

Another cost associated with the 24-hour rule is that the predictive pricing nature of the 24-hour rule can lead to operational inefficiencies for distribution and site staffing, with much wider variation in daily sales.

The 24-hour rule has increased compliance costs for retailers. This cost is likely to be greater for retailers with a smaller number of outlets (such as independents) since they have lesser economies of scale and scope in their operations. Some industry participants expressed concerns with the risks of incurring fines for non-compliance such as the incorrect posting of prices. They indicated that the non-compliance could be the result of minor errors.

Effects on prices

Price cycles

There was an initial impact on price cycles in Perth following the introduction of the 24-hour rule. The average variation of price cycles declined marginally (by 0.5 cpl) and the average duration increased significantly (by 3.3 days). However, the 24-hour rule was not operating as intended because of the loophole in the legislation. Following the closure of the loophole from 24 August 2001, the 24-hour rule has had minimal effect on price cycles in Perth.

Section 2.5.2 compared the characteristics of price cycles in Perth in 2000 with the period 24 August 2001 to 30 September 2002. It showed that:

- The average variation of price cycles in Perth remained virtually the same. It went from 5.9 cpl in 2000 to 5.8 cpl in the period 24 August 2001 to 30 September 2002.

- The average duration of price cycles increased (by 0.8 days). It went from 7.9 days in 2000 to 8.7 days in the period 24 August 2001 to 30 September 2002.

- In terms of the most common days of the week on which prices peak and trough:

  - Friday remained the most common day for prices to peak;

  - The most common day for prices to trough changed from Wednesdays in 2000 to Mondays and Wednesdays in the period 24 August 2001 to 30 September 2002.

  - There was an increase in the days of the week on which prices peaked and troughed.

Price levels

Section 2.5 compared Perth average retail prices with a number of benchmarks. These were: Sydney and Melbourne prices, the IPI and Western Australian MWPs. On all of these comparisons Perth prices have increased against the benchmarks.

Analysis of quarterly average retail prices in Perth, Sydney and Melbourne from the March quarter 2000 to September quarter 2002 indicates that Perth prices were higher than Sydney in eight, and Melbourne in nine, of the eleven quarters. Two of the quarters when Perth prices were not the highest (December 2000 and March 2001) are the quarters immediately before and after the 24-hour rule was implemented.

The difference between Perth prices and Sydney prices has been steadily increasing over the last six quarters, culminating in a difference of 3.2 cpl in the September quarter 2002. The difference between Perth prices and Melbourne prices has been steadily increasing over the last four quarters, culminating in a difference of 3.3 cpl in the September quarter 2002.

A comparison of Perth average retail prices against the IPI shows that in 2000 average retail prices in Perth were on average 1.3 cpl lower than the IPI. By the September quarter 2002, average retail prices in Perth were on average 1.5 cpl higher than the IPI. Therefore, against the benchmark of the IPI, Perth average retail prices increased by 2.8 cpl between 2000 and the September quarter 2002.

An increasing trend was also evident in the comparison of Perth average retail prices and MWPs. In the period 21 August to 31 December 2001 (following the revision of the MWP formula) the average difference between average retail prices and MWPs was 4.4 cpl. In the period January to June 2002, this difference increased to 4.9 cpl, and in the September quarter it was 6.9 cpl. This represents an increase of 2.5 cpl between the period 21 August to 31 December 2001 and the September quarter 2002.

It is difficult to determine the effect of the 24-hour rule on prices because other developments, such as fuel standards, have influenced prices over this period. A proportion of the increase in Perth prices compared with the benchmarks is likely to be due to the fuel quality premium. However, the increases noted above are higher than the 1.9 cpl premium. Furthermore, the full effect of the 1.9 cpl quality premium only took effect in the September quarter 2002, whereas there are indications in the data that the trend of increasing prices was occurring in the periods before that.

It may be that the 24-hour rule, through reducing the competitive influence of the independents, has contributed to the increase in Perth prices. However, the full effect of the 24-hour rule on prices may only be realised in the longer term – the 24-hour rule has only be operating as intended for around 13 months (ie. from the closure of the loophole in August 2001 to the end of September 2002).

Other possible factors that may have led to an increase in Perth prices include a reduction in competition as a result of the new fuel standards and the cessation of the refinery exchange arrangements and the move to buy and sell arrangements. [16]

[16] Each of four major refiner/marketers in Australia (BP, Caltex, Mobil and Shell) operates two refineries across the country. The refinery exchange arrangements guaranteed supplies of petroleum products to these companies in regions where a major did not have refinery capacity. The Commission understood that these agreements were primarily articulated in volumes, although there were payments between the companies to reflect the differing fuel standards among the states. From 1 July 2002, these arrangements have been replaced with buy/sell arrangements where, in effect, the oil companies charge each other commercial prices for fuel. The move to buy/sell arrangements may increase costs to the companies, which would be reflected in higher wholesale prices. These costs could arise through the fact that there are now penalties for not taking up supply commitments or requiring greater supply, and additional

2.6.2 Maximum wholesale price arrangements

The MWP arrangements, which only apply to spot sales, have not been working as intended. Over the period 12 April 2001 to 30 September 2002, the Commission is aware of only one sale occurring under the MWP arrangements.

On 17 October 2002, the Minister for Consumer and Employment Protection said that the MWP arrangements had not worked as well as the Government intended, and announced that the Government would soon introduce a terminal gate price at regional and metropolitan fuel terminals. It was the Minister's intention that the new arrangements would be in operation by around mid-December.

BP and Mobil are being prosecuted for failure to supply under the MWP arrangements. BP was also recently prosecuted under the MWP arrangements for failing to notify prices at its terminal.

The Commission understands that the spot market in Perth is very small. Some of the companies expressed concerns that the MWP was too low and that they would not wish to be forced to sell fuel at a loss. As a result, they only purchased enough fuel from the BP terminal to meet their own contractual requirements. Consequently, the MWP arrangements may have adversely affected competition in the wholesale spot market by reducing supply available to the spot market.

2.6.3 50/50 arrangements

The Commission is not aware of any retailers making use of these provisions.

The arrangements are fairly restrictive in that retailers cannot mix fuel from different sources in the same tank and are required to separately identify the source of the fuel. These arrangements, in the main, are likely to be of interest to franchisees only, as other retailers may have a choice of fuel sources. All of the oil majors expressed concerns to the Commission about these arrangements, and it was noted that franchise contracts may need to be re-written if the 50/50 arrangements were used.

2.6.4 Regional retail price caps

As noted in section 2.3.5, the Minister for Consumer and Employment Protection released a discussion paper on retail price capping in regional areas in late May 2002. A few months later he announced that the Government was reconsidering its position

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transactions costs (such as bank fees). Prices may also increase as a result of the degree of competition at the refinery level in each state and the level of imports. Furthermore, some of the oil companies have indicated that they are moving to increase the commercial focus at each level of their operations (refining, marketing and retail). This could mean that prices at each operational level may now more accurately reflect costs than may have been the case in the past.

on regional fuel price capping, following the general lack of support during the public consultation process. The Minister noted that 75 per cent of responses had been against the introduction of fuel price capping in regional areas.

The Commission provided comments on the discussion paper on retail price capping in regional areas to the Minister for Consumer and Employment Protection. These were included in a letter from Professor Allan Fels, Chairman of the Commission, to the Minister on 9 August 2002. The letter noted that the case for introducing regional price caps may not have been adequately established, and that the discussion paper provided no arguments to justify the introduction of regional price caps as the method to address the perceived 'excessive' city-country differential. It commented that the Commission considered that retail prices in most country towns would be lower if there was vigorous and effective competition. A copy of the letter is at appendix C.

2.6.5 City-country differential

The analysis in section 2.5.6 indicated that there has been an increase in the city-country differential since January 2001. The city-country differential in Western Australia for the 21 months prior to January 2001 was 8.7 cpl. For the 21 months after January 2001 it increased by 0.3 cpl to 9.0 cpl. Comparing city and country prices against the IPI indicated that the main influence leading to the increase in the city-country differential in Western Australia over this period was the increase in country prices.

In the Western Australian Parliament on 12 September 2002, the Premier of Western Australia, the Hon Geoff Gallop MLA, commented on the introduction of price boards in Western Australia.[17] He noted that three months after their implementation in Albany in August 2001, the differential between Albany prices and Perth prices had reduced by 2.0 cpl. He also noted that mandatory price boards were introduced into all regional towns in December 2001 and that three months after the price boards were introduced, in 23 out of the 24 towns, the differential had reduced by up to 3.85 cpl.

The introduction of price boards is likely to have had some effect on country prices in Western Australia, but its effect should not be exaggerated. Using FUELtrac data, all states and the Northern Territory had a decrease in the city-country differential between the December quarter 2001 and the March quarter 2002. These ranged from 3.4 cpl in New South Wales to 0.1 in Tasmania. The decline in Western Australia was 2.5 cpl.

However, if the differential between country prices and the IPI is examined, the decline in Western Australia (3.3 cpl) is the second lowest among the states and the Northern Territory (behind Tasmania on 2.2 cpl). This means that country prices fell by more in

[17] Parliamentary Hansard, Western Australian Government – Legislative Assembly, 12 September 2002, p. 924.

most of the other states and the Northern Territory than they did in Western Australia over this period.

2.6.6 Fuel standards

On the basis of the data presented in section 2.5 about price movements in Perth, it seems fairly clear that the introduction of tighter fuel standards in Western Australia has led to higher prices. This is shown by the significant increase in prices in the September quarter 2002, which follows the application of the higher quality premium (around 1.9 cpl) to all transactions from the Kwinana refinery from 1 July 2002.

The fuel standards introduced in Western Australia in January 2000 are a hybrid of European and United States standards. As a result, fuel of this quality is not readily available from international refineries. However, it is readily available from the only refinery in the state – the BP refinery at Kwinana. To the extent that it is difficult to import fuel, the introduction of the fuel standards has made BP a monopoly supplier in Western Australia.

Under the principle of import parity pricing, domestic refiners tend to price fuel in Australia on the basis of international benchmarks. If the price of the benchmark increases, this increase will flow through into prices in Australia at the wholesale and retail levels.

As noted in section 2.4, the quality premium charged by BP was 0.35 cpl in 2000, 0.85 cpl in 2001, and increased to around 1.9 cpl for some transactions from 1 January 2002 and **all** transactions from 1 July 2002. The extent to which this premium may increase further is principally determined by the international price for fuel of this quality.

The Commission received a range of views regarding the availability and price for fuel of this standard. Some industry participants said it was readily available in the region while others commented that it was not available at any price. The Commission understands that some of the oil majors have imported fuel into Western Australia since the introduction of the new standards, but there have been no imports by independents. With respect to the appropriate premium, the views presented to the Commission ranged from the current premium (around 1.9 cpl) was about right, to a premium of 10 cpl was appropriate.

Apart from the price effect resulting from import parity pricing, there is another effect on prices. Since the ability of independents to access imports at economically viable prices is diminished, their ability to introduce competitive pressures in the market also diminishes. With less competition in the market-place, prices may increase.

On 8 May and 15 July 2001 the then Minister for the Environment, Senator the Hon Robert Hill, announced new fuel standards for Australia to be progressively implemented between January 2002 and January 2006. The Commonwealth standards are close but not the same as the Western Australian standards. To the extent that fuel of this standard continues to be not readily available in the region, motorists in the states and territories other than Western Australia will face a rise in prices as the new Commonwealth fuel standards are implemented. The actual amount of the premium for motorists will largely depend on supply and demand factors outside Australia.

Moreover, even when the Commonwealth fuel standards are fully implemented by 2006, there will still be a difference between Western Australia and the rest of Australia. Where state standards are more stringent than the Commonwealth standards (which is the case, for example, with MTBE standards in Western Australia) the state standard will prevail. As a result, Western Australian motorists may still face a higher quality premium than the rest of Australia.

2.7 Conclusion

In monitoring the outcomes of the fuel pricing arrangements in Western Australia, the Commission has had regard to the objectives that the arrangements have set out to achieve.

As noted in section 2.2, the Western Australian Government's main objectives are to bring about conditions that will deliver:

- greater competition at both the wholesale and retail levels;
- a fairer and more transparent petroleum market;
- greater price transparency to industry and consumers;
- a reduction in the volatility of metropolitan retail prices; and
- a reduction in the differential between city and country fuel prices.

With respect to the first two objectives, the 24-hour rule, given its adverse effects on independents, is likely to have reduced rather than increased competition. This is because it adversely affects independent operators who tend to use price as their main tool for achieving competitive advantage. Under the 24-hour rule the ability of independents to respond quickly to competitors has been diminished.

The MWP arrangements have not been working as intended since only one sale has occurred under them. It is likely that these arrangements have had a negative effect on competition at the wholesale level by reducing supply available to the spot market. The Western Australian Government announced in October 2002 that the MWP arrangements would be replaced by other TGP arrangements.

As noted earlier, Perth prices have increased relative to three benchmarks: Sydney and Melbourne prices, the IPI and Western Australian MWPs. While a significant part of this increase is probably the result of the higher fuel standards, some of it is likely to be due to other factors which include the 24-hour rule, a reduction in competition as a result of the new fuel standards and the cessation of the refinery exchange arrangements and the move to buy and sell arrangements (of which only the latter is an external factor outside the control of the Western Australian Government).

The third objective is greater price transparency to industry and consumers. The publication of prices on the FuelWatch website (and the reporting of prices in the media) has increased price transparency for consumers and industry. Consumers have a greater access to price data. However, as noted earlier, the way some of the price data is being made publicly available has introduced distortions in the marketplace.

With respect to the objective of reducing volatility in metropolitan retail prices, the 24-hour rule has eliminated price movements within a day. However, data from the variability report indicated that, contrary to a widely held perception, petrol prices are relatively stable on average within a day. The 24-hour rule has had minimal effect on the variation and duration of price cycles in Perth. There has been no material change to the variation of price cycles and the duration has increased marginally.

With respect to the objective of a reduction in the city-country differential, the data shows that, comparing the 21 months after the introduction of the new fuel pricing arrangements with the 21 months prior to January 2001, the city-country differential increased rather than decreased.

On the basis of these comments, it is hard to conclude that the Western Australian fuel pricing arrangements have been successful to date.

The Chairman's letter of 9 August 2002 to the Minister for Consumer and Employment Protection (a copy of which is at appendix C) commented that it appears to the Commission that the Western Australian fuel pricing regulations may have been introduced quickly, without full consideration of their implications or the necessary administrative details for their successful implementation. For instance, the 24-hour rule contained a loophole which meant that for almost eight months after its introduction it was not operating as intended. The MWP arrangements were modified significantly four months after their introduction in April 2001. However, even with those modifications, they were only used once and the arrangements are now to be replaced by other TGP arrangements. The proposal to introduce retail price caps in regional areas is being reconsidered by the Government, following a general lack of public support. The 50/50 arrangements, which have been in place since January 2002, have not yet been used.

Furthermore, the tighter fuel standards in Western Australia compared with other states have had a detrimental effect on prices and competition. Perth motorists currently face a price premium of around 1.9 cpl as a result of these standards and there is no guarantee that the premium will not rise in the future. Competition is also affected as it is now more difficult to import fuel into Western Australia, and BP has become a virtual monopoly supplier in the state at the wholesale level.

The Commission is concerned at the impact on the petroleum industry in Western Australia of the combination of the extensive fuel price regulations and the tighter fuel standards. These arrangements have significant implications for the nature of competition in the market and influence the amount of investment undertaken. A number of oil companies indicated to the Commission that their investment plans had been negatively influenced by the arrangements in place in Western Australia.

These implications for competition, prices and investment should be borne in mind in considering proposals in other jurisdictions to introduce fuel price regulations and tighter fuel standards.

3. Victorian terminal gate pricing arrangements

3.1 Introduction

This chapter examines the Victorian TGP arrangements, which were introduced on 1 August 2001.

The variability report examined the Victorian TGP arrangements in chapter 7 and appendixes E and F. The data analysis in that report went to the end of October 2001. This report analyses data to the end of September 2002.

A comparison of Victorian and Western Australian terminal gate prices is presented in appendix D. It shows that over the period 14 August 2001 to 30 September 2002:

- The Western Australian terminal gate prices were higher than all of the terminal gate prices in Victoria on 46 per cent of days, lower than the terminal gate prices in Victoria on 2 per cent of days and within the range of the Victorian terminal gate prices on 52 per cent of days.

- The Western Australian terminal gate prices were on average 0.9 cpl higher than the average of the terminal gate prices of the five declared companies in Victoria.

However, it should be noted that the Western Australian Government announced in October 2002 that the current TGP system had not been working as well as the Government intended and that it would be replaced with another TGP arrangement.

3.2 Background

Mr Russell Savage, MLA, Member for Mildura, introduced the Petroleum Products (Terminal Gate Pricing) Bill in the Victorian Legislative Assembly on 6 September 2000. After amendment, the Bill was passed on 15 November 2000.

The Petroleum Products Act came into operation on 1 August 2001. It requires declared suppliers to set a terminal gate price for the sale or supply of declared petroleum products to wholesalers, distributors and retailers. The terminal gate price is the base price at which declared petroleum products are first sold into the wholesale market in Victoria.

The aim of the Petroleum Products Act is to:

- increase the transparency of petrol and diesel pricing in Victoria; and

- provide access to product at terminals at competitive wholesale prices for all distributors and retailers.

The Government noted that it does not expect the Petroleum Products Act to affect prices to consumers in the short term. However, by opening new opportunities for distributors and retailers, the Petroleum Products Act may ultimately lead to more competitive prices being available to consumers.

3.3 Victorian terminal gate pricing arrangements

Under the Petroleum Products Act the terminal gate price is determined by adding together:

- the landed international product price;
- excise and other taxes payable by a declared supplier;
- a margin which represents a reasonable cost for establishing and operating a terminal; and
- GST on the total amount.

The criteria which a declared supplier must use to determine the landed international product price for a declared product (outlined in an Order in Council) are:

- for domestically refined product — a spot price, an amount for freight costs, a provision for insurance and loss, and wharfage charges; and
- for imported product — either the actual amount paid for the imported product or the criteria applying to domestically refined product.

A Determination specifies the criteria which a declared supplier must use to calculate the spot price and the freight costs. For the spot price, a declared supplier can use the relevant Platts Singapore Product Assessment (Spot) Price (PSPASP), or the closest PSPASP adjusted by an appropriate premium or discount determined by the supplier, or a weighted average of two or more PSPASPs. For freight costs, a declared supplier can use notional freight costs based on Worldscale rates and the Average Freight Rate Assessment (AFRA) adjustments or, when product is imported, an adjustment to reflect actual freight costs.

The Petroleum Products Act places several requirements on the declared suppliers of declared petroleum products.

At the time the Petroleum Products Act commenced the declared suppliers were: BP, Caltex, Shell, Mobil, and Trafigura (when it sells or supplies declared products from the import terminal at Hastings). In December 2001, Tri-State Petroleum Victoria Pty Ltd (an importer through the independent terminal at Hastings) was declared. However, Tri-State are yet to import any fuel into Victoria.

The declared products are: petrol — leaded/96 RON, petrol — lead replacement/96 RON, petrol — unleaded/regular/91 to 93 RON, petrol — unleaded/premium/95 to 98 RON, and diesel.

The requirements for the declared suppliers are:

- Declared suppliers must publicly advertise a terminal gate price for declared petroleum products and may only change it once in 24 hours.

- Contracts between suppliers and distributors or retailers will be based on the terminal gate price plus additional services, less discounts or rebates.

  - The Petroleum Products Act applies to contracts and (contract renewals) entered into after 1 August 2001:

    - Contracts entered into between 1 November 2000 and 1 August 2001 become void to the extent that they are inconsistent with the Petroleum Products Act. However, the contract otherwise remains in force.

    - Contracts entered into before 1 November 2000 are not required to be in line with the Petroleum Products Act.

- Invoices must identify the terminal gate price plus the price of additional services that relate to the load, less discounts or rebates.

- Declared suppliers must make their optional service charges and any return on investment in leased sites available on request to resellers and leaseholders respectively.

- Declared suppliers must provide access to product from the terminal at the terminal gate price. Access can only be denied in specified circumstances.

CAV will regularly monitor and report on the impact of the TGP arrangements on petrol and diesel pricing in Victoria.

3.4 Data analysis

The Victorian TGP arrangements began on 1 August 2001, with a two week transition period. From 14 August 2001 all five declared suppliers in Victoria were publishing their terminal gate prices. This section provides an analysis of the terminal gate prices of regular unleaded petrol of the five declared companies between 14 August 2001 and 30 September 2002.[18] This period covers 413 days.

3.4.1 Terminal gate prices of the five declared companies

Chart 3.1 shows the terminal gate prices of the five declared companies from 14 August 2001 to 30 September 2002.

Mobil generally had the highest terminal gate prices compared with the other companies. It had the highest terminal gate prices on 241 out of 413 days (58 per cent). BP had the highest terminal gate prices on 142 out of 413 days (34 per cent). On a monthly basis, Mobil had the highest terminal gate prices in the seven months between August 2001 to February 2002 and in May and June 2002.[19] In the remaining months (March, April, July, August and September 2002) BP had the highest terminal gate prices.

Shell generally had the lowest terminal gate prices compared with the other companies. It had the lowest terminal gate prices on 355 out of 413 days (86 per cent). On a monthly basis, Shell had the lowest terminal gate prices for each month.

Over the period, the range between the terminal gate prices of the five declared companies was not large. The average difference between the highest terminal gate price and the lowest terminal gate price was 2.2 cpl.

- The largest difference on any given day between the highest and lowest terminal gate price was 6.7 cpl (28 September 2001).
- The smallest difference on any given day was 0.7 cpl on (17 October 2001).

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[18] The terminal gate prices were obtained either directly from the declared companies or from their websites.

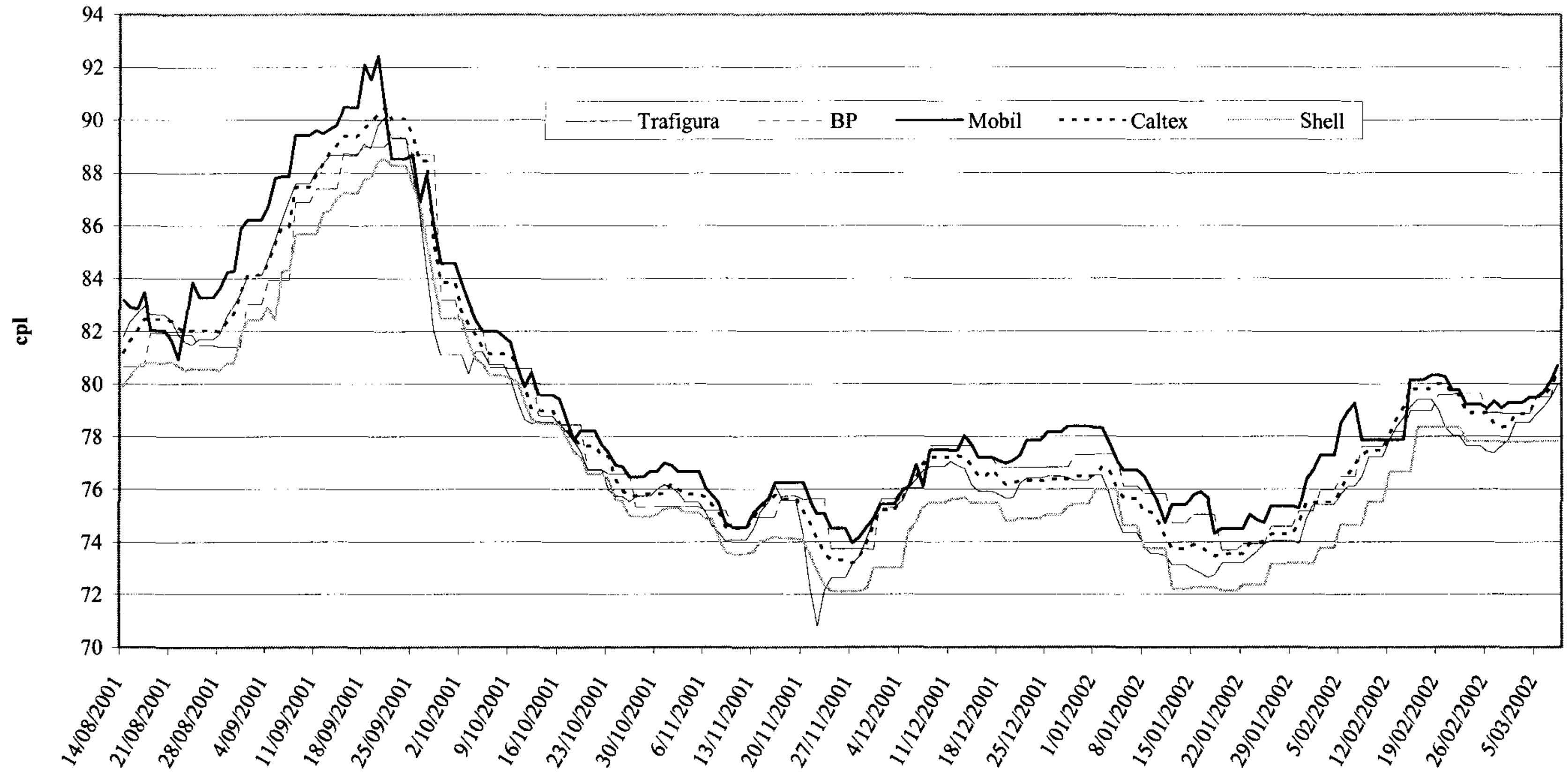
[19] August 2001 data includes terminal gate prices for the period 14 August to 31 August 2001.

In summary:

Generally, Mobil has posted the highest terminal gate prices and Shell the lowest. However, in recent months, BP has posted the highest terminal gate prices.

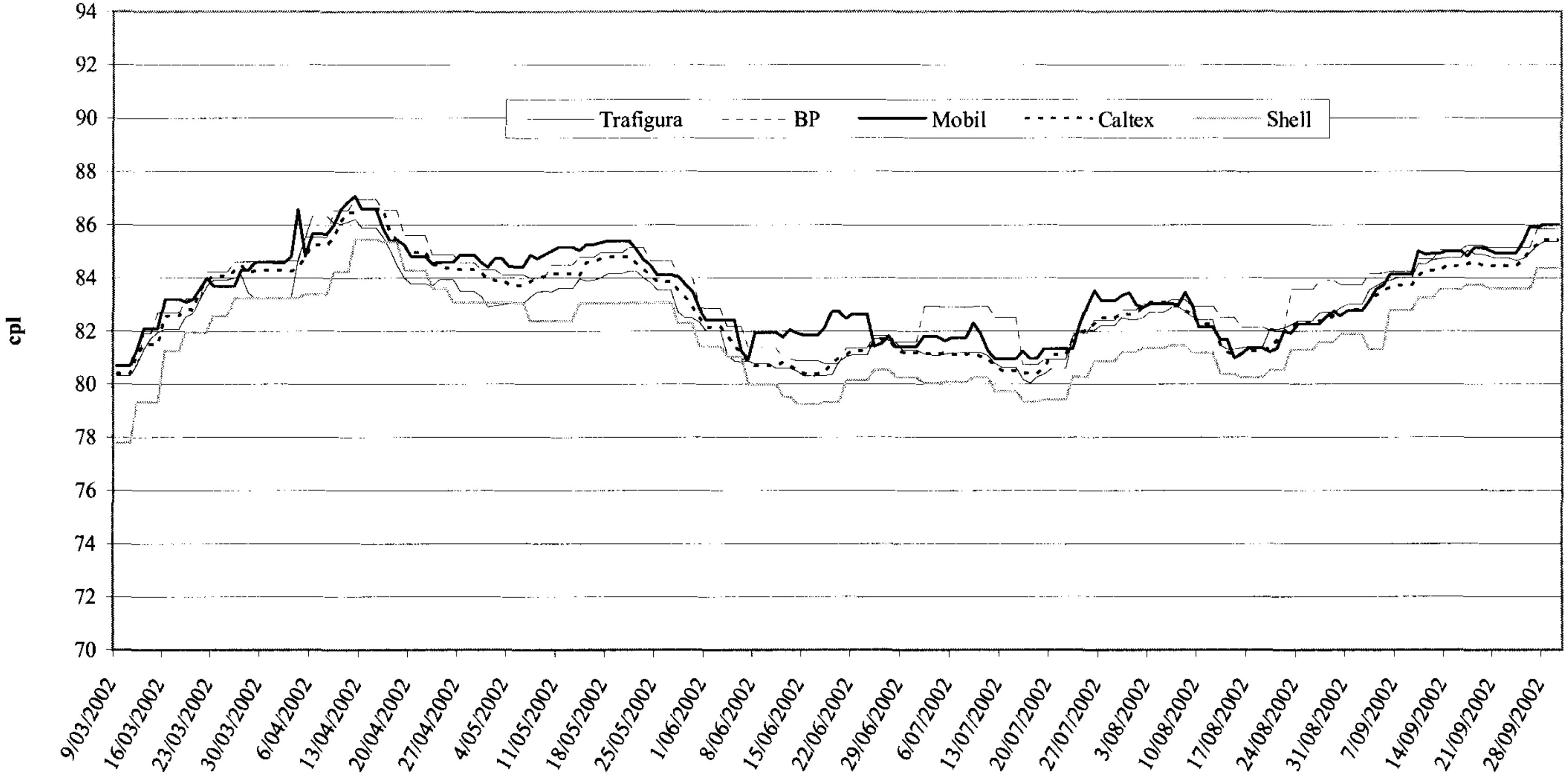
The average difference between the highest and lowest terminal gate prices was 2.2 cpl.

Chart 3.1 (Part 1): Terminal gate prices of the five declared companies – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell and Trafigura

Chart 3.1 (Part 2): Terminal gate prices of the five declared companies – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell and Trafigura

3.4.2 Terminal gate prices of the five declared companies and average daily retail unleaded petrol prices in Melbourne

Chart 3.2 shows the terminal gate prices of the five declared companies and average daily unleaded petrol prices in Melbourne between 14 August 2001 and 30 September 2002.

Table 3.1 shows the number of days for each month when at least one of the terminal gate prices of the five declared companies was above average daily retail prices.

Table 3.1: Number of days per month when at least one of the terminal gate prices of the five declared companies was above average daily retail prices – 14 August 2001 to 30 September 2002

Aug 01	Sep 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02	May 02	June 02	July 02	Aug 02	Sep 02	Total
7	14	1	0	0	1	5	1	1	0	0	2	1	1	34

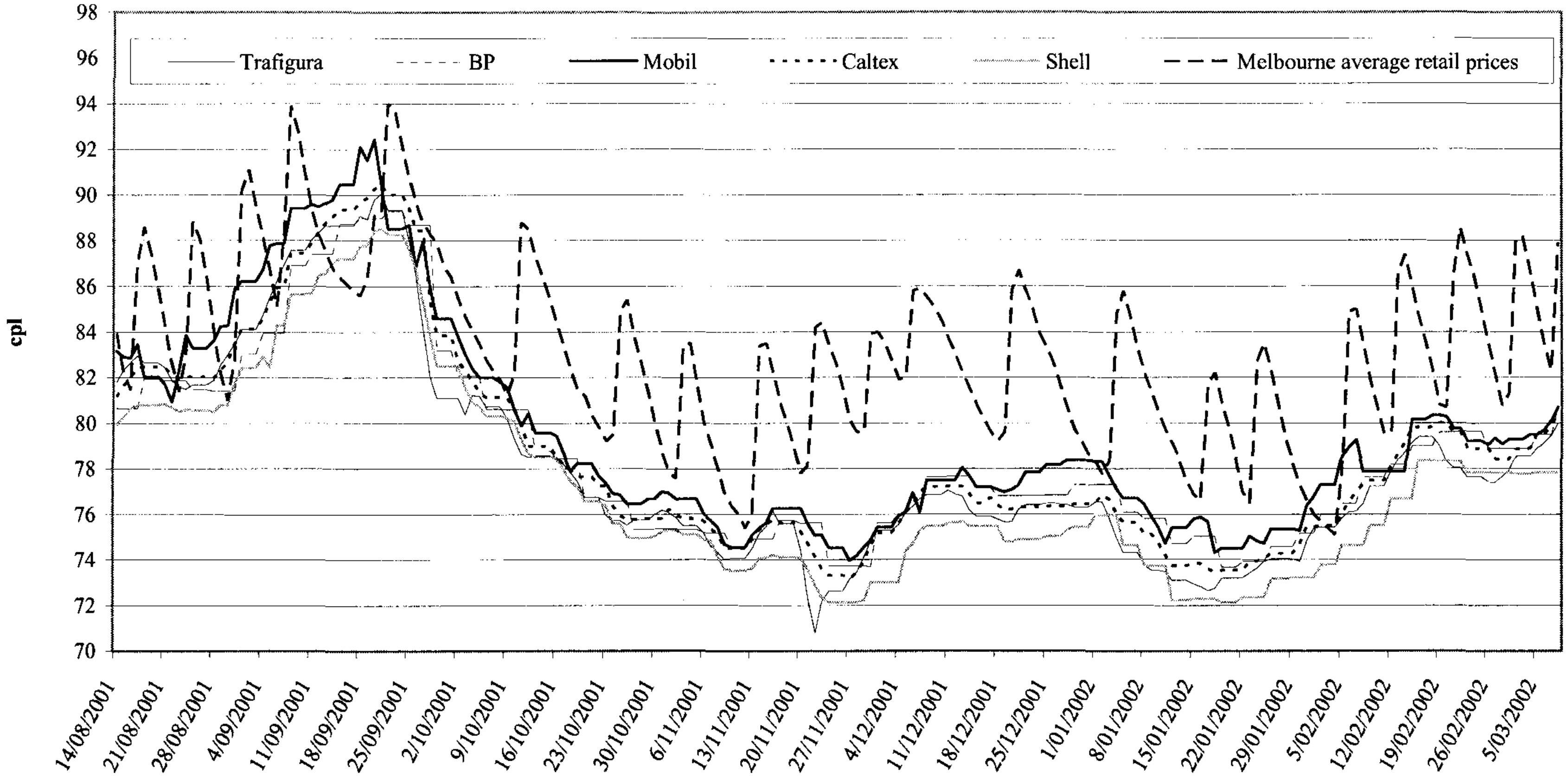
Source: BP, Caltex, Mobil, Shell, Trafigura, ACCC data and Informed Sources

In the two months immediately following the introduction of the TGP arrangements in Victoria there were a significant number of days when at least one of the terminal gate prices of the five declared companies was above average daily retail prices in Melbourne. This occurred on seven days in August 2001 and on 14 days in September 2001. Since then the number of days on which this has occurred has declined. In only one subsequent month (February 2002) were the terminal gate prices of at least one of the five declared companies above average daily retail prices in Melbourne on more than two days.

Over the 14-month period:

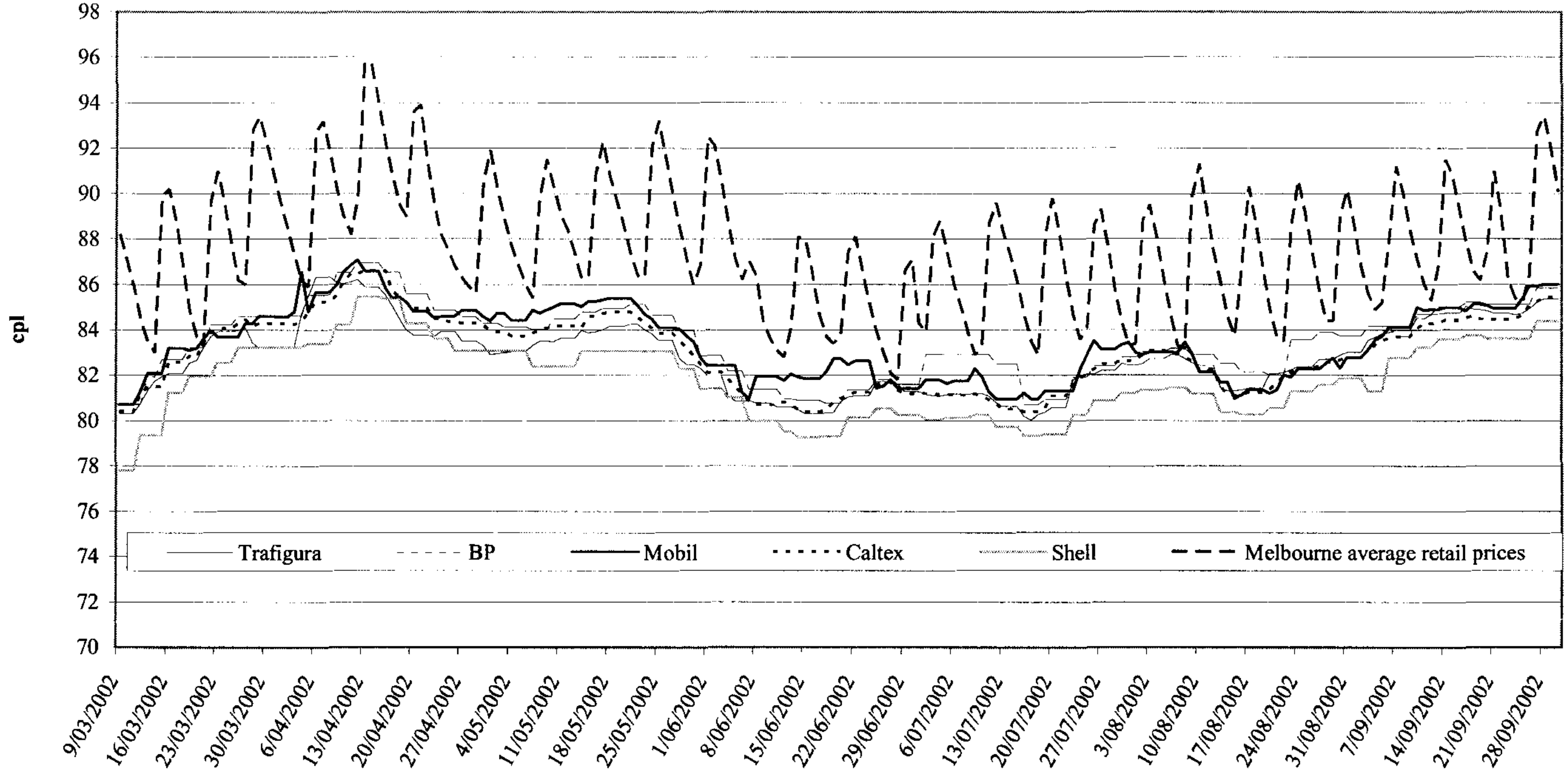
- At least one of the terminal gate prices of the five declared companies was **above** average daily retail prices in Melbourne on 8 per cent of days (ie. 34 out of 413 days).
    - All of the terminal gate prices were **above** average daily retail prices on 2 per cent of days (ie. 6 days). These occasions were between 14 to19 September 2001.
- All of the terminal gate prices of the five declared companies were **below** average daily retail prices in Melbourne on 92 per cent of days (ie. 379 days).

Chart 3.2 (Part 1): Terminal gate prices of the five declared companies and average daily retail prices in Melbourne – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura and Informed Sources

Chart 3.2 (Part 2): Terminal gate prices of the five declared companies and average daily retail prices in Melbourne – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura and Informed Sources

Table 3.2 shows the average monthly difference between average daily retail prices in Melbourne and the terminal gate prices of the five declared companies from 14 August 2001 to 30 September 2002.

