



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

12th Assembly

Fuel Price Disclosure Bill Scrutiny Committee

Public Hearing Transcript

10 am, Friday, 13 February

Litchfield Room, Parliament House, Darwin

Members: Mr Gerry Wood, MLA, Member for Nelson
Mr Nathan Barrett, MLA, Member for Blain
Mr Francis Kurrupuwu, MLA, Member for Arafura
Ms Natasha Fyles, MLA, Member for Nightcliff

Witnesses: Department of Treasury and Finance
Ms Jodie Ryan, Under Treasurer
Mr Anhi Vong, Director Economic Analysis
Department of Attorney-General and Justice
Ms Meredith Day, Acting Deputy Chief Executive Officer
Ms Rosslyn Chenoweth, Senior Policy Officer
Mr Gary Clements, Commissioner of Consumer Affairs
Caltex Australia (via Teleconference)
Mr Frank Topham, Head of Government Affairs
Mr Chris Blomfield, Transition Coordinator
BP Australia Pty Ltd (via Videoconference)
Mr David Stuart, Director Government Affairs
Automobile Association of the Northern Territory
Mr Edon Bell, General Manager
Mr Kym McInerney, Manager Sales & Marketing
United Petroleum (via Videoconference)
Mr David Szymczak, Chief Operating Officer
Puma Energy Australia
Mr Cameron White, State Manager NT

CHAIR: Good morning everyone, I have an opening statement to make. On behalf of the committee I welcome everyone to this public hearing of the draft Fuel Price Disclosure Bill Scrutiny Committee. I welcome to the table to give evidence to the committee from the Department of Treasury and Finance, Ms Jodie Ryan, Under Treasurer, Mr Anhi Vong, Director of Economic Analysis; and from the Department of Attorney-General and Justice, Meredith Day, Acting Deputy CEO, Ms Rosslyn Chenoweth, Senior Policy Lawyer, and Mr Gary Clements, Commissioner of Consumer Affairs. Thank you for appearing before the committee. We appreciate you taking the time to speak to us and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for the use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Before I do that I should introduce members. We have Nathan Barrett, member for Blain, Russell Keith, who is our man in charge, myself, and I think the other two members are on the way – Natasha Fyles, member for Nightcliff and we are hoping Francis Xavier will be here soon too.

Could you each state your name and the capacity in which you appear? Please start on the left and work through.

Mr VONG: Anhi Vong, Director of Economic Analysis in Treasury and Finance.

Ms RYAN: Jodie Ryan, Under Treasurer, Department of Treasury and Finance.

Mr CLEMENTS: Gary Clements, Commissioner of Consumer Affairs.

Ms DAY: Meredith Day, Acting Deputy CEO, Department of Attorney-General and Justice.

Ms CHENOWETH: Ros Chenoweth, Senior Policy Lawyer, Department of Attorney-General and Justice.

Mr CHAIR: Mr Vong and Ms Ryan, would you like to make an opening statement?

Ms RYAN: Thank you for giving us the opportunity to talk to you today. We are here with the Department of Attorney-General and Justice jointly attending. I will make some opening comments and believe Meredith will as well. We have an updated presentation from that presented at the fuel summit which we would like to present at the end if that suits the panel.

The reason both Treasury and the Attorney-General's department are here is we have two quite different roles in this respect. We look at information on the fuel market such as price movements, retail margins and also structural information that we have available on the fuel industry.

Justice drafted the bill we are looking at and can advise on the bill and other legislation that regulates business conduct in this industry.

Moving to Treasury's role particularly, as you probably know we monitor and report on the performance of the Territory economy as a whole. In doing that we prepare regular briefs and updates on new information as it comes out. One of the things we do as part of this is prepare monthly reports on fuel prices and publish these on our website. We have been doing this since 2007. We have been looking at this market for quite some time.

The reports we are doing show Darwin fuel prices are typically higher than other capitals, and prices in the Territory's regional centres tend to be higher again except in Katherine. While we have always been consistently higher, in mid-2012 the gap between Darwin and the other capitals widened markedly and stayed at that level without a clear cost driver as to why that increase happened.

In early 2014, as a result of this higher price differential, the Treasurer asked the ACCC, so that is the Australian Competition and Consumer Commission, to investigate the Territory fuel market. The reason we asked the ACCC is that they actually have national responsibility for the oversight and monitoring of fuel prices and they provide an annual report on the national market.

We wrote to the ACCC to ask if they would look at our market and they declined to investigate. They said they recognise that the fuel prices were higher, but it was their view that this did not mean that there was anti-competitive behaviour as they have no evidence of it.

The options that the Territory government have in this space are limited because obviously it is a private market, a private sector market, but what the Territory can do is inform the public on fuel pricing, and that does happen through the AANT, motor mouth and some other entities.

We can advocate for a review of the issues by the ACCC, which we did, and we have continued to do over the years, and we can also publicly highlight the market behaviour. In that regard we held a fuel summit back in October last year, which I think some of you attended.

The Chief Minister called the fuel summit on 7 October 2014. That was in response to the public concerns at the time and the fact that the ACCC had again refused to interfere or have a look at investigating the market.

Mr CHAIR: Can I just butt in. You asked the ACCC twice?

Ms RYAN: Yes, the Treasurer asked and then the Chief Minister asked. So, at the time of the summit, I think the aim of the fuel summit was to get the fuel companies in and try to explain the reason for the price differential. At the time of the summit the difference between Darwin and the other capital cities was about 28c per litre. Through the discussion – there was a lot of discussion at the summit around the nature of the fuel industry, particularly up in the Territory, but there was no real answer in that summit as to the reason behind the hike in mid-2012.

Having said that, we have had previous reviews done. There was a Parry review done in 2005 which I think Gary has some information on, and other reviews that Treasury has commissioned. All those reviews have highlighted the fact we would have a higher price than other capital cities. We have lower sales volumes, and the distance and location is

always an issue. We actually do not seem to have the price cycle that other cities have, and the competition between retailers. So it is a very sticky market; it does not move a lot.

The fact that we do not have data on these and other cost factors means that we do not know what a reasonable price differential is; we do not have that kind of information.

However, since the fuel summit there have been a number of developments, one of which was the tabling of the bill that we are discussing today. In late 2014 the Commonwealth Minister for Small Business directed the ACCC to monitor and analyse fuel markets in a more regular and in depth way, including analysing price drivers in three regional markets.

The Chief Minister has asked that the Territory be one of these three regional markets, but so far the ACCC have not disclosed which three regions they will be looking at, but we have asked that we be one of those.

There has also been a downward movement in the fuel prices since October and the differential between Darwin and other capitals has reduced. Anhi, will take you through that in the presentation that we have got for you, but first I will hand over to Department of the Attorney-General and Justice to add their opening comments.

Ms DAY: As Treasury mentioned, the Department of Attorney-General and Justice are here to provide additional advice. We are advising in relation to the drafting process, structure and intent of the bill, and some of the relevant legal issues.

The Commissioner of Consumer Affairs is also here today and he will provide further advice in relation to the historical and current developments in fuel price regulation in the consumer affairs context, including some of the work being done in other jurisdictions.

Our role in developing the draft bill was to instruct on the drafting of the bill with the intent that the bill would create a legislative framework encouraging transparency and accountability in the market through disclosure of information by fuel industry in relation to their costs and profits.

In developing the legislation we worked closely with Parliamentary Counsel, and it was agreed that the best way to approach the development of the bill in the short time available was to develop it as overarching framework legislation. That is the document you have before you today.

The drafting was informed significantly by the stakeholders including, as the Under Treasurer mentioned, from the fuel summit and industry, and Attorney-General and Justice has also taken advice from the Department of Treasury and Finance and conducted some research into the fuel industry. That is the way we have approached development of it.

Mr CHAIR: Did you say stakeholders were involved in drafting of the bill?

Ms DAY: Only in relation to our research, Mr Chair. I am trying to outline the research we did. The idea of that research was to get a big picture understanding of the industry and the underlying factors affecting fuel prices in the Territory. We have tried to inform ourselves in relation to those matters in instructing on drafting of the bill.

I would like to make a few comments specifically in relation to the contents of the bill. As I mentioned, the bill is drafted as a high level framework allowing for flexibility in disclosure requirements. The idea is the disclosure requirements will be set out in detail in gazette

notices. Those notices are yet to be developed. The intent of that is to build in flexibility, which it is believed is important given the nature of the fuel industry. Retailers in the Territory work under a number of different business models and flexibility was considered necessary to allow for the possibility of targeted disclosure requirements, for example addressing concerns related to a particular geographic area or market sector. There is also a need for flexibility in relation to how often disclosure is required and the type of information required.