Table 3.2: Difference between average retail unleaded petrol prices in Melbourne and the terminal gate prices of the five declared companies on a monthly basis – August 2001 to September 2002

	Aug 01	Sep 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02	May 02	Jun 02	July 02	Aug 02	Sep 02	Ave
	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl
BP	3.1	2.1	4.5	5.3	5.8	4.9	4.3	5.0	4.4	4.4	4.4	3.9	3.9	3.4	4.2
Caltex	2.3	1.4	4.4	5.4	6.3	5.5	4.3	5.2	4.8	4.8	4.8	4.8	4.7	3.9	4.5
Mobil	1.4	0.4	3.8	4.8	5.4	4.3	3.6	5.0	4.5	4.1	3.9	4.2	4.7	3.4	3.8
Shell	3.8	3.3	5.1	6.5	7.8	6.7	5.9	6.8	5.9	6.0	5.8	6.0	5.8	4.9	5.7
Trafigura	2.2	2.1	5.0	5.9	6.5	6.2	5.0	5.6	5.3	5.3	4.9	4.9	4.6	3.7	4.8
Five Co. Ave	2.6	1.8	4.6	5.6	6.3	5.5	4.6	5.5	5.0	4.9	4.8	4.8	4.8	3.9	4.6

Source: BP, Caltex, Mobil, Shell, Trafigura, ACCC data and Informed Sources

Over the 14-month period the average monthly difference between average daily retail prices and the terminal gate prices of the five companies was 4.6 cpl. On an individual company basis, the average ranged from 3.8 cpl (for Mobil) to 5.7 cpl (for Shell).

On a monthly basis, the average difference between average daily retail prices in Melbourne and the terminal gate prices of the five companies ranged from 0.4 cpl (for Mobil in September 2001) to 7.8 cpl (for Shell in December 2001). For all companies, the average monthly difference between average daily retail prices in Melbourne and terminal gate prices were highest in December 2001 and lowest in September 2001.

Table 3.3 shows the largest positive and largest negative difference between average daily retail prices in Melbourne and the terminal gate prices of the five declared companies over the period 14 August 2001 to 30 September 2002.

Table 3.3: Largest positive difference and largest negative difference between average daily retail prices in Melbourne and the terminal gate prices of the five declared companies – 14 August 2001 to 30 September 2002

	BP	Caltex	Mobil	Shell	Trafigura
	cpl	cpl	cpl	cpl	cpl
Largest positive difference	10.2	10.8	10.1	12.0	13.4
Largest negative difference	3.4	4.1	6.5	2.2	3.5

Source: BP, Caltex, Mobil, Shell, Trafigura, ACCC data and Informed Sources

The greatest extent by which average retail prices in Melbourne exceeded a terminal gate price of one of the five declared companies was 13.4 cpl for Trafigura's terminal gate price. This occurred on 22 November 2001 when the average retail price in Melbourne was 84.2 cpl and Trafigura's terminal gate price was 70.8 cpl.

The greatest extent by which a terminal gate price of one of the five declared companies exceeded the average daily retail price in Melbourne was 6.5 cpl for Mobil's terminal gate price on 18 September 2001. On this day, Mobil's terminal gate price was 92.1 cpl and the average retail price was 85.6 cpl.

In summary:

The number of days on which at least one terminal gate price exceeded the average retail price was high in August and September 2001 but has declined since.

The average difference between terminal gate prices of the five declared companies and average retail prices over the period was 4.6 cpl.

3.4.3 The average of the terminal gate prices of the five declared companies and average daily retail prices in Melbourne

Chart 3.3 shows the average of the terminal gate prices of the five declared companies and average daily retail prices in Melbourne between 14 August 2001 and 30 September 2002.

Over the period, the average of the terminal gate prices of the five companies exceeded average daily retail prices in Melbourne on 4 per cent of occasions (ie. 17 days). These occasions occurred in three out of the fourteen months:

- August 2001 - when the average of the terminal gate prices of the five companies was above average daily retail prices on 28 per cent of occasions (ie. 5 days);
- September 2001 - when the average of the terminal gate prices of the five companies was above average daily retail prices on 33 per cent of occasions (ie. 10 days); and
- February 2002 - when the average of the terminal gate prices of the five companies was above average daily retail prices on 7 per cent of occasions (ie. 2 days).

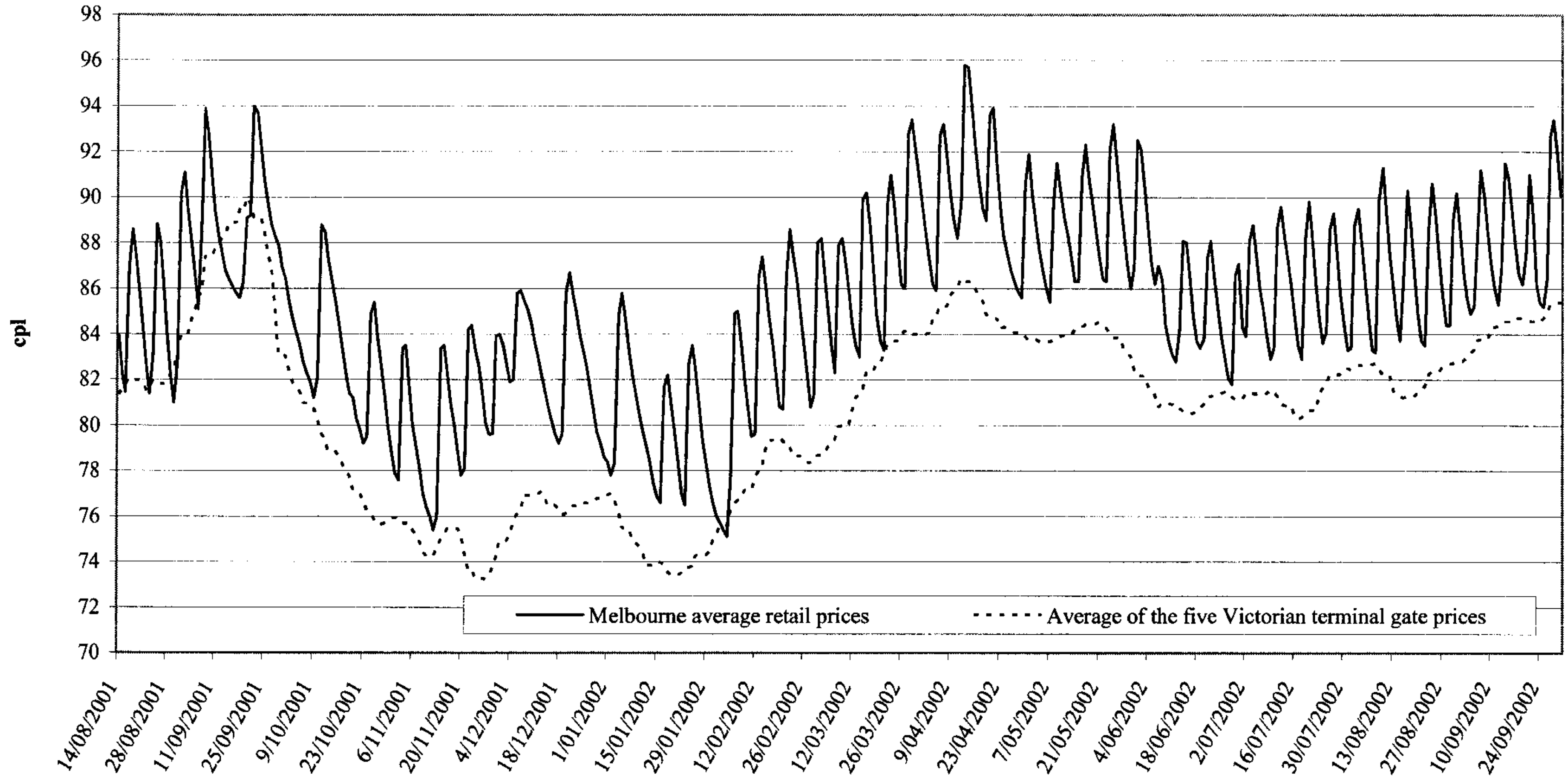
The greatest extent by which the average of the terminal gate prices of the five companies exceeded the average daily retail price in Melbourne was 3.9 cpl on 18 September 2001. The average of the terminal gate prices was 89.5 cpl and the average daily retail price in Melbourne was 85.6 cpl.

The greatest extent by which the average daily retail price in Melbourne exceeded the average of the terminal gate prices of the five companies was 10.6 cpl on 23 November 2001. The average of the terminal gate prices was 73.8 cpl and the average daily retail price in Melbourne was 84.4 cpl.

In summary:

Between 14 August 2001 and 30 September 2002, the average of the terminal gate prices of the five declared companies exceeded average retail prices on 17 days. Most of these instances occurred in the first two months of the arrangements.

Chart 3.3: Average of the terminal gate prices of the five declared companies and average daily retail prices in Melbourne – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura and Informed Sources

3.4.4 Terminal gate prices of the five declared companies and the import parity indicator for Melbourne

Chart 3.4 shows the terminal gate prices of the five declared companies and the IPI for unleaded petrol for Melbourne from 14 August 2001 to 30 September 2002.

Table 3.4 shows the average monthly difference between the Melbourne IPI and the terminal gate prices of the five declared companies from August 2001 to September 2002.

Table 3.4: Difference between Melbourne IPI and the terminal gate prices of the five declared companies on a monthly basis – August 2001 to September 2002

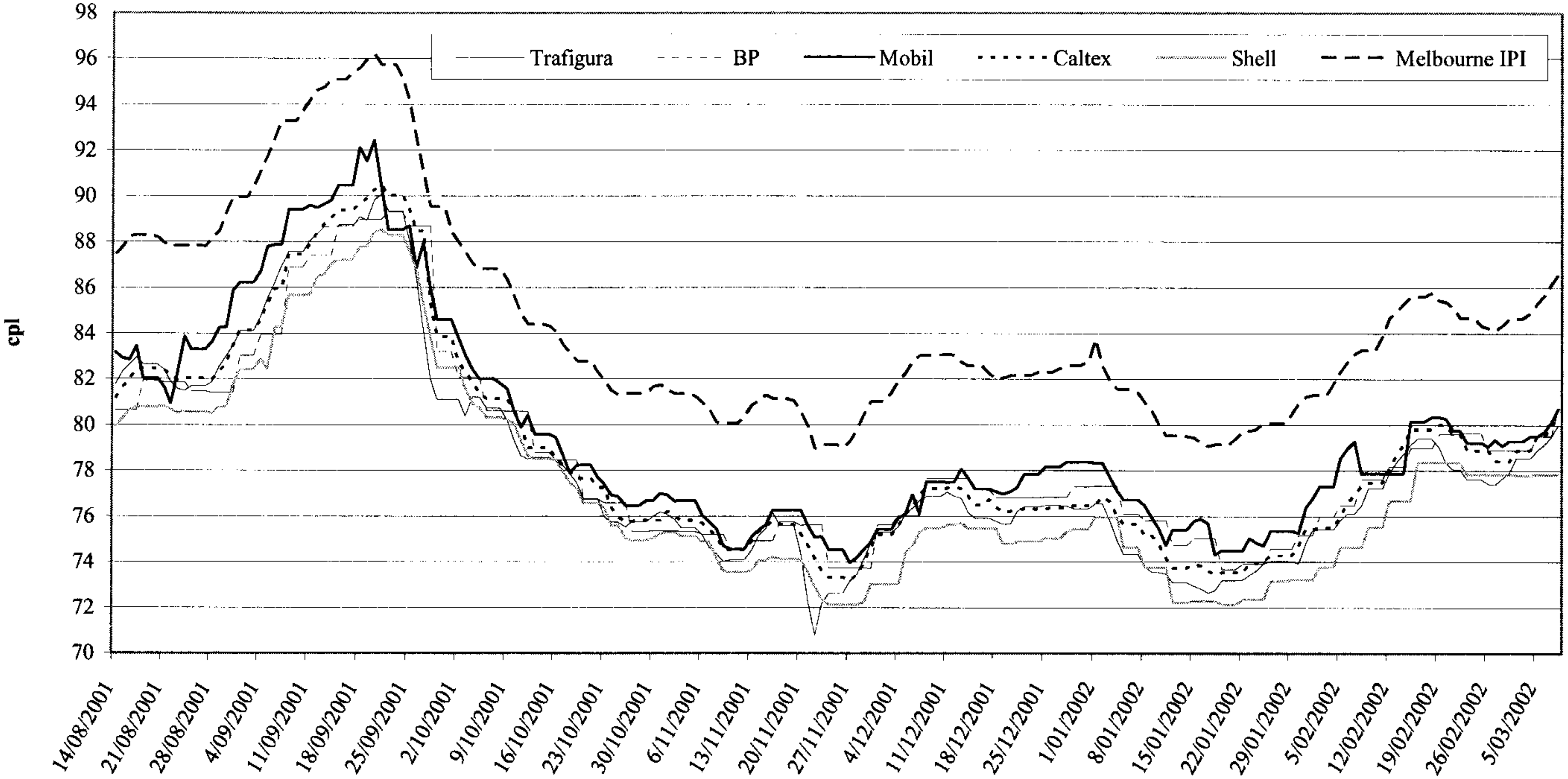
	Aug 01	Sep 01	Oct 01	Nov 01	Dec 01	Jan 02	Feb 02	Mar 02	Apr 02	May 02	June 02	July 02	Aug 02	Sep 02	Ave
	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl
BP	6.8	6.5	5.4	5.6	5.5	5.2	5.9	5.9	5.4	5.4	5.4	4.7	4.9	5.4	5.6
Caltex	6.0	5.7	5.3	5.6	6.0	5.8	5.9	6.1	5.8	5.8	5.8	5.6	5.7	5.9	5.8
Mobil	5.1	4.7	4.7	5.0	5.1	4.6	5.2	5.8	5.6	5.2	4.9	5.1	5.7	5.4	5.1
Shell	7.5	7.6	6.0	6.7	7.4	7.0	7.5	7.6	6.9	7.1	6.8	6.8	6.8	6.9	7.1
Trafigura	5.9	6.4	5.9	6.1	6.2	6.5	6.5	6.4	6.3	6.4	5.9	5.7	5.6	5.7	6.1
Five Co. Ave	6.3	6.2	5.5	5.8	6.0	5.8	6.2	6.4	6.0	6.0	5.7	5.6	5.8	5.9	5.9

Source: BP, Caltex, Mobil, Shell, Trafigura and ACCC data

Over the period August 2001 to September 2002, the average monthly difference between the IPI for Melbourne and the terminal gate prices of the five companies was 5.9 cpl. The average monthly difference between the IPI for Melbourne and the terminal gate prices of the five declared companies ranged from 5.1 cpl (for Mobil) to 7.1 cpl (for Shell).

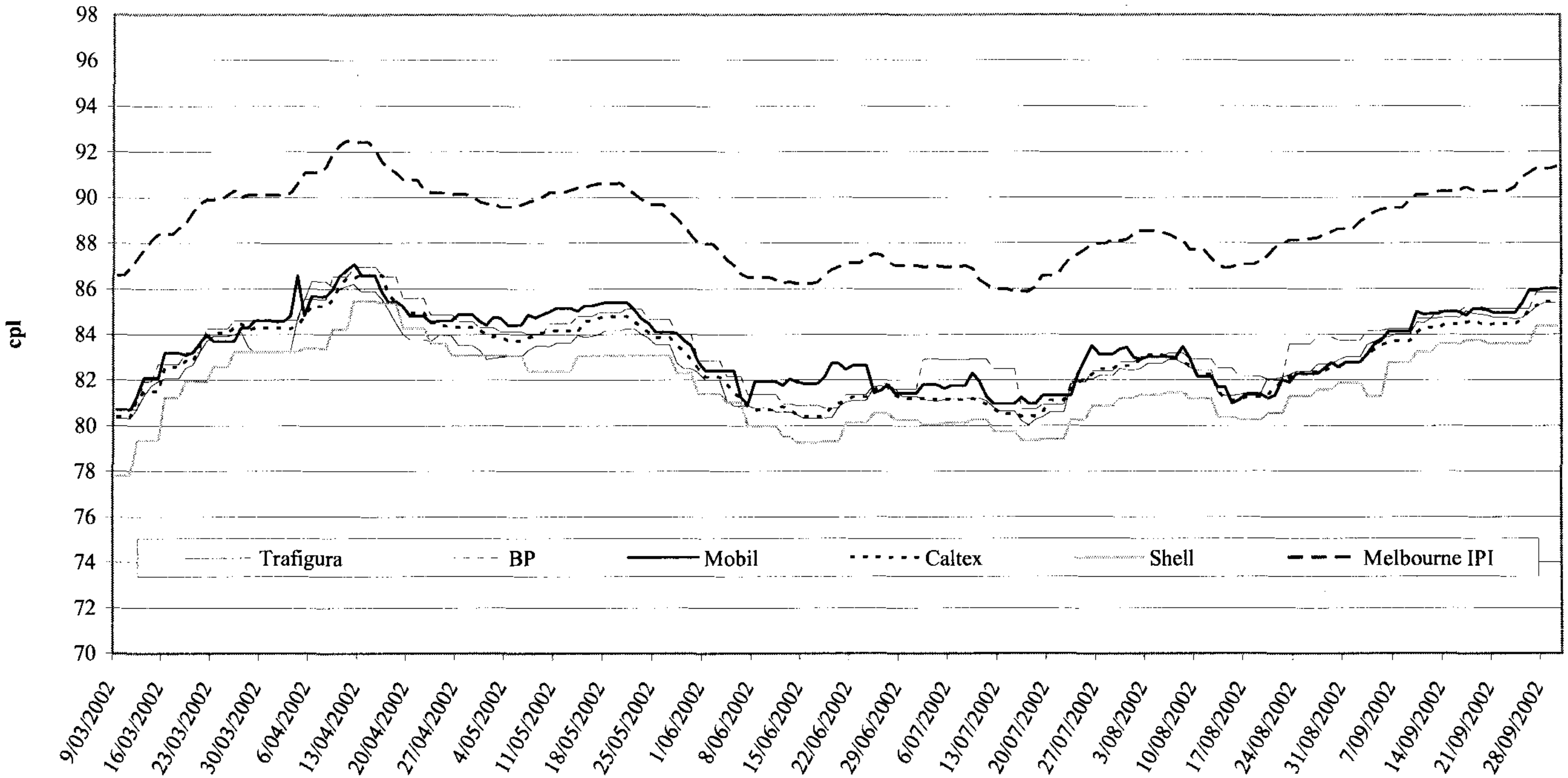
On an individual company basis, the monthly average differences did not vary significantly and they tended to be fairly close to the average difference over the 14-month period.

Chart 3.4 (Part 1): Terminal gate prices of the five declared companies and the import parity indicator for Melbourne – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura and ACCC data

Chart 3.4 (Part 2): Terminal gate prices of the five declared companies and the import parity indicator for Melbourne – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura and ACCC data

Table 3.5 shows the largest difference and smallest difference between the IPI for Melbourne and the terminal gate prices of the five declared companies on any day over the period 14 August 2001 to 30 September 2002.

Table 3.5: Largest difference and smallest difference between IPI for Melbourne and the terminal gate prices of the five declared companies – 14 August 2001 to 30 September 2002

	BP	**Caltex**	**Mobil**	**Shell**	**Trafigura**
	cpl	cpl	cpl	cpl	cpl
Largest difference	9.4	7.3	7.4	9.3	8.4
Smallest difference	0.9	2.6	3.1	5.5	4.7

Source: BP, Caltex, Mobil, Shell, Trafigura and ACCC data

The table shows that largest amount by which the IPI for Melbourne was above the terminal gate prices of any of the companies on any one day over the period was 9.4 cpl (by BP on 7 September 2001). The IPI for Melbourne was 93.3 cpl and BP's terminal gate price was 83.9 cpl.

The smallest amount by which the IPI for Melbourne was above the terminal gate prices of any of the companies on any one day over the period was 0.9 cpl (by BP on 28 September 2001). The IPI for Melbourne was 89.5 cpl and BP's terminal gate price was 88.7 cpl.

3.4.5 The average of the terminal gate prices of the five declared companies and the import parity indicator for Melbourne

Chart 3.5 shows the average of the terminal gate prices of the five declared companies and the IPI for unleaded petrol for Melbourne from 14 August 2001 to 30 September 2002.

The average difference between the average of the terminal gate prices of the five declared companies and the IPI for Melbourne over the period was 5.9 cpl. On a monthly basis it ranged from 5.5 cpl to 6.4 cpl.

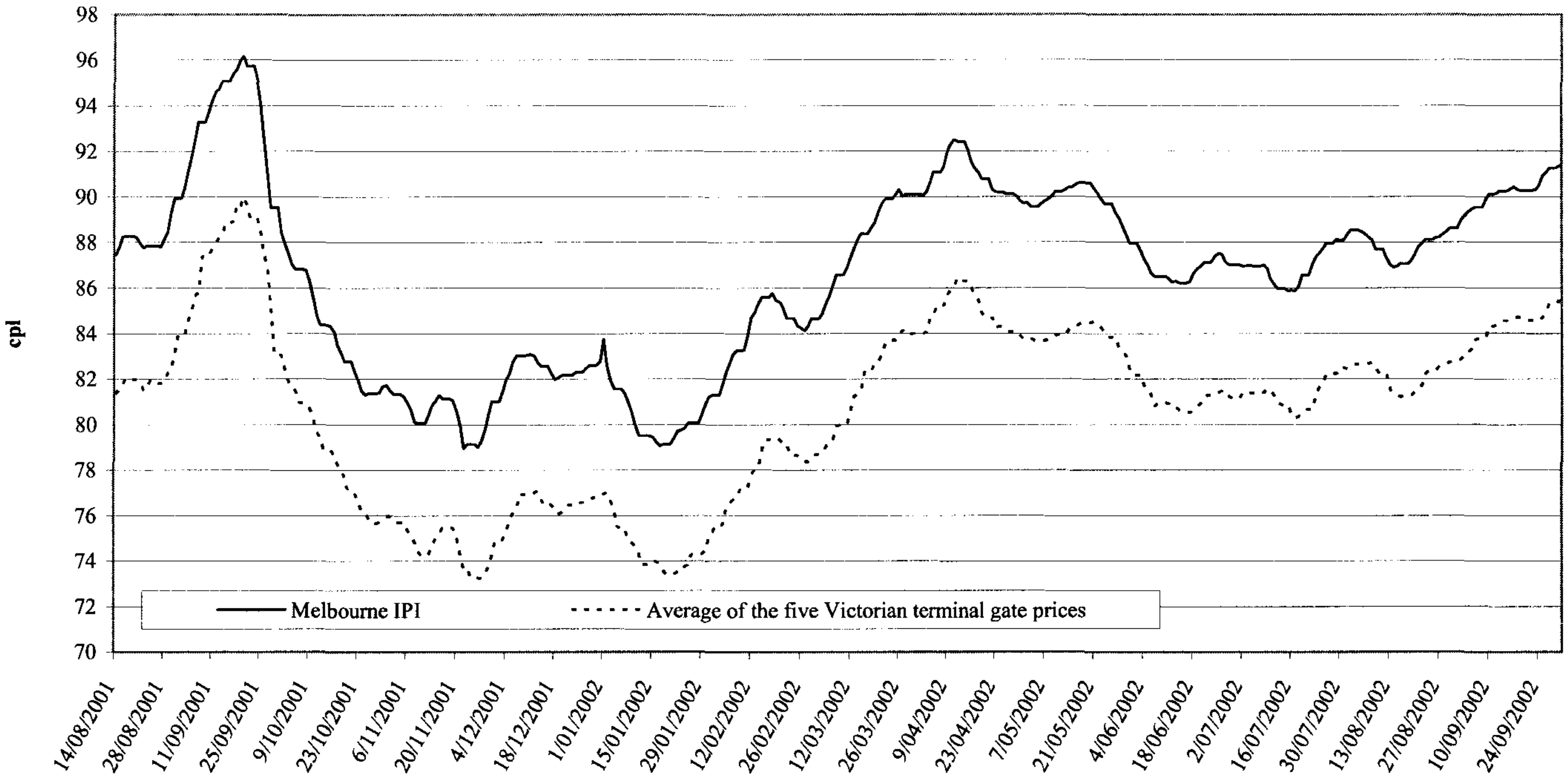
The largest difference between the average of the terminal gate prices of the five declared companies and the IPI for Melbourne on any given day over the period was 7.5 cpl on 7 September 2001. The IPI for Melbourne was 93.3 cpl and the five company average terminal gate price was 85.8 cpl.

The smallest difference between the average of the terminal gate prices of the five declared companies and the IPI for Melbourne on any given day over the period was 4.1 cpl on 27 September 2001. The IPI for Melbourne was 91.0 cpl and the five company average terminal gate price was 86.9 cpl.

In summary:

The average difference between the average of the terminal gate prices of the five declared companies and the IPI for Melbourne over the period was 5.9 cpl. On a monthly basis it ranged from 5.5 cpl to 6.4 cpl.

Chart 3.5: Average of the terminal gate prices of the five declared companies and the import parity indicator for Melbourne – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura and ACCC data

3.4.6 Average retail prices and the import parity indicator for Melbourne

Chart 3.6 shows average daily retail prices and the IPI for Melbourne for the period between 1 July 2000 and 30 September 2002. This represents the 13 and a half months since the introduction of the TGP arrangements (ie. 14 August 2001 to 30 September 2002) and the 13 and a half months prior (ie. 1 July 2000 to 13 August 2001).

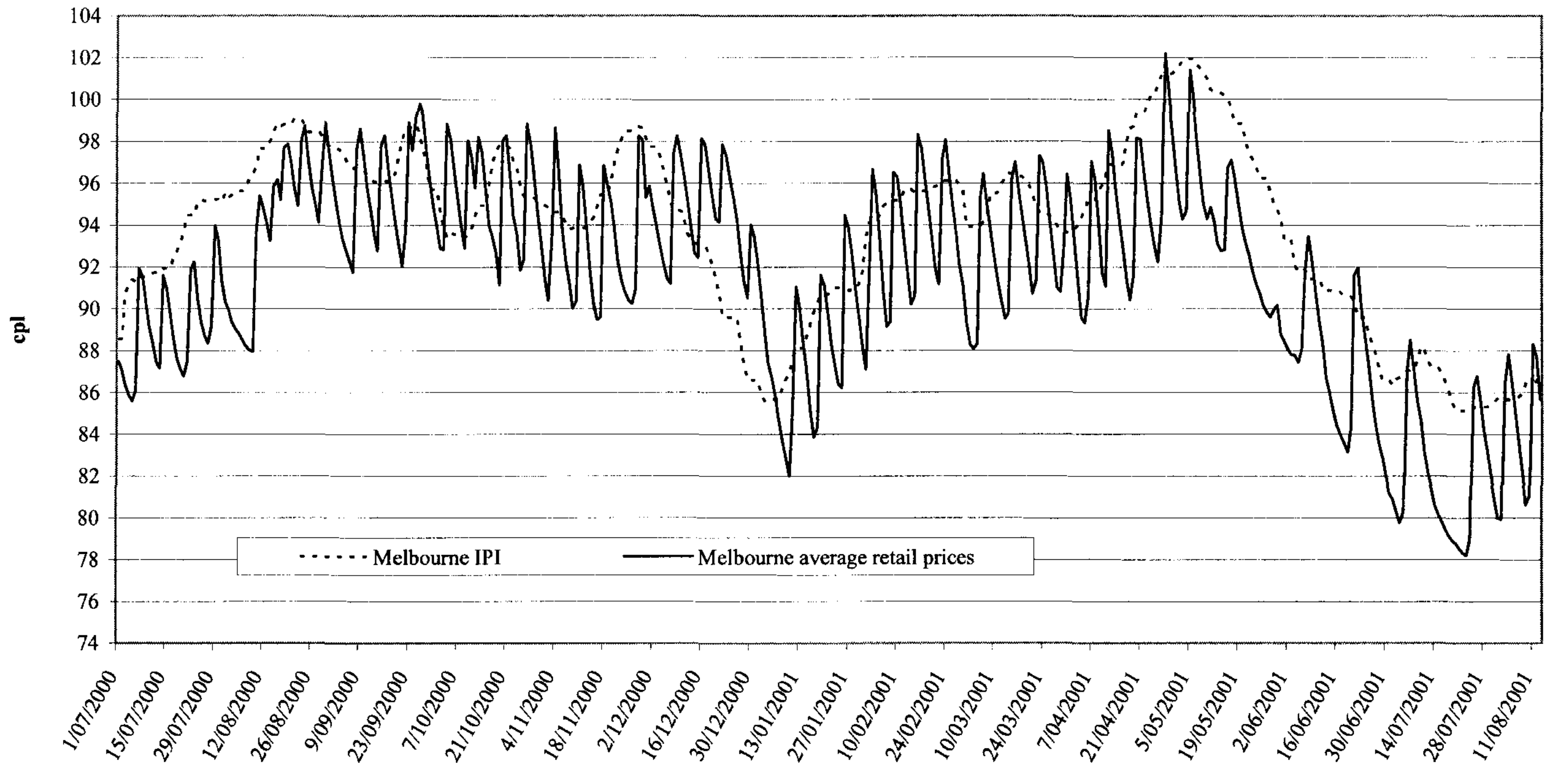
In the period since the introduction of the TGP arrangements (ie. 14 August 2001 to 30 September 2002):

- Average daily retail prices were on average 1.2 cpl lower than the IPI.
- The largest amount by which the IPI exceeded average daily retail prices in Melbourne was 10.0 cpl on 18 September 2001. The Melbourne IPI was 95.6 cpl and the average retail price was 85.6 cpl.
- The largest amount by which the average daily retail price exceeded the IPI was 5.3 cpl on 23 November 2001. The Melbourne IPI was 79.1 cpl and the average retail price was 84.4 cpl.
- For both August and September 2001, average retail prices exceeded the IPI on three days. For the following months to September 2002, there were typically 10 days per month or more when average retail prices exceeded the IPI.

Over the period 1 July 2000 to 30 September 2002:

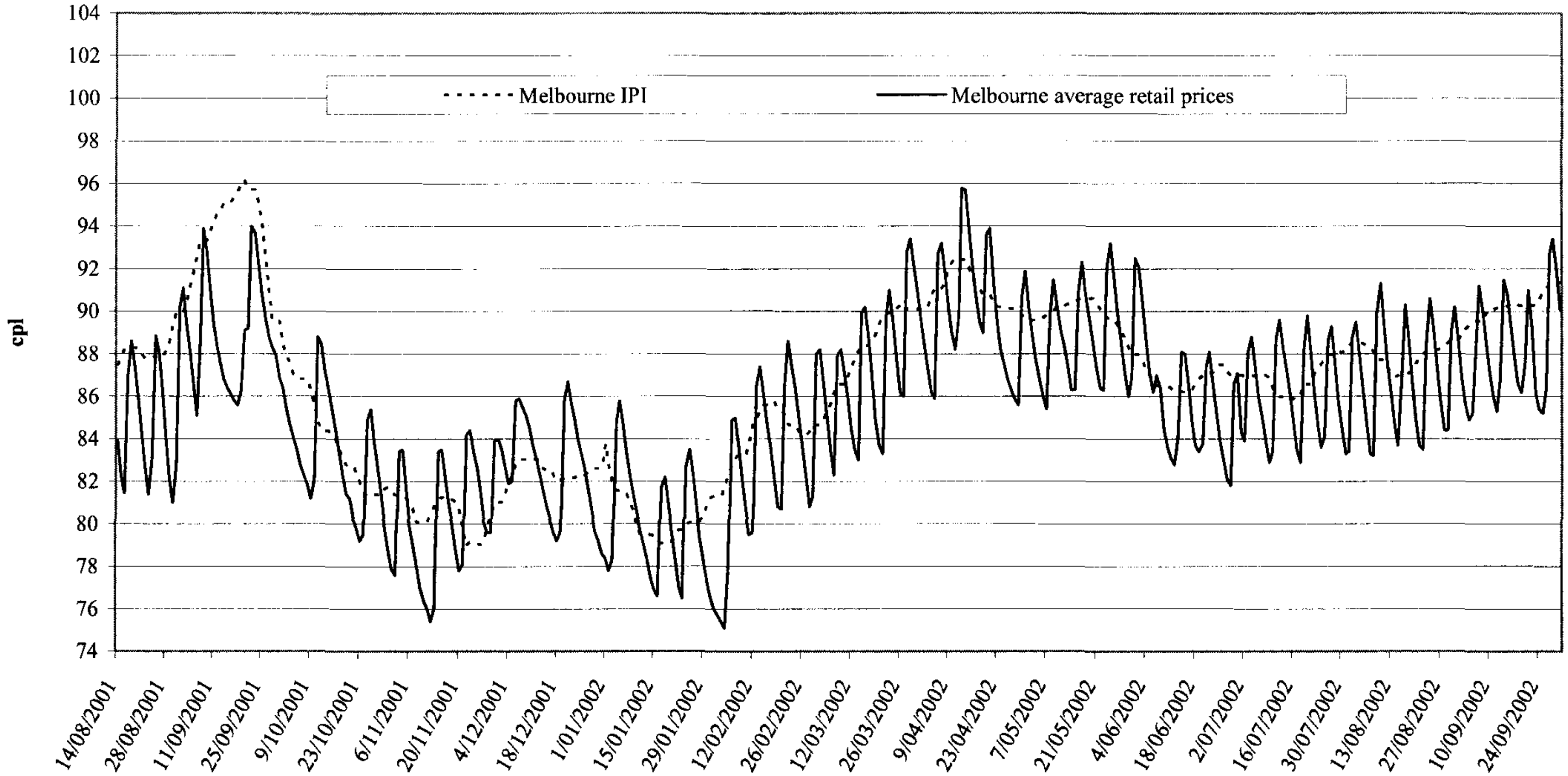
- Average daily retail prices in Melbourne were on average 1.7 cpl lower than the IPI for Melbourne.
  - However, in the period prior to the introduction of the TGP arrangements (ie. 1 July 2000 to 13 August 2001) average daily retail prices were 2.2 cpl lower than the IPI.
  - As noted earlier, in the period since the introduction of the TGP arrangements average daily retail prices were 1.2 cpl lower than the IPI.
  - Therefore, comparing average retail prices against the benchmark IPI indicates that average retail prices were 1.0 cpl higher in the period since the introduction of the TGP arrangements.
- The IPI exceeded average daily prices on 553 days out of 822 days over the period (ie. 67 per cent of days).
  - In the period prior to the introduction of the TGP arrangements, average retail prices exceeded the IPI on 115 out of 409 days (ie. 28 per cent of days).

Chart 3.6 (Part 1): Average daily retail prices and the import parity indicator – Melbourne – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

Chart 3.6 (Part 2): Average daily retail prices and the import parity indicator – Melbourne – unleaded petrol – 1 July 2000 to 30 September 2002



Source: ACCC data and Informed Sources

- In the period since the introduction of the TGP arrangements average retail prices exceeded the IPI on 154 days out of 413 days (ie. 37 per cent of days).

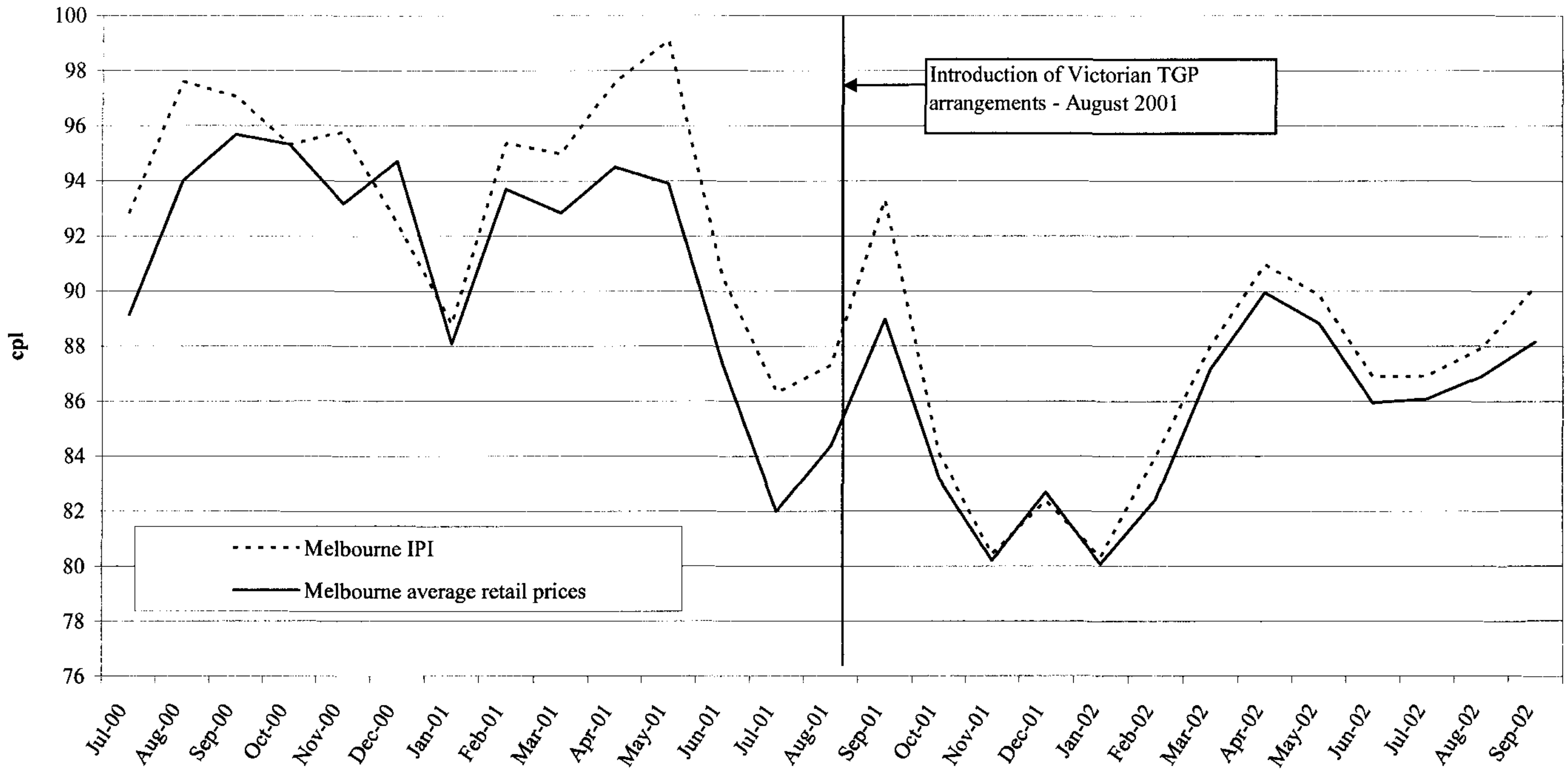
Chart 3.7 shows average monthly retail prices in Melbourne and the average monthly IPI for Melbourne between July 2000 and September 2002. The narrowing of the difference between average retail prices and the IPI between the two periods is clearly apparent.

In summary:

Comparing average retail prices against the benchmark IPI indicates that average retail prices were 1.0 cpl higher in the period since the introduction of the TGP arrangements.

The number of days on which average retail prices exceeded the IPI increased from 28 per cent in the period prior to the introduction of the TGP arrangements to 37 per cent in the period since.

Chart 3.7: Average monthly retail prices and the import parity indicator – Melbourne – unleaded petrol – July 2000 to September 2002



Source: ACCC data and Informed Sources

3.4.7 Melbourne price cycles

Table 3.6 provides data on the characteristics of Melbourne price cycles for the 13 and a half months since the introduction of the TGP arrangements (ie. 14 August 2001 to 30 September 2002) and the 13 and a half months prior (ie. 1 July 2000 to 13 August 2001).