The bill is drafted on the basis that fuel retailers will disclose the information to the Commissioner of Consumer Affairs not direct to the public. The idea is the information goes to the Commissioner of Consumer Affairs. The Commissioner then has a wide power to publish any of the information – I am talking about clause 6 – provided to him under the gazette notice. The draft bill intentionally does not prescribe the type of information or the manner in which the information is to be published. This is to allow for publication in whatever format is considered appropriate, for example in bulletin format, on a website or perhaps even a mobile phone app.

When drafting the bill it was anticipated not all the information provided to the Commissioner would be published. The Commissioner needs to check and analyse the information and compile it into a format useful for consumers. However, as part of the process the Commissioner is in a position to assess the information, including making decisions about whether or not to publish information which might be commercial-in-confidence or otherwise commercially sensitive.

Those are some of the short highlight issues on the bill. I would like to now hand over to Mr Gary Clements, Commissioner of Consumer Affairs, to provide a few comments on fuel price regulation here and in other jurisdictions.

Mr CLEMENTS: I want to give a basic overview of fuel price regulation and some of the involvement Consumer Affairs has had over a number of years. The Parry report released in 2005 had a number of recommendations which were accepted within the Northern Territory. One of those was mandatory price boards at fuel outlets and the second, implementation of a consumer awareness program perhaps via a website.

Introduction of mandatory price boards was accepted throughout the Northern Territory. However, following additional consultation it was accepted that to do so in the regional areas would be expensive and provide little additional consumer protection. In the urban areas price boards were considered adequate.

Mandatory price boards have been considered nationally by ministers at the Legislative and Governance Forum on Consumer Affairs, most recently in June 2014. The ministers' communique at the time stated the ministers noted the desire not to duplicate regulations in place in New South Wales, South Australia and parts of Western Australia or to introduce further regulation where Australian consumer law may address the issues of concern.

The ministers further noted the ACCC would be engaging with industry participants with a focus on the problems of discounted prices and the potential to mislead consumers about the price they will pay for fuel. This may involve an enforcement approach for specific instances of problematic conduct where the ACCC considers it appropriate. Ministers agreed to revisit the issue of an information standard in light of any developments following this process. The ministers also noted developments to support effective competition, particularly the court-

enforceable undertakings by Coles and Woolworths to limit their ability to fund fuel discounts from their supermarket business, which was accepted by the ACCC in December 2013.

In response to the second recommendation which was in relation to an information website, a website was introduced within the Consumer Affairs website providing details of mean fuel prices for each fuel type in Darwin, Alice Springs and the major centres. This was discontinued a number of years ago as similar if not more timely and somewhat more informative – information was available through a number of other independent websites.

Just in relation to some other regulation, Western Australia has the only consumer-focused fuel price regulatory structure through its fuel price website introduced in Western Australia on 2 January 2001. It enables consumers to search the website or receive alerts for the cheapest fuel prices at nearby petrol stations. It extends across Perth and 52 regional locations. The service has enabled consumers to make informed choices about fuel prices in their area as it requires retailers to inform the Western Australian government of their prices and to lock in that price for a 24-hour period. The Western Australia Commissioner for Consumer Protection will also alert consumers where large price increases or decreases are about to occur and encourage them to purchase accordingly.

The system cost several million dollars to develop and operate. The website also includes information about the terminal gate pricing from six distributors in Perth and five in the regions. These prices, however, are the maximum price that could be paid at the terminal; however, many of the retailers have arrangements which would see lower prices actually paid. There can also be additional charges after the terminal gate price which could include delivery, brand use or credit facility charges, which would also affect the actual price charged.

Mr CHAIR: There are probably lots of questions. We have some written questions but could I start off with a couple of questions in relation to the opening statement, Mr Clements. Are you saying that the gate price in Western Australia is published but fuel companies can get lower than that because everybody looks up the website to show you what the gate price is? You can see it per person; you can see it for Darwin. Are you saying that that price is not always accurate?

Mr CLEMENTS: The terminal gate price is accurate and that is the maximum price that a terminal may charge. However, separate organisations may have an arrangement with the supplier – the actual fuel supplier – to get a discount in relation –as I indicated, a number of ways that that discount may be applied. Also there may be additional charges that apply beyond that terminal gate price so it is extremely difficult just to look at that price and say that will be the charge for every person buying fuel from that site.

Mr CHAIR: And could it be that the price that we see for Darwin, the Darwin gate price, actually is not what some of the bigger companies are paying?

Mr CLEMENTS: I do not have any evidence here in the Northern Territory. I have been speaking to WA in regard to – they have regulations that require that the terminals provide their pricing details to the Commissioner for Consumer Protection and they advertise that price on their website.

Mr CHAIR: But we do not do that?

Mr CLEMENTS: No.

Mr CHAIR: These few questions are about what you said, Ms Ryan. One of the issues you mentioned was that the Territory will always have higher prices because of lower throughput, but Caltex gave us some graphs which showed us the difference between the gate price and the retail price over a number of years. That graph shows that back in the middle of the 2000s, up to about 2007-08, the difference was quite small, relatively small, and then it got larger and larger. Now you would have thought that there would have been less throughput some years ago because there were less people, less cars.

Ms RYAN cont: Yes, but there are also more fuel stations.

Mr CHAIR: Is having more fuel stations working opposite to competition?

Ms RYAN: We are not entirely sure. Because we do not know how everyone's costs are made up, we cannot tell you what causes the price differential. It looks like there is plenty of competition in the Darwin market. There is plenty of choice, but the price does not move much between them. There is potentially a case there are too many so everyone is getting too little volume. The other aspect is it depends on what they have attached to fuel station.

The traditional pull up, get petrol and that is all you do – that model is moving away. You pick up your coke, your chocolate and then you pick up Hungry Jacks or KFC. It is expanding. Petrol stations up here do not tend to have the retail margin other petrol stations around the country have.

Mr CHAIR: Caltex said one reason for the difference between here and interstate was because of the lower throughput, but if you start to increase the number of service stations – and they are still increasing -then throughput will be, on average, lower. That therefore works against – if you take their argument – us having lower prices.

Ms RYAN: That is true, and we do not understand – even in the market we have with low volume – part of the fuel summit, when we talked to industry, everyone said low volume is an issue yet two fuel stations have opened recently. We do not understand.

Ms FYLES: Gary, you talked about the communique from the ministers' conference which said not to duplicate South Australia, New South Wales and the WA models – they were looking at national initiatives. Do you know why they did not want to duplicate? What is the difference? What are those three states – do they have more advanced monitoring?

Mr CLEMENTS: No. The regulations, certainly in New South Wales, require they do not have any discounts. They are mainly focusing on ensuring consumers are aware exactly what the price is when they drive up. The logic behind it has been – I guess the assumption is a consumer does not have a lot of time when they are driving down the road to look at the signage and say, 'Well, I know that is going to be \$1.20,' when in fact that is the discounted price and they do not have a voucher on them so when they get in there they pay \$1.24. They have introduced that regulation to remove that.

I believe they were looking at a minimum size of the numbers as well. The concern nationally from jurisdictions that do not have that regulation is the massive cost that would apply to the regions. We have been very vocal in saying we do not want that introduced in the Northern Territory from the point of view that if you are in Lajamanu or Kings Canyon there is no point having a signage board there, which may cost hundreds of thousands of

dollars for the retailer, because it will not provide any real benefit. You do not have a lot of choice about it. If you do not buy your fuel there you will probably break down on the way home.

Ms FYLES: They do not have discounts as such, or they cannot advertise discounted price?

Mr CLEMENTS: In New South Wales they cannot advertise the discount price. Yes, they can have discounts.

Ms FYLES: So it was the states – trying to get them to agree.

Mr CLEMENTS: Yes, there was some pressure from the east coast that everyone should be the same. We did not quite consider that was a – quite a few of the jurisdictions did not agree that was the case.

Mr CHAIR: Do you have a presentation for us? We should have that then get back to questions.

When you are ready, Mr Vong.

Mr VONG: The purpose of this presentation is to provide the committee with a brief outline of the structure of the Territory fuel market. In addition, the presentation will provide some of the key figures on prices and retail margins in the Territory and how these compare with the national outcomes.