Table 3.6 Characteristics of price cycles – Melbourne – 1 July 2000 to 30 September 2002

	1 July 2000 – 13 August 2001	14 August 2001 – 30 September 2002
Number of cycles	48	47
Variation (cpl)		
Smallest variation	2.2	4.0
Largest variation	9.9	10.1
Average variation	6.5	6.8
Most common variation	7 – 7.99	7 – 7.99
Duration (days)		
Ave no. days trough to peak	2.1	2.4
Ave no. days peak to trough	6.2	6.2
Ave no. days trough to trough	8.3	8.6
Most common duration	7	7
Peaks and Troughs		
Most common day of peaks	Saturday	Saturday
Most common day of troughs	Thursday	Thursday

Source: ACCC data and Informed Sources

A comparison of these two periods shows that:

- The average variation of price cycles increased marginally.
    - It changed from 6.5 cpl in the period 1 July 2000 to 14 August 2001 to 6.8 cpl in the period 14 August 2001 to 30 September 2002 – an increase of 0.3 cpl.
- The average duration of price cycles also increased marginally.
    - It changed from 8.3 days in the period 1 July 2000 to 13 August 2001 to 8.6 days in the period 14 August 2001 to 30 September 2002 – an increase of 0.3 days.
- The average number of days from trough to peak increased - from 2.1 days before

14 August 2001 to 2.4 days in the period since 14 August 2001; and

- The average number of days from peak to trough remained the same for both periods at 6.2 days.

- The most common days of the week on which prices peak and trough stayed the same in both periods:

  - Saturday remained the most common day for prices to peak; and

  - Thursday remained the most common day for prices to trough.

In summary:

The Melbourne price cycle changed only marginally in the period since the introduction of the TGP arrangements in August 2001.

3.4.8 City-country differential

This section examines the city-country price differential in Victoria.

Specifically, it looks at the city-country differential for the period broadly 13 months after the introduction of the TGP arrangements on 14 August 2001 (ie the period September 2001 to September 2002) and compares the results with the city-country differential for the period broadly 13 months before (ie August 2000 to August 2001).

It is acknowledged that the period August 2000 to August 2001 includes a small period (from 14 August to 31 August 2001) during which the TGP arrangements in Victoria were in operation. September 2001 has been used as the first month after the introduction of the TGP arrangements because (unlike average daily retail prices and the IPI) country price data is only available on a monthly basis. However, the inclusion of these few days in the period considered to be before the TGP arrangements were introduced is unlikely to have any material effect on the results.

The city-country differentials for the other states and the Northern Territory are also included to facilitate a comparison.

Appendix A provides data on city-country differentials over a four year period from July 1998 to June 2002.

Table 3.7 shows the city-country differential for Victoria, and the other states and the Northern Territory, for the period broadly 13 months prior to the introduction of the TGP arrangements (August 2000 to August 2001), the period broadly 13 months after the introduction of the arrangements (September 2001 to September 2002), and the change over those two periods.

The table also shows the price differential between the IPI and country prices and the IPI and city prices for the same periods. Comparisons with the IPI indicate whether it is movements in city prices or movements in country prices that are influencing the change in the city-country differential.

Table 3.7: City-country differential, IPI-country differential and IPI-city differential – six states and the Northern Territory – August 2000 to September 2002

State/Territory	City-country price differential			IPI-country price differential			IPI-city price differential		
	Aug 2000- Aug 2001	Sept 2001- Sept 2002	Change	Aug 2000- Aug 2001	Sept 2001- Sept 2002	Change	Aug 2000- Aug 2001	Sept 2001- Sept 2002	Change
	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl
New South Wales	4.4	4.6	+0.2	3.5	3.8	+0.3	-0.9	-0.8	+0.1
Victoria	**5.6**	**4.8**	**-0.8**	**3.1**	**3.6**	**+0.5**	**-2.5**	**-1.2**	**+1.3**
Queensland	7.4	4.2	-3.2	4.8	4.8	0	-2.6	+0.6	+3.2
South Australia	6.4	5.1	-1.3	4.6	4.3	-0.3	-1.8	-0.8	+1.0
Western Australia	10.1	8.2	-1.9	7.5	8.0	+0.5	-2.6	-0.3	+2.3
Tasmania	2.5	0.8	-1.7	7.0	7.1	+0.1	4.5	6.3	+1.8
Northern Territory	7.7	8.7	+1.0	15.6	15.3	-0.3	7.9	6.6	-1.3

Source: ACCC data and FUELtrac

The table shows that:

- The city-country differential in Victoria for the period August 2000 to August 2001 was 5.6 cpl and for the period September 2001 to September 2002 it was 4.8 cpl. Therefore, there was a decrease in the city-country differential of 0.8 cpl.
    - Over this period, there was a decline in the city-country differential in all of the other states, except New South Wales (which increased by 0.2 cpl) and the Northern Territory (which increased by 1.0 cpl).
    - The decrease in the city-country differential in Victoria was the smallest among the states that had a decrease in the city-country differential. The decrease in the city-country differential in those states ranged from 1.3 cpl (in South Australia) to 3.2 cpl (in Queensland).
- The differential between the IPI and country prices in Victoria in the period August 2000 to August 2001 was 3.1 cpl and in the period September 2001 to September 2002 it was 3.6 cpl. This indicates that country prices increased relative to the IPI by 0.5 cpl.

- Over this period, there was also an increase in country prices against the IPI of 0.5 cpl in Western Australia. This increase in Victoria and Western Australia was the largest increase in the differential between country prices and the IPI among all of the states and the Northern Territory. In New South Wales and Tasmania there were smaller increases in the differential.

- In South Australia and the Northern Territory country prices decreased against the IPI. In Queensland the differential did not change.

- The differential between the IPI and Melbourne prices for the period August 2000 to August 2001 was -2.5 cpl and for the period September 2001 to September 2002 it was -1.2 cpl. This indicates that city prices increased relative to the IPI by 1.3 cpl.[20]

  - Over this period, there was an increase in city prices against the IPI in all the other states. The increases in Queensland, Western Australia and Tasmania were higher than the increase in Victoria, while the increases in New South Wales and South Australia were less. In the Northern Territory, city prices decreased against the IPI.

- The influence leading to the decrease in the city-country differential in Victoria over this period was the increase in city prices being greater than the increase in country prices.

In summary:

The city-country differential in Victoria decreased after the introduction of the TGP arrangements. Of the five states which had decreases in the city-country differential, the decrease in Victoria was the lowest decrease.

There was an increase in country prices relative to the IPI in Victoria. Of the four states which had increases in country prices, this was the largest increase (with Western Australia).

The city-country differential in Victoria decreased because the increase in city prices was greater than the increase in country prices.

[20] In section 3.4.6 it was noted that average retail prices in Melbourne were 1.0 cpl higher than the IPI in the period since the introduction of the TGP arrangements. There are two reasons why there is a figure of 1.3 cpl in this section. Firstly, the periods compared in the two sections are not exactly the same. The analysis in section 3.4.6 examined the IPI-city price differential between the periods 1 July 2000 to 13 August 2001 and 14 August 2001 to 30 September 2002, whereas the analysis in this section examines the periods 1 August 2000 to 31 August 2001 and 1 September 2001 to 31 September 2002. Secondly, the analysis in the two sections is based on average retail price data from different sources. As noted previously, the city-country analysis is based on FUELtrac data, whereas the remaining analysis in this report (unless otherwise noted) is based on data from Informed Sources.

3.5 Assessment

The staff of the Commission consulted with a wide range of industry participants. Their views on the Victorian TGP arrangements are summarised in appendix E. The following views on the Victorian TGP arrangements take into account those views and the results of the data analysis in section 3.4.

Unfortunately, CAV was unable to express a view on the TGP arrangements in Victoria. CAV commented that it was currently undertaking an analysis of the TGP arrangements during the period 1 August 2001 to 31 July 2002 and that this analysis would not be completed until late December 2002.

3.5.1 Terminal gate pricing arrangements

The Commission considered TGP in its 1996 report *Inquiry into the Petroleum Products Declaration.* [21]

Inquiry participants had differing views on the definition of a terminal gate price and on the conditions that should apply to the terminal gate price. It was noted that some participants were looking to a TGP system to reduce price differences amongst retailers. The report noted that there was discounting taking place (either pre or post retail sale) and that the Commission would not wish to put in place a pricing system that attempted to restrain price competition either at the wholesale or retail level.

The Commission commented that a number of factors supported the implementation of a TGP regime. TGP provides for bottom-up pricing by oil companies which can lead to greater competition in distribution and retail. It can facilitate new entry, lessen the market power of the vertically integrated majors beyond the terminal and enhance the bargaining power of existing players. TGP may result in lower prices in some country areas and improve the understanding of city-country differences by rural consumers.

The Commission concluded that a change in pricing culture to one of price negotiation at the terminal gate, based on reasonable access, would enhance competition at wholesale and retail levels. It was of the view that this culture change should most appropriately be brought about by market-based factors rather than regulatory intervention.

The variability report commented on the possible impact of TGP on prices in chapter 7 and appendix G. The assessment in that report was based on a consultancy report from Frontier Economics.

The conclusion reached in the report was that over time TGP along the lines of the Victorian arrangements (ie. that require terminal gate prices be published and apply to

[21] ACCC 1996 Report, pp. 120-125.

both spot and contract sales) could lead to higher average retail prices and short-term price fluctuations occurring in fewer local markets.

Frontier Economics explained that a refiner's benchmark terminal gate price is an average terminal gate price. The refiner makes some sales to customers at a premium to the benchmark price and makes others at a discount. By obligating refiners to sell at the benchmark terminal gate price the premium is likely to be reduced or eliminated. To recover their costs, refiners will have to reduce or eliminate discounts.

Removing discounts to the larger independent chains will lead to an increase in their wholesale prices, which is likely to lead to higher average retail prices in the areas where they operate. These are also the areas where price fluctuations are more prevalent. In the short term, there may be little effect on fluctuations in prices. However, in the long term, if the relative competitiveness of these retailers is adversely affected, they may exit the industry. This is likely to reduce the fluctuations in those markets.

The Commission believes that the larger independent chains have a positive role to play in promoting competition at the retail level of the petroleum industry. It would therefore be concerned if the competitiveness of these chains was adversely affected by the introduction of TGP arrangements.

3.5.2 Market coverage

The extent to which the TGP arrangements are operative in the petroleum market in Victoria is not clear. The arrangements apply to spot sales and to contracts entered into after 1 August 2001. However, contracts entered into between 1 November 2000 and 1 August 2001 become void to the extent that they are inconsistent with the Petroleum Products Act.

The Commission understands that the **spot** market is fairly small in Victoria. Petrol retailers generally prefer to obtain fuel on a contract basis to ensure continuity of supply. Three of the five declared companies informed the Commission that they were not aware of making any spot sales under the TGP arrangements. The other two companies had made some sales.

With respect to **contracts**, a couple of the declared companies indicated that they had some contracts that were based on the TGP arrangements. As more contracts are entered into and the pre-November 2000 contracts come up for renewal, they will fall within the TGP arrangements. However, the Commission was also told that some contracts established before 1 November 2000 may include roll-over provisions and therefore they may not be covered by the TGP arrangements. On the basis of the information available to the Commission, it is not possible to determine how many contracts fall under the TGP arrangements.

CAV is likely to have more information on the extent to which the market is covered by the TGP arrangements. However, as noted earlier, it was unable to comment on the operation of the TGP arrangements.

As a result, it has not been possible for the Commission to determine what proportion of the market is covered by the TGP arrangements. The rest of this analysis needs to be considered in that context.

3.5.3 Transparency

Through the requirement for declared suppliers to publicly advertise their terminal gate prices there has been an increase in transparency. The information is available on the companies' websites. Suppliers at the terminal gate also have to indicate on invoices the costs of any additional services provided such as brand, credit and freight etc. A number of industry participants informed the Commission that the TGP arrangements had increased price transparency. It was considered that the published terminal gate prices provided a benchmark for the industry and consumers. On the other hand, some of the industry organisations expressed the view that, since discounts could be made off the posted terminal gate price, there was little 'real' transparency.

3.5.4 Access

As noted in section 3.5.2 there have been some sales at spot under the TGP arrangements. Only a few comments relating to access were provided to the Commission. Some smaller independents appear to have been able to access fuel at spot terminal gate prices. However, a larger independent informed the Commission that it had been unable to source as much fuel as it wished from the spot market.

3.5.5 Operation of the arrangements

The five declared companies that publish terminal gate prices expressed a number of concerns to the Commission about the operation of the TGP arrangements.

Some of the companies considered that the formula used to determine the terminal gate price was too prescriptive and restricted their flexibility. They commented that:

- Instead of using Singapore refined product benchmarks, the formula should reflect the current industry buy and sell arrangements between the refiner/marketers.
- The formula specifies that freight costs should be based on Worldscale rates and the Average Freight Rate Assessment. A number of the companies said that they actually use Platt's spot Singapore rate and would prefer to use that in the formula.
- The formula was flexible for importers but not for the refiner/marketers.
- The formula does not allow the terminal gate price to be adjusted to reflect supply and demand considerations.

Other concerns expressed by the five declared companies were:

- The TGP arrangements imposed administrative costs on the companies, with little benefit to customers.

- The TGP arrangements were very prescriptive about a range of procedural issues, which adversely affected interaction with customers in areas such as invoicing.

- The requirement under the TGP arrangements to specify add-on costs for additional services (such as credit, brand and delivery) on invoices is unnecessary, as this information is already provided to customers in their supply contracts.

- Since terminal gate prices could not be adjusted in times of shortages, there was no incentive to supply additional fuel at those times. In times of general supply shortages this could result in even higher retail prices.

Some industry organisations commented that companies could discount off the published terminal gate prices. Therefore, these prices may not reflect the actual prices paid. They thought that if discounts were to be permitted, discounts should be made transparent.

3.5.6 Effect on competition

At this stage it is not possible to provide much comment on the influence of the TGP arrangements on competition, since the proportion of the Victorian market covered by these arrangements is unclear.

Furthermore, competition in the petroleum industry is influenced by a wide range of factors, and it can be difficult to isolate the effect of any one factor. As noted in the introduction, the withdrawal of Liberty from the retail market in late 2001 and the cessation of the refinery exchange arrangements between the four major refiner/marketers in July 2002 are more recent factors which may be having an influence on competition in the market.

The TGP arrangements in Victoria have improved the level of transparency. Price information is available to the industry and consumers. One of the five declared companies that publishes terminal gate prices is an importer, which enhances the competitive pressure at the terminal level.

As noted in section 3.5.1, TGP arrangements may have an adverse effect on competition, through reducing the level of discounting. In this context, the Commission notes that some of the oil majors commented that the Victorian TGP arrangements had led to less discounting from the terminal gate price and that any discounting is within a narrower band. One of the larger independents also suggested this was the case.

To the extent that these lower discounts apply to the larger independent chains, this will reduce their capacity to reduce prices and be a competitive force in the market place. However, the degree to which the TGP arrangements apply to the contracts of the independent chains is unclear. As more of these contracts fall under the Victorian

TGP arrangements, the greater will be the impact on competition.

More generally, the impact of greater transparency at the terminal gate on competition and prices at the retail level will depend on the extent of competition in particular markets. Where there is a high degree of competition (generally in metropolitan areas), there is a greater likelihood of any possible benefits being passed on to consumers. In areas where competitive pressures are not as strong (such as in some rural areas) any benefits may be retained by service station operators.

3.5.7 Effect on prices

Views of industry participants

Of the five declared companies, three commented to the Commission that the TGP arrangements had had no effect on retail prices. One company commented that they had had a minimal effect on retail prices and the other company could not say. Comments from other industry participants were mixed. Some believed that retail prices may have gone up as a result of the TGP arrangements. Others considered that retail prices may have gone down. One commented that it was too early to determine the effect on prices.

There were a few comments on the effect of the TGP arrangements on country prices. It was noted that country consumers could benefit from the increased transparency. They could become more aware of prices. However, it was broadly considered that the effect on country prices was likely to be at the margin.

One declared company said that TGP arrangements have potential to reduce country retail prices by providing country retailers with access to the discounted metropolitan wholesale price. The ability for all wholesale customers to purchase tanker loads of fuel at the posted terminal gate price may also encourage new competitors to enter the retail market in country areas. Another company said that through a transparent TGP, customers in the country may challenge distributors' prices/margins if they seem high, may find more efficient ways of delivering the product to the consumer as a result of the transparent mechanism, or simply receive greater confidence in the pricing/cost chain.

One declared company thought that there could be a small downward pressure on country prices (in the long term), but noted that even if there was a small decrease in country wholesale prices, the benefit may not flow through to lower retail prices (since the benefit may be retained by the wholesaler or retailer).

Price levels

The data analysis in section 3.4 compared terminal gate prices against a number of indicators. It also examined Melbourne average retail prices against the benchmark of the IPI. The results of that analysis are summarised below.

Variation in terminal gate prices

There appears to have been a reasonable range of terminal gates prices published by the five declared companies. Over the period 14 August 2001 to 30 September 2002, the average difference between the highest terminal gate price and the lowest terminal gate price was 2.2 cpl. The largest difference on any given day between the highest and lowest terminal gate price was 6.7 cpl and the smallest difference on any given day was 0.7 cpl. Overall, Mobil had the highest terminal gate prices and Shell the lowest.

Terminal gate prices compared with average retail prices

In the first two months immediately following the introduction of the TGP arrangements in Victoria there were a significant number of days when at least one of the terminal gate prices of the five declared companies was above the average daily retail price in Melbourne. In August 2001 this occurred on seven days and in September 2001 it occurred on 14 days. Since then the number of days on which it has occurred has declined. In only one subsequent month (February 2002) has this exceeded two days.

Over the period 14 August 2001 to 30 September 2002, all of the terminal gate prices of the five declared companies were below average daily retail prices in Melbourne on 92 per cent of days. At least one of the terminal gate prices of the five declared companies was above average daily retail prices in Melbourne on 8 per cent of days (with all of the terminal gate prices being above average daily retail prices on 2 per cent of days).

Many retailers have concerns when terminal gate prices are above average retail prices and, if this situation continues for a sustained period, their viability may be threatened. It is not clear why there was a high incidence of this in the two months following the introduction of the TGP arrangements. It may have been a transition effect as the five declared companies became familiar with the TGP arrangements. Alternatively, it may have resulted from a period of heavy competition in the retail market. The Commission understands that one retailer may have been strongly seeking to increase its turnover at that time.

Terminal gate prices compared with the import parity indicator

The terminal gate prices of the five declared companies have tended to be relatively stable against the IPI. Over the period August 2001 to September 2002, the average monthly difference between the IPI for Melbourne and the terminal gate prices of the five companies was 5.9 cpl and it ranged from a low of 5.5 cpl to a high of 6.4 cpl.

The average monthly difference between the IPI for Melbourne and the terminal gate prices of the five declared companies ranged from 5.1 cpl (for Mobil) to 7.1 cpl (for Shell). On an individual company basis, the monthly average differences did not vary significantly and they tended to be fairly close to the average difference over the 14-month period.

Melbourne average retail prices compared with the import parity indicator

A comparison of average retail prices with the IPI for Melbourne for the 13 and a half months since 14 August 2001 with a similar period prior to 14 August 2001 indicates that average retail prices increased by 1.0 cpl relative to the IPI.

In the period since the introduction of the TGP arrangements (ie. 14 August 2001 to 30 September 2002) average daily retail prices were on average 1.2 cpl lower than the IPI. However, in the period prior to the introduction of the TGP arrangements (ie. 1 July 2000 to 13 August 2001) average daily retail prices were 2.2 cpl lower than the IPI.

The increase in average retail prices against the benchmark IPI can be seen in a longer term context in the data provided in appendix A, which provides data for the period July 1998 to June 2002. It can be seen that in the period January to June 2002 the differential between average retail prices and the IPI in Melbourne was 1.1 cpl. This was the lowest difference over the eight half-year periods between July 1998 and June 2002.

This increase in average retail prices is consistent with the conclusion in the variability report. As noted earlier, some of the oil majors told the Commission that Victorian TGP arrangements had led to less discounting from the terminal gate price and that any discounting is within a narrower band. One of the larger independents also suggested this was the case. The removal of discounts, particularly to the larger independent chains, reduces the degree of competition in the marketplace and leads to higher average prices.

However, it is not possible to conclude with certainty that the increase in average retail prices has resulted from the TGP arrangements, because the extent to which the TGP arrangements are operative in the petroleum market in Victoria is not clear. Moreover, the increase in average retail prices may be a result of factors (such as the exit of Liberty from the retail market in Melbourne and the cessation of the refinery exchange arrangements between the four major refiner/marketers) unrelated to the introduction of the TGP arrangements.

Price cycles

The introduction of the TGP arrangements in August 2001 has had minimal effect on the price cycles in Melbourne. A comparison of the characteristics of price cycles in the 13 and a half months since the introduction of the TGP arrangements (ie. 14 August 2001 to 30 September 2002) with the 13 and a half months prior (ie. 1 July 2000 to 13 August 2001) shows that:

- The average variation of price cycles increased marginally. It went from 6.5 cpl in the period prior to 14 August 2001 to 6.8 cpl in the period 14 August 2001 to 30 September 2002.
- The average duration of price cycles also increased marginally. It went from

8.3 days in the period 1 July 2000 to 13 August 2001 to 8.6 days in the period 14 August 2001 to 30 September 2002.

- The most common days of the week on which prices peak and trough stayed the same. Saturday remained the most common day for prices to peak and Thursday remained the most common day for prices to trough.

3.5.8 City-country differential

The analysis in section 3.4.8 indicated that in the period after the introduction of the TGP arrangements in Victoria the city-country differential declined by 0.8 cpl. In the period broadly 13 months prior to the introduction of TGP (ie. August 2000 to August 2001) the city-country differential was 5.6 cpl. In the period broadly 13 months after the introduction of TGP (ie. September 2001 to September 2002) it was 4.8 cpl.

Over this period, there was a decline in the city-country differential in all of the other states, except New South Wales (which increased by 0.2 cpl) and the Northern Territory (which increased by 1.0 cpl). However, the decrease in the city-country differential in Victoria was smaller than the decreases in the other four states in which the city-country differential declined.

Comparing country prices against the IPI indicates that country prices increased by 0.5 cpl in the period after the introduction of the TGP arrangements. A comparison of city prices against the IPI indicates that city prices increased relative to the IPI by 1.3 cpl. The reason for the decrease in the city-country differential in Victoria was that the increase in city prices was greater than the increase in country prices.

It has been suggested that TGP arrangements may lead to a lowering of country prices. This has not been the case in Victoria to date. The increase in country prices in Victoria in the broadly 13 months after the introduction of the TGP arrangements was (with Western Australia) the largest increase in the differential between country prices and the IPI.

As with the increase in average retail prices in Melbourne noted earlier, it is not possible to conclude that the increase in country prices in Victoria has resulted from the TGP arrangements. The extent to which the TGP arrangements are operative in the petroleum market in Victoria is not clear. Moreover, as with Melbourne prices, the increase in average retail prices in country areas may be a result of factors unrelated to the introduction of the TGP arrangements.

3.6 Conclusion

The aim of the Victorian TGP arrangements is to increase the transparency of pricing and to provide access to product at terminals at competitive wholesale prices for all distributors and retailers. In the short term there was not expected to be an effect on prices. However, by opening new opportunities for distributors and retailers it was considered that the arrangements may ultimately lead to more competitive prices.

In monitoring the Victorian TGP arrangements the Commission has found it difficult to form a view on their impact because the extent to which they apply to the petroleum market in Victoria is not clear. The spot market is fairly small in Victoria and there have not been many sales. The vast majority of sales are under contract. The TGP arrangements apply to contracts entered into after 1 August 2001. However, contracts entered into between 1 November 2000 and 1 August 2001 become void to the extent that they are inconsistent with the Petroleum Products Act. On the basis of the information available to the Commission it has not been possible to determine how many contracts fall under the TGP arrangements.

In terms of transparency, the Government's objectives appear to have been achieved. Terminal gate prices are available on the companies' websites and provide a benchmark for the industry and consumers. The requirement that invoices include the costs of any additional services provided (such as brand, credit and freight etc) allows retailers to see what they are paying for. With respect to access, some smaller independents appear to have been able to access fuel at spot terminal gate prices. However, a larger independent informed the Commission that it had been unable to source as much fuel as it wished from the spot market.

The five declared companies that publish terminal gate prices expressed a number of concerns to the Commission about the operation of the TGP arrangements. Many of these related to the formula for determining the terminal gate price. Some of the companies also commented that the TGP arrangements impose administrative costs. Some industry organisations commented that the TGP arrangements permit the declared companies to discount off the published terminal gate prices. Therefore, these prices may not reflect the actual prices paid.

The introduction of the TGP arrangements in August 2001 has had minimal effect on the price cycles in Melbourne. However, average retail prices in Melbourne compared with the IPI have increased by 1.0 cpl, and average country prices in Victoria have increased by 0.5 cpl, since the introduction of the TGP arrangements.

This increase in average retail prices is consistent with the conclusion in the variability report. The Commission heard from some oil companies that the Victorian TGP arrangements had led to less discounting from the terminal gate price and that any discounting is within a narrower band. One of the larger independents also suggested this was the case. The removal of discounts, particularly to the larger independent chains, reduces the degree of competition in the marketplace and leads to higher average prices.

However, it is not possible to conclude with certainty that the increase in average retail prices has resulted from the TGP arrangements. This is because the extent to which the TGP arrangements apply to the petroleum market is not clear. Furthermore, the increase in average retail prices may be a result of factors (such as the exit of Liberty from the retail market in Melbourne and the cessation of the refinery exchange arrangements between the four major refiner/marketers) unrelated to the introduction of the TGP arrangements.

4. Terminal gate pricing arrangements introduced by the oil companies in 2002

4.1 Introduction

This chapter examines the TGP arrangements introduced by the oil companies in 2002. The Government asked the Commission to report on the impact of the TGP measures announced by Shell and Caltex (in February and May 2002 respectively) on regional petrol prices. Since BP announced the introduction of TGP arrangements on 1 June 2002, these have also been included in the analysis.

4.2 Details of the arrangements

The TGP arrangements announced by the companies are described in this section.

4.2.1 Shell

Shell introduced its TGP arrangements on 13 February 2002.[22] It described a terminal gate price as a wholesale price for bulk fuel available to anyone purchasing fuel directly from the terminal.

Shell said that its TGP arrangements provide a simple and consistent pricing system. They would increase fairness and transparency in wholesale petroleum markets and will help bring clarity to the petrol pricing debate. Shell thought that its terminal gate prices should facilitate a reduction in country pump prices. However, they would be unlikely to have an impact on city petroleum markets.

The terminal gate price was available to all wholesale customers for petrol purchased directly from Shell's terminals, including country service station operators, off-road users (such as farmers) and independent service stations.

Shell said that its previous wholesale price had been based on the Commission's wholesale pricing formula (which was based on an import parity product cost plus 7.1 cpl to cover all marketing costs). Discounts were negotiated on a case-by-case basis. Under the TGP arrangements, Shell said that it was now adding 1 to 2 cpl to the import parity price, as opposed to discounting from the 7.1 cents a litre. Shell said that the discounts are now built into the terminal gate price.

Features of Shell's TGP arrangements are:

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[22] Shell media release, 'Shell's new national terminal gate price: "fairer, simpler and more transparent", 13 February 2002.

- The terminal gate price is available for purchases on a spot basis, as well as for longer-term contracts.
- The terminal gate price is the sum of: product cost (Singapore price plus freight, insurance and wharfage), plus excise, plus terminal operation and administration charge, plus GST.
  - The terminal operation and administration charge is generally about 1.0-2.0 cpl at the larger terminals. Smaller terminals (such as Darwin and Hobart) have higher unit costs.
- Additional services, such as freight, are quoted separately.
- Access to Shell's terminals to purchase petrol at the terminal gate price is dependent on the vehicle and driver meeting a range of statutory and other safety and environmental requirements. Vehicles and drivers must be accredited with Shell and undergo mandatory terminal induction training, provided for a small fee.
- Customers are required to pick up a full tanker load and make payment in full prior to pick up via telegraphic transfer (real time gross settlement).
- Terminal gate prices are available on Shell's website.
- Shell's terminal gate prices are generally changed to come into effect each Tuesday and Friday.
- The terminals initially included were: Sydney, Melbourne, Brisbane, Adelaide, Hobart and Darwin. On 20 August 2002, Shell subsequently introduced TGP arrangements at four country terminals in Queensland (Gladstone, Mackay, Townsville and Cairns).
- Terminal gate prices are not listed for Perth.
- Shell noted that the Western Australian Government sets a mandatory terminal gate price for Perth and commented that this price often falls below Shell's cost of supply and therefore Shell only supplies contracted customers in Perth.

4.2.2 Caltex

Caltex introduced TGP arrangements for spot purchases of petrol at its seaboard terminals on 7 May 2002.[23] The arrangements applied to all Caltex terminals except those in Victoria and Western Australia. Caltex described the terminal gate price as a spot price for a full road tanker load of fuel paid in cash.

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[23] Caltex media release, 'Caltex announces new terminal gate pricing policy', 7 May 2002.

Caltex said that the new terminal gate prices will help increase price transparency and were a response to competition in the petroleum market. It noted that consumers will be able to compare wholesale prices available at the terminal gate with retail prices. Caltex also expressed concern that existing regulation of terminal gate prices in Western Australia and Victoria could seriously distort the petroleum market to the detriment of the industry and consumers. Caltex said it opposed regulated terminal gate prices.

Caltex considered that the TGP arrangements would be particularly relevant to customers wanting bulk supply on a spot basis without additional services, such as farmers and rural co-operatives.

Caltex did not anticipate any significant effect on country or city prices arising from the TGP arrangements.

Features of Caltex's TGP arrangements are:

- The terminal gate price is built up from the buy/sell price (which reflects the import parity price of a product). Consideration is also given to competitors' prices and the prevailing demand and supply conditions. The buy/sell price incorporates a Platts Singapore base price, freight from Singapore (based on port and terminal capability, Worldscale flat rates and Platts shipping market rates), elements that allow for Australian and local quality parameters, an allowance for losses and insurance, and local cost components.

- Large bulk customers, such as large independent retail service chains or large commercial customers, may be able to negotiate a slightly better price.

- The terminal gate price is a price for fuel only. If Caltex provides additional services (eg. credit, delivery and brand), these are subject to a supply or franchise contract.

- Terminal gate prices are reviewed regularly, and changed according to competitive conditions. Generally, they have changed on Tuesday and Friday.

- The terminal gate price is available to any customer not covered by a current supply contract. Customers must comply with Caltex's terminal access procedures.

- The TGP arrangements do not apply to franchised service station dealers or franchised distributors who are covered by franchise agreements.

- New commercial contracts may be related to the terminal gate price or international pricing benchmarks. This is a matter for negotiation.

- The terminal gate prices are listed on the Caltex internet site.

- The terminals covered by the arrangements are: Sydney, Newcastle, Melbourne, Brisbane, Cairns, Gladstone, Townsville, Mackay, Hobart, Devonport, Adelaide, Port Lincoln and Darwin.

On 10 September 2002, Caltex introduced TGP for spot purchases at its country seaboard terminals in Western Australia.[24] These terminals are located in Albany, Esperance, Geraldton and Port Hedland.

This followed the announcement by the Western Australian Minister for Consumer and Employment Protection on 9 September 2002 that the State Government was reconsidering its position on regional price caps. Caltex stated: 'Market initiatives, such as the Caltex terminal gate prices, are much better than regulation and are capable of creating sustainable benefits for fuel users.' [25]

4.2.3 BP

BP introduced a spot terminal gate price in Adelaide, Brisbane, and Sydney on 1 June 2002. [26] BP noted that a spot terminal gate price for Melbourne was already published under Victorian legislation. BP described the terminal gate price as the price at which spot wholesale customers will be able to purchase full tanker loads of non-delivered motor spirit and diesel sold on a cash basis.

BP believed that publishing its terminal gate price would, at the wholesale level, provide price transparency and a genuine transparent marker price. It would also promote competition at the wholesale level and facilitate understanding of petrol pricing.

BP commented that it had introduced a contracted terminal gate price in June 1998 and that around half of all BP's volume sold in Australia is at a contracted terminal gate price.

Features of the BP arrangements are:

- The terminal gate price comprises the cost of producing the fuel and delivering it to a terminal along with an element of profit.
- Terminal gate prices are publicly available on BP's website.
- The prices are for full tanker loads (35,000 litres) and do not include delivery, insurance or any other government charges.

[24] Caltex media release, 'Caltex introduces terminal gate pricing in Western Australia', 10 September 2002.

[25] Ibid.

[26] BP press release, 'BP makes wholesale fuel pricing more transparent', 1 June 2002.

- Orders must be placed the day before collection and all product must be prepaid by cleared funds into BP's account the day before collection from the terminal.

- Sales are subject to health, safety and environment and any legal or other requirements.

- Terminal gate prices are not listed for Perth, as the Western Australian Government controls spot petrol prices in Western Australia.

- BP generally changes its terminal gate prices on Tuesday and Friday.

4.2.4 Comparison

A comparison of the TGP arrangements introduced by Shell, Caltex and BP in 2002 shows that there are a number of differences between them. A summary of some of the key features of the TGP arrangements are shown in table 4.1.

Type of sales included in the arrangements

The Shell TGP arrangements apply to spot and contract sales. However, the Commission understands that they do not apply to franchisees. The Caltex TGP arrangements apply to spot sales only and exclude any customer with a current supply contract, including franchisees. The BP TGP arrangements apply to spot sales only. However, BP has had TGP arrangements for contract sales in place since June 1998 (under these arrangements the terminal gate price is not available to franchisees).

Discounts

Shell commented that discounts are built into the terminal gate price. Caltex noted that large bulk customers (such as large independent retail service chains or large commercial customers) may be able to negotiate a slightly better price. BP did not address this point in their media release.

Method of calculating the terminal gate price

Shell's terminal gate price is the sum of: product cost (Singapore price plus freight, insurance and wharfage), plus excise, plus terminal operation and administration charge, plus GST. For BP, the terminal gate price comprises the cost of producing the fuel and delivering it to a terminal along with an element of profit. Caltex's terminal gate price is built up from the buy/sell price (which reflects the import parity price of a product). Consideration is also given to competitors' prices and the prevailing demand and supply conditions.

Frequency of terminal gate price changes

All three companies generally change their terminal gate prices on Tuesday and Friday.

Purpose of the TGP arrangements

Shell said that its TGP arrangements provide a simple and consistent pricing system. It would increase fairness and transparency in wholesale petroleum markets and will help bring clarity to the petrol pricing debate. BP believed that publishing its terminal gate price would, at the wholesale level, provide price transparency and a genuine transparent marker price. It would also promote competition at the wholesale level and facilitate understanding of petrol pricing.

Caltex said that the new terminal gate prices will help increase price transparency and were a response to competition in the petroleum market. It was noted that consumers will be able to compare wholesale prices available at the terminal gate with retail prices. Caltex also expressed concern that existing regulation of terminal gate prices in Western Australia and Victoria could seriously distort the petroleum market to the detriment of the industry and consumers. Caltex said it opposed regulated terminal gate prices.

Price effects

Shell thought that their terminal gate prices should facilitate a reduction in country pump prices but they were unlikely to have an impact on city petroleum markets. Caltex did not anticipate any significant effect on country or city prices arising from the TGP arrangements. BP did not address this point in their press release, but have subsequently commented that in country areas TGP may lead to efficiencies at the wholesale and distribution level.

Coverage

The terminals included in Shell's TGP arrangements were initially Sydney, Melbourne, Brisbane, Adelaide, Hobart and Darwin. Subsequently Shell introduced TGP arrangements at four country terminals in Queensland (Gladstone, Mackay, Townsville and Cairns). BP's TGP arrangements apply to terminals in Adelaide, Brisbane, Melbourne and Sydney.

The terminals covered by the Caltex's TGP arrangements were initially: Sydney, Newcastle, Brisbane, Cairns, Gladstone, Townsville, Mackay, Hobart, Devonport, Adelaide, Port Lincoln and Darwin. However, in September 2002 Caltex introduced TGP for spot purchases at its country seaboard terminals in Western Australia (Albany, Esperance, Geraldton and Port Hedland).

Table 4.1: Comparison of terminal gate pricing arrangements introduced by Shell, Caltex and BP in 2002

	Shell	Caltex	BP
Type of Sales	Spot and contract sales. It is understood that TGP does not apply to franchisees.	Spot sales only. Excludes current contracts (including franchisees.	Spot sales only. BP introduced TGP for contracts in June 1998. Franchisees are excluded.
Method of calculation	Cost based approach.	Cost based approach, but also takes into account competitor's prices and demand and supply conditions.	Cost based approach.
Frequency of change	Generally Tuesday and Friday.	Generally Tuesday and Friday.	Generally Tuesday and Friday.
Coverage	Sydney, Melbourne, Brisbane, Adelaide, Hobart, Darwin, Gladstone, Mackay, Townsville, Cairns.	Sydney, Newcastle, Melbourne, Brisbane, Cairns, Gladstone, Townsville, Mackay, Hobart, Devonport, Adelaide, Port Lincoln, Darwin, Albany, Esperance, Geraldton, Port Hedland.	Adelaide, Brisbane, Melbourne, Sydney.

Source: Shell, Caltex and BP

4.2.5 Terminal gate prices of other companies

The other major oil company – Mobil – also publishes terminal gate prices, as does Trafigura (a petrol importer into Melbourne and Sydney).

Mobil currently publishes a terminal gate price on its website for Sydney, Melbourne, Brisbane, Adelaide and Perth. The terminal gate price in Melbourne is in accordance with the Victorian TGP arrangements. In the other cities, however, Mobil's terminal gate prices are different from the other companies' terminal gate prices in that they are essentially a reference point and a starting point for negotiations. As a result, they should be considered separately from the terminal gate prices of the other companies.

Trafigura currently publishes a terminal gate price on its website for Sydney and Melbourne. The terminal gate price in Victoria is in accordance with the Victorian TGP arrangements. Trafigura have been publishing a terminal gate price in Sydney since early 2002.

4.3 Data Analysis

This section analyses the terminal gate prices of Shell, Caltex and BP since 1 June 2002. From that day, all three companies were publishing terminal gate prices.

4.3.1 Terminal gate prices of the oil companies

This section analyses the terminal gate prices of the oil companies in Sydney, Brisbane and Adelaide.[27] These are the only cities – in the states other than Western Australia and Victoria – where all three companies publish terminal gate prices.

The terminal gate prices of the five declared companies in Melbourne are included for comparison purposes. The terminal gate prices in Melbourne are determined in accordance with the Victorian TGP arrangements (see section 3.3) and it is instructive to compare the terminal gate prices under the arrangements voluntarily introduced by the companies with those under a regulated arrangement.

Sydney

Chart 4.1 shows the terminal gate prices of BP, Caltex, Shell and Trafigura in Sydney from 1 June to 30 September 2002 (a period of 122 days).

Of the terminal gate prices of BP, Caltex, Shell and Trafigura:[28]

- Trafigura generally had the highest terminal gate prices compared with the other companies.
    - Trafigura had the highest terminal gate prices on 105 days out of 122 days (86 per cent).