Over the past 15 years there have been significant developments in the Territory fuel market. Of note is the emergence of the major supermarket chains, Coles and Woolworths, the entrance of the independent fuel retailer United Petroleum and, more recently, the acquisition of Ausfuel by Puma Energy.

Mr CHAIR: You have that figure and, for instance, you have BP brand. Is there another chart which says who the owners are?

Mr VONG: That is a difficult exercise because to understand that we would have to go further down – you would have to go to each retail outlet, potentially find out their ABN number and then go through that very difficult process.

Mr CHAIR: BP said they no longer retail in the Northern Territory.

Mr VONG: That is right, and that is why we put BP brand on that site.

Mr WOOD: But we do not know from that who actually owns the service stations?

Mr VONG: That is correct. This pie chart shows estimates of the ownership structure in the Territory. We estimate there are about 100 service stations in the Territory and around half of these are owned or operated by Puma Energy. The remaining half is owned by a number of other competitors with a much smaller market share. The concentration of ownership is not obvious because of the variety of brand names that are displayed at the retail outlet, as you mentioned. The brand name displayed does not always indicate the ownership or the owner of the service station. For example, Puma Energy own or operate stations under brands such as BP, Caltex, Shell, Puma and Gull.

For the next chart we just looked at the supply chains, and the fuel supply chain is a complex relationship between retailers, wholesalers, importers, distributors, transporters and

storage providers. Different companies operate in different parts of the supply chain. Some companies such as Woolworths only operate in the retail part of the supply chain but other companies are involved in a number of stages in supply chain, which is referred to as vertical integration. For example – again I will raise Puma Energy – Puma Energy owns companies that are involved in the distribution and storage of fuel as well as retail outlets.

Mr CHAIR: Are you able to say, for instance, when it comes to transport what does Puma operate under? Do you see many trucks going round? Do they have a regular brand for their transport or they own the transport of the fuel?

MR VONG: Yes, that is correct. I think we have some idea but it would be best to ask Puma Energy.

Figure 2 shows the components of Darwin fuel price. Broadly speaking there are two components of fuel price: the terminal gate price and the retail margin. The terminal gate price comprises the refinery price, Commonwealth taxes and excise, and transport and storage cost. Information is generally available on terminal gate price and its components. The other component of the fuel price is the retail margin, which is the difference between the terminal gate price and the retail price. It includes retail operating costs such as branding, labour and rent, as well as the profit margin.

While the retail margin is simple to calculate, information on the components of the margin is not available. We know that Territory fuel prices are higher but what we do not know is how much each of those components contributes to that higher price.

Mr CHAIR: Anhi could I just ask you a question on the terminal gate price; it relates to what Mr Clements said before. I presume what is happening in the market is that – and I used to work in hardware. If you bought 100 garden hoses you got it at a cheaper price than if you bought 10. So a purchaser of fuel who wants to purchase a larger quantity can get a discount, would that be fair enough to say?

Mr VONG: I understand that the terminal gate price that is published – we use the Australian (inaudible) petroleum as an average, and that may or may not be the price that individual retailers pay for that but it is just the average for the Territory.

Mr WOOD: And do you know who they negotiate with? Do they negotiate with like Vopak or do they negotiate with the refinery, or the people that bring the fuel out?

MR VONG: I guess that would be a question again for the fuel company.

Looking at figure 3, the following charts will focus on regular unleaded price in the Territory and how these compare to national outcomes. In figure 3 we have shown the retail price of fuel in the week prior to the fuel summit, so it was the last week in September, and the average price of fuel last week. The chart shows that fuel prices have fallen across all capital cities over the past four months, and despite the fact that Darwin has recorded the largest fall in absolute terms, Darwin fuel prices remain the highest of all capital cities.

The next chart, we just looked at the major centres as well, and similar to the one that we just looked at in the capital cities all prices have fallen across the major centres; however, the decline varies across the centres. For example, Darwin fuel prices have declined by about 45c over the last four months compared to Tennant Creek, which has only decreased by 25c per litre.

Figure 5 shows the unleaded price differential between the Northern Territory and Australia. There are two key points I would like to highlight. Firstly, prior to mid-2012 the gap in price, while volatile, has averaged around 10c per litre. In mid-2012 the average price differential has doubled to about 20c per litre, where it has remained since. The question of what caused the jump in the price differential was raised at the fuel summit; however no concrete answers were given by the fuel retailers at the time.