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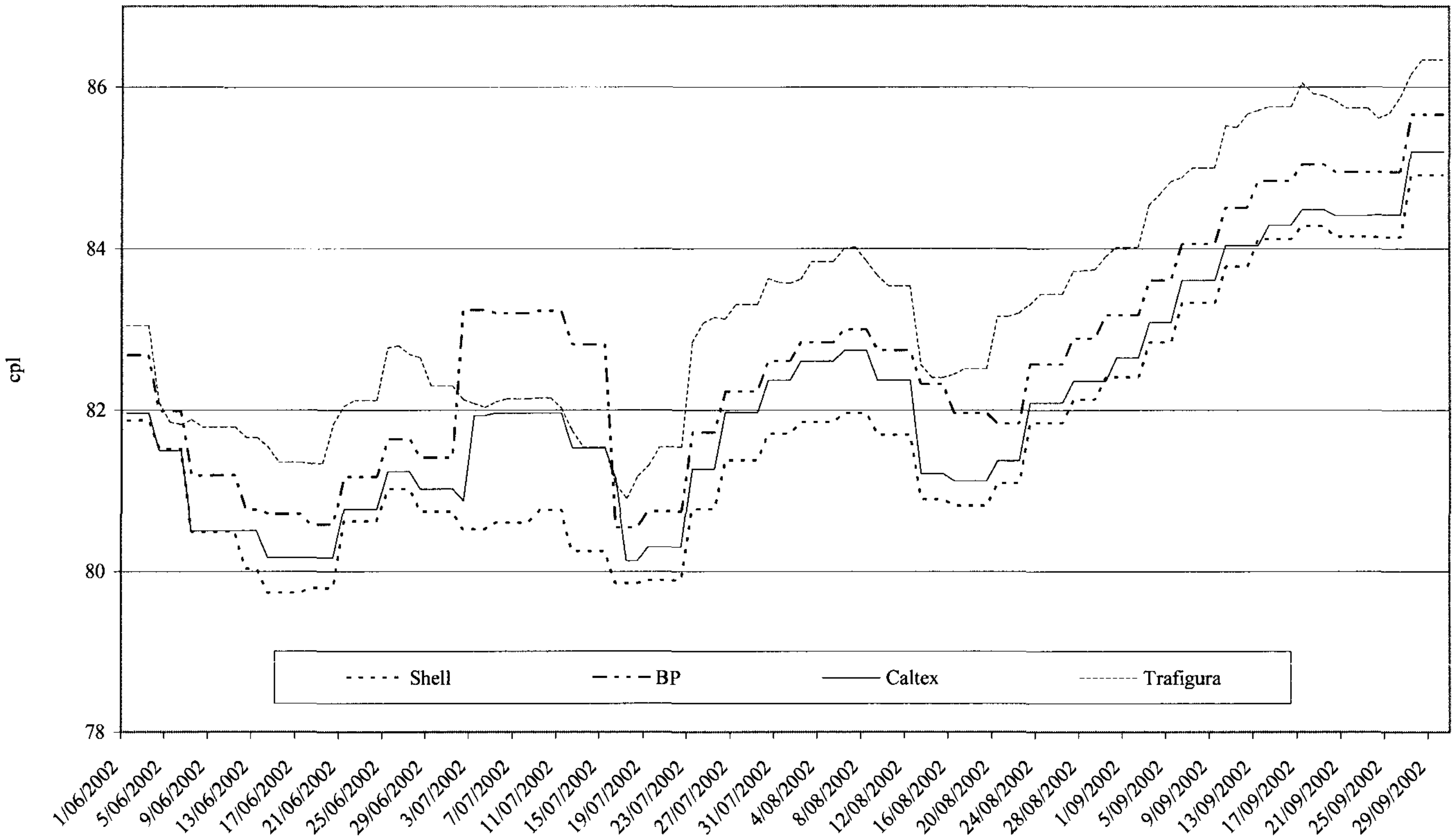
[27] The data on terminal gate prices was derived from the price lists published by the companies and available on their websites.

[28] If Mobil's terminal gate prices are included in the analysis: they are always higher than the other companies' terminal gate prices; the average difference between the highest terminal gate price and the lowest becomes 5.0 cpl; and the average difference between Mobil's terminal gate prices and the average of the other companies' terminal gate prices was 4.2 cpl.

If Trafigura's terminal gate prices are excluded and the analysis only considers the terminal gate prices of BP, Caltex and Shell: BP generally had the highest terminal gate prices compared with the other companies. BP had the highest terminal gate prices on 121 days out of 122 days (99 per cent) and the average difference between the highest terminal gate price and the lowest was 1.0 cpl.

- Shell had the lowest terminal gate prices on 117 days out of 122 days (96 per cent).
- The average difference between the highest terminal gate price and the lowest was 1.7 cpl.
- The largest difference on any given day between the highest and the lowest terminal gate price was 2.7 cpl.
- The smallest difference on any given day between the highest and lowest terminal gate price was 0.5 cpl.

Chart 4.1: Terminal gate prices of BP, Caltex, Shell and Trafigura – Sydney – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Shell and Trafigura

Note: Due to technical reasons page 98 does not exist.

Brisbane

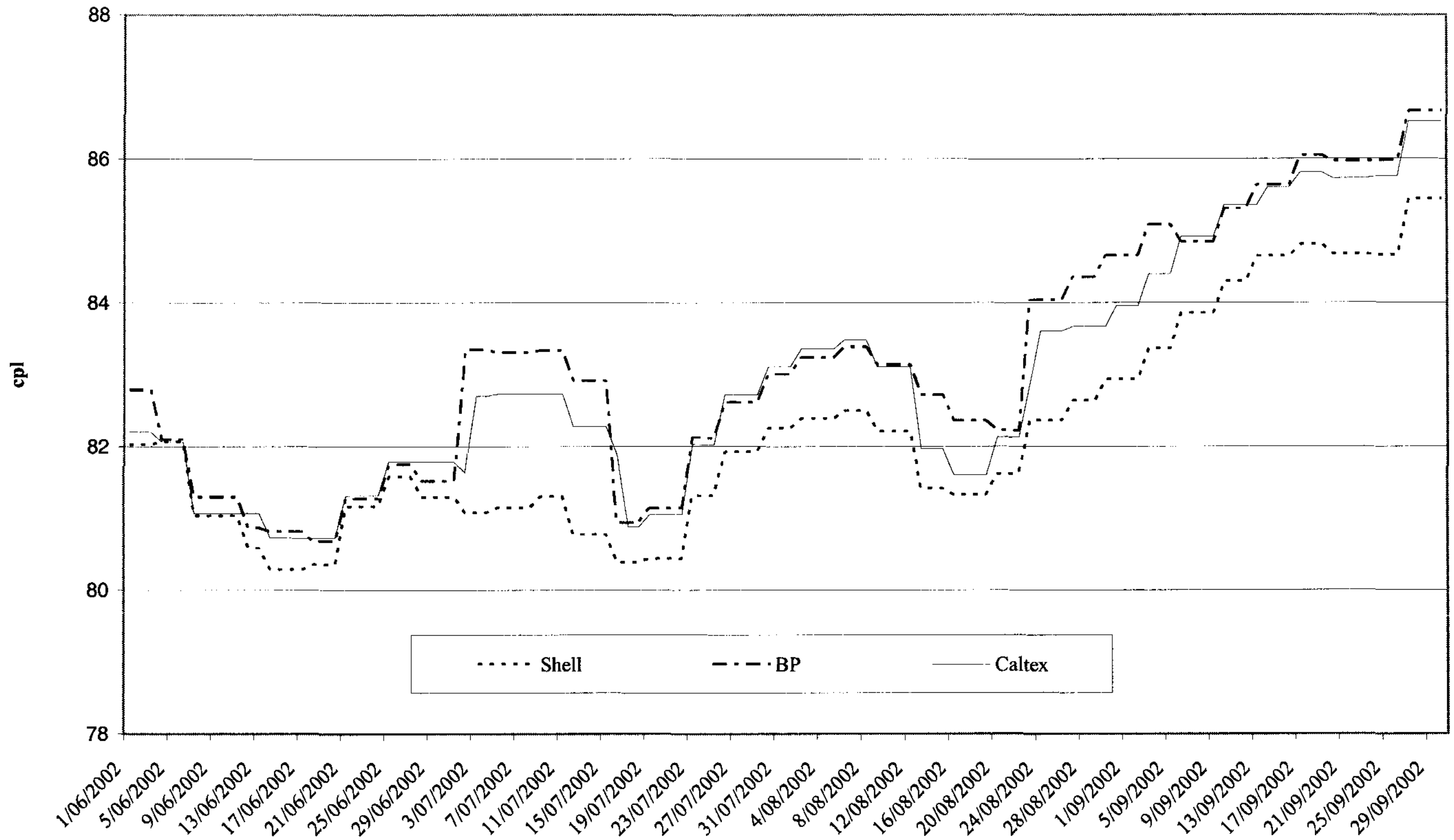
Chart 4.2 shows the terminal gate prices of BP, Caltex and Shell in Brisbane from 1 June to 30 September 2002.

Of the terminal gate prices of BP, Caltex and Shell:[29]

- BP generally had the highest terminal gate prices compared with the other companies.
    - BP had the highest terminal gate prices on 84 days out of 122 days (69 per cent).
- Shell had the lowest terminal gate prices on all 122 days (100 per cent). However, on three consecutive days, BP had the same terminal gate price as Shell.
- The average difference between the highest terminal gate price and the lowest was 1.1 cpl.
- The largest difference on any given day between the highest and the lowest terminal gate price was 2.3 cpl.
- The smallest difference on any given day between the highest and lowest terminal gate price was 0.03 cpl.

[29] If Mobil's terminal gate prices are included in the analysis: they are always higher than the other companies' terminal gate prices; the average difference between the highest terminal gate price and the lowest becomes 4.4 cpl; and the average difference between Mobil's terminal gate prices and the average of the other companies' terminal gate prices was 3.8 cpl.

Chart 4.2: Terminal gate prices of BP, Caltex and Shell – Brisbane – unleaded petrol – 1 July 2002 to 30 September 2002



Sources: BP, Caltex and Shell

Adelaide

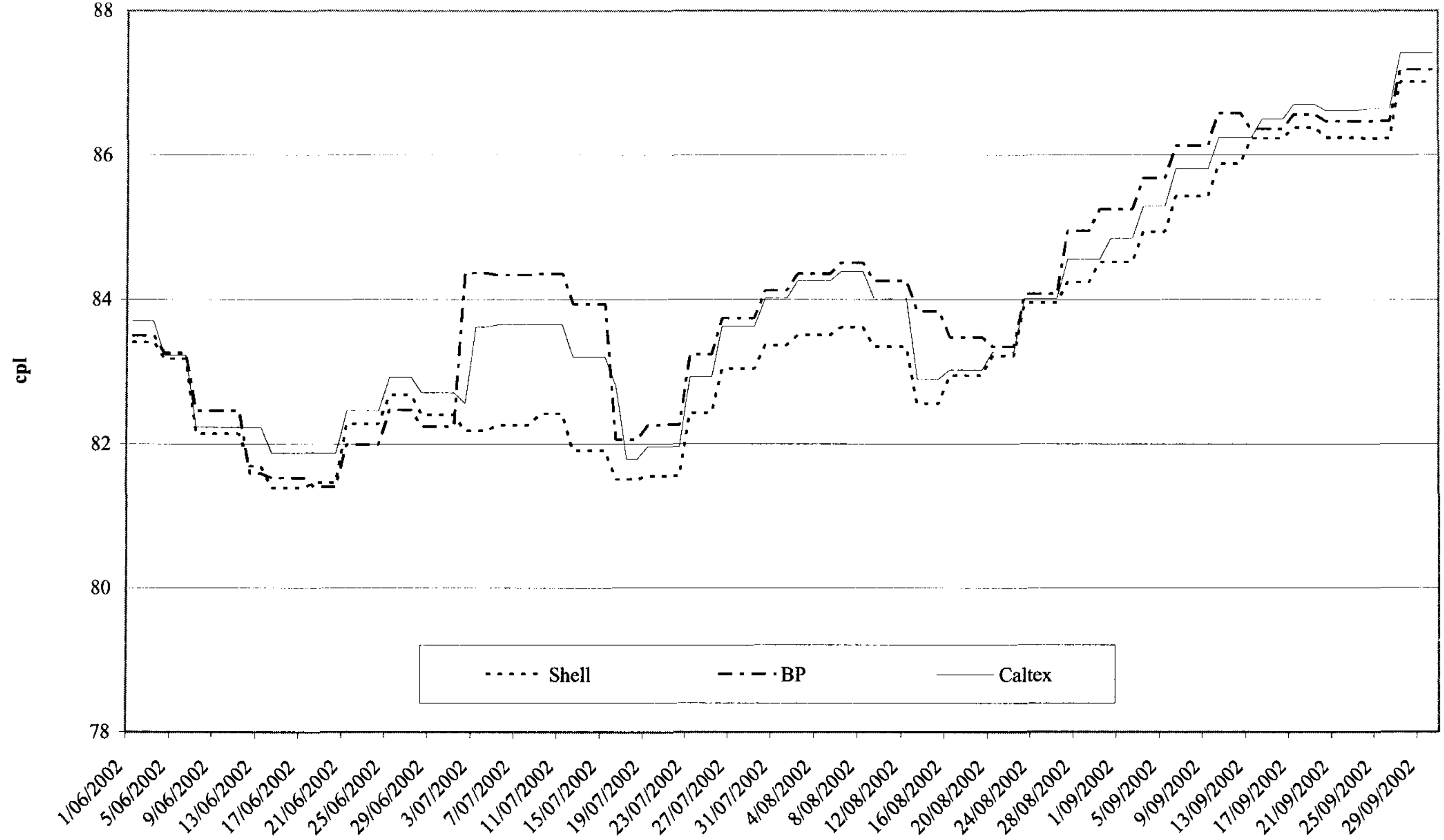
Chart 4.3 shows the terminal gate prices of BP, Caltex and Shell in Adelaide from 1 June to 30 September 2002.

Of the terminal gate prices of BP, Caltex and Shell:[30]

- BP generally had the highest terminal gate prices compared with the other companies.
  - BP had the highest terminal gate prices on 81 days out of 122 days (66 per cent).
- Shell had the lowest terminal gate prices on 106 days out of 122 days (87 per cent).
- The average difference between the highest terminal gate price and the lowest was 0.7 cpl.
- The largest difference on any given day between the highest and the lowest terminal gate price was 2.2 cpl.
- The smallest difference on any given day between the highest and lowest terminal gate price was 0.1 cpl.

[30] If Mobil's terminal gate prices are included in the analysis: they are always higher than other companies' terminal gate prices; the average difference between the highest terminal gate price and the lowest becomes 3.9 cpl; and the average difference between Mobil's terminal gate prices and the average of the other companies' terminal gate prices was 3.5 cpl.

Chart 4.3: Terminal gate prices of BP, Caltex and Shell – Adelaide – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex and Shell

Melbourne

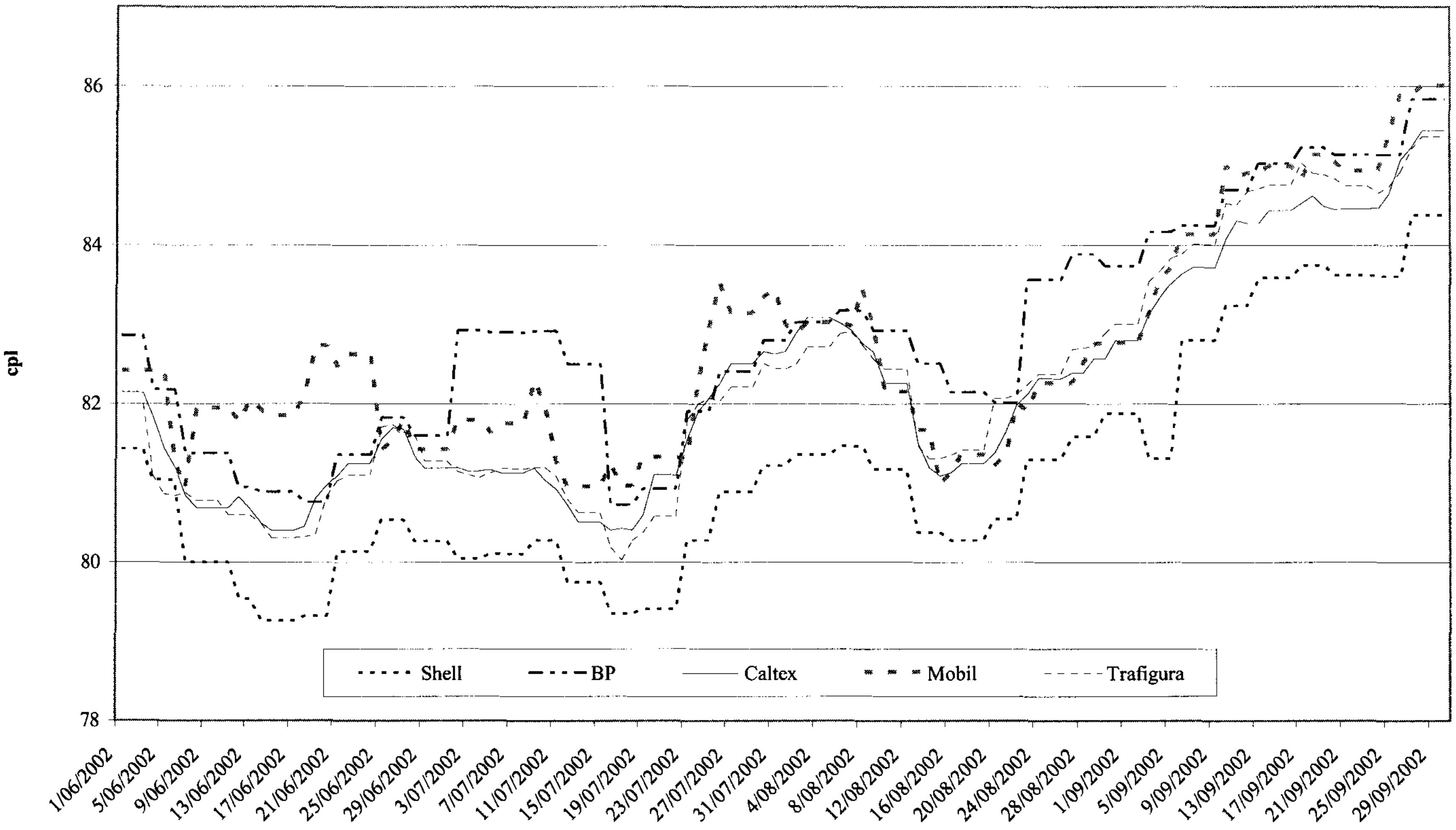
Chart 4.4 shows the terminal gate prices of BP, Caltex, Mobil, Shell and Trafigura in Melbourne from 1 June to 30 September 2002. Mobil's terminal gate prices are included in this analysis as they have been determined in accordance with the Victorian TGP arrangements.

Melbourne's terminal gate prices are included to enable a comparison of terminal gate prices under the arrangements introduced voluntarily by the companies with those under a regulated TGP arrangement.

It can be seen that:

- BP or Mobil generally had the highest terminal gate prices compared with the other companies.
  - BP had the highest terminal gate prices on 69 days out of 122 days (57 per cent).
  - Mobil had the highest terminal gate prices on 46 days out of 122 days (38 per cent).
- Shell had the lowest terminal gate prices on 120 days out of 122 days (98 per cent).
- The average difference between the highest terminal gate price and the lowest was 2.0 cpl.
- The largest difference on any given day between the highest and the lowest terminal gate price was 3.4 cpl.
- The smallest difference on any given day between the highest and lowest terminal gate price was 1.3 cpl.

Chart 4.4: Terminal gate prices of the five declared companies – Melbourne – unleaded petrol – 1 June 2000 to 30 September 2002



Sources: BP, Caltex, Mobil, Shell and Trafigura

Comparison

Table 4.2 shows the company which generally had the highest and lowest terminal gate prices for each city during the period 1 June to 30 September 2002. It also shows the average difference between the highest and lowest terminal gate prices for each city.

Table 4.2: Highest and lowest priced company and average difference between the highest and lowest terminal gate price – Sydney, Brisbane, Adelaide and Melbourne – 1 June 2002 to 30 September 2002

City	Highest priced company	Lowest priced company	Average difference between highest and lowest terminal gate price
	cpl	cpl	cpl
Sydney	Trafigura	Shell	1.7
Brisbane	BP	Shell	1.1
Adelaide	BP	Shell	0.7
Melbourne	BP	Shell	2.0

Source: ACCC data, BP, Caltex, Mobil, Shell and Trafigura

In Sydney, Trafigura was the company with the highest terminal gate prices, whereas in Brisbane and Adelaide, BP had the highest terminal gate prices. Shell had the lowest terminal gate prices in Sydney, Brisbane and Adelaide. The average difference between the highest and the lowest terminal gate price ranged from 0.7 cpl in Adelaide to 1.7 cpl in Sydney.[31]

By comparison, in Melbourne BP was the company with the highest terminal gate prices and Shell had the lowest. This is consistent with the results of the other cities. However, the average difference between the highest and lowest terminal gate prices in Melbourne was 2.0 cpl, which was higher than the average difference in the other cities. It is interesting that the range was higher under the regulated TGP arrangements in Victoria than under the TGP arrangements voluntarily introduced by the companies in the other states.

[31] If Trafigura is excluded from Sydney, BP is the company with the highest terminal gate prices and the average difference between the highest and the lowest terminal gate price in Sydney is 1.0 cpl.

4.3.2 Terminal gate prices of the oil companies and average daily retail prices

This section provides data on the terminal gate prices of the oil companies compared with average daily retail unleaded petrol prices in Sydney, Brisbane, Adelaide and Melbourne.

Sydney

Chart 4.5 shows the terminal gate prices of BP, Caltex, Shell and Trafigura and average daily retail unleaded petrol prices in Sydney between 1 June and 30 September 2002. It shows that:

- All of the terminal gate prices were below average daily retail prices in Sydney on 119 days (98 per cent).
- At least one of the terminal gate prices was above average daily retail prices in Sydney on two days (2 per cent).
    - In each case the company was Trafigura. Its terminal gate prices were above the average retail prices on 25 June (by 0.07 cpl) and 29 July (by 0.01 cpl).
- On one day (1 per cent), Trafigura's terminal gate price was equal to the average retail price. This occurred on 1 July.
- There were no days on which all of the terminal gate prices were above average daily retail unleaded petrol prices in Sydney.

Table 4.3 shows the amount by which the average daily retail unleaded petrol prices in Sydney exceeded the terminal gate prices of BP, Caltex, Shell and Trafigura between 1 June to 30 September 2002. It also shows the largest and smallest difference between average daily retail unleaded petrol prices in Sydney and the terminal gate prices of the four companies. Where the terminal gate price of a company was above the average daily retail price, a negative amount is recorded as the smallest difference.

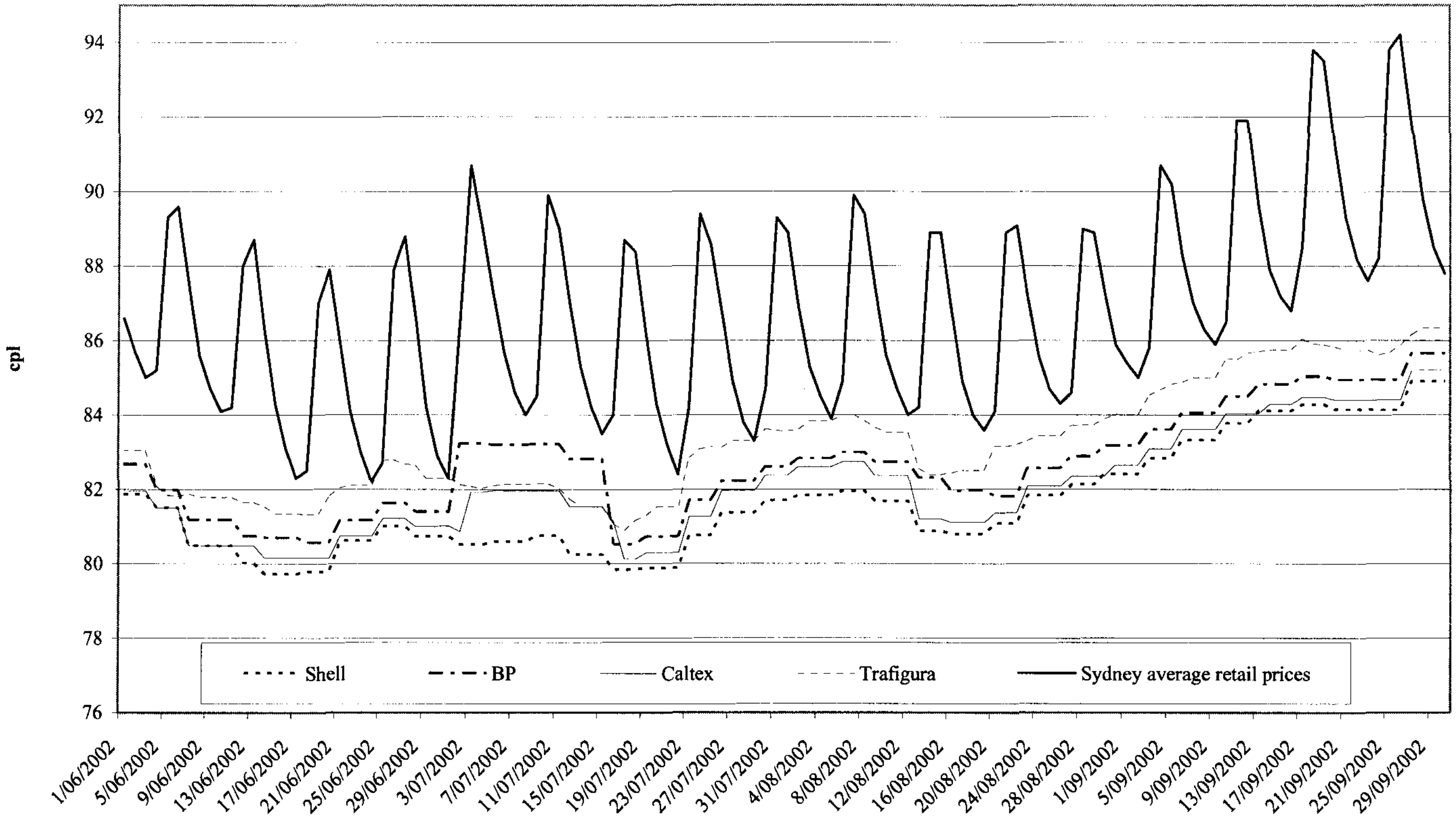
Table 4.3: Amount by which average daily retail unleaded petrol prices in Sydney exceeded the terminal gate prices of the companies – 1 June to 30 September 2002

	BP	Caltex	Shell	Trafigura
	cpl	cpl	cpl	cpl
Average	4.0	4.6	5.1	3.5
Largest difference	9.3	9.8	10.2	8.6
Smallest difference	0.7	1.3	1.6	-0.1

Source: ACCC data, BP, Caltex, Shell, Trafigura and Informed Sources

- The average amount by which average daily retail prices in Sydney exceeded the terminal gate prices of the companies ranged between 3.5 cpl (for Trafigura) and 5.1 cpl (for Shell).
  - The average difference across the four companies was 4.3 cpl.
- The greatest extent by which the average daily retail price in Sydney exceeded a terminal gate price over this period was 10.2 cpl for Shell's terminal gate price on 3 July. The average retail price was 90.7 cpl and Shell's terminal gate price was 80.5 cpl.
- The greatest extent by which a terminal gate price exceeded the average daily retail price in Sydney over this period was 0.07 cpl for Trafigura's terminal gate price on 25 June. The average retail price was 82.7 cpl and Trafigura's terminal gate price was 82.8 cpl.

Chart 4.5: Terminal gate prices of BP, Caltex, Shell and Trafigura and average daily retail prices – Sydney – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Shell, Trafigura and Informed Sources

Brisbane

Chart 4.6 shows the terminal gate prices of BP, Caltex and Shell and average daily retail unleaded petrol prices in Brisbane between 1 June and 30 September 2002. [32]

It can be seen that all of the terminal gate prices were below average daily retail prices on all days between 1 June and 30 September 2002.

Table 4.4 shows the amount by which the average daily retail unleaded petrol prices in Brisbane exceeded the terminal gate prices of the three companies between 1 June to 30 September 2002. It also shows the largest and smallest difference between average daily retail unleaded petrol prices in Brisbane and the terminal gate prices of the three companies.

Table 4.4: Amount by which average daily retail unleaded petrol prices in Brisbane exceeded the terminal gate prices of the companies – 1 June to 30 September 2002

	BP	Caltex	Shell
	cpl	cpl	cpl
Average	5.7	6.0	6.7
Largest difference	10.7	10.9	11.2
Smallest difference	1.8	1.5	2.0

Source: ACCC data, BP, Caltex, Shell and Informed Sources

- The average amount by which average daily retail prices in Brisbane exceeded the terminal gate prices of the companies ranged between 5.7 cpl (for BP) and 6.7 cpl (for Shell).
  - The average difference across the three companies was 6.1 cpl.
- The greatest extent by which the average daily retail price in Brisbane exceeded a terminal gate price over this period was 11.2 cpl for Shell's terminal gate price on 15 June. The average retail price was 91.5 cpl and Shell's terminal gate price was 80.3 cpl.
- The smallest extent by which the average daily retail price in Brisbane exceeded a terminal gate price was 1.5 cpl. On 1 July, Caltex's terminal gate price was 81.8 cpl and the average daily retail price was 83.3 cpl.

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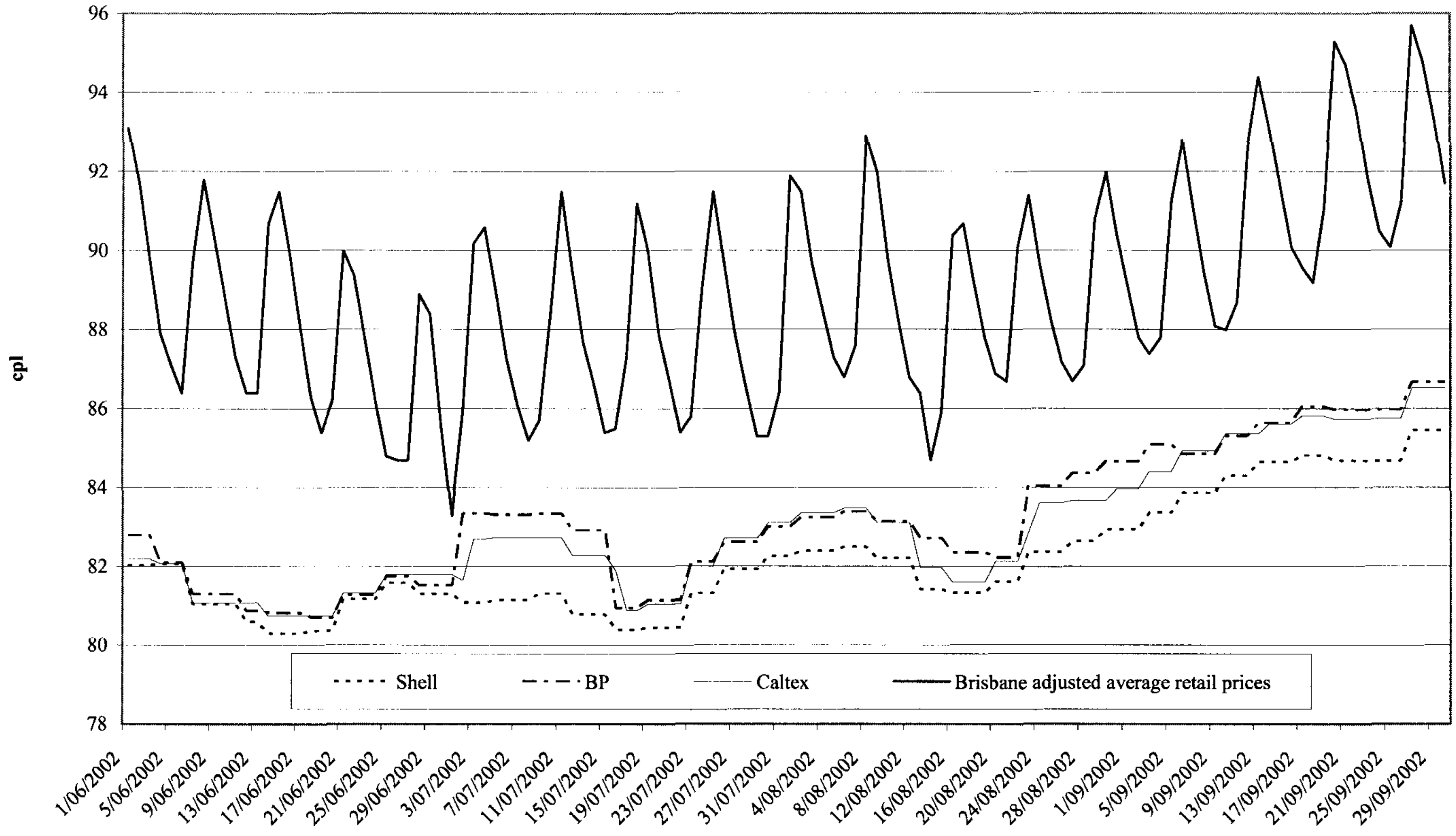
[32] Average daily retail prices in Brisbane have been adjusted upwards by 9.2 cpl to allow for the 8.4 cpl subsidy (plus GST effect) provided to retailers by the Queensland Government. This adjustment has been made so that the comparison of terminal gate prices and average retail prices is comparable with the other cities.

Chart 4.6: Terminal gate prices of BP, Caltex and Shell and adjusted daily retail prices – Brisbane – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Shell, ACCC data and Informed Sources

Adelaide

Chart 4.7 shows the terminal gate prices of BP, Caltex and Shell and average daily retail unleaded petrol prices in Adelaide between 1 June and 30 September 2002.

It shows that all of the terminal gate prices of BP, Caltex and Shell were below average daily retail prices in Adelaide on all days between 1 June to 30 September 2002.

Table 4.5 shows the amount by which the average daily retail unleaded petrol prices in Adelaide exceeded the terminal gate prices of the three companies between 1 June to 30 September 2002. It also shows the largest and smallest difference between average daily retail unleaded petrol prices in Adelaide and the terminal gate prices of the three companies.

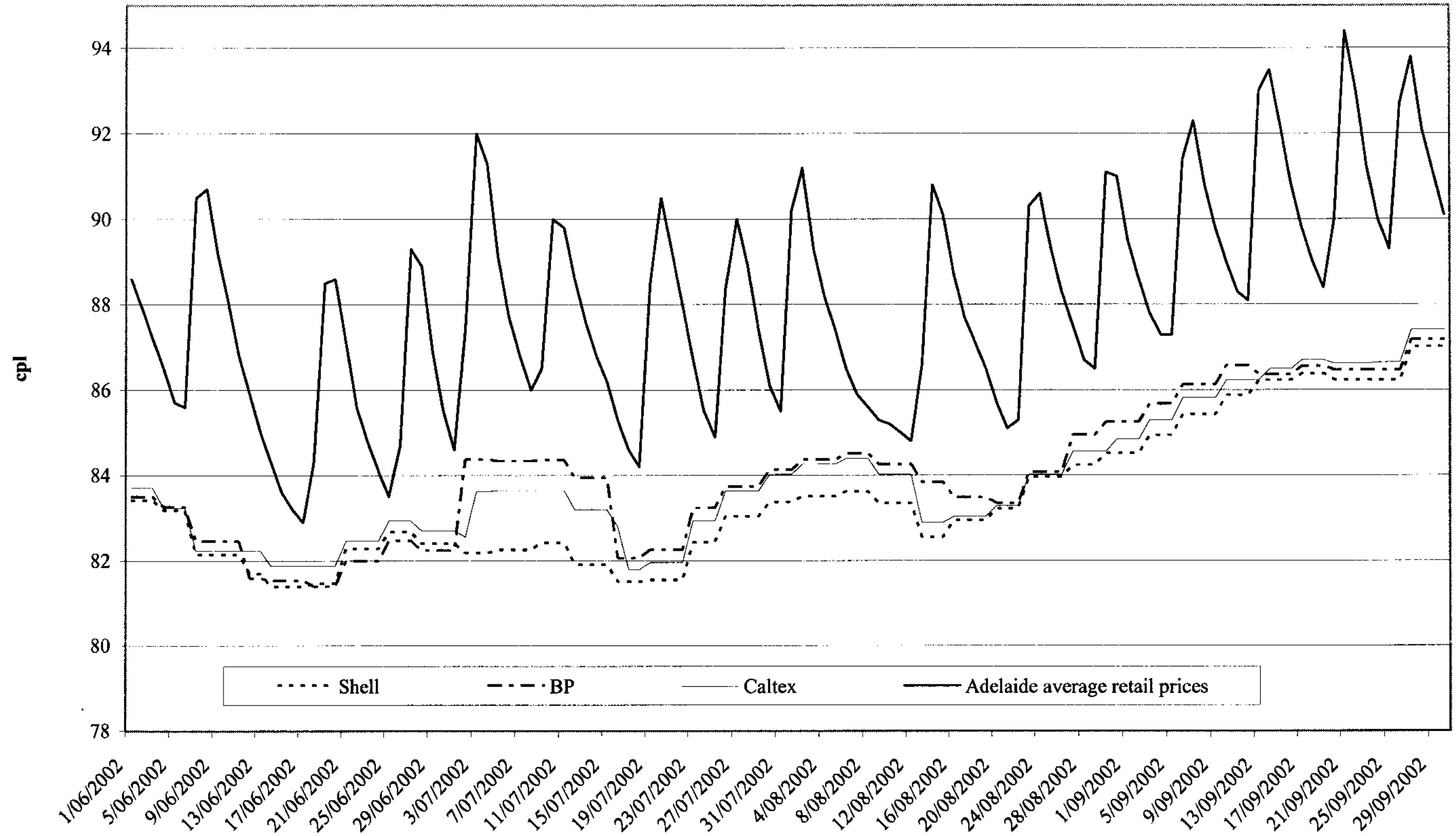
Table 4.5: Amount by which average daily retail unleaded petrol prices in Adelaide exceeded the terminal gate prices of the major companies – 1 June to 30 September 2002.

	BP	**Caltex**	**Shell**
	cpl	cpl	cpl
Average	4.0	4.1	4.6
Largest difference	8.2	8.5	9.8
Smallest difference	0.5	0.6	0.8

Source: ACCC data, BP, Caltex, Shell and Informed Sources

- The average amount by which average daily retail prices in Adelaide exceeded the terminal gate prices of the companies ranged between 4.0 cpl (for BP) and 4.6 cpl (for Shell).
  - The average difference across the three companies was 4.2 cpl.
- The greatest extent by which the average daily retail price in Adelaide exceeded a terminal gate price over this period was 9.8 cpl on 3 July. The average retail price was 92.0 cpl and Shell's terminal gate price was 82.2 cpl
- The smallest difference between the average daily retail price and a terminal gate price was 0.5 cpl on 12 August. BP's terminal gate price was 84.3 cpl and the average daily retail price was 84.8 cpl.

Chart 4.7: Terminal gate prices of BP, Caltex and Shell and average daily retail prices – Adelaide – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Shell and Informed Sources

Melbourne

Chart 4.8 shows the terminal gate prices of the five declared companies (BP, Caltex, Mobil, Shell and Trafigura) and average daily retail unleaded petrol prices in Melbourne between 1 June and 30 September 2002.

It shows that:

- All of the terminal gate prices were below average daily retail prices in Melbourne on 118 days (97 per cent).
- At least one of the terminal gate prices was **above** average daily retail prices in Melbourne on four days (3 per cent).
  - Mobil's terminal gate prices were above average daily retail prices in Melbourne on three days (2 per cent). These were: 31 July (by 0.2 cpl), 8 August (by 0.3 cpl) and 25 September (by 0.2 cpl).
  - BP's terminal gate price was above the average daily retail unleaded petrol price in Melbourne on one day (1 per cent) – 9 July (by 0.02 cpl).
- There were no days on which all of the terminal gate prices were **above** average daily retail unleaded petrol prices in Melbourne.

Table 4.6 shows the amount by which the average daily retail unleaded petrol prices in Melbourne exceeded the terminal gate prices of BP, Caltex, Mobil, Shell and Trafigura between 1 June to 30 September 2002. It also shows the largest and smallest difference between average daily retail unleaded petrol prices in Melbourne and the terminal gate prices of the five declared companies. Where the terminal gate price of a company was above the average daily retail price, a negative amount is recorded as the smallest difference.

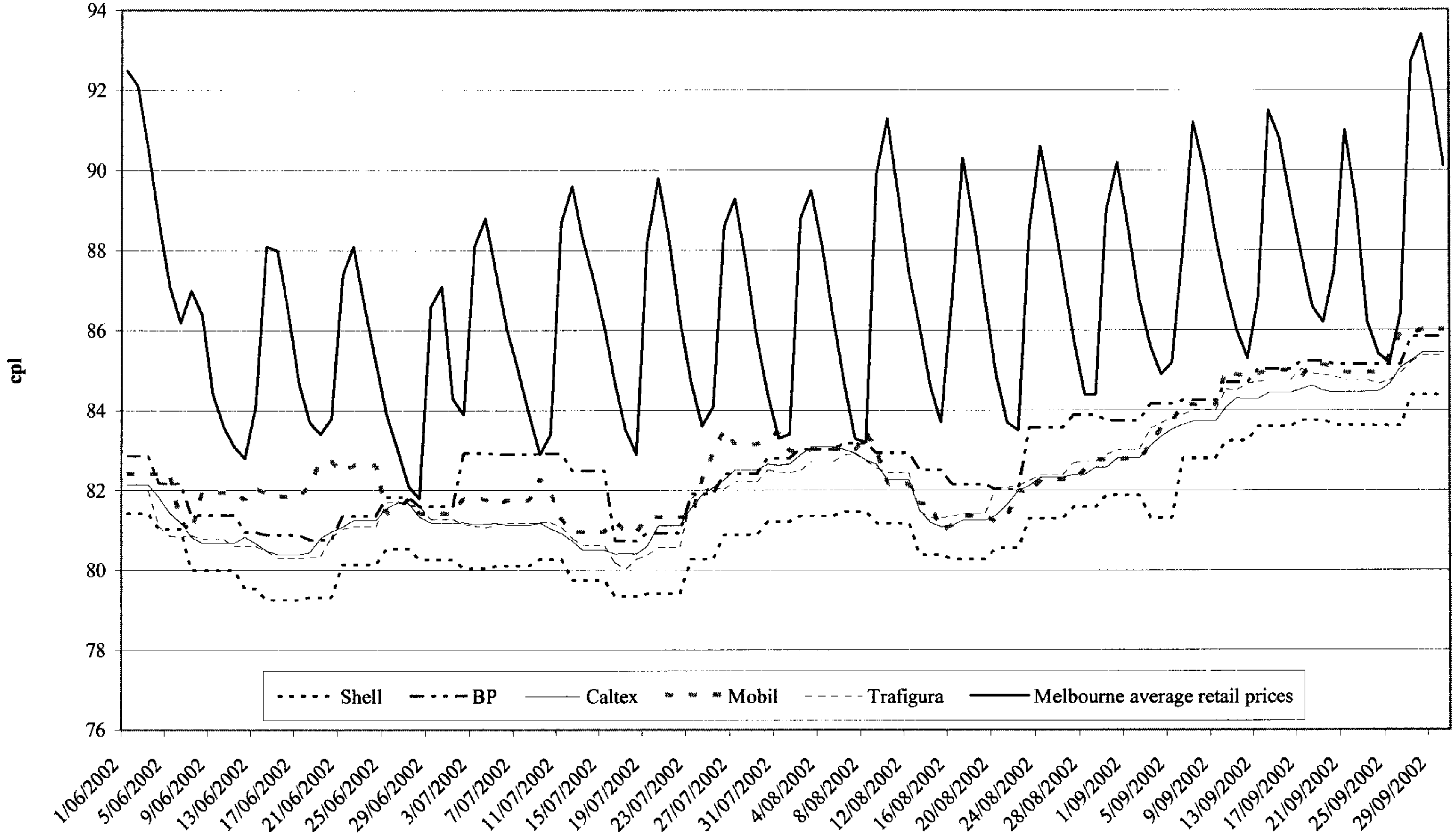
Table 4.6: Amount by which average daily retail unleaded petrol prices in Melbourne exceeded the terminal gate prices of the companies – 1 June to 30 September 2002

	BP	Caltex	Mobil	Shell	Trafigura
	cpl	cpl	cpl	cpl	cpl
Average	3.9	4.6	4.1	5.6	4.5
Largest difference	9.6	10.4	10.1	11.1	10.5
Smallest difference	-0.02	0.4	-0.3	1.5	0.2

Source: ACCC data, BP, Caltex, Mobil, Shell, Trafigura and Informed Sources

- The average amount by which average daily retail prices in Melbourne exceeded the terminal gate prices of the companies ranged between 3.9 cpl (for BP) and 5.6 cpl (for Shell).
    - The average difference across the five companies was 4.5 cpl.
- The greatest extent by which the average daily retail price in Melbourne exceeded a terminal gate price over this period was 11.1 cpl on 1 June. The average retail price was 92.5 cpl and Shell's terminal gate price was 81.4 cpl.
- The greatest extent by which a terminal gate price exceeded the average daily retail price in Melbourne over this period was 0.3 cpl on 8 August. The average retail price was 83.2 cpl and Mobil's terminal gate price was 83.5 cpl.

Chart 4.8: Terminal gate prices of the five companies and average daily retail prices – Melbourne – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Mobil, Shell, Trafigura and Informed Sources

Comparison

Table 4.7 shows for each city during the period 1 June to 30 September 2002 the number of days on which a terminal gate price was above the average retail price. It also shows the average difference between the terminal gate prices of all the companies and average retail prices, and the range across the companies of the average difference between terminal gate prices and average retail prices.

Table 4.7: Terminal gate prices and average retail prices – Sydney, Brisbane, Adelaide and Melbourne – 1 June to 30 September 2002

City	Number of days a terminal gate price was above the average retail price	Average difference between terminal gate prices of all the companies and average retail prices	Range across the companies of average difference between terminal gate prices and average retail prices
		cpl	cpl
Sydney	2	4.3	3.5 – 5.1 (1.6)
Brisbane	0	6.1	5.7 – 6.7 (1.0)
Adelaide	0	4.2	4.0 – 4.6 (0.6)
Melbourne	4	4.5	3.9 – 5.6 (1.7)

Source: ACCC data, BP, Caltex, Mobil, Shell, Trafigura and Informed Sources

In Sydney there were two days during the period 1 July to 30 September 2002 on which a terminal gate price was above the average retail price. In Brisbane and Adelaide, there were no days during this period when a terminal gate price was above the average retail price. This compares with Melbourne where there were four days during this period when the terminal gate price of at least one company was above the average retail price.

In Sydney, Brisbane and Adelaide, the average difference between the terminal gate prices of all the companies and average retail prices ranged between 4.2 cpl (in Adelaide) and 6.1 cpl (in Brisbane). This compares with an average difference in Melbourne of 4.5 cpl.

In Sydney, Brisbane and Adelaide, the range across the companies of the average difference between terminal gate prices and average retail prices varied between 0.6 cpl (in Adelaide) and 1.6 cpl (in Sydney). By comparison the range in Melbourne was 1.7 cpl. Again, the range was higher under the regulated TGP arrangements in Victoria than under the TGP arrangements voluntarily introduced by the companies in the other states.

4.3.3 Terminal gate prices of the oil companies and the import parity indicator

This section provides data on the terminal gate prices of the oil companies compared with the IPI in Sydney, Brisbane, Adelaide and Melbourne.

Sydney

Chart 4.9 shows the terminal gate prices of BP, Caltex, Shell and Trafigura and the unleaded petrol IPI for Sydney from 1 June to 30 September 2002.

Table 4.8 shows the average difference between the IPI for Sydney and the terminal gate prices of the companies. It also shows the largest and smallest difference between the IPI for Sydney and the terminal gate prices of the companies.

Table 4.8: Difference between Sydney IPI and the terminal gate prices of the companies – unleaded petrol – 1 June to 30 September 2002

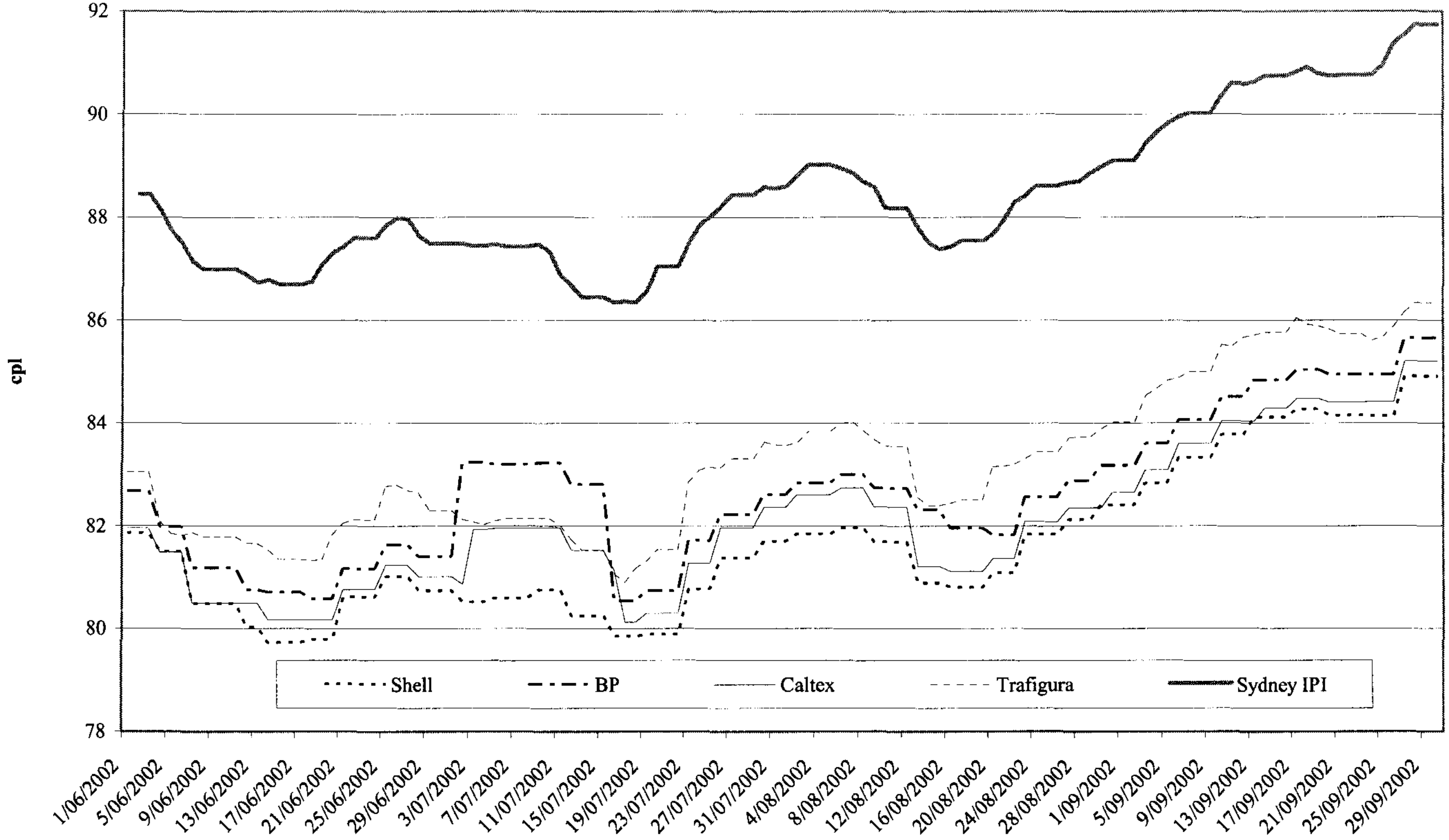
	BP	Caltex	Shell	Trafigura
	cpl	cpl	cpl	cpl
Average difference	5.8	6.3	6.8	5.2
Largest difference	6.9	7.3	7.6	6.0
Smallest difference	3.4	4.7	5.6	4.3

Source: ACCC data, BP, Caltex, Shell and Trafigura

The table shows that:

- The average amount by which the IPI exceeded the terminal gate prices of the four companies in the period 1 June to 30 September 2002 ranged between 5.2 cpl (for Trafigura) and 6.8 cpl (for Shell).
  - The average difference across the four companies was 6.0 cpl.
- The IPI for Sydney exceeded Shell's terminal gate price by 7.6 cpl on 20 June. Shell's terminal gate price was 79.8 cpl and the IPI was 87.4 cpl. This was the largest amount by which the IPI for Sydney exceeded the terminal gate price of any of the companies over the period.
- The IPI for Sydney exceeded BP's terminal gate price by 3.4 cpl on 11 July. BP's terminal gate price was 83.2 cpl and the IPI was 86.7 cpl. This was the smallest amount by which the IPI for Sydney was above the terminal gate price of any of the companies over the period.

Chart 4.9: Terminal gate prices of BP, Caltex, Shell and Trafigura and the import parity indicator – Sydney – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Shell, Trafigura and ACCC data

Brisbane

Chart 4.10 shows the terminal gate prices of BP, Caltex and Shell and the unleaded petrol IPI for Brisbane from 1 June to 30 September 2002.[33]

Table 4.9 shows the average difference between the IPI for Brisbane and the terminal gate prices of the companies. It also shows the largest and smallest difference between the IPI for Brisbane and the terminal gate prices of the companies.

Table 4.9: Difference between Brisbane IPI and the terminal gate prices of the companies – unleaded petrol – 1 June to 30 September 2002

	BP	Caltex	Shell
	cpl	cpl	cpl
Average difference	5.2	5.5	6.3
Largest difference	6.7	6.7	7.1
Smallest difference	3.3	3.9	5.1

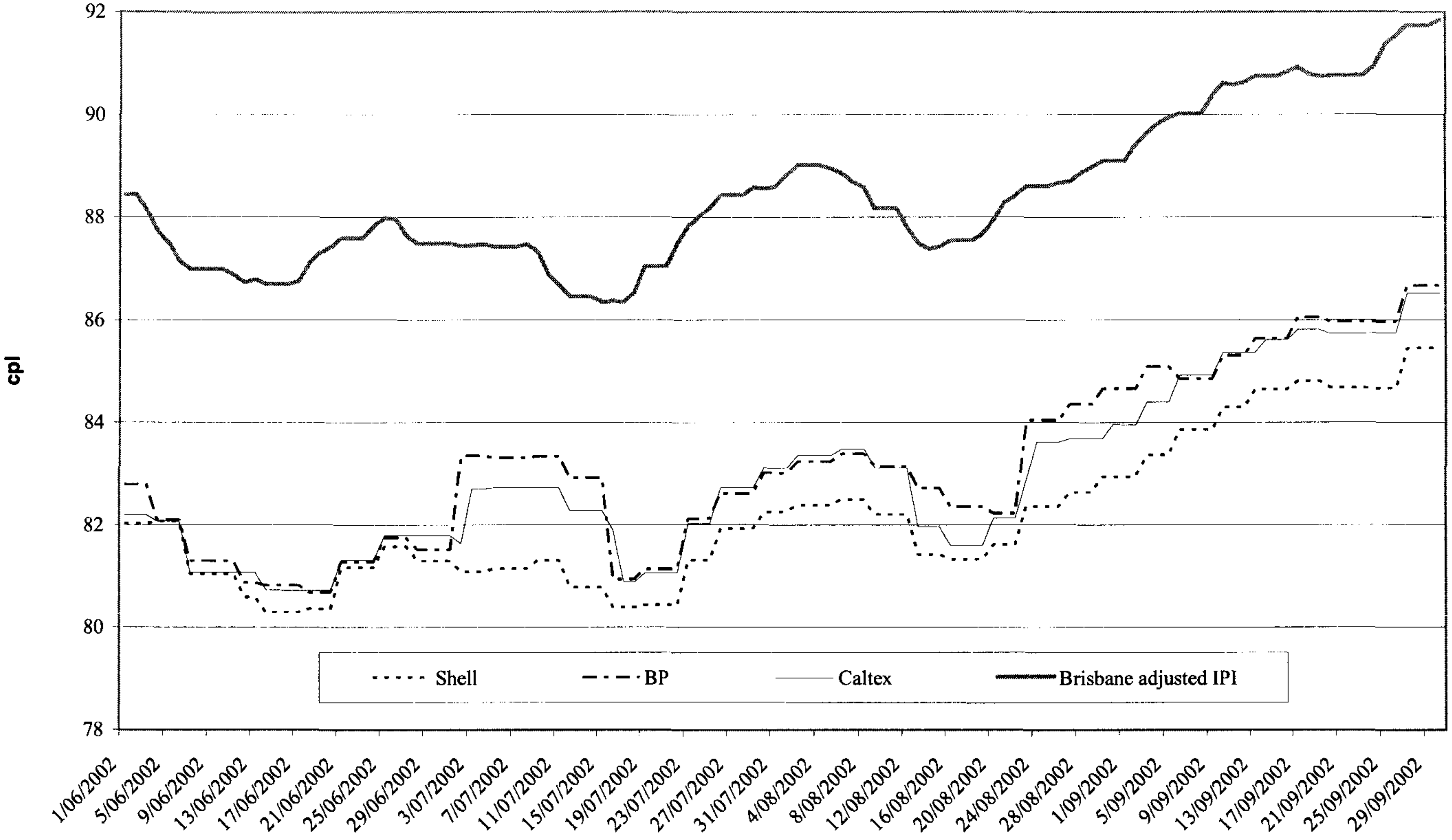
Source: ACCC data, BP, Caltex and Shell

The table shows that:

- The average amount by which the IPI exceeded the terminal gate prices of the companies in the period 1 June to 30 September 2002 ranged between 5.2 cpl (for BP) and 6.3 cpl (for Shell).
  - The average difference across the three companies was 5.7 cpl.
- The IPI for Brisbane exceeded Shell's terminal gate price by 7.1 cpl on 20 June. Shell's terminal gate price was 80.4 cpl and the IPI was 87.4 cpl. This was the largest amount by which the IPI for Brisbane exceeded the terminal gate price of any of the companies over the period.
- The IPI for Brisbane exceeded BP's terminal gate price 3.3 cpl on 11 July. BP's terminal gate price was 83.3 cpl and the IPI was 86.7 cpl. This was the smallest amount by which the IPI for Brisbane was above the terminal gate price of any of the companies over the period.

[33] The IPI in Brisbane has been adjusted upwards by 9.2 cpl to allow for the 8.4 cpl subsidy (plus GST effect) provided to retailers by the Queensland Government. This adjustment has been made so that the comparison of terminal gate prices and the IPI is comparable with the other cities.

Chart 4.10: Terminal gate prices of BP, Caltex and Shell and the adjusted import parity indicator – Brisbane – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Shell and ACCC data

Adelaide

Chart 4.11 shows the terminal gate prices of BP, Caltex and Shell and the unleaded petrol IPI for Adelaide from 1 June to 30 September 2002.

Table 4.10 shows the average difference between the IPI for Adelaide and the terminal gate prices of the companies. It also shows the largest and smallest difference between the IPI for Adelaide and the terminal gate prices of the companies.

Table 4.10: Difference between Adelaide IPI and the terminal gate prices of the companies – unleaded petrol – 1 June to 30 September 2002

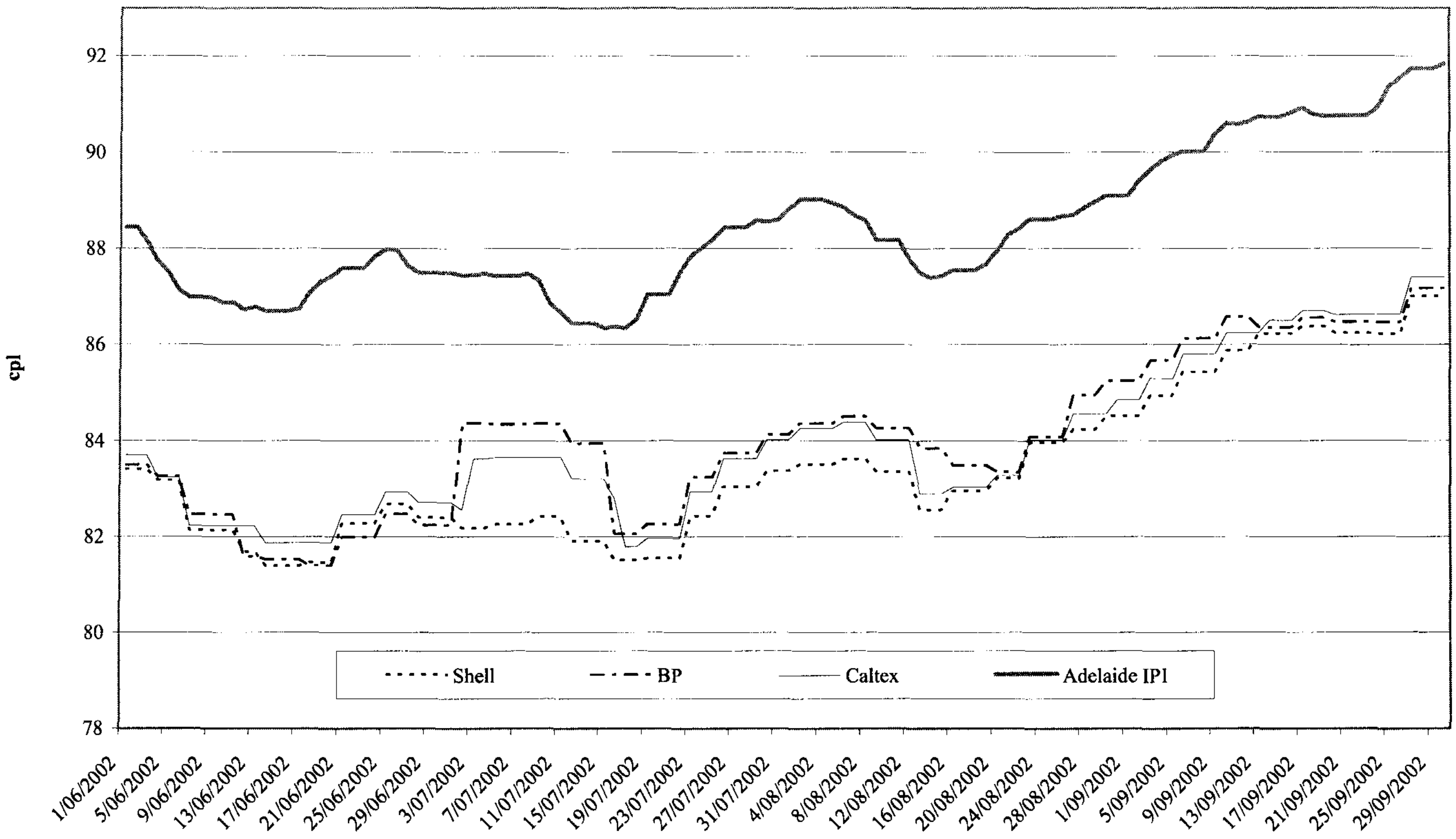
	BP	Caltex	Shell
	cpl	cpl	cpl
Average difference	4.4	4.5	5.0
Largest difference	6.0	5.6	6.0
Smallest difference	2.3	3.0	4.0

Source: ACCC data, BP, Caltex and Shell

The table shows that:

- The average amount by which the IPI exceeded the average terminal gate prices of the companies in the period 1 June to 30 September 2002 ranged between 4.4 cpl (for BP) and 5.0 cpl (for Shell).
  - The average difference across the three companies was 4.6 cpl.
- The IPI for Adelaide exceeded BP's terminal gate prices of BP by 6.0 cpl on 20 June. BP's terminal gate price was 81.4 cpl and the IPI was 87.4 cpl. This was the largest amount by which the IPI for Adelaide exceeded the terminal gate price of any of the companies over the period.
- The IPI for Adelaide exceeded BP's terminal gate price by 2.3 cpl on 11 July. BP's terminal gate price was 84.4 and the IPI was 86.7 cpl. This was the smallest amount by which the IPI for Adelaide exceeded the terminal gate prices of any of the companies over the period.

Chart 4.11: Terminal gate prices of BP, Caltex and Shell and the import parity indicator – Adelaide – unleaded petrol – 1 June 2002 to 30 September 2002



Sources: BP, Caltex, Shell and ACCC data

Melbourne

Chart 4.12 shows the terminal gate prices of the five declared companies (BP, Caltex, Mobil, Shell and Trafigura) and the unleaded petrol IPI for Melbourne from 1 June to 30 September 2002.

Table 4.11 shows the average difference between the IPI for Melbourne and the terminal gate prices of the companies. It also shows the largest and smallest difference between the IPI for Melbourne and the terminal gate prices of the companies.

Table 4.11: Difference between Melbourne IPI and the terminal gate prices of the companies – unleaded petrol – 1 June to 30 September 2002

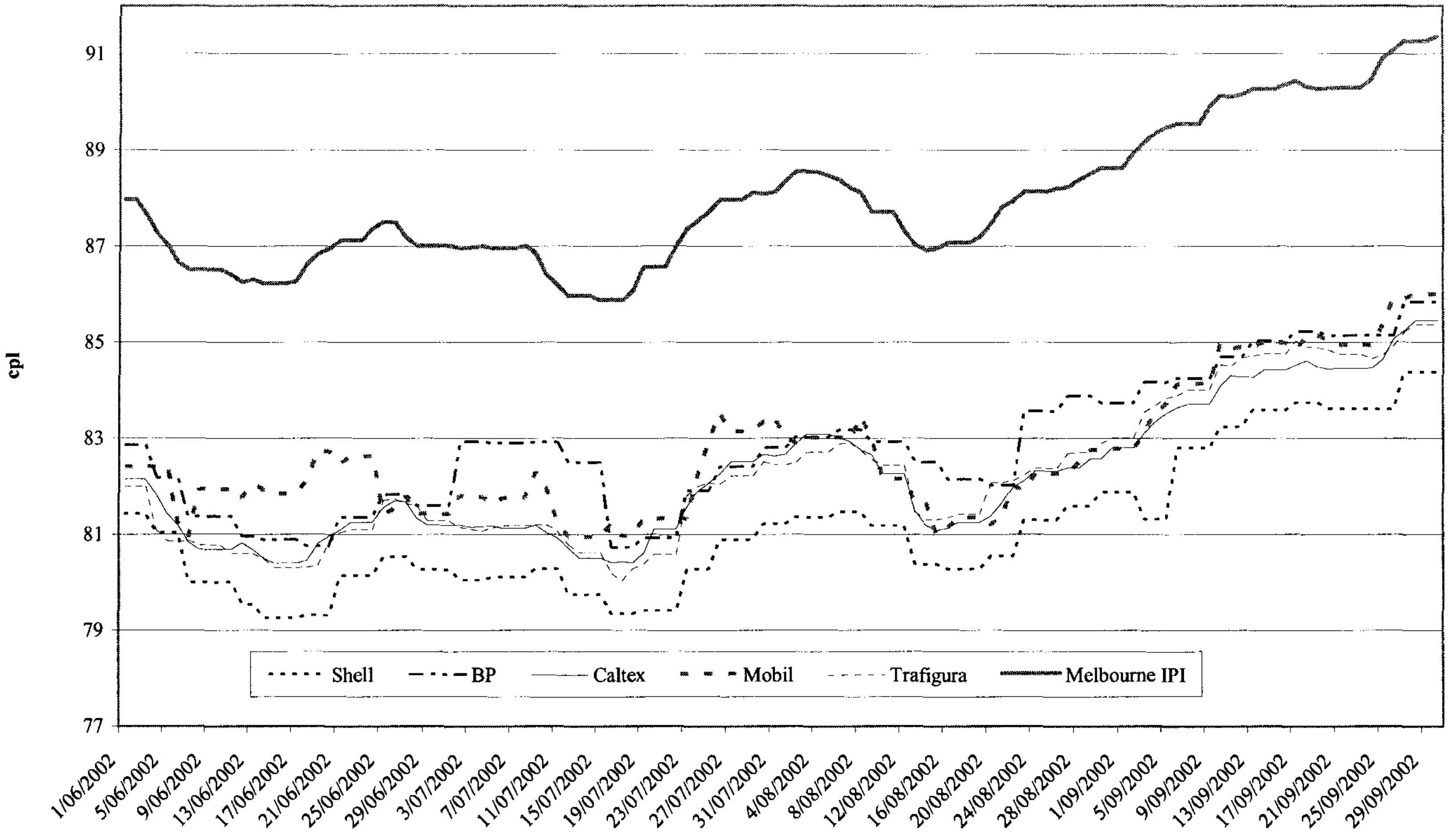
	BP	Caltex	Shell	Mobil	Trafigura
	cpl	cpl	cpl	cpl	cpl
Average difference	5.1	5.8	6.8	5.3	5.7
Largest difference	6.2	6.3	8.2	6.5	6.5
Smallest difference	3.3	5.1	5.6	4.1	4.9

Source: ACCC data, BP, Caltex, Mobil, Shell and Trafigura

The table shows that:

- The average amount by which the IPI exceeded the terminal gate prices of the companies in Melbourne in the period 1 June to 30 September 2002 ranged between 5.1 cpl (for BP) and 6.8 cpl (for Shell).
  - The average difference across the five companies was 5.7 cpl.
- The IPI for Melbourne exceeded Shell's terminal gate price by 8.2 cpl on 5 September. Shell's terminal gate price was 81.3 cpl and the IPI was 89.5 cpl. This was the largest amount by which the IPI for Melbourne exceeded the terminal gate price of any of the companies over the period.
- The IPI for Melbourne exceeded BP's terminal gate price by 3.3 cpl on 11 July. BP's terminal gate price was 82.9 cpl and the IPI was 86.2 cpl. This was the smallest amount by which the IPI for Melbourne was above the terminal gate price of any of the companies over the period.

Chart 4.12: Terminal gate prices of the five companies and the import parity indicator – Melbourne – unleaded petrol – 1 June to 30 September 2002



Sources: BP, Caltex, Mobil, Shell, Trafigura and ACCC data

Comparison

Table 4.12 shows for each city during the period 1 June to 30 September 2002 the average difference between the terminal gate prices of all of the companies and the IPI, and the range across the companies of the average difference between terminal gate prices and the IPI.

Table 4.12: Terminal gate prices and the IPI – Sydney, Brisbane, Adelaide and Melbourne – 1 June to 30 September 2002

City	Average difference between terminal gate prices of all the companies and the IPI	Range across the companies of average difference between terminal gate prices and the IPI
	cpl	cpl
Sydney	6.0	5.2 – 6.8 (1.6)
Brisbane	5.7	5.2 – 6.3 (1.1)
Adelaide	4.6	4.4 – 5.0 (0.6)
Melbourne	5.7	5.1 – 6.8 (1.7)

Source: ACCC data, BP, Caltex, Mobil, Shell and Trafigura

In Sydney, Brisbane and Adelaide, the average difference between terminal gate prices of all the companies and the IPI ranged between 4.6 cpl (in Adelaide) and 6.0 cpl (in Sydney). The average difference between terminal gate prices of all the companies and the IPI in Melbourne was 5.7 cpl, which falls within the range of the other cities.

In Sydney, Brisbane and Adelaide, the range across the companies of the average difference between terminal gate prices and the IPI varied between 0.6 cpl (in Adelaide) and 1.6 (in Sydney). The range in Melbourne was 1.7 cpl.

4.3.4 Possible impact on country and city prices

The possible impact of the TGP arrangements introduced by the companies in 2002 on country and city prices is assessed by comparing prices relative to the benchmark IPI over periods of time.

Since all three companies have been publishing terminal gate prices from 1 June 2002, the four-month period June 2002 to September 2002 has been compared with the four-month period prior to 1 June 2002 (ie. February 2002 to May 2002).

It is recognised that the Shell TGP arrangements were introduced in mid-February and the Caltex TGP arrangements were introduced in early May. Therefore, it is possible that some of the effect of these arrangements on country and city prices could have occurred in the period February to May. However, country price data is only available on a monthly basis and it was considered more appropriate to begin the assessment when all three companies were publishing terminal gate prices (ie from 1 June).

Table 4.13 provides data on various price differentials for the two periods February to May 2002 and June to September 2002 for the six states and the Northern Territory. It shows the price differential between the IPI and country prices and the IPI and city prices. It also shows the city-country differential.

Table 4.13: City-country differential, IPI-country differential and IPI-city differential – six states and the Northern Territory – June to September 2002

	City-country differential			IPI-country price differential			IPI-city price differential		
State/Territory	Feb-May 2002	June-Sept 2002	Change	Feb-May 2002	June-Sept 2002	Change	Feb-May 2002	June-Sept 2002	Change
	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl
New South Wales	3.6	4.5	+0.9	2.2	3.9	+1.7	-1.4	-0.6	+0.8
Victoria	3.7	5.4	+1.7	2.5	3.9	+1.4	-1.2	-1.5	-0.3
Queensland	3.6	4.5	+0.9	3.2	5.1	+1.9	-0.4	0.6	+1.0
South Australia	3.9	5.0	+1.1	2.5	4.6	+2.1	-1.5	-0.4	+1.1
Western Australia	7.2	7.6	+0.4	6.4	8.8	+2.4	-0.8	1.2	+2.0
Tasmania	0.5	-0.4	-0.9	6.4	7.2	+0.8	5.9	7.6	+1.7
Northern Territory	8.2	8.7	+0.5	13.3	15.5	+2.2	5.1	6.8	+1.7

Source: ACCC data and FUELtrac

The table shows that, in the period June to September 2002 compared with the period February to May 2002:

- Country prices increased relative to the IPI in all states and the Northern Territory.
  - The increases ranged from 0.8 cpl in Tasmania to 2.4 cpl in Western Australia. The average increase was 1.8 cpl.
  - In New South Wales, Queensland and South Australia (the states in which all three companies have introduced TGP arrangements) the increases in country prices were 1.7 cpl, 1.9 cpl and 2.1 cpl respectively.
- City prices increased relative to the IPI in all states and the Northern Territory except Melbourne (where prices decreased by 0.3 cpl).

    - The increases ranged from 0.8 cpl in Sydney to 2.0 cpl in Perth.
    - In Sydney, Brisbane and Adelaide (the cities in which all three companies have introduced TGP arrangements) the increases in city prices were 0.8 cpl, 1.0 cpl and 1.1 cpl respectively.
- The city-country differential increased in all states and the Northern Territory except Tasmania (where the differential decreased by 0.9 cpl).
    - The increases ranged from 0.4 cpl in Western Australia to 1.7 cpl in Victoria.
    - In New South Wales, Queensland and South Australia (the states in which all three companies have introduced TGP arrangements) the increases in the city-country differential were 0.9 cpl, 0.9 cpl and 1.1 cpl respectively.

While both city prices and country prices relative to the IPI have increased in the period June to September 2002 compared with the period February to May 2002, the effect of the introduction of TGP arrangements by the three companies is likely to have been small. This is because the TGP arrangements have been in operation for only a short period of time, and it is likely that a significant portion of the petroleum market is not covered by them.

4.4 Assessment

The staff of the Commission consulted with a wide range of industry participants. Their views on the TGP arrangements introduced by the oil companies in 2002 are summarised in appendix F. The following views on the TGP arrangements introduced by Shell, Caltex and BP in 2002 take into account the views of industry participants and the results of the data analysis in section 4.3.

However, it should be noted that, from the monitoring undertaken by the Commission to date, it is too early to meaningfully form a view on the outcomes of the TGP arrangements introduced by the companies, as these arrangements have only been in place for a short period of time. The analysis in this report goes to 30 September 2002, which means that for assessment purposes Shell's TGP arrangements have been in place for seven and a half months, Caltex's have been in place for less than five months and BP's TGP arrangements have been in place for four months.

4.4.1 Operation of the arrangements

A comparison of the TGP arrangements of Shell, Caltex and BP was undertaken in section 4.2.4. It highlighted a number of differences between the TGP arrangements introduced by the companies.

Sales

Shell told the Commission that it had made some spot sales under its TGP arrangements. Shell also noted that the vast majority of its wholesale sales are now made on a TGP basis. Caltex commented that they have made some sales under their

TGP arrangements in New South Wales and South Australia, but these have been mainly diesel rather than petrol sales. BP said that it was unlikely that there had been many spot sales under its TGP arrangements.

Market coverage

The spot market is fairly small in Australia. The Commission heard a range of views on the size of the spot market, ranging from almost negligible to about 15 per cent of the market. Petrol retailers generally prefer to obtain fuel on a contract basis to ensure continuity of supply.

The Caltex TGP arrangements are for spot sales only and do not apply to contract sales (including franchisees). The BP TGP arrangements introduced in June 2002 apply to spot sales only. However, BP introduced TGP arrangements in June 1998. BP commented that nearly all of its sales, other than to franchisees, are at this terminal gate price. Shell's TGP arrangements apply to both spot and contract sales. However, the Commission understands that Shell's TGP arrangements do not apply to franchisees.

In summary, the three TGP arrangements introduced in 2002 all apply to spot sales and only one applies to contracts (excluding franchisees). Given the fairly small size of the spot market and the limited coverage of contracts by these TGP arrangements, it is likely that a significant portion of the petroleum market is not covered by the TGP arrangements introduced by the companies.

The proportion of the market covered by TGP arrangements will increase over time. Not only will the current TGP arrangements apply to more market participants, but also further TGP arrangements are expected to be introduced. BP commented that it was aiming for nationwide TGP arrangements by the end of the year and Mobil said that it was aiming to implement its own form of TGP arrangements over the next several months.

Transparency

The TGP arrangements introduced by the companies seem to have increased transparency. While some of the refiner/marketers have set terminal gate prices for some years, information on these prices was not readily available. With the new arrangements the information is publicly available on company websites.

Publication of the terminal gate prices provides a benchmark to industry and consumers. However, it should be noted that two out of the three companies' TGP arrangements apply only to spot sales. Terminal gate prices for contract sales may be different from the spot prices posted at the terminal gate. In some cases they may be lower and in some cases they may be higher, depending on the volumes purchased and the duration of the contract. Furthermore, there may be discounts available off the published terminal gate price.

Some industry organisations commented to the Commission that the arrangements introduced by the companies had not increased transparency. One organisation considered the TGP arrangements introduced by the companies were largely a deception.

Access

As noted above, there have been some spot sales and contract sales under these TGP arrangements.

In discussions with industry participants, the Commission received only a few comments about access at the spot level. One industry organisation commented that since the TGP arrangements have been introduced, smaller buyers have had to pay all the add-on costs for smaller loads. It noted that the smaller regional independents are worse off as they cannot access petrol at the terminal gate price, due to the capacity issue and the frequent need to pay cash up front.