The second point I would like to highlight is although Territory fuel prices have fallen over the past four months, the gap between the Territory and Australia remains at elevated levels. Prior to the fuel summit the gap in fuel prices peaked at over 30c per litre; it has now gone down to about 18c per litre which, as you can see, is well above historical trend levels.

Figure 6 shows the key driver of the gap in fuel prices appears to be the retail margins. As I mentioned earlier, the retail margin is the difference between the selling price and the terminal gate price. The retail margin in Darwin prior to the Territory fuel summit was around 30c per litre. This has since declined to about 19c per litre. Retail margins in Darwin are still about three times the national average.

Figure 7 shows retail margins over the last 10 years. Similar to the price differential, the retail margin in Darwin increased significantly around mid-2012 and has remained at that elevated level since. What this is showing is that much of the change in the retail price in recent years has been driven by retail margin and not the terminal gate price.

Figure 8 looks at the retail price and the terminal price over the last year. In the first nine months the price of fuel was consistently about \$1.73. In the second half of 2014 the terminal gate price declined but retail prices remained the same. This led to an increase in the retail margin as well as an increase in the price difference between the Territory and Australia.

The Territory government convened the fuel summit to address the growing concerns regarding high fuel prices in the Territory. Following the fuel summit there was a marked drop in retail prices. Since that time retail prices have decreased broadly in line with the terminal gate price, but the retail margin in the Territory still remains above that historical trend.

In summary, fuel prices in the Territory are consistently higher than the national average. Prior to mid-2012 the difference between the Territory and Australia averaged around 10c per litre. Since mid-2012, the price differential has doubled to around 20c per litre where it has remained. The price difference between the Territory and Australia appears to be largely driven by the retail margin. Retail margins in the Territory are about three times higher than the national average. In the absence of data, particularly on the components of retail margins, it is not possible to determine what might be considered a reasonable price Territorians should pay for fuel.

That concludes my presentation.

Mr CHAIR: Thank you.

Mr BARRETT: Fuel seems to be a sad story across the board for the Northern Territory. There is something called a bunker adjustment factor in shipping. When ships come into the

port there is a bunker adjustment factor applied to everything that comes off, particularly containers coming through the port.

Bunkering, for those who may not be familiar with port language, basically means you are putting some kind of fluid on or off a boat. Bunkering generally means when you are putting fuel on a boat.

We have a bunker adjustment factor of \$500 for a container coming across the port. That is adjusted because of the cost of fuel. In Fremantle it is \$71. In regard to fuel applying a cost of living pressure to Darwin, we see things coming across the port and straightaway there is a price problem relating to fuel. We then have the possibility of inhibitive pricing structures through independent entrants coming in to Vopak just by the way their cost and pricing models are set up. Somebody coming in needs to have a certain amount of volume straight up otherwise they are uneconomical in that space, and they are out-competed straight away by others.

We have models of wholesale delivery which possibly cause significant mark-ups in the retail process, and that is because of an integration of wholesalers distributing through to their retail outlets, or retail outlets that are contracted to them which may be causing significant problems. We also have models of retail that are talking about the difference in price they receive the fuel at to what they sell the fuel at, which does not seem to take into consideration, like Ms Ryan was saying before, that fuel stations do not just sell fuel anymore. They are quite profitable businesses just because the fuel attracts people to their service station; they can also capture income in other means.

With this in mind I am wondering what data exactly you are going to be asking these fuel companies to provide. How will you verify its veracity, whether or not what they are saying to you is actually a true reflection of what the price is? Are you going to have an auditor go in there and check what they tell you? How will you actually prove what they are saying is true, or how will you prove what they are going to provide to you does not just support and back up what we see to be a problem but are having a hard time isolating? If the data does show that a component of the pricing structure is high for all, how exactly is this going to force a lower price in this market, because if they are all doing it and it is all there so we can point and say well this seems to be the problem, what will actually cause them to rectify that problem?

Mr CHAIR: Anyone like to take that question?

Ms RYAN: I can give a broad response first up.

Mr BARRETT: Do you want me to ask them one at a time?

Ms RYAN: Yes.

Mr BARRETT: What data exactly are you asking for?