Another industry organisation commented that the majority of petrol sales are locked in by contract and thus the terminal gate price is irrelevant.

4.4.2 Effect on competition

Section 3.5.6 commented on the impact of TGP arrangements in Victoria. Many of those comments are also applicable to the TGP arrangements introduced by the companies in the other states in 2002.

At this stage it is not possible to provide much comment on the influence of the TGP arrangements introduced by the companies on competition, since the arrangements have only been in place for a short period of time and it is likely that they do not apply to a significant portion of the petroleum market.

The TGP arrangements introduced by the companies have improved the level of transparency. Prices are available to the industry and consumers.

Some of the larger independents have expressed concerns that the TGP arrangements introduced by the companies may result in less variation in prices at the terminal gate and that they may not be able to receive the same level of discounts as they have received in the past. To the extent that the discounts are less, this may have an adverse effect on competition and lead to higher prices.

Competition at the terminal gate will also depend on the capacity to import in the various states. For example, there are more opportunities to import in Sydney and Melbourne, which can increase competitive pressures at the terminal gate. This may not be the case in some of the other states. There are also local factors that will impact on competition such as fuel standards, disruptions to supply and the cessation of the refinery exchange arrangements between the four major refiner/marketers in July 2002.

4.4.3 Effect on prices

None of the companies that introduced TGP arrangements in 2002 considered that they would have a material effect on prices.

Shell thought that their terminal gate prices would be unlikely to have an impact on city petroleum markets. However, in country areas, Shell commented that the introduction of TGP arrangements had the potential to reduce country retail prices by ensuring that existing and potential new retailers had access to publicly posted competitive wholesale prices.

Caltex did not anticipate any significant effect on country or city prices arising from the TGP arrangements. However, Caltex noted that with greater transparency in prices there may be more pressure for distributors and retailers to lower prices. In country areas this would depend on whether the country margins were excessive. Caltex did not believe this was generally the case because of lower volumes and higher costs in country areas.

BP thought that the advantages of introducing TGP arrangements in country areas are that there would be greater transparency in prices and consumers would be able to gauge the margins between metropolitan and rural terminal gate prices, as well as between rural terminal gate prices and retail prices. Consumers could ask relevant questions of their suppliers and this may lead to increased efficiencies at the wholesale and distribution level.

With respect to the views of other industry participants, one industry organisation commented that the current TGP arrangements have had no effect on prices at the wholesale or retail level, and another industry organisation commented that there had been no improvement in prices. One independent said that TGP had increased prices, and another said that the move to TGP would lead to more stable but higher wholesale prices. Another independent commented that retail prices in country areas were unlikely to be lower under the TGP arrangements, except in some of the larger country centres where the sales volumes are greater.

Price levels

Variation in terminal gate prices

The terminal gate prices published by the companies in Sydney, Brisbane and Adelaide between 1 June 2002 and 30 September 2002 were analysed in section 4.3.1. It showed that in Sydney, Trafigura was the company with the highest terminal gate prices, whereas in Brisbane and Adelaide, BP had the highest terminal gate prices. Shell had the lowest terminal gate prices in Sydney, Brisbane and Adelaide. By comparison, in Melbourne BP was the company with the highest terminal gate prices and Shell with the lowest. This is consistent with the results of the other cities.

In Sydney, Brisbane and Adelaide, the average difference between the highest and the lowest terminal gate price ranged from 0.7 cpl in Adelaide to 1.7 cpl in Sydney. In Melbourne, the average difference between the highest and lowest terminal gate prices was 2.0 cpl. It is interesting to note that the range was higher under the regulated TGP arrangements in Victoria than under the TGP arrangements voluntarily introduced by the companies in the other states.

Terminal gate prices compared with average retail prices

Among Sydney, Brisbane and Adelaide, between the period 1 June to 30 September, there were only two days on which a terminal gate price was above the average retail price. These were in Sydney. In Brisbane and Adelaide, there were no days during this period on which a terminal gate price was above the average retail price. This compares with Melbourne where there were four days during this period when the terminal gate price of at least one company was above the average retail price.

In Sydney, Brisbane and Adelaide, the average difference between the terminal gate prices of all of the companies and average retail prices ranged between 4.2 cpl (in Adelaide) and 6.1 cpl (in Brisbane). This compares with an average difference in Melbourne of 4.5 cpl.

In Sydney, Brisbane and Adelaide, the range across the companies of the average difference between terminal gate prices and average retail prices varied between 0.6 cpl (in Adelaide) and 1.6 cpl (in Sydney). By comparison the range in Melbourne was 1.7 cpl.

Again, it is interesting to note that both the number of days on which a terminal gate price was above the average retail price, and the range across the companies of the average difference between terminal gate prices and average retail prices, were higher under the regulated TGP arrangements in Victoria than under the TGP arrangements voluntarily introduced by the companies in the other states.

Terminal gate prices compared with the import parity indicator

Between 1 June 2002 and 30 September 2002, in Sydney, Brisbane and Adelaide, the average difference between terminal gate prices of all of the companies and the IPI ranged between 4.6 cpl (in Adelaide) and 6.0 cpl (in Sydney). The average difference between terminal gate prices of all of the companies and the IPI in Melbourne was 5.7 cpl, which falls within the range of the other cities.

In Sydney, Brisbane and Adelaide, the range across the companies of the average difference between terminal gate prices and the IPI varied between 0.6 cpl (in Adelaide) and 1.6 (in Sydney). The range in Melbourne was 1.7 cpl.

4.4.4 Possible impact on country and city prices

The possible impact of the TGP arrangements introduced by the companies in 2002 on city and country prices was analysed in section 4.3.4. It compared the differential between city and country prices and the IPI for the four-month period June to September 2002 with the four-month period February to May 2002.

Over these periods, country prices increased relative to the IPI in all states and the Northern Territory. In New South Wales, Queensland and South Australia (the states in which all three companies have introduced TGP arrangements) the increases in country prices were 1.7 cpl, 1.9 cpl and 2.1 cpl respectively.

City prices increased relative to the IPI in all states and the Northern Territory except Melbourne (where prices decreased by 0.3 cpl). In Sydney, Brisbane and Adelaide (the cities in which all three companies have introduced TGP arrangements) the increases in city prices were 0.8 cpl, 1.0 cpl and 1.1 cpl respectively.

While both country prices and city prices relative to the IPI have increased in the period June to September 2002 compared with the period February to May 2002, the effect of the introduction of TGP arrangements by the three companies is likely to have been small. This is because the TGP arrangements have been in operation for only a short period of time, and it is likely that they do not apply to a significant portion of the petroleum market. The increase in country and retail prices relative to the IPI is likely to be due to other factors. These could include specific supply and demand factors in each state (such as fuel standards and supply shortages) and the move from refinery exchange to buy/sell arrangements by the refiner marketers in July 2002.

4.5 Conclusion

As noted in section 4.4 it is too early to meaningfully form a view on the outcomes of the TGP arrangements introduced by the companies in 2002, as they have only been in place for a short period of time.

Shell's TGP arrangements were introduced on 13 February 2002, Caltex's TGP arrangements were introduced on 7 May 2002 and BP's TGP arrangements were introduced on 1 June 2002. Since the analysis in this report goes to 30 September 2002, for assessment purposes Shell's TGP arrangements have been in place for seven and a half months, Caltex's have been in place for less than five months and BP's TGP arrangements have been in place for four months.

Furthermore, while there have been sales under these arrangements, it is likely that a significant portion of the petroleum market is not covered by the TGP arrangements introduced by the companies.

It is understood that the spot market is fairly small in Australia because retailers generally prefer to obtain fuel on a contract basis to ensure continuity of supply. The TGP arrangements introduced in 2002 all apply to spot sales and only one applies to contracts (excluding franchisees).

As more contracts come under TGP arrangements, and as the companies extend the coverage of their TGP arrangements, the proportion of the market included in TGP arrangements should increase over time.

Some of the larger independents have expressed concerns that the TGP arrangements introduced by the companies may result in less variation in prices at the terminal gate and that they may not be able to receive the same level of discounts as they have received in the past. To the extent that the discounts are less, this may have an adverse effect on competition and lead to higher prices.

There are a range of views among industry participants about the TGP arrangements introduced by the companies in 2002. Some consider that there has been an increase in transparency, while others consider that there has been no change in the market with the introduction of these TGP arrangements. One organisation considered the TGP arrangements introduced by the companies were largely a deception.

Attempting to reconcile these views is a task for ITR. The Minister for Industry, Tourism and Resources launched the framework on 19 November 2002. The framework comments that there appears to be broad industry support for a national approach to TGP, but that there are a range of views on which TGP model should be used.[34] It notes that ITR will be consulting with industry participants and State and Territory Governments on a national approach to TGP. This is part of the renewed push for reform in the petroleum industry.

The Commission understands that a possible option being considered in this context is TGP with limited discounting. Depending on the form of TGP introduced, a consequence can be that there is a reduction in the level of discounts at the wholesale level. This can have adverse implications for competition and lead to higher prices. The Commission would be concerned at any proposal that sought to specifically regulate to limit discounts before or after the terminal gate.

More broadly, the Commission would hope that in the development of a package of reforms for the petroleum industry, due consideration will be given to the possible implications of any proposals on competition and prices.

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[34] Department of Industry, Tourism and Resources, *Downstream Petroleum Industry Framework 2002*, p. 41.

Appendixes

Appendix A

City-country differential - July 1998 to June 2002

This appendix provides analysis on the city-country price differential for unleaded petrol for the period from July 1998 to June 2002.

The analysis uses FUELtrac data, which is the only publicly available source of historical country price data. FUELtrac provides price data for the eight capital cities and 98 country towns. The data (which goes back to April 1998) is available on the Australian Automobile Association's (AAA) website.

The charts in annex A show for each state and the Northern Territory, for the eight six-monthly periods between July 1998 and June 2002:

- the city-country differential;
- the differential between the IPI and country prices; and
- the differential between the IPI and city prices.

The differentials for the two-year period July 1998 – June 2000 are compared with the differentials for the subsequent two-year period July 2000 – June 2002. Annex A also shows this data for the five-city city-country differential and the eight-city city-country differential.[35]

As noted in section 2.5.4 of chapter 2, comparing price movements against a benchmark such as the IPI can be useful. In this case, it is possible to determine whether it is changes in city prices or changes in country prices that are influencing the change in the city-country differential.

Table A.1 shows the city-country differential for the six states and the Northern Territory for the two-year periods July 1998 – June 2000 and July 2000 – June 2002, and the change over those two periods. It also shows the price differential between the IPI and country prices and the IPI and city prices for the same periods.

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[35] The five-city city-country differential is the difference between the average country price for the six states and the Northern Territory (there are no prices available for the Australian Capital Territory other than Canberra) and the average price for the five major metropolitan cities - Sydney, Melbourne, Brisbane, Adelaide and Perth. The eight-city city-country differential is the difference between the average country price for the six states and the Northern Territory and the average price for the eight capital cities (ie. the five major metropolitan cities plus Canberra, Hobart and Darwin).

Table A1: City-country differential, IPI-country differential and IPI-city differential – six states and the Northern Territory – July 1998 – June 2000 and July 2000 – June 2002

State/Territory	City-country differential			IPI-country price differential			IPI-city price differential		
	July 1998-June 2000	July 2000-June 2002	Change	July 1998-June 2000	July 2000-June 2002	Change	July 1998-June 2000	July 2000-June 2002	Change
	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl	cpl
New South Wales	5.5	4.8	-0.7	5.6	3.8	-1.8	0.0	-0.9	-0.9
Victoria	6.7	5.2	-1.5	4.6	3.2	-1.4	-2.0	-2.0	0
Queensland	7.6	6.0	-1.6	6.2	4.8	-1.4	-1.4	-1.3	+0.1
South Australia	6.5	5.9	-0.6	4.3	4.4	+0.1	-2.2	-1.6	+0.6
Western Australia	8.2	9.4	+1.2	7.6	7.5	-0.1	-0.6	-1.9	-1.3
Tasmania	1.3	1.9	+0.6	8.2	6.9	-1.3	6.9	5.1	-1.8
Northern Territory	6.3	8.1	+1.8	14.8	15.3	+0.5	8.5	7.2	-1.3
Five-city	8.6	8.2	-0.4	7.3	6.6	-0.7	-1.2	-1.5	-0.3
Eight-city	5.6	5.6	0	7.3	6.6	-0.7	1.4	0.7	-0.7

Source: ACCC data and FUELtrac

Note: Some of the numbers in the table may not sum exactly due to rounding.

The table shows that:

- Between the periods July 1998 – June 2000 and July 2000 – June 2002, the city-country differential decreased in **all states except Western Australia and Tasmania and the Northern Territory**.
  - In the Northern Territory the city-country differential increased by 1.8 cpl, in Western Australia it increased by 1.2 cpl and in Tasmania it increased by 0.6 cpl.
- The **five-city** city-country differential decreased by 0.4 cpl.
- The **eight-city** city-country differential did not change.

- A comparison of the differential between the IPI and country prices over the two periods shows that country prices declined in **all states except South Australia and the Northern Territory**.
  - For the five states where the IPI-country differential decreased, the average decrease was 1.2 cpl.
  - The decline in country prices ranged from 0.1 cpl in Western Australia to 1.8 cpl in New South Wales.
- A comparison of the differential between the IPI and city prices over the two periods shows that city prices declined in **all cities except Melbourne, Brisbane and Adelaide** (where prices relative to the IPI remained the same, increased by 0.1 cpl and increased by 0.6 cpl respectively).
  - Across the four cities where prices declined, the average decline was 1.3 cpl.

The decrease in the city-country differential for New South Wales, Victoria and Queensland appears to be due to country prices decreasing against the IPI by more than city prices. In South Australia, the decrease in the city-country differential appears to be due to country prices increasing against the IPI by less than city prices. In Western Australia and Tasmania, the increase in the city-country differential appears to be due to country prices decreasing against the IPI by less than city prices.

Fuel Sales Grant Scheme

A comparison of the city-country differential between the two periods July 1998 - June 2000 and July 2000 - July 2002 enables an assessment to be made of the effectiveness of the fuel sales grant scheme (FSGS).

On 1 July 2000, the Federal Government introduced the FSGS for all retailers of petrol and diesel in non-metropolitan and remote areas where fuel prices are generally higher. The grant was set at 1.0 cpl for sales of petrol and diesel to consumers in non-metropolitan areas and 2.0 cpl for sales in remote areas. For isolated cases where fuel prices were beyond $1.20 per litre in remote areas, fuel retailers could apply to the Australian Taxation Office for an additional grant.

The Federal Government also reduced petrol and diesel excise rates from 1 July 2000. At the same time petrol and diesel were subject to the GST. It was stated (in a Joint Press Release from the Acting Treasurer and the Deputy Prime Minister on 22 June 2000) that the FSGS, in addition to the excise reduction, would mean that '...prices in non-metropolitan and remote areas need not change relative to metropolitan prices and in many cases the differential will narrow.'[36]

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[36] Joint release by the Acting Treasurer and the Deputy Prime Minister, Minister for Transport and Regional Services, 'Petrol and diesel excise reduction and fuel sales grant scheme', press release no. 059, 22 June 2000.

While the city-country differential declined on five-city basis, and in most states, it is not possible to conclude that this decline was due to the introduction of the FSGS. The city-country differential is influenced by movements in city and country prices relative to each other. There are many factors that can lead to changes in these prices. Furthermore, the charts in annex A suggest that there may have been a decline in the city-country differential occurring before the introduction of the FSGS. There is also no way of determining what actual prices would have been in the absence of the FSGS.

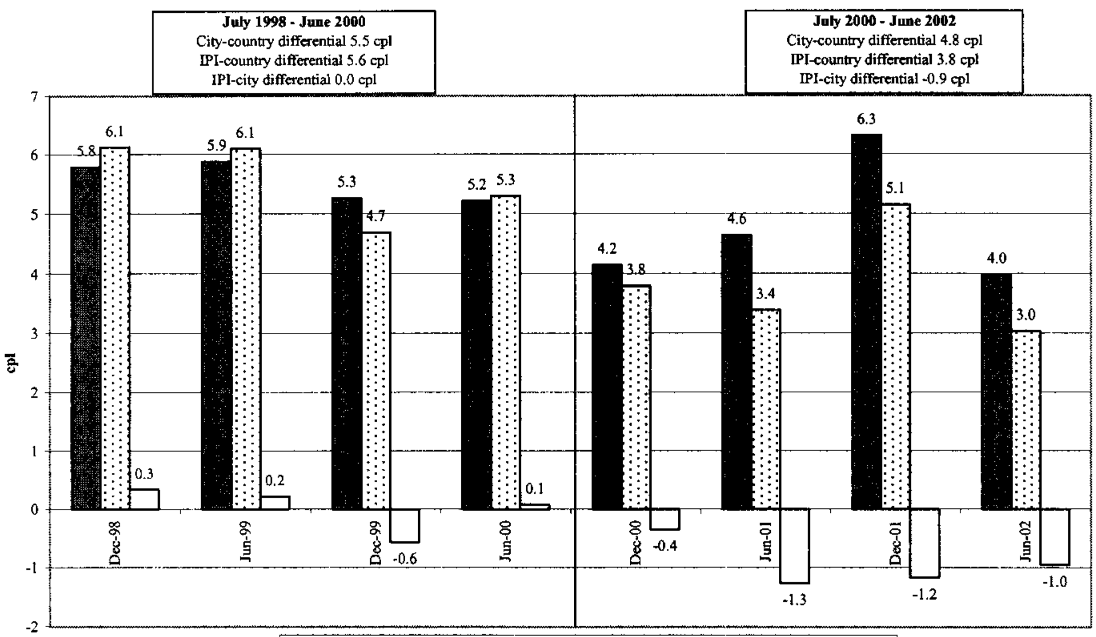
However, it is possible to conclude the decline in the city-country differential over the two periods examined is consistent with the objectives of the FSGS having been achieved.

Annex A

New South Wales

Chart A.1 shows the city-country differential, the IPI-country differential and the IPI-city differential for New South Wales for the eight six-monthly periods between July 1998 and June 2002. The city-country differential is the difference between the average country price for New South Wales and the average price for Sydney. The IPI-country differential is the difference between the average country price and the average IPI, and the IPI-city differential is the difference between the average price for Sydney and the average IPI.

Chart A.1: City-country differential, IPI-country differential and IPI-city differential – New South Wales – December half 1998 to June half 2002



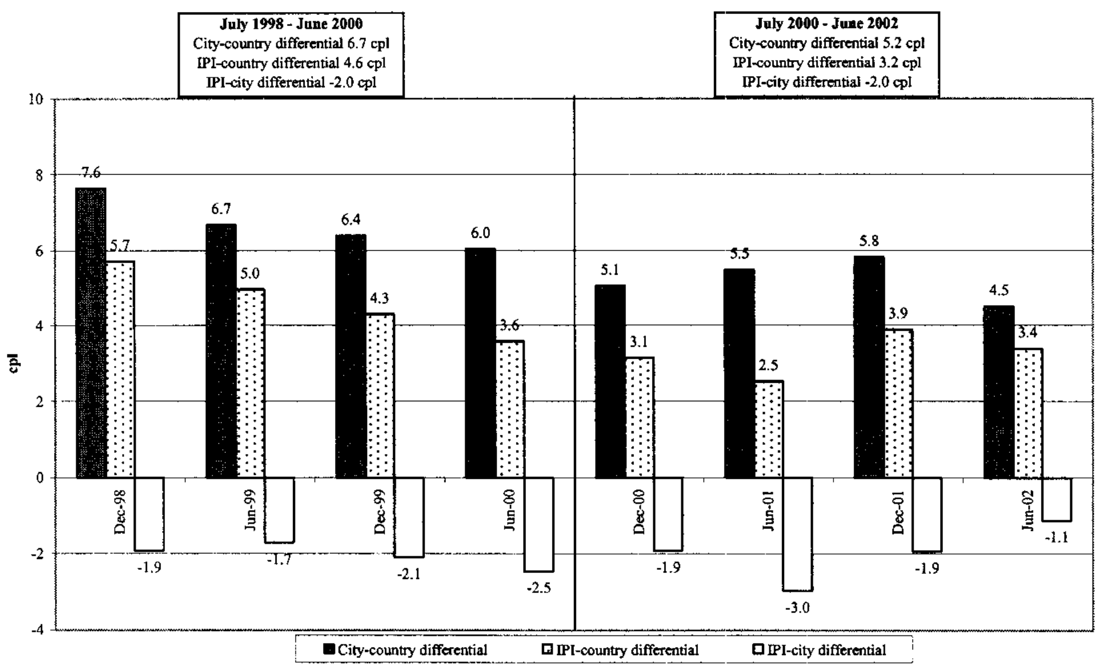
Source: ACCC data and FUELtrac

- The city-country differential for the period July 1998 to June 2000 was 5.5 cpl. In the period July 2000 to June 2002 the differential fell by 0.7 cpl to 4.8 cpl.
- Country prices fell relative to the IPI by 1.8 cpl between the two periods, while city prices fell by 0.9 cpl relative to the IPI.

Victoria

Chart A.2 shows the city-country differential, the IPI-country differential and the IPI-city differential for Victoria for the eight six-monthly periods between July 1998 and June 2002. The city-country differential is the difference between the average country price for Victoria and the average price for Melbourne. The IPI-country differential is the difference between the average country price and the average IPI, and the IPI-city differential is the difference between the average price for Melbourne and the average IPI.

Chart A.2: City-country differential, IPI-country differential and IPI-city differential – Victoria – December half 1998 to June half 2002



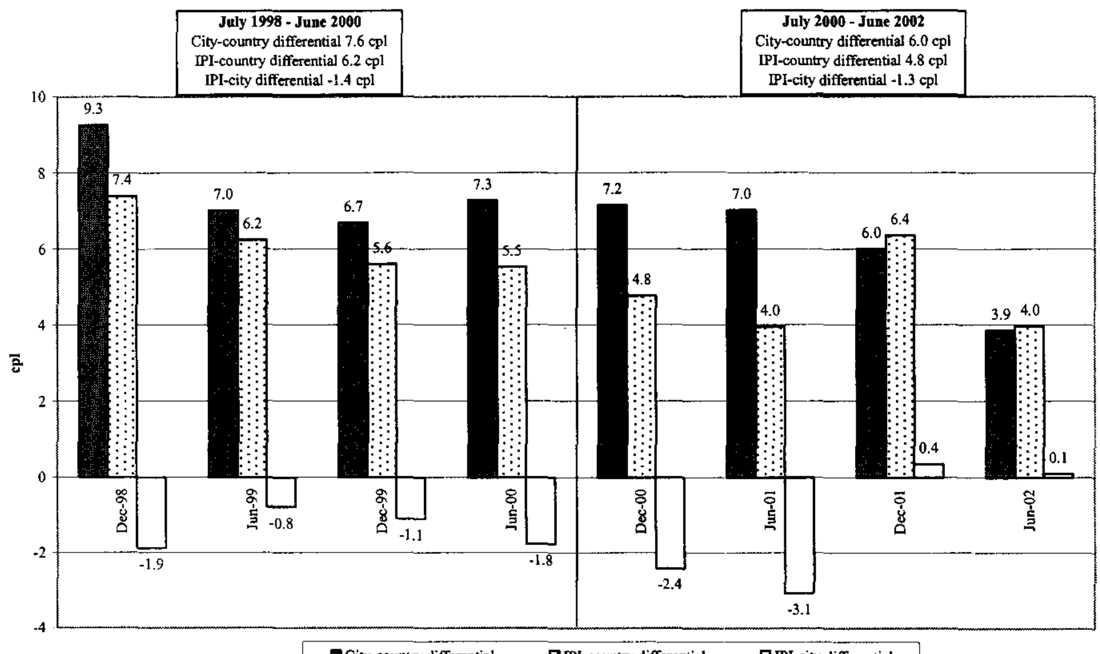
Source: ACCC data and FUELtrac

- The city-country differential for the period July 1998 to June 2000 was 6.7 cpl and in the period July 2000 to June 2002 it was 5.2 cpl – a fall of 1.5 cpl.
- Country prices fell relative to the IPI by 1.4 cpl between the two periods. City prices relative to the IPI remained the same for the two periods.

Queensland

Chart A.3 shows the city-country differential, the IPI-country differential and the IPI-city differential for Queensland for the eight six-monthly periods between July 1998 and June 2002. The city-country differential is the difference between the average country price for Queensland and the average price for Brisbane. The IPI-country differential is the difference between the average country price and the average IPI, and the IPI-city differential is the difference between the average price for Brisbane and the average IPI.

Chart A.3: City-country differential, IPI-country differential and IPI-city differential – Queensland – December half 1998 to June half 2002



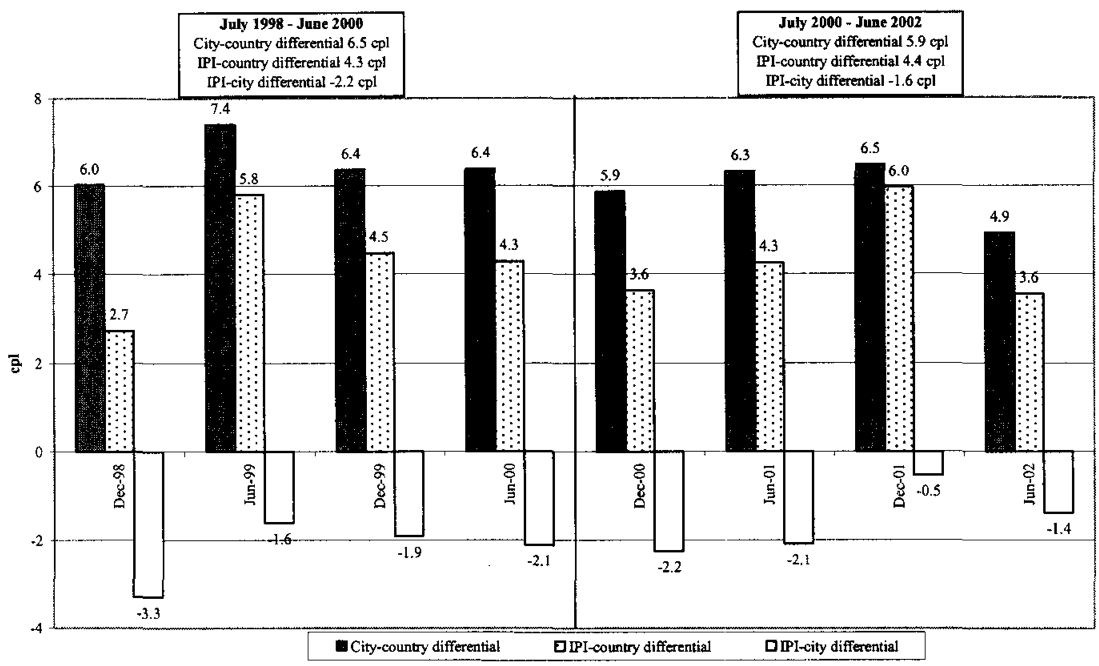
Source: ACCC data and FUELtrac

- The city-country differential for the period July 1998 to June 2000 was 7.6 cpl. In the period July 2000 to June 2002 the differential fell by 1.6 cpl to 6.0 cpl.
- Country prices fell relative to the IPI by 1.4 cpl between the two periods. City prices increased by 0.1 cpl relative to the IPI.

South Australia

Chart A.4 shows the city-country differential, the IPI-country differential and the IPI-city differential for South Australia for the eight six-monthly periods between July 1998 and June 2002. The city-country differential is the difference between the average country price for South Australia and the average price for Adelaide. The IPI-country differential is the difference between the average country price and the average IPI, and the IPI-city differential is the difference between the average price for Adelaide and the average IPI.

Chart A.4: City-country differential, IPI-country differential and IPI-city differential – South Australia – December half 1998 to June half 2002



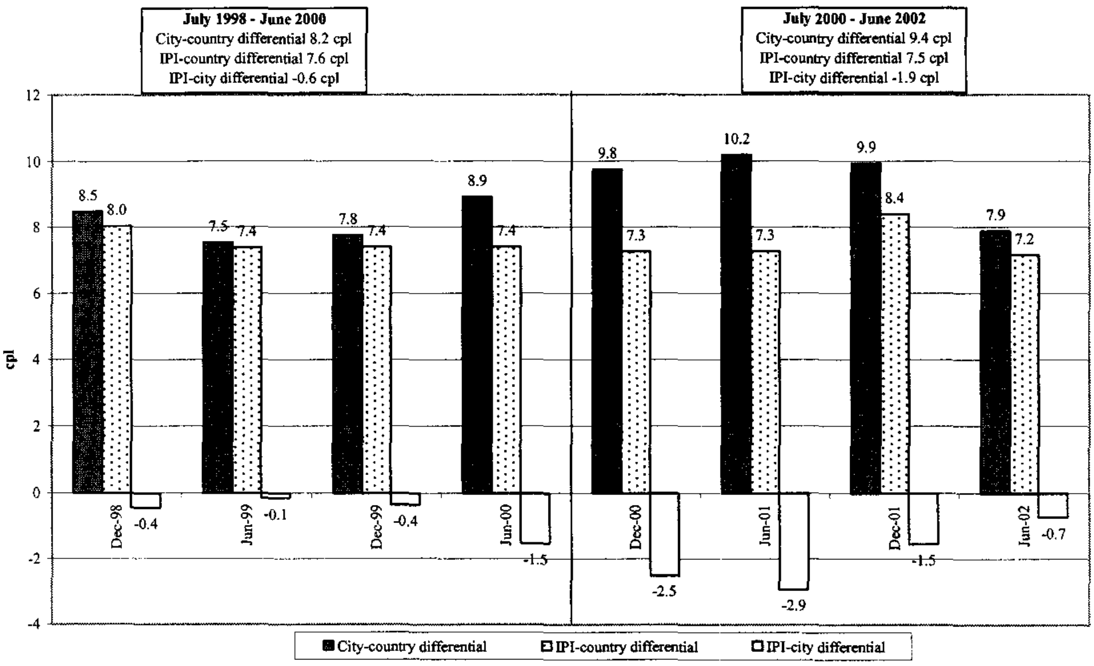
Source: ACCC data and FUELtrac

- The city-country differential for the period July 1998 to June 2000 was 6.5 cpl. In the period July 2000 to June 2002 the differential fell by 0.6 cpl to 5.9 cpl.
- Country prices relative to the IPI increased by 0.1 cpl between the two periods. City prices relative to the IPI increased by 0.6 cpl.

Western Australia

Chart A.5 shows the city-country differential, the IPI-country differential and the IPI-city differential for Western Australia for the eight six-monthly periods between July 1998 and June 2002. The city-country differential is the difference between the average country price for Western Australia and the average price for Perth. The IPI-country differential is the difference between the average country price and the average IPI, and the IPI-city differential is the difference between the average price for Perth and the average IPI.

Chart A.5: City-country differential, IPI-country differential and IPI-city differential – Western Australia – December half 1998 to June half 2002



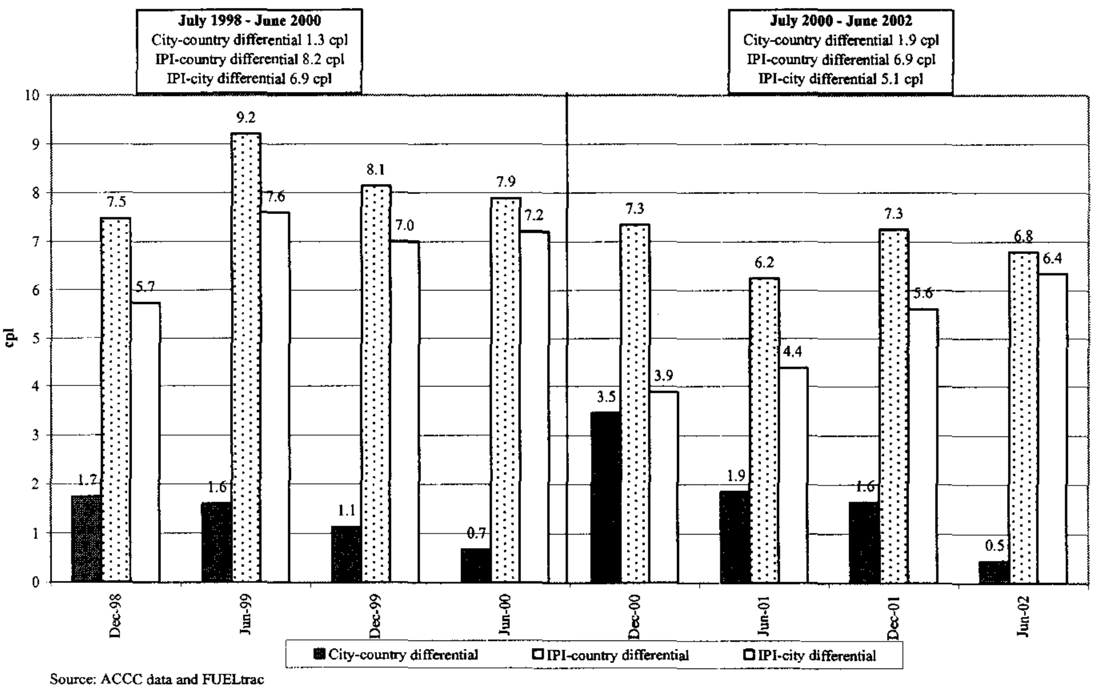
Source: ACCC data and FUELtrac

- The city-country differential for the two-year period to June 2000 was 8.2 cpl and in the period July 2000 to June 2002 it was 9.4 cpl – an increase of 1.2 cpl.
- Country prices fell relative to the IPI by 0.1 cpl between the two periods. The reason the city-country differential widened was due to city prices falling by more than country prices relative to the IPI. City prices fell relative to the IPI by 1.3 cpl, whereas country prices fell by only 0.1 cpl.

Tasmania

Chart A.6 shows the city-country differential, the IPI-country differential and the IPI-city differential for Tasmania for the eight six-monthly periods between July 1998 and June 2002. The city-country differential is the difference between the average country price for Tasmania and the average price for Hobart. The IPI-country differential is the difference between the average country price and the average IPI, and the IPI-city differential is the difference between the average price for Hobart and the average IPI.

Chart A.6: City-country differential, IPI-country differential and IPI-city differential – Tasmania – December half 1998 to June half 2002

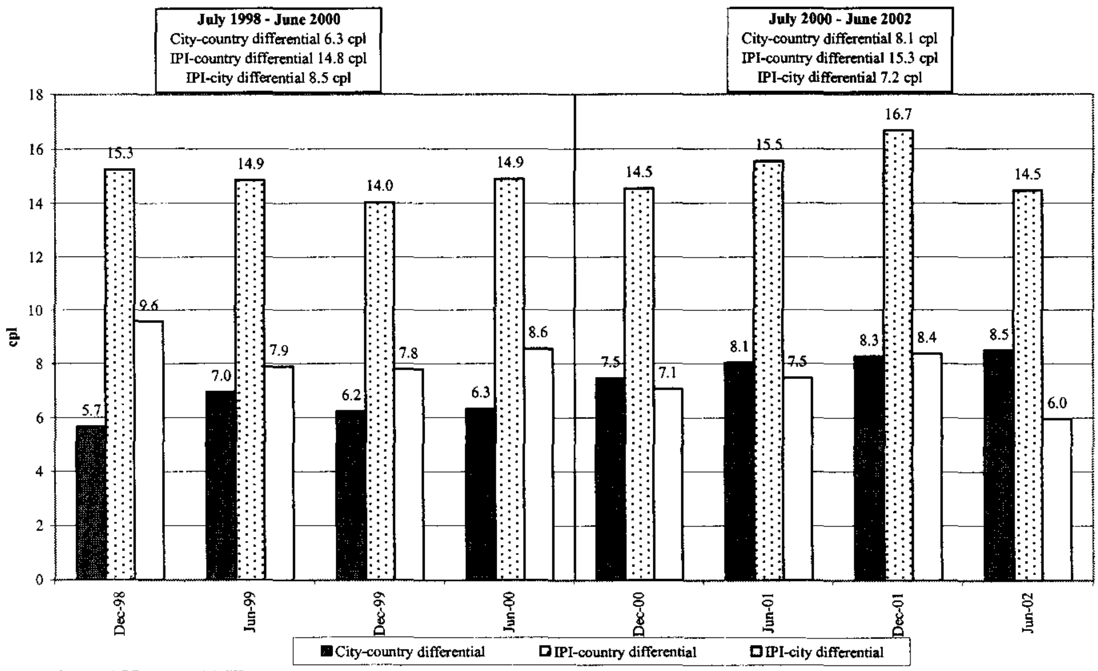


- The city-country differential for the period July 1998 to June 2000 was 1.3 cpl. In the period July 2000 to June 2002 the differential rose by 0.6 cpl to 1.9 cpl.
- Country prices fell relative to the IPI by 1.3 cpl between the two periods. This was counteracted by a greater fall in city prices relative to the IPI of 1.8 cpl.

Northern Territory

Chart A.7 shows the city-country differential, the IPI-country differential and the IPI-city differential for the Northern Territory for the eight six-monthly periods between July 1998 and June 2002. The city-country differential is the difference between the average country price for the Northern Territory and the average price for Darwin. The IPI-country differential is the difference between the average country price and the average IPI, and the IPI-city differential is the difference between the average price for Darwin and the average IPI.

Chart A.7: City-country differential, IPI-country differential and IPI-city differential – Northern Territory – December half 1998 to June half 2002



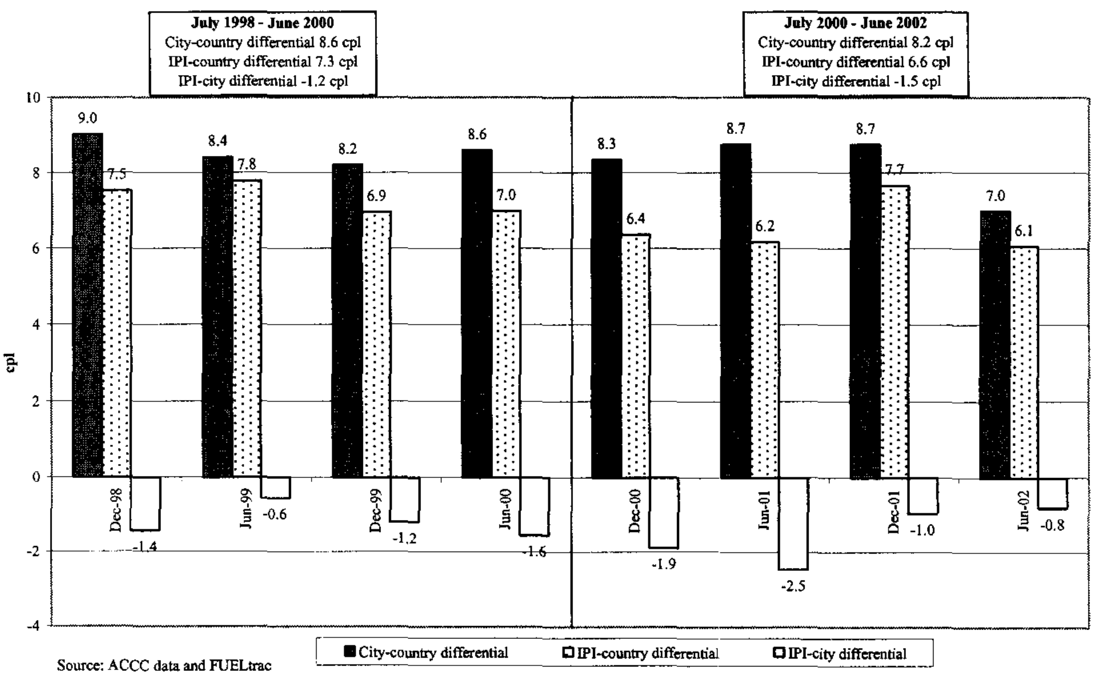
Source: ACCC data and FUELtrac

- The city-country differential for the period July 1998 to June 2000 was 6.3 cpl. In the period July 2000 to June 2002 the differential rose by 1.8 cpl to 8.1 cpl.
- Country prices rose relative to the IPI by 0.5 cpl between the two periods while city prices fell relative to the IPI by 1.3 cpl.

Five-city

Chart A.8 shows the city-country differential, the IPI-country differential and the IPI-city differential for the five cities for the eight six-monthly periods between July 1998 and June 2002. The five-city city-country differential is the difference between the average country price for the six states and the Northern Territory and the average price for the five major metropolitan cities (Sydney, Melbourne, Brisbane, Adelaide and Perth). The IPI-country differential is the difference between the average country price and the average IPI for the five major metropolitan cities, and the IPI-city differential is the difference between the average price and the average IPI for the five major metropolitan cities.

Chart A.8: City-country differential, IPI-country differential and IPI-city differential – Five-city – December half 1998 to June half 2002



Source: ACCC data and FUELtrac

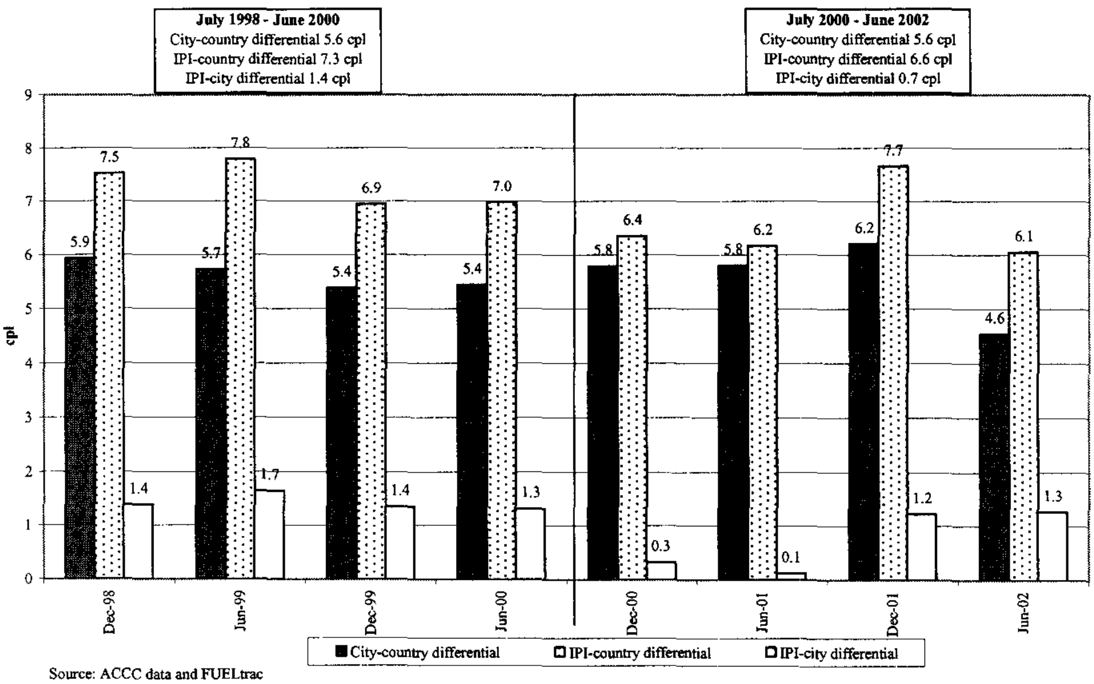
- The city-country differential for the two-year period to June 2000 was 8.6 cpl. In the period July 2000 to June 2002 the differential fell by 0.4 cpl to 8.2 cpl.

- Country prices fell relative to the IPI by 0.7 cpl between the two periods, and city prices fell relative to the IPI by 0.3 cpl.

Eight-city

Chart A.9 shows the city-country differential, the IPI-country differential and the IPI-city differential for the eight cities for the eight six-monthly periods between July 1998 and June 2002. The eight-city city-country differential is the difference between the average country price for the six states and the Northern Territory and the average price for the eight capital cities (Sydney, Melbourne, Brisbane, Adelaide, Perth, Canberra, Darwin and Hobart). The IPI-country differential is the difference between the average country price and the average IPI for the eight capital cities, and the IPI-city differential is the difference between the average price and the average IPI for the eight capital cities.

Chart A.9: City-country differential, IPI-country differential and IPI-city differential – Eight-city – December half 1998 to June half 2002



Source: ACCC data and FUELtrac

- The city-country differential for the period July 1998 to June 2000 was 5.6 cpl and remained the same for the period July 2000 to June 2002.
- Both city and country prices fell relative to the IPI by 0.7 cpl between the two periods.

Appendix B

Views of industry participants on the Western Australian fuel pricing arrangements

Staff of the Commission consulted with a range of industry participants in September, October and November 2002 seeking their views on the Western Australian fuel pricing arrangements. These views are summarised in this appendix.

Western Australian Department of Consumer and Employment Protection

On the **24-hour rule**, DOCEP said that feedback from consumers indicates that they like having certainty in the price of fuel. Through FuelWatch and the price board arrangements, the public is now more informed about petrol prices and price movements and this puts power back in the hands of the consumer. According to the results of a survey conducted in late 2001, 96 per cent of respondents were very satisfied or satisfied with the FuelWatch programme. DOCEP reported that since the closure of the loophole on 24 August 2001, there had been no problems with the operation of the 24-hour rule. Compliance by retailers had been very high.

DOCEP said that there have been over 33 million hits on the FuelWatch website since its inception. There were 2.1 million in August 2002. Over 7,600 people are registered with FuelWatch to receive a personalised free pricing information e-mail either daily or on nominated days and a new SMS (short messaging service or 'text') service was recently added. This gives consumers with a mobile phone the option of receiving pre-arranged pricing messages, 'price alerts' warning of an impending price increase or alternatively 'on demand' or ad hoc requests by sending a brief coded SMS to FuelWatch. FuelWatch information is also broadcast nightly on the prime time news bulletins of two of the three metropolitan commercial TV stations and the regional broadcaster, with independent media monitoring indicating that 7.4 million viewers saw that information in October 2002 alone.

DOCEP has limited data on whether FuelWatch has changed the pattern of sales on particular days but anecdotal evidence from the industry suggests that retailers mentioned on the nightly news as having the cheapest prices or listed on the website's 'Cheapest 100' do benefit from increased sales. DOCEP does note, however, that the duration of the price cycle in Perth does differ from those in other capital cities. A longer price cycle has been occurring in Perth – giving motorists more time to purchase at or near the bottom of the cycle. In addition, the absence of Western Australia's 24-hour rule in other states means that their fuel retailers are able to compare prices across sites and adjust intra-day to match the market which often results in parallel pricing. Western Australia's 24-hour legislation prevents this from occurring and again gives motorists more choice of sites from which to purchase at a cheaper price.

DOCEP commented that Perth's petrol prices have been very competitive relative to the much larger Sydney and Melbourne markets. The attached graph shows comparative prices since the oil companies moved away from refinery exchange arrangements from 1 July 2002. After adjustments for the much higher quality fuel specifications in Western Australia and the freight differential between Singapore/Perth and Singapore/Sydney/Melbourne, Perth motorists are paying just over 1.0 cpl higher than those in the latter two cities. Given the substantially larger market and the significantly higher number of independent retailers in both the eastern states' cities – both factors that have a very positive impact on competition – this is considered to be a very satisfactory outcome for Perth motorists.

On the **MWP arrangements**, DOCEP reported that there had been no formal sales under the arrangements. There had been three unsuccessful attempts to purchase fuel under the MWP arrangements (two at BP and one at Mobil) and all these were the subject of prosecution action that is expected to be resolved in the first half of 2003. DOCEP commented that the MWP arrangements were intended to provide a benchmark price, rather than a common wholesale price. The Government has recently announced that it will replace the MWP arrangements with a terminal gate price system and acknowledged that the MWP had not been as effective as it had hoped. DOCEP recently had a successful prosecution against BP for not displaying prices at the terminal.

TGP arrangements will be implemented on 19 December 2002. Prescribed suppliers from seaboard terminals will be required to notify FuelWatch of a terminal gate price for ULP, PULP, LRP and diesel and make product available for sale at the terminal gate price to eligible retailers and distributors. Uncontracted retailers and distributors, or those whose contracts were entered into after 1 November 2000, will be eligible to purchase at the terminal gate price. Terminal operators will also be required to display, at the terminal, the terminal gate 'spot'[37] and weighted monthly average prices. They will also be required to supply a detailed invoice for all sales from the terminal.

As for the **50/50 arrangements**, DOCEP was not aware of any take up of these arrangements although there has been some interest expressed recently. It was always expected that there would be a low take up at least in the short to medium term as only a very limited number of retailers are likely to be eligible due to the legislation's limited retrospectivity. Under the arrangements, retailers do not require additional tanks to use the 50/50 arrangements, but they cannot mix 'unbranded' fuels with branded fuels (although they can mix 'unbranded' fuels). They also have to identify 'unbranded' fuel via a notice on the bowser. DOCEP is considering running an education campaign about the 50/50 arrangements.

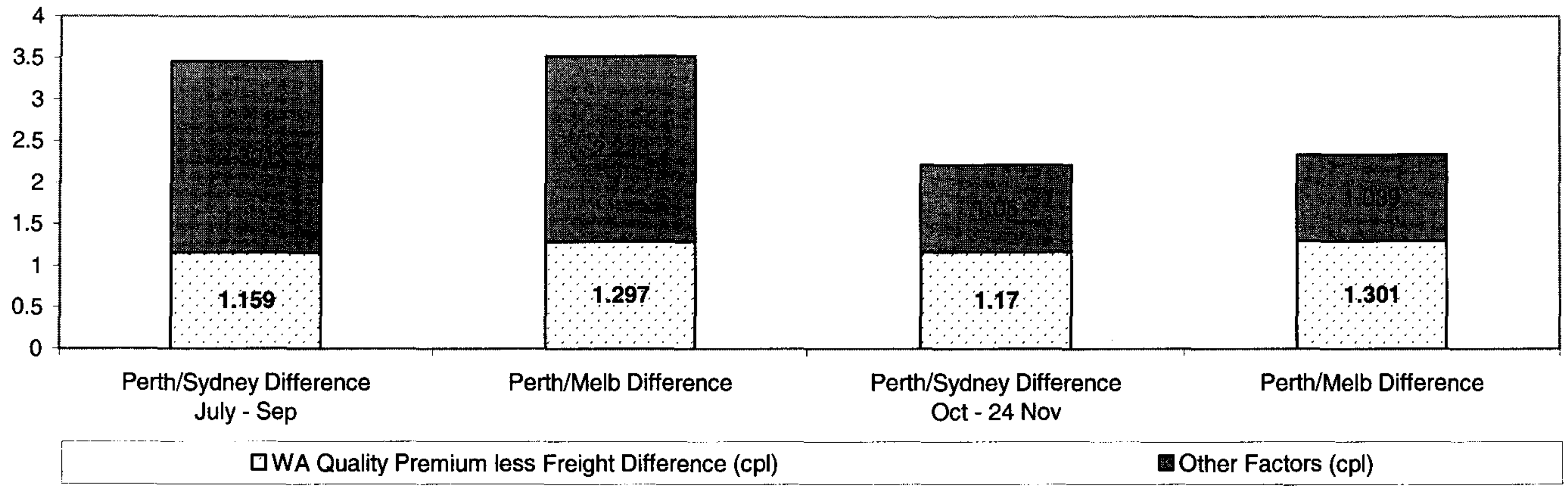
DOCEP noted that **price boards** had been introduced in Albany in August 2001 and after their introduction there was a 2.0 cpl drop in the Perth-Albany price differential. On 23 December 2001 price boards were introduced in other regions in Western Australia. On average, comparing the price differential three months before their introduction with the price differential three months after, there had been a reduction in 23 out of 24 locations. On average there was a decline of 1.56 cpl although five centres recorded a reduction of over 2.5 cpl and reductions of up to 3.8 cpl were recorded.

[37] Spot prices may be below the terminal gate price but cannot exceed the terminal gate price.

DOCEP issued a discussion paper on the possibility of implementing retail price capping in major regional centres in May 2002. Responding to limited public support for the concept the Government announced that it would not proceed with price capping at this stage but would address the need for reforms at the wholesale end of the market via the TGP arrangements.

DOCEP said that Government had considered the issue of **fuel standards** and had decided that they would not be changed. The fuel standards had particular importance to Western Australia given the reliance on groundwater in the state and the continued drought over the last few years. However, DOCEP noted that under the current arrangements Western Australia can import fuel of a lower standard, in the event of refinery problems. It noted that two companies (Mobil and BP) had imported small amounts of fuel into Western Australia at the current standards.

Breakdown of Differential Between Perth and Melbourne/Sydney ULP Prices



There are significant market differences between Perth, Sydney and Melbourne, which impact on direct comparisons of fuel prices between the three capital cities. For example, Western Australia has the "cleanest" unleaded petrol specifications in Australia and this attracts a price premium (to allow for the recovery of the investment made in the refinery to be able to produce this specification). Melbourne and Sydney prices don't attract this premium because their fuel does not match the WA quality. On the other hand, freight costs are higher for Melbourne and Sydney than they are for Perth because of their extra distance from Singapore .

It is reasonable therefore, when comparing Sydney, Melbourne and Perth prices, to account for these obvious differences between the three markets. The WA quality premium is US $1.60 per barrel . The freight difference for Perth/Sydney and for Perth/Melbourne for the July-September period was 0.681 and 0.543 cpl respectively. For the October - 24 November period, the differences were 0.644 and 0.513 cpl.

The 'dotted' bar shows the differentials between Perth and the other two cities before these differences are taken into account. The shaded bar shows the price differentials, after taking these significant market differences into account. This latter figure then is a truer representation of the differential between Perth and Sydney and Perth and Melbourne.

As well as the significant market differences mentioned here (WA's quality premium and freight differences) it is worth noting that WA is a significantly smaller market than either Sydney or Melbourne. This factor, combined with the significantly higher proportion of independent retailers in both the latter markets, suggests that the "adjusted" differential in fact represents a very competitive Perth price vis a vis Melbourne and Sydney.

Oil Majors

BP

BP commented that the advantage of the **24-hour rule** was that it gave consumers more transparency. However, there were a number of downsides for consumers:

- Since prices did not follow each other as closely as they do in non-regulated markets, price reductions would generally be slower to flow through, with a consequential loss to consumers.

- FuelWatch were sending SMS messages and e-mails to consumers, along the lines of 'buy fuel today, prices are going up tomorrow'. This could adversely affect those companies that did not increase their prices, but do not get any benefit from it because consumers have already filled up on the previous day.

- There could be an equity issue in that while a significant amount of information is available on the internet (and via SMS), it may be that many price sensitive consumers do not have internet (or mobile phone) access.

From the point of view of companies, compliance with the rule was imposing a burden which was especially disadvantageous for small retailers.

With respect to the **MWP arrangements**, BP supports the Victorian approach and has advised the Western Australian Government to move from the current MWP arrangements to the Victorian TGP arrangements. BP considered that there could be benefits to consumers in a mandated form of TGP (instead of the companies just posting their own terminal gate prices) because it would apply consistency to the arrangements and allow consumers to compare terminal gate prices on a like with like basis.

On the **50/50 arrangements** BP noted that it had not had any requests to access these arrangements to date. BP commented that no BP company-sites have been affected by the **price boards** arrangements, although some of the independents that use the BP brand have been.

On **fuel standards,** BP commented that the premium of US $1.60 per barrel (or around 2.0 cpl) was the market value of the Western Australian fuel standard premium vis a vis Victoria/New South Wales standards. BP did not see this premium increasing in the near future. BP commented that the fuel standards had not deterred imports. BP had imported a cargo from Japan earlier in the year. At least one other company is importing.

Caltex

Caltex said that it thought that the **24-hour rule** may have provided more information to consumers and increased transparency, but it reduced competition and could drive players out of the market. Caltex believed it was not the best mechanism to provide transparency of information. Caltex believed that only a small percentage of the motoring public use the FuelWatch web site for making fuel buying decisions. It noted that DOCEP would often make public statements about oil companies removing price support and therefore increasing prices, which they considered was not appropriate and had a significant effect on brand image. There was no publicity from DOCEP about oil companies providing significant discounts in the period preceding price support withdrawal.

Caltex indicated that there was limited flexibility in the implementation of the 24-hour rule, which greatly disadvantages service station operators by limiting discounting. Service station operators could incur hefty fines for the incorrect posting of prices on their boards due to minor errors. Caltex said that there had been no reduction in the volatility of the price cycle as a result of the 24-hour rule. The predictive pricing nature of the 24-hour rule has also lead to operational inefficiencies for both Caltex distribution and Caltex site staffing, with much wider variations in daily sales.

On the **MWP arrangements**, Caltex was not aware of any sales. It believed that there was no spot market in Western Australia because term contracts offer significant benefits at modest cost. Caltex also consider that the MWP formula is too low and is not commercially realistic – it is below the sustainable price in the market. Caltex indicated that the MWP was at least 1 cpl lower than the Caltex terminal gate price that would apply in the absence of MWP regulation. The MWP should be scrapped or substantially modified.

Caltex was not aware of anyone wanting to use the **50/50 arrangements**. The arrangements were fairly restrictive and may involve the de-branding of a site or the use of dual bowsers. It was unlikely any Caltex franchisees would want to take the risk of using these arrangements. Caltex believes the legislation is of no practical value and that only unbranded, uncontracted independents would show any interest in the 50/50 arrangements.

On **fuel standards**, Caltex considers that Western Australian prices are now increasingly reflecting the buy/sell prices and that the market prior to 1 July 2002 was not fully reflecting the value of the Western Australian petrol standards and therefore underpricing. Caltex considers that the fuel quality premium should reflect import parity, subject to commercial negotiation. Caltex commented that importing is difficult but can be done - it had sourced similar quality fuel from Asia, mainly diesel but some petrol. Caltex claimed that premiums in Western Australia could increase beyond 2 cpl depending upon what BP sought to charge and customers could negotiate. However, import parity pricing would impose a ceiling.

Caltex said that it had recently publicly announced **TGP arrangements** for all products in regional terminals in Western Australia, and for diesel in Perth. These will apply to spot sales only and not to existing contracts. They do not apply to franchisees.

Mobil

Mobil considered that the **24-hour rule** had an unintended consequence for service station operators because, in the event that their price was above the majority of the market on a given day, they were left out of the market on that day. This is inefficient and can leave retailers with significant inventory that cannot be sold, while still incurring substantial fixed costs, due to the legislative prohibition on responding to competition. Mobil is not aware of any general change in the pattern of fuel sales as a result of the 24-hour rule over the course of a typical week. Mobil pointed out that there were occasions when a service station would run out of fuel supply. It attributed this to operators having to nominate the price for the next day and sticking to it for 24 hours.

On the **MWP arrangements**, Mobil said that the Government had adopted a highly interventionist approach in determining the MWP. Mobil has not sold any fuel on a spot basis as it only purchases sufficient fuel that it needs for its own operations and for contract sales. It expressed concern with the Singapore spot price as the sole benchmark to determine wholesale prices in Western Australia. The Western Australian arrangements tie local prices to Singapore prices, whereas it would be more efficient to allow local prices to respond to local conditions, with the obvious understanding that Singapore price movements would continue to have a strong bearing on local prices.

Mobil considered that the **50/50 arrangements** have had no effect on franchisees and the company was not aware of any operators who sought to utilise it. Mobil advised it remained strongly opposed to 50/50 arrangements, which it sees as fundamentally incompatible with franchising and carrying significant risks for consumers.

Mobil considered that the **Western Australian fuel standards** were imposing some impediment to regular imports. It was hard to meet the 0.1 per cent MTBE limit as the imports would have to be brought in clean ships, which meant that tankers would have to be flushed and cleaned to ensure that there was no MTBE. Due to these additional costs, Mobil has purchased the majority of its fuel from BP. Although Mobil has imported fuel into Western Australia (from the Middle East, Singapore and Adelaide) to date it has not done this on a consistent basis. Importing was an expensive option. Mobil noted that at certain times they had been unable to find fuel of this standard at any price on the spot market.

Shell

On the **24-hour rule**, Shell is opposed to this legislation as it stifles legitimate competition. Shell maintains that consumers have been adversely effected by this legislation because price movements in Perth are less predictable compared with other States. In Perth, there is a greater variation in the retail prices on any one day than in other capital cities. This makes it harder for consumers to change their buying pattern to purchase fuel at the bottom of the pricing cycle. By limiting pricing flexibility, Shell believes that the 24-hour rule is having the most adverse impact on those retailers who rely on fuel pricing as the sole component of their customer offer.

On the **MWP arrangements** Shell said that the arrangements are fundamentally flawed as they are based on the false assumption that there is not vigorous competition in the wholesale fuel market in Perth.

Shell noted that historically the small size of the spot market in Perth, and other Australian markets, is because customers preferred the security of supply associated with term contracts, rather than an inability to obtain supply on a spot basis.

Shell noted that the Government's MWP formula is set below the commercial market price. Even though the Government is aware that the quality premium charged by BP for petrol meeting Western Australian fuel quality standards has increased, the Government has not changed its MWP formula. Consequently, suppliers have no incentive to purchase additional quantities of fuel to supply the spot market, as these sales would be made at a loss.

Shell believes that the **50/50 arrangements** have had no effect on franchisees to date. They are not aware of any retailer using the arrangements. They noted that the relationship between franchisor and franchisee would be affected if a franchisee used the arrangements and that future franchising contracts may need to be re-written to reflect the additional risks imposed on the franchisor by the legislation. They said that the 50/50 arrangements stem from lack of understanding regarding the highly interdependent nature of the relationship between franchisor and franchisee.

On **Western Australian fuel standards,** Shell is very concerned about their anti-competitive effect. Shell noted that by 2006, the Western Australian specifications would be broadly the same as the Commonwealth specifications. However, in the interim, the imposition of the unique Western Australian fuel standards is providing a significant barrier to alternative sources of supply to the local BP refinery. This supply constraint is reflected in higher refinery prices in Western Australia than in other States.

Shell noted that the increase in quality premiums associated with the Western Australian fuel quality standard is costing Western Australian motorists tens of millions of dollars per year in higher petrol prices. Shell advocated that the ACCC should take a more active role in publicising Government regulations such as these which are clearly anti-competitive and detrimental to the consumer interest.

Independents

Gull

Gull said that the **24-hour rule** had not reduced price volatility over the cycle, but it had removed daily price changes. The rule had impacted adversely on Gull because Gull's marketing objective had been to 'offer value' in the market. It wanted to position itself to be the cheapest in a market area. Gull had made a huge investment in their image as the cheapest in the market. The 24-hour rule removes pricing flexibility and means that it cannot achieve this. Gull commented that the larger oil companies had resources to keep some of their sites at the bottom of the market, which Gull cannot match. A danger with the 24-hour rule was that the majors could put pressure on the independents over time. Gull said that some companies had gone out of business as a result of the 24-hour rule.

Gull noted a couple of adverse consequences of the FuelWatch arrangements:

- Only a limited number of prices are included on FuelWatch (top 100 sites) and on TV (between 10 and 20 sites). This can create a misleading impression because some sites not included in the top lists may have the same price as those included. This means that the FuelWatch system is promoting some companies at the expense of others.

- The larger companies can use the FuelWatch system to their advantage. They could have low prices at a number of sites (to get them included in the FuelWatch 100 or on TV) but be able to recoup prices at other sites. Gull cannot do that. The fact that a company has low prices at some sites may also give the impression that they are the cheapest overall in the market.

Gull noted that volume of sales can change significantly as a result of the 24-hour rule. If prices at nearby sites are locked in at very different levels, the site with the lower price may run out of fuel. This may adversely affect it in the long run if it is considered to be unreliable.

Gull is not aware of any product having been sold under the **MWP arrangements**. The MWP formula had not been adjusted to reflect the BP quality premium.

With respect to the **50/50 arrangements,** Gull was not aware of anyone who wanted to use them. Gull viewed these arrangements as regulation with no benefit.

Gull was against the introduction of **retail price caps** in regional areas and commented that if the Government went down the track of retail price caps in regional areas, it would want compensation.

As for **price boards**, Gull said that it used price boards where it owned retail sites. In Albany – the town where the Government first introduced the price board arrangements – competition exists behind the market, ie people get discounts. Therefore, the price on the boards is not the actual price that motorists pay.

With respect to the **Western Australian fuel standards**, Gull commented that there was no competition in the supply side because the fuel standards gave BP a monopoly on supply. Gull thought that there needed to be Government regulation to maintain competition. Gull commented that fuel meeting the Western Australian standards could be obtained from California in limited volumes and at a high premium (around 10 cpl).

Mobil have imported one cargo of product meeting the Western Australian specifications. However, it has not proceeded with further imports. Gull believes that Mobil has found that this form of supply is uneconomic.

On the fuel specification issue, Gull believes that a national specification is an imperative to enable free trade in petroleum products between states. The abandoning of refinery exchange by the majors makes this even more important as supply market power will rest mainly with the state refiners rather than the former position where each major had a reasonable source of economic supply in each state.

Gull's view is that wholesale competition is required to maintain a viable independent sector.

Liberty

On the **24-hour rule,** Liberty said that initially there had been some impact on the seven-day price cycle. However, after market participants adjusted to the arrangements, the cycles reappeared, except for the elimination of price volatility within the day. It commented that it was easier to predict what competitors were likely to do in terms of pricing and there was increased ability by some market participants to exert an upward pressure on prices. Liberty had observed some increase in the volume of fuel sold on a day when it became evident that the retail prices were going to increase the following day. The volume of petrol sold in Perth was more variable than in Melbourne. This implied that consumers were watching the price changes and it affected their purchasing pattern. Fuel shortages are more likely with the 24-hour rule as service station operators had to stick with the nominated price for 24 hours and could not use prices to manage supply-demand imbalances.

With respect to the **MWP arrangements**, Liberty thought that the MWP in Western Australia was set at about the right level. However, it commented that market participants were unable to access fuel on a spot basis.

Liberty considered that the **50/50 arrangements** were only relevant for franchisees, as other operators had a choice of suppliers. However, franchisees did not make use of the arrangements, as they feared retribution from their franchisor. Even if the mixing of fuel were allowed within the same tank it would not be used by many operators.

On the **Western Australian fuel standards**, Liberty said that it is not viable to import fuel that meets these standards from Europe and Japan on a consistent basis. Short term contracts to purchase the fuel internationally would involve a premium of around 4.0 to 6.0 cpl. Liberty thought that the premium charged by BP could increase further.

Woolworths

On the **24-hour rule**, Woolworths thought that the main positive was that consumers have certainty of prices for the day. Woolworths said that it had not been adversely affected in the market place by the arrangements. It noted that the stepped changes in prices that occurs under the 24-hour rule decreased the ability of some players to be competitive. Woolworths' sites had not lost market share as a result of the 24-hour rule, but other players probably have. Woolworths believe that the 24-hour rule has had minimal effect on prices.

Woolworths is concerned about the **fuel standards**. It thought that the price premium for Western Australian fuel quality was between 3-5 cpl and that some of this was already reflected in the market in Western Australia. Over time, the local refiner could move to recover the maximum price premium.

Industry and Motoring Organisations

APADA

APADA commented that it would like the Western Australian Government to re-think its current terminal fuel pricing arrangements **(MWP)** and its proposed **retail price capping**. It said that the **50/50 arrangements** were 'window dressing' and that no one was using them. They were too difficult to use, due to equipment ownership and issues of co-mingling of product, coupled with the retailers need for guaranteed supply.

MTAWA

On the **24-hour rule**, MTAWA noted that it had given price stability to motorists but it had not been good for retailers as it is hard for them to set the retail price at the right level. The closure of independent sites had been exacerbated by the 24-hour rule.

In recent discussions with members in Western Australia, MTAWA found that it was 50/50 for and against the 24-hour rule. They no longer had to drive around their market area to establish prices and this was a positive. However, the website also enabled the oil companies to have greater control of prices and this was done remotely from the eastern states.

MTAWA said that the FuelWatch website was an extremely expensive undertaking for the limited number of consumers that used it. It was critical of the local news stations broadcasting the cheapest sites each night because a smaller independent petrol station may be 0.1 cpl off being the cheapest but it will not get a mention and this can be detrimental to business the next day. MTAWA was not aware of consumers rushing out to buy petrol prior to a price rise. It noted that the instances of service stations running out of supply had increased, especially in times of supply shortage. Because the price could not be altered to match competition for 24 hours, sites also were left with surplus stock of perishable goods and staff were left idle and in some cases were sent home.

MTAWA said that there have been no sales under the **MWP arrangements**. There is very little spot market in Western Australia as most retailers are on contracts. The MTAWA views on TGP are outlined in the document *Principles of a terminal gate pricing arrangement*, 30 October 2002, which is available on the MTAA website).

MTAWA believe that the **50/50 arrangements** have not worked in Western Australia - it was more symbolic legislation introduced by the Government. It is not aware of any one having used the 50/50 arrangements.

On **regional price caps**, the MTAWA thought that this was the wrong solution and it was opposed to them. The higher price of petrol in the bush has little to do with retail margins, and there were other reasons why country prices are higher than city prices. These included: low volume sales, higher cost of fuel due to inefficient distribution systems (which resulted in double handling of the product), and that suppliers/oil companies did not offer discounts in the country. The MTAWA has sought constitutional law advice on the issue of price caps and this had indicated that regional price caps if introduced would be unconstitutional.

With respect to the **Western Australian fuel standards**, the MTAWA thought that the quality premium could be around 2 – 3 cpl and rising. It noted that BP had brought in a tanker of fuel from Japan which exceeded the Western Australian fuel specifications and was re-refined at Kwinana. Mobil has engaged in limited importing from Port Stanvac but in general terms the environmental standards have ensured that fuel supplies from importing have virtually ceased. This has removed a strong element of competition from the market.

RACWA

RACWA considers that the **24-hour rule** is useful because if consumers are looking for cheaper fuel they can check the prices through FuelWatch and be sure that the price will not have changed when they arrive at the service station. The arrangements provide price certainty for the day. However, the 24-hour rule had not stopped price variations or lowered overall prices. RACWA stated that there are indications that the 24-hour rule has caused higher average prices. RACWA said that the oil companies could manipulate the price notification system by having low prices at certain sites, which keeps their brand name in the list of the lowest priced sites. RACWA also noted that the 24-hour rule makes life difficult for the independents. It commented that Perth prices in recent months have been higher than the other major cities by around 4.0 cpl. Two cents of this difference can be attributed to the premium for higher fuel standards in Western Australia. The remainder may be due to the 24-hour rule.

RACWA concluded that while there were pluses and minuses with the 24-hour rule, on the whole the rule seemed to be having positive effects for the consumer. It noted that its surveys were showing that, over time, motorist's concerns with price volatility were declining. In 2000, 94 per cent of respondents had said that the price of petrol was a concern. This figure declined to 73 per cent in 2001 and to 53 per cent in 2002.

RACWA commented that the **MWP arrangements** in Western Australia do not seem to have had any effect at all. RACWA is not aware of any sales under the arrangements. RACWA believes that Western Australia is too small and isolated for a significant spot market. The capital intensive nature of the oil industry lends itself to contracts. RACWA noted that the Government was moving to TGP arrangements along the lines of the Victorian model. It has since announced the introduction of TGP, which was supported because it is more transparent. It enables consumers to see who in the petrol price chain (eg. retailers, distributors or wholesalers) is making money, and may put pressure on them to reduce excessive margins.

RACWA was opposed to **regional price caps** - it is a blunt instrument to address the problem. RACWA favoured some form of regional assistance scheme to help those who wanted to leave the industry (however, the RACWA was not pressing for action on this as the recently announced TGP system may be effective in controlling the city-country price gap).

RACWA said that the **Western Australian fuel standards** constrain independents from importing fuel. RACWA noted that Gull is finding it difficult to find fuel overseas and believes that this is compromising its bargaining position. RACWA had concerns about BP's monopoly power and that the quality premium charged by BP may go higher. RACWA added that BP's market power enabled them to put pressure on the other oil companies in other ways, eg. raising the holding charges on fuel. RACWA said that 71per cent of its members had indicated that they were prepared to pay 2.0 cpl more for cleaner fuels.

Appendix C

Chairman's letter of 9 August 2002

This appendix reproduces the letter of 9 August 2002 from Professor Fels, Chairman of the Commission, to the Western Australian Minister for Consumer and Employment Protection, the Hon. John Kobelke MLA, which provided the Commission's views on retail price capping in regional areas.

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9 August 2002

The Hon John Kobelke, MLA
Minister for Consumer and Employment Protection
20th Floor
197 St George's Terrace
PERTH WA 6000

Dear Minister

On 30 May 2002, Pat Walker, the Prices Commissioner, sent a copy of the discussion paper *Retail fuel price capping in major regional centres of Western Australia* to the Australian Competition and Consumer Commission (ACCC). I welcome the opportunity to provide you with the ACCC's views on it.

The ACCC notes that the proposal to introduce price caps in regional centres is part of a range of regulations relating to fuel pricing which have been introduced in Western Australia since January 2001. These include the 24-hour rule, the maximum wholesale price (MWP) arrangements and the 50/50 legislation. The recent ACCC report on *Reducing fuel price variability*, a copy of which I sent to you on 20 May 2002, analysed the Western Australian fuel price arrangements in Appendix D.

The report noted that both the 24-hour rule and the MWP arrangements had not been operating as intended. In the case of the 24-hour rule, a loophole in the original legislation meant that for the period between January and August 2001, retailers could circumvent the arrangements. With respect to the MWP arrangements, it was noted that, although the arrangements had been in place for eight months since April 2001, no fuel had been sold at the listed MWP. This was despite the initial MWP formula introduced in April 2001 being significantly modified in August 2001. As far as the ACCC is aware, it is still the case that no fuel has been sold at the listed MWP. Furthermore, the ACCC also understands that to date no retailers have used the 50/50 provisions that took effect from January 2002.

It appears to the ACCC that these fuel price regulations may have been introduced too quickly, without full consideration of their implications or the necessary administrative details for their successful implementation. In that context, the ACCC would caution against rapidly introducing further regulation in this area - through the introduction of regional price caps - without a detailed assessment of the implications.

The ACCC is concerned that the case for introducing regional price caps may not have been adequately established. The discussion paper notes on page 4 that there are a number of reasons why fuel could be expected to cost more in country areas, but concludes that "despite justifiable reasons for some differences between city and country fuel prices, differentials have remained, in the Government's view, excessive...." However, the discussion paper provides little analysis to support this conclusion. It seems to rely on the conclusions of the October 2000 Select Committee on Pricing of Petroleum Products Parliamentary Report *Getting a Fair Deal for Western Australian Motorists*, which also provides little supporting evidence for its conclusions.

To come to the conclusion that the differential is 'excessive' in any particular country location requires an analysis of the reasons why that location has higher petrol prices than Perth and an assessment of the 'appropriate' effect on prices of each of the reasons. Only if the combined 'appropriate' price effects are lower than the actual price differential could the differential be considered to be 'excessive'. For many of the reasons for higher country prices (such as local supply characteristics and the degree of competition in regional markets) assessing the 'appropriate' effect on prices would be a very difficult task. However, unless it is undertaken, it cannot be concluded that the city-country price differential is 'excessive'.

The discussion paper also provides no arguments to justify the introduction of regional price caps as the method to address the perceived 'excessive' differential. It refers to the October 2000 Select Committee Report on page 7 commenting that "the Committee acknowledged that in this day and age there are reservations about, or opposition to, Governments controlling prices. However, the lack of competition in the country provides a compelling argument in favour of price control". The ACCC believes that other means to promote competition in regional areas – some of which are discussed below – should be considered before moving straight away to a regulatory solution.

This reinforces the need to fully determine what are the reasons for the 'excessive' differential before introducing solutions to the problem. For example, if one of the reasons for higher country prices is higher than appropriate wholesale prices, then introducing retail price caps will not be the optimal way of addressing that.

The ACCC undertook a significant examination of the city-country price differential in its August 1996 Report *Inquiry into the Petroleum Products Declaration*, a copy of which is enclosed for your information. The reasons for the higher retail petrol prices in rural areas compared with city locations were considered in Chapter 7 of Volume 1.

Based on the evidence presented to the inquiry, the ACCC considered that the retail prices in most country towns would be lower if there was vigorous and effective competition. The ACCC believed that the existence of independent retail chains was important for competition. This was supported by the case study of petrol prices in two regional Victorian centres, Mildura and Warrnambool (see Appendix E in Volume 2).

Another option for increasing competition that was considered by the ACCC in its Report was the formation of buying groups. Business people, farmers and local government, could combine to develop alternative supply arrangements with petroleum product suppliers. This may raise levels of countervailing power and achieve a more competitive pricing result.

The ACCC has also noted that competition can increase significantly when there is a new entrant such as Woolworths in a country town where there was previously limited competition. Therefore, it is important that local planning laws are not a significant barrier to entry.

In light of the important role of independents in promoting competition, the ACCC notes with concern the adverse impact of some of the Western Australian fuel arrangements on independents. The 24-hour rule reduces the ability of independents to lower prices during the day to meet their competitors. If they fail to predict the right price for the following day, they are virtually left out of the market for that day, with no benefit to their business or consumers. This is especially a problem for the smaller independent operators who cannot average their returns across a number of sites unlike the major oil companies.

Another regulation that has adversely affected the independents is the new Western Australian fuel standards. This is because imports of fuel of the required specification are not readily available at viable prices. As a result a key bargaining leverage of the independents (the threat of importing fuel) is reduced.

As you would expect, the ACCC supports market reforms to increase competition at wholesale and retail levels to achieve greater equality between rural and city areas. The recent ACCC report on *Reducing fuel price variability* commented on retail price regulation as a possible option to limiting the price cycles in Chapter 8. Many of those comments would also apply to regional price caps.

The ACCC shares the concerns of the Western Australian Government about the level of petrol prices in Australia, and particularly those in regional areas. However, measures aimed at providing better outcomes for consumers may often have unintended consequences which may more than offset the intended beneficial effects. For this reason, the ACCC would urge the Western Australian Government to closely consider the reasons for the city-country differential and the implications for all sections of the community of introducing regional price caps.

Yours sincerely

Allan Fels

Professor Allan Fels AO
Chairman

Encl.

Appendix D

Comparison of Western Australian and Victorian terminal gate prices

This appendix compares terminal gate prices for regular unleaded petrol in Western Australia and Victoria.

Western Australia introduced TGP arrangements (their MWP arrangements) on 12 April 2001. The Victorian TGP arrangements began on 1 August 2001, followed by a two-week transition period. Only from 14 August 2001 were all five declared companies in Victoria (BP, Caltex, Mobil, Shell and Trafigura) publishing their terminal gate prices.

This appendix compares the Western Australian MWPs and the terminal gate prices of the five declared companies in Victoria between 14 August 2001 and 30 September 2002 (a total of 413 days).[38] Appendix F of the variability report compared the Western Australian MWPs and the terminal gate prices of the five declared companies in Victoria between 14 August 2001 and 31 October 2001.

It should be noted that the Western Australian Government announced in October 2002 that the current MWP arrangements had not been working as well as the Government intended and that they would be replaced with other TGP arrangements in December 2002.

Western Australian maximum wholesale prices and the terminal gate prices of the five declared companies in Victoria

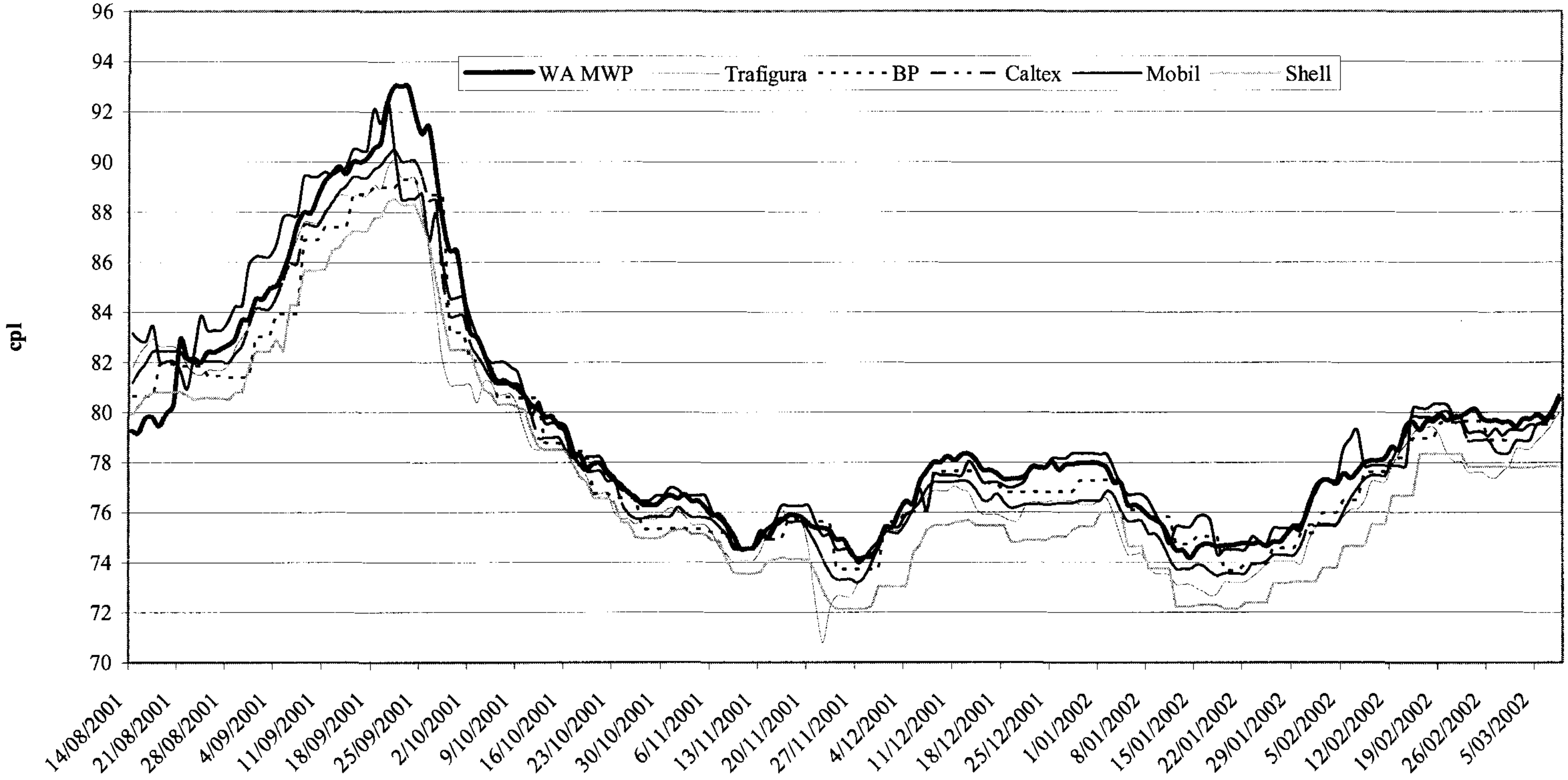
Chart D.1 shows the Western Australian MWPs and the terminal gate prices of the five declared companies in Victoria from 14 August 2001 to 30 September 2002. It can be seen that the Western Australian MWPs have generally either been within the range of the terminal gate prices of the five declared companies in Victoria over this period or above them.

- The Western Australian MWPs were within the range of the terminal gate prices of the five declared companies in Victoria on 215 out of 413 days (52 per cent).
- They were higher than all of the terminal gate prices of the five companies in Victoria on 191 days (46 per cent).
- The Western Australian MWPs were lower than all of the terminal gate prices of the five companies in Victoria on 7 days (2 per cent).

[38] The Western Australian MWPs were obtained from DOCEP.

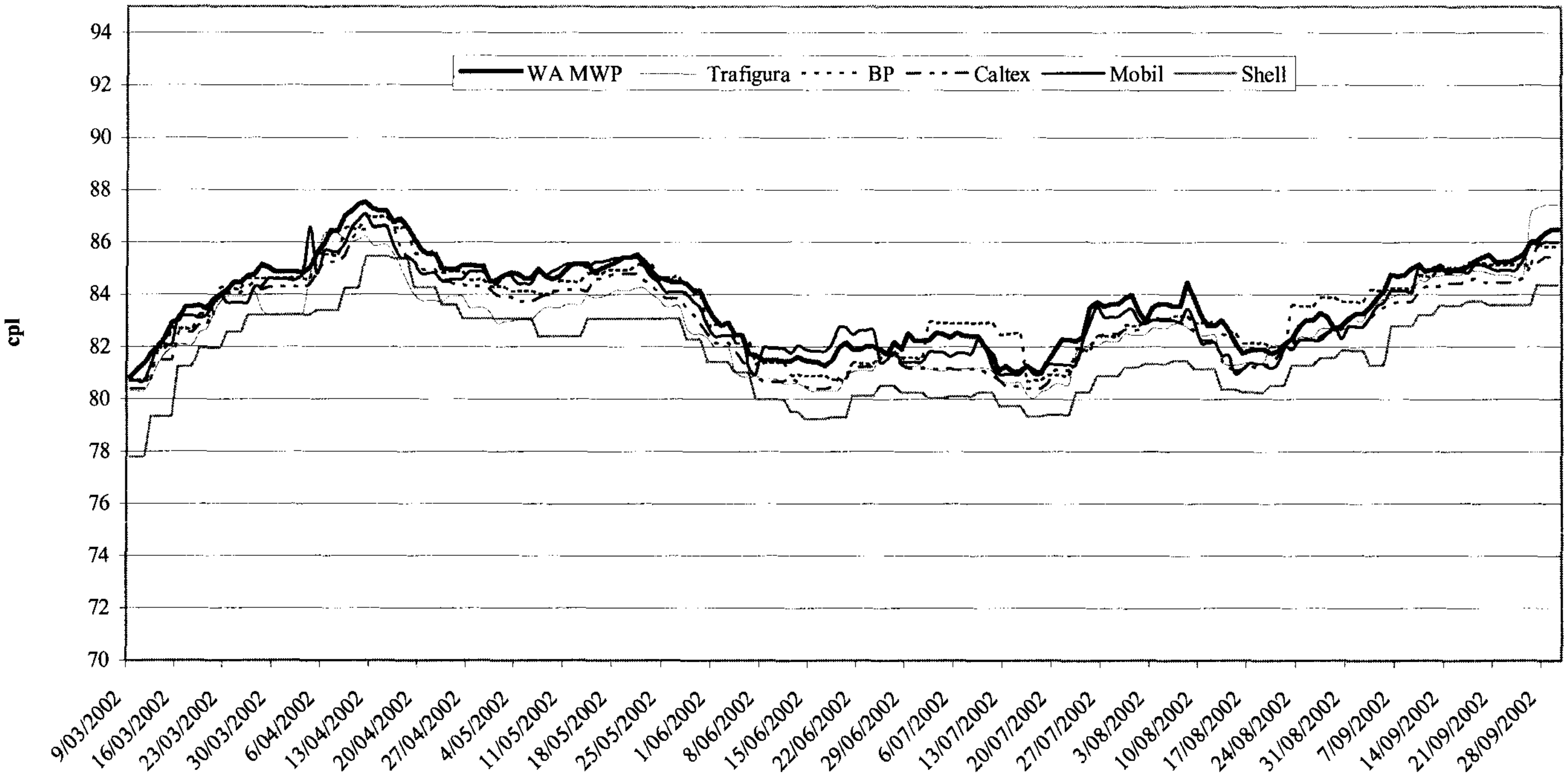
- This occurred between 14 and 20 August 2001, before the Western Australian MWP formula was changed on 21 August 2001.

Chart D.1 (Part 1): Western Australian maximum wholesale prices and terminal gate prices of the five declared companies in Victoria – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura and DOCEP

Chart D.1 (Part 2): Western Australian maximum wholesale prices and terminal gate prices of the five declared companies in Victoria – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Trafigura and DOCEP

Table D.1 shows the average difference between the Western Australian MWPs and the terminal gate prices of the five companies in Victoria from 14 August 2001 to 30 September 2002. It also shows the largest positive difference (ie. MWP greater than a Victorian terminal gate price) and the largest negative difference (ie. MWP less than a Victorian terminal gate price) on any particular day between the Western Australian MWPs and the terminal gate prices of the companies in Victoria.

Table D.1: Difference between Western Australian MWPs and terminal gate prices of the five declared companies in Victoria — 14 August 2001 to 30 September 2002

	BP	Caltex	Mobil	Shell	Trafigura
	cpl	cpl	cpl	cpl	cpl
Average difference	0.5	0.7	0.1	2.0	1.0
Largest positive difference	4.0	3.0	4.6	4.7	5.7
Largest negative difference	2.5	3.0	3.9	1.3	3.2

Source: BP, Caltex, Mobil, Shell, Trafigura, ACCC data and DOCEP

The table shows that the largest average difference between the Western Australian MWPs and the terminal gate prices of the companies is for Shell.

- On average, Shell's terminal gate prices were 2.0 cpl below the Western Australian MWPs.
- Shell's terminal gate prices were below the Western Australian MWPs on more days (406 days — 98 per cent) than any other companies' terminal gate prices.
  - The seven days on which Shell's terminal gate prices were above the Western Australian MWPs were between 14 and 20 August, (ie. prior to the change in the MWP formula on 21 August 2001).

The smallest average difference between the Western Australian MWPs and the terminal gate prices of the companies is for Mobil.

- On average, Mobil's terminal gate prices were 0.1 cpl below the Western Australian MWPs.
- Mobil's terminal gate prices were higher than the Western Australian MWPs on a larger number of days (154 days — 37 per cent) compared with other companies' terminal gate prices.

The table shows that:

- the largest positive difference between the Western Australian MWPs and the terminal gate prices of the five companies in Victoria was 5.7 cpl.
  - This occurred on 28 September 2001, when the Western Australian MWP was 87.7 cpl and Trafigura's terminal gate price was 82.0 cpl.
- The largest negative difference between the Western Australian MWPs and the terminal gate prices of the five companies in Victoria was 3.9 cpl.
  - This occurred on 14 August 2001. The Western Australian MWP was 79.3 cpl and Mobil's terminal gate price was 83.2 cpl.

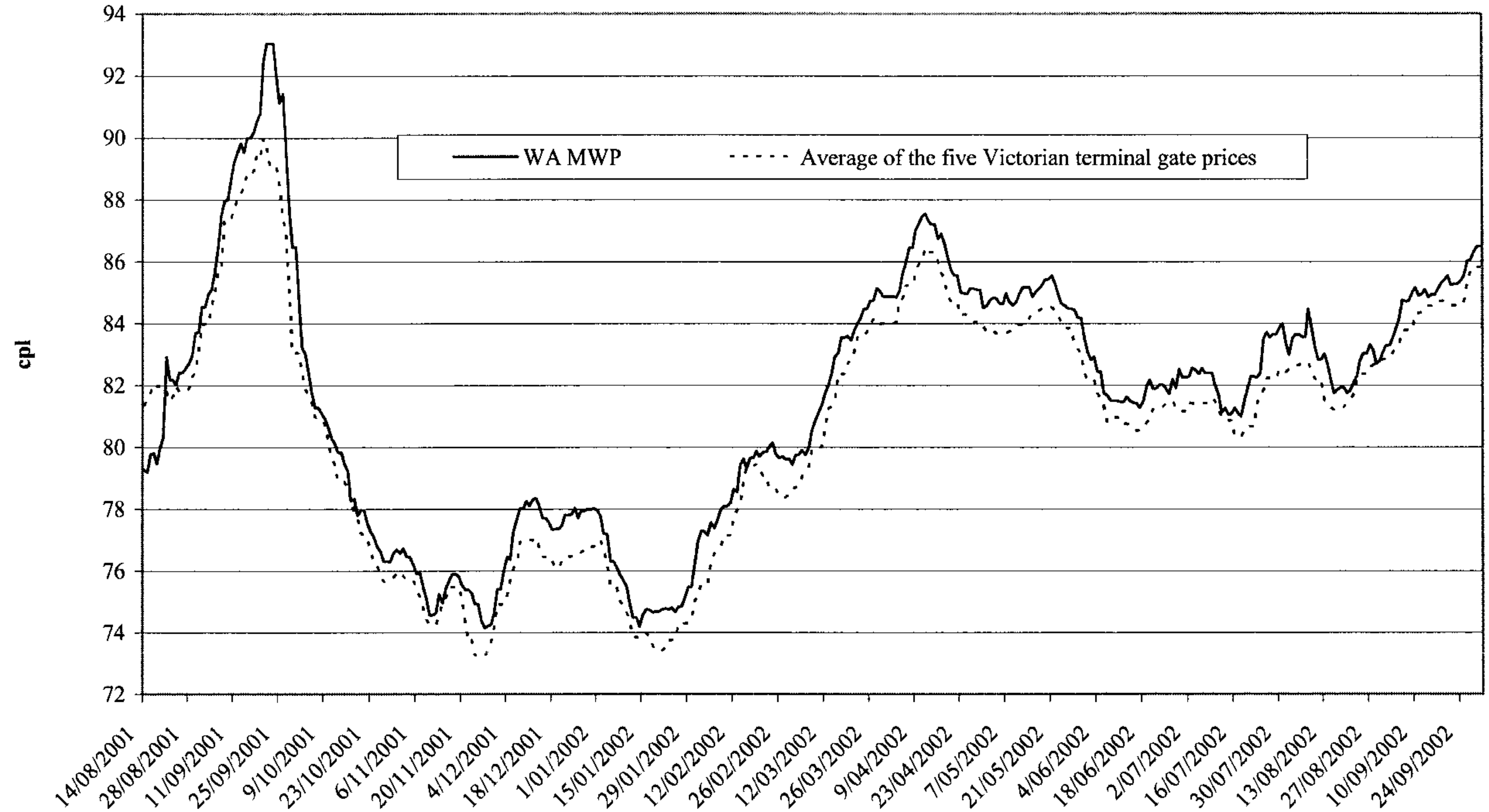
Western Australian maximum wholesale prices and the average of the terminal gate prices of the five declared companies in Victoria

Chart D.2 shows the Western Australian MWPs and the average of the terminal gate prices of the five declared companies in Victoria from 14 August 2001 to 30 September 2002.

It is clear that the Western Australian MWPs have been higher than the average of the terminal gate prices of the five declared companies in Victoria on the vast majority of days.

- The Western Australian MWPs were lower than the average of the terminal gate prices of the companies in Victoria on only 12 days (3 per cent).
  - Seven of these 12 days occurred between 14 and 20 August 2001, ie before the MWP formula was changed on 21 August 2001.
- Between 14 August 2001 and 30 September 2002 the Western Australian MWPs were higher than the average of the terminal gate prices of the companies in Victoria by 0.9 cpl on average.
- From 14 to 20 August 2001 (that is, before the change in the MWP formula), the Western Australian MWPs were lower than the average of the terminal gate prices of the companies in Victoria by 2.1 cpl on average.
- However, from 21 August 2001 to 30 September 2002, the Western Australian MWPs were higher than the average of the terminal gate prices of the companies in Victoria by 0.9 cpl on average.

Chart D2: Western Australian maximum wholesale prices and the average of the terminal gate prices of the five declared companies in Victoria – unleaded petrol – 14 August 2001 to 30 September 2002



Source: BP, Caltex, Mobil, Shell, Trafigura, ACCC data and DOCEP

Appendix E

Views of industry participants on the Victorian terminal gate pricing arrangements

Staff of the Commission consulted with a range of industry participants in September, October and November 2002 seeking their views on the Victorian TGP arrangements. These views are summarised in this appendix.

Consumer Affairs Victoria

CAV was unable to express a view on the operation of the *Petroleum Products (Terminal Gate Pricing) Act* 2000. CAV commented that it was currently undertaking an analysis of the operation of the Act during the period 1 August 2001 to 31 July 2002. However, this analysis would not be completed until late December 2002.

Oil Majors

BP

BP said that the advantage of the TGP arrangements is transparency. This eliminated the situation where there were many different prices and pricing mechanisms for the same product. BP was unable to say whether the Victorian TGP arrangements had had any effect on retail prices, but noted that they may have lowered wholesale prices due to the competitive environment.

BP was strongly supportive of the Victorian TGP initiative, and continues to support the initiative. However, BP did note that the Victorian regulatory requirements are very prescriptive about a range of procedural issues, which adversely affected the way BP interacted with their customers in areas such as invoicing. BP has drawn these concerns to the Victorian authorities in their review of the legislation.

BP commented that it does not have problems with Victoria's formula for calculating terminal gate prices. There is room to accommodate disparities through variation in the terminal costs and margin component. BP noted that it was more appropriate to use the Platts spot rate for international freight instead of AFRA in the pricing formula.

BP thought that transparent TGP enables country customers to realise that they are not being disadvantaged compared with city customers. Transparent TGP has several other advantages for rural customers. Through a transparent terminal gate price, customers in the country may challenge distributors' prices/margins if they seem high, may find more efficient ways of delivering the product to the consumer as a result of the transparent mechanism, or simply receive greater confidence in the pricing/cost chain. All of these are a benefit.

Caltex

Caltex was not aware of any spot sales made under the Victorian TGP arrangements. It believes the Victorian TGP arrangements have not had any overall effect on retail prices. They could only affect unbranded spot sales and these would not be a significant part of the market.

Caltex commented that the Victorian TGP formula was too prescriptive. It specifies the freight rate to be applied (AFRA) whereas Caltex preferred the use of Platts spot rates. Furthermore, the import parity pricing requirement should be substituted with the ability to use oil major buy/sell prices, as the two may not be the same. Caltex noted that while there was some flexibility in the formula for cost base pricing for an independent importer, this was not the case for local refiners. Caltex added that there were no economic grounds for refusal to supply fuel and that the arrangements had created unnecessary administrative costs for the company, without public benefit.

Caltex has around 10 to 20 franchisees that have contracts based on its terminal gate price. The TGP arrangements did not appear to have any effect on prices for franchisees. Before the Victorian TGP arrangements were implemented the price for fuel sales to franchisees was based on Caltex's ruling wholesale price (Caltex Reference Price), which was calculated using a methodology similar to the old Commission maximum endorsed wholesale price. Under the TGP arrangements, the company built up the price from the terminal gate price with add-ons for quality, excise and GST, marketing and freight. The end result in terms of price was the same.

Mobil

Mobil commented that price transparency appeared to be a principal goal of the Victorian TGP arrangements. Mobil was not aware of any spot sales. If there had been any, they would only be a small number. The spot market was bigger five years ago before the introduction of the legislation. Mobil considers that there is the potential for a bigger spot market to facilitate management of inventory for suppliers and customers. However, in Victoria the terminal gate price formula restricted suppliers' flexibility in setting prices that respond to local supply and demand conditions. Thus, when there was a shortage or an excess of supply, the price mechanism could not be fully used to regulate demand.

Mobil said that the Victorian arrangements limited the scope for demand and supply management. The Victorian TGP was formula-based but often there are many factors that affected supply, such as refinery shut downs. It considered that there should be flexibility in both pricing and supply to deal with such situations. Mobil would not like to see the adoption of the Victorian TGP arrangements in other states.

Mobil noted that the Victorian TGP arrangements are based on a marker price (Singapore spot price) and commented that terminal gate prices should reflect industry fundamentals instead of the Singapore benchmark. Mobil preferred more flexibility in pricing than was possible under the Victorian TGP arrangements.

Mobil had not observed any effects on prices arising from the Victorian arrangements. Price cycles do not appear to have changed. It was not aware of distributors seeing any fundamental difference in the supply price.

Shell

Shell said that the Victorian TGP arrangements had increased wholesale pricing transparency and provided an impetus for the introduction of this pricing methodology in other states. Shell has actively encouraged its wholesale customers to shift from the old pricing arrangements to new TGP based contracts. Most of Shell's wholesale volume is comprised of TGP based term contracts, reflecting a customer preference for longer term relationships. However, Shell does have a number of customers who actively purchase on a spot basis at the posted terminal gate price.

Shell sets its terminal gate price at a competitive level which makes it unnecessary to offer further discounts in order to attract and retain its wholesale customers.

Shell considers that the Victorian TGP arrangements have had minimal effect on metropolitan retail prices as the metropolitan wholesale and retail fuel markets have been intensely competitive for many years. The TGP arrangements do have potential to reduce country retail prices by providing country retailers with access to the discounted metropolitan wholesale price. The ability for all wholesale customers to purchase tanker loads of fuel at the posted terminal gate price may also encourage new competitors to enter the retail market in country areas.

Shell said that while the Victorian arrangements mandated the use of a global freight quotation (AFRA), Shell preferred to apply a regional freight rate (available from Platts) as this is more reflective of true freight costs. Shell also said that the requirement under the Victorian TGP arrangements to specify add-on costs for additional services (such as credit, brand and delivery) on invoices is unnecessary as this information is already provided to customers in their supply contracts. These requirements add administrative cost but provide customers with no additional information.

Independents

7-Eleven

7-Eleven consider that the Victorian TGP arrangements lack transparency, as discounts may be provided. In its view, terminal gate prices will be more transparent if they represent the best possible price that the supplier will supply from the terminal. 7-Eleven said that it was too early for an assessment to be made on the impact of the TGP arrangements on retail pricing in both metropolitan and the country areas. Another 12 to 18 months is required to observe the impact.

Liberty

Liberty was not aware of the volume of fuel sold in Victoria on a spot basis. The company had made only one purchase and it was only one tanker load. Liberty commented that while there was a general impression that there was access to fuel at the terminal gate price on spot basis, this was not the case in practice. It believes that there is demand for spot purchases and it was important to have a spot market with significant volume sales. However, Liberty has observed a substantial decrease in the volumes sold on spot basis.

Liberty has noticed a narrowing of supply prices at the terminal gate between the larger and smaller customers and this may have resulted in an increase in average retail prices. Liberty suggested that it was better to allow oil companies more flexibility in determining their own terminal gate prices, but they should commit to supply a certain amount of fuel to independents. The oil companies should also refrain from retailing fuel below the terminal gate prices.

Liberty was not aware of the proportion of contract sales that were based on the terminal gate price. It did not see any benefits in terms of pricing outcomes arising from the TGP arrangements. Liberty believed that the Victorian TGP arrangements had had no effect on wholesale and retail prices in Melbourne. However, there was increased price transparency.

Matilda

Matilda believes that the regulated TGP formula should not be overly prescriptive, but there needs to be flexibility to promote genuine competition. A rigid formula is more likely to encourage conformity.

Matilda considers that under the Victorian TGP arrangements there is no incentive for primary wholesalers to ensure supply, as they would be unable to charge higher prices when there is a shortage of fuel. As a result, there is not enough flexibility and incentive to maintain supplies.

Matilda said that the Victorian TGP arrangements do not take into account different quality of product. For example, suppliers may use different additives in their fuel. It is essential to ensure that the formula applied to establish a benchmark for pricing reflects what is happening in the market place.

Trafigura

Trafigura said that the Victorian TGP arrangements had increased transparency, but visibility was only good if the rules applied were fair for all players in the market. Trafigura consider that the present arrangements discriminate against it. While the refiners/marketers have equity in wholesalers that are outside the arrangements, Trafigura does not have this form of vertical integration and therefore the TGP arrangements have a greater impact on it. With pricing being highly visible, the secondary wholesalers (who are not required to post a price) can undercut Trafigura by as little as 0.1 cpl and win over its customers.

In times of shortage Trafigura cannot set a significantly higher terminal gate price, as it is constrained under the TGP arrangements on the margins it can make in selling fuel. On the other hand, the declared refiner/marketers can sell through their non-declared distributors and are less affected. Trafigura has no incentive to supply additional fuel in times of shortage as secondary wholesalers may simply buy fuel from it and on-sell at a significantly higher price. They would be the beneficiaries of the imbalance between supply and demand, while Trafigura carried the risk of holding stocks for spot sales. As a result Trafigura is likely to carry less stock in the future.

Trafigura is not opposed to posting a terminal gate price, but does not support a mandated price where the price is set under a formula requiring it to maintain a fixed margin. Normal supply/demand balances and competition are the most efficient way of markets adjusting to shortages and surpluses. The current Victorian regulation takes away this option from the only part of the market that can influence supply (the primary suppliers). Except, as discussed earlier, the majors have a potential by-pass mechanism via equity distributors. Trafigura would like to be able to increase or decrease its margin depending on market conditions. Trafigura said that the TGP arrangements have not made any difference to retail prices and noted that they fluctuate as much as they did prior to the TGP arrangements being introduced. At the wholesale level there has been very little impact on prices.

Industry and motoring organisations

APADA

APADA believe that the Victorian TGP arrangements were healthy in that they increased transparency, provided a benchmark price, and enabled consumers to determine how the price of petrol was made up. However, not a lot of product was being sold under the TGP arrangements. Those on contracts were not buying at the terminal gate price. This was because many contracts have evergreen roll-over provisions. As a result, the TGP arrangements would only apply to supply 'hoppers'. As most distributors would be on contracts, the Victorian TGP arrangements were, in the main, not being accessed by APADA members. The terminal gate price was, in most cases, not a reflection of the price at which they were purchasing fuel.

APADA believes that the Victorian TGP arrangements have not increased terminal gate prices. They have made suppliers more conscious of price, but have not affected prices in Melbourne. Country consumers may be more aware of prices as a result of the TGP arrangements. The TGP arrangements could have an effect on prices in country Victoria, as it is a smaller state and therefore it was easier to obtain 'easy drop/full load' fuel directly from oil companies and cartage contractors without going through a local up-country distributor. However, any effect on prices is likely to be at the margin. It was possible that the range of prices at the terminal and wholesale level had narrowed and this could lead to higher prices.

APADA thought that the Victorian TGP arrangements had advantages over the voluntary arrangements introduced by some of the oil companies in other states, because a common approach to determining the terminal gate price was used. APADA would like to see an over-arching framework for determining terminal gate prices on a national basis. It commented that the oil companies may not like the Victorian arrangements because, on a philosophical level, they do not like any form of price regulation and control.

PMAA

PMAA said that it preferred a national approach to TGP arrangements. Overall, PMAA considers that the situation in Victoria is a little better for most small independents, but the introduction of TGP arrangements should only be a first step. It noted that the oil majors differ in their approach to TGP. PMAA considered that, on balance, wholesale prices may be lower under the TGP arrangements and the benefit is being passed on to consumers.

PMAA had the understanding that posted terminal gate prices were to be the lowest available price before 'add on amounts'. Instead, they had become more like 'list prices' from which discounts may be given. A concern for PMAA is that, on occasions, selling prices of oil company franchisees are very close to the wholesale buy-price available to independents, after allowance of discounts from posted terminal gate prices. PMAA would like access to fuel at the lowest wholesale price that may be available to franchisees. PMAA considers that discounts should be transparent. It would be concerned if sales volume was the criterion for discounts, as that would disadvantage smaller independent operators. The pristine TGP should reflect the avoided cost of supply by the majors. Costs so avoided would include: transport, brand, real estate, terms, infra-structure support, equipment, etc.

RACV

RACV considers that the Victorian TGP arrangements have increased transparency. The terminal gate price is a good reference point for market participants. RACV believe that there had been fewer complaints about differential pricing at the terminal gate and it was generally satisfied with the current arrangements. RACV noted that there are different terminal gate prices among the companies. Price cycles in Melbourne do not appear to have been affected by the TGP arrangements and prices were competitive. RACV are uncertain about the extent to which the TGP arrangements in Victoria had been used. RACV was disappointed that the TGP arrangements did not extend to LPG.

SSA

SSA believes that the Victorian TGP arrangements had led to some transparency, but only for spot sales. The wholesale price is only transparent to the oil companies. SSA said that TGP will only work if all sales are done at a terminal gate price, which will lead to proper competition at both the wholesale and retail level.

VACC

VACC has received mixed feedback from its members on the Victorian TGP arrangements, with some members considering they can now buy at a better price than previously was the case. The TGP arrangements appear to be working at present, but VACC has concerns that problems may arise once the TGP arrangements are subject to less scrutiny. VACC noted that there have been days when retail prices have been below the posted terminal gate prices. These instances could increase in the future. A longer-term consequence could be to drive out small independent operators.

VACC's criticism of the arrangements is that they allow the refiners/terminal operators to set a terminal gate price which may have discounts applied. VACC considers that the terminal gate price should be a minimum price. If discounts are to be offered, they should be transparent. However, even if discounts were more transparent, retail prices could be influenced by other factors (eg rent).

VACC said that as discounts off the terminal gate prices may be provided, the terminal gate prices are too high and, as a consequence, oil companies use this 'slush' fund to control retail fuel prices through the giving and taking of 'price support'. In particular, prices may be more heavily discounted by the oil majors in some areas, which could be offset by less discounting in other areas. Independents have their margins squeezed but unlike the oil majors have limited scope to recoup margins from other sites.

VACC considers that the spot market is very small. In general only service station operators who owned retail sites and/or sold their own brand of fuel purchased on a spot basis.

Appendix F

Views of industry participants on the terminal gate pricing arrangements introduced by the oil companies in 2002

Staff of the Commission consulted with a range of industry participants in September, October and November 2002 seeking their views on the TGP arrangements introduced by Shell, Caltex and BP from February 2002 in the states other than Victoria and Western Australia. These views are summarised in this appendix.

Oil Majors

BP

BP commented that it has had a true terminal gate price for term contracts (the vast majority of sales) successfully in operation for four years. Nearly all of its sales, other than to franchisees, are at this terminal gate price. BP said it was unlikely that there had been many spot sales under its TGP arrangements, as the spot market overall was almost negligible. BP said that it was aiming for nationwide transparent TGP arrangements by the end of the year (BP currently publish terminal gate prices in metropolitan areas). BP said that there would be little difference between the operation of TGP in Victoria and elsewhere in Australia. BP thought that there would be more transparency in the market place as they move to a published terminal gate price nationally.

BP said that the advantages of introducing TGP arrangements in country areas are that there would be greater transparency in prices and consumers would be able to gauge the margins between metropolitan and rural terminal gate prices, as well as between rural terminal gate prices and retail prices. Consumers could ask relevant questions of their suppliers and this may lead to increased efficiencies at the wholesale and distribution level. Rural terminal gate prices are based on the same formula as metropolitan terminal gate prices, namely the cost of product, including terminal and operating costs, plus a margin.

Caltex

Caltex said that the objectives for introducing their TGP arrangements in states other than Western Australia and Victoria were to achieve greater price transparency and for pricing to be more reflective of commercial considerations. Caltex noted that they had made some sales under their TGP arrangements in New South Wales and South Australia, but these have mainly been diesel rather than petrol sales. There had been no sales in Western Australia (where Caltex introduced TGP arrangements at its country seaboard terminals on 10 September 2002).

Caltex's terminal gate prices are set twice a week and are built up from the buy/sell price. Consideration was also given to competitors' prices and the prevailing supply/demand conditions, in determining the TGP; it is not completely formula-based. The buy/sell price reflects the import parity price for local fuel specifications and incorporates specific international freight and local cost components.

Caltex did not believe that the introduction of the TGP arrangements had had any effect on prices. They have no impact on franchisees. However, with greater transparency in prices there may be more pressure for distributors and retailers to lower prices. In country areas this would depend on whether the country margins were excessive. Caltex did not believe this was generally the case, because of lower volumes and higher costs in country areas.

Mobil

Mobil said that it currently publishes a terminal gate price, but this is essentially a reference point and a starting point for negotiations. However, Mobil is aiming to implement its own form of TGP arrangements over the next several months. Mobil believes that its proposed TGP arrangements would provide better price signals to customers compared to the historical List Pricing mechanism. It would be a simple model and there would be price transparency. It would also offer more flexibility than the Victorian TGP arrangements.

Shell

Shell said that the objectives of its TGP arrangements are to provide greater transparency and simplicity in wholesale fuel pricing. Shell considered that these objectives had been met. Shell noted that in those states without TGP legislation (all except Victoria and Western Australia) the benefits of TGP pricing are being delivered without the administrative costs and reduced commercial flexibility associated with government intervention in pricing.

Shell said that all stakeholders can now compare retail prices with the terminal gate price to see the size of the retailers fuel margin. Shell noted that when supplying independent retailers on a TGP basis, Shell's wholesale margin is fixed regardless of movements in retail prices. In other words, the retailer bears the retail pricing risk, not Shell. Although Shell's supply arrangements with its franchisees are based on TGP, the high interdependency between Shell and its franchisees means that Shell bears most of the retail pricing risk for this segment of the market. Shell commented that opponents of these arrangements, such as the MTAA, would like to see Shell exit the retail market. This is because they are concerned that the increased competition provided by Shell, via its franchisees, reduces pump prices and therefore the incomes of MTAA members. This position, which seeks to protect a segment of the retail market, is clearly anti-competitive and contrary to the consumer interest.

Shell said that the vast majority of its wholesale sales are now made on a TGP basis. Most of these sales are term contracts, however Shell does supply a small but active spot market. Shell commented that it had introduced TGP arrangements in its regional terminals in Queensland (Gladstone, Mackay, Townsville and Cairns). The terminal gate prices at these terminals are higher than the Brisbane terminal gate price, as they included the additional freight to the terminals (transportation by small vessels) and the lower volume throughput at the terminal. Shell thought the introduction of TGP arrangements has potential to reduce country retail prices by ensuring that existing and potential new retailers had access to publicly posted competitive wholesale prices.

Independents

7-Eleven

7-Eleven considers that TGP is at best ineffective and at worst anti-competitive. It is ineffective because the oil companies can easily get around it by offering discounts, and it is anti-competitive because it enables the players to signal their price intentions to their competitors.

Liberty

Liberty thought that the move to TGP arrangements by the oil companies was similar to the move to 'rack pricing' in 1989. This would lead to more stable but higher wholesale prices. Liberty does not support TGP arrangements that have one price which applies to all customers. While it would mean greater price transparency, there would be a negative outcome overall for competition and prices. Liberty noted that in Sydney and Melbourne imports tend to constrain the level of terminal gate prices. However, there was limited volume that could be brought into Botany and Hastings.

Matilda

Matilda is concerned that when everyone is on TGP arrangements, the oil majors may increase the terminal gate price and there is nothing to stop them from retailing fuel below the terminal gate price. Matilda prefers to purchase fuel under contract and only buys fuel at spot prices when there is deficiency in supply. Term purchases enable it to buy fuel at a discounted price, since there are some benefits for the supplier. Larger marketing companies such as Matilda, who are prepared to purchase on a contract basis, should not be required to purchase on a TGP based formula. Matilda should be able to negotiate a supply price on an ex-refinery formula that is not necessarily referenced to the terminal gate price. Matilda said that, in general, customers buy at the terminal gate price or at a premium (eg. if purchasing in small lots). Franchisees are currently buying on a different basis and may sell at retail prices below the terminal gate price. Matilda commented that some of the terminal gate prices offered by the companies are probably not genuine.

Matilda thought that retail prices in country areas were unlikely to be lower under the TGP arrangements, except in some of the larger country centres where the sales volumes are greater. Matilda does not think that consumers or service station operators in the country can effectively use published terminal gate prices to put pressure on suppliers to lower their supply price (except where deliveries are being made direct from a terminal). This is because any discrepancy in the supply price can be explained by the additional handling involved between the terminal and the delivery of fuel to country resellers. Also, there is a need for a distributor margin and higher reseller margins in many country areas.

Trafigura

Trafigura said that it had been posting a terminal gate price in Sydney since early 2002. Trafigura thought that posting terminal gate prices is not a bad idea. However, it does not like terminal gate prices being based on a mandatory formula that restricts margins, as is the case in Victoria. In contrast to the terminal gate price it sets in Victoria, in Sydney Trafigura is able to vary margins and is prepared to carry a larger inventory.

Woolworths

Woolworths does not consider that the voluntary TGP arrangements are working. There were ways around the TGP arrangements (such as franchisees receiving price support). Woolworths thought that TGP had lessened competition, and therefore had increased prices.

Industry and motoring organisations

APADA

APADA was not aware of any sales under these arrangements. However, distributors would tend to not purchase on the spot market, as they require certainty of supply. APADA thought that the oil companies had introduced the TGP arrangements voluntarily in order to avoid them being mandated. APADA said that all supplying companies should use a transparent and common template to determine the seaboard terminal gate prices in the states.

MTAA

MTAA consider the TGP arrangements introduced by the companies in states other than Western Australia and Victoria to be largely a deception. It said that 85 per cent of petrol sales are locked in by contract and thus, for the majority of wholesale sales to retailers, the terminal gate price is irrelevant as the price is set out in the contract. The terminal gate price is only available to non-retail buyers to whom brand is irrelevant. Therefore, the situation is no different to the situation prior to the introduction of the TGP arrangements. 'Spot' sales, to retailers, under the TGP arrangements are rare.

MTAA believe that the TGP arrangements are not transparent as no-one can buy at the terminal gate price. Purchases are made, not at the terminal gate price, but at a price set out in the contract. The concept of TGP was created by the major oil companies to disguise rather than reveal prices. MTAA noted that even if there were sales at the terminal gate price, there would be add-ons for services after the terminal gate that would inflate the price.

MTAA thought that the current TGP arrangements have no effect on wholesale or retail prices. The MTAA has a national position on TGP. This addresses issues such as access and discounting. The MTAA position is outlined in the document *Principles of a terminal gate pricing arrangement*, October 30 2002 (which is available on the MTAA website).

RACV

RACV had no problem with the oil companies introducing TGP arrangements in other areas in Australia as it would increase price transparency. However, RACV noted that prices would differ across Australia because each market had its own characteristics. RACV commented that even if there was the ability to access fuel at lower prices, there was no incentive to pass this on to consumers unless there was competition in the marketplace.

SSA

SSA thought that there has been no improvement in transparency or prices as a result of the TGP arrangements introduced by the oil companies. It said that they would only work if all sales take place at the same terminal gate price and rebates and discounts were outlawed after the sale (ie. the discount should be built into the terminal gate price). Otherwise, the oil companies can set high terminal gate prices but discount to their own franchisees.

SSA considered the spot market to be important for the small players, but it only accounts for about 15 per cent of the market. Most buyers have supply agreements from oil companies under discounted arrangements. SSA commented that before TGP arrangements were introduced everyone bought at the same wholesale price to which discounts were applied. Since the TGP arrangements had been introduced, some oil companies have stopped discounting and smaller buyers have to pay all the add-on costs for smaller loads. SSA said that the small regional independents are worse off and are going out of business as they cannot access petrol at the terminal gate price, due to the capacity issue, and often they need to pay cash up front.