Ms RYAN: I might pass to Meredith as well, but basically the disclosure is going to be at retailers. So we are really looking at the retail end, whereas what you are talking about will be at the transport or the supplier end, but Meredith do you want to talk about the retailers.

Ms DAY: The exact data to be requested is yet to be determined but as Jodie said it is directed at retail. That is clear from the way in which the bill is drafted. The idea is to get to

the components that are making up that retail margin so transport costs, obviously your initial purchasing cost ...

Mr BARRETT: So everything from the wholesale price forward?

Ms DAY: Everything from the wholesale price, but I would also point out that the way in which the definition works – it comes to the definition of ‘information’ in the draft bill. It means information about the cost to a fuel retailer of carrying on the business – that is all of those things that I started to mention. Somebody with much more expertise in the way that the fuel market is organised than I would inform the request that is made; but these are the types of broad general categories we would be looking at.

Profit is specifically mentioned as one of the items, but obviously that would only be one of the elements. Then it says ‘other information about the way in which the price of fuel is determined’. We are thinking that could, if necessary, include things like costs associated with, or profit derived from, ancillary businesses, where that interacts, to make sure that we are only getting fuel and we can exclude those other things. In the case of particular retailers it may be relevant, and also perhaps, if necessary, some elements associated with the wholesale and distribution side of it if that is impacting on the retail.

Mr BARRETT: Okay. How will you verify the veracity of information they provide?

Ms DAY: We have been talking about the need for the Commissioner of Consumer Affairs to analyse the data, so that presupposes either people on staff, or consultants, or whatever, with the necessary expertise to be able to analyse that. It also presupposes sufficient detail of information to make it a meaningful exercise.

Mr BARRETT: If the data does show that a certain component of the price structure is high for all, how will this force lower prices if they are all doing it? It is not anti-competitive to be charging a high price so how is this information alter the way they price in these factors?

Ms DAY: That might be a question for the Under Treasurer.

Ms RYAN: I will start but might hand to Anhi.

The bill itself will not force lower prices but we expect it will make everything more transparent. The retailers themselves will be looking at their cost structures, consumers would be able to have a look, depending on what the information is that comes to the public, and therefore inform their choices. It is really about transparency and making it available to people so they can inform the choices they make.

Mr BARRETT: Once this information is made available will we run into problems with other laws that exist around the Corporations Act – privacy and it being their information? Will we be slapped with a lawsuit saying, ‘No, we don’t want to release that information to you’?

Ms DAY: This has been considered – the interaction with other laws - as the bill was being developed. I mentioned earlier the intention would not be to divulge commercial-in-confidence information, for example. That discussion has happened.

Mr CHAIR: Who will decide what is commercial-in-confidence?

Ms DAY: The way things are structured at the moment the Commissioner for Consumer Affairs will decide what to publish.

Mr CHAIR: Will the company be able to appeal against that?

Ms DAY: There are no provisions in the bill at the moment allowing for specific appeal rights or anything along those lines.

Mr BARRETT: If we have an isolated problem and say, for argument's sake, you are charging 15¢ to transport a litre of fuel five kilometres, how will you put that information into some kind of format that can be released to the public so they can say, 'We are being ripped off because of transport'? That is a hypothetical, but if you find that situation how can it be corrected?

Ms DAY: I do not fully know, but one way of doing that might be to aggregate information across sectors so it is not relating to a particular retailer.

Mr BARRETT: What if a particular one is being less than polite about the way they are transporting fuel?

Ms DAY: That might depend on the circumstances. Other things might come into play such as existing provisions of Consumer Affairs legislation. They might be relevant. It is difficult, in a hypothetical situation, to provide an answer.

Mr BARRETT: It is important to consider the scenarios because if we find ourselves in a circumstance where we have found information we cannot do anything with, or we found information where we have an aggregate response and say, 'They are charging an awful lot to transport fuel from A to B', and they are all doing it, how does that correct the problem? Apart from that we all know, and in my mind I step back and think, 'We cannot already know,' but we know something is wrong.

By pointing out what is wrong – we already know it is wrong – I fail to see how creating this system will create a circumstance where fuel companies will say, 'You've got us. You are right. We will charge 3c instead of 15c to transport it five kilometres.' I do not see how you can take that step. You might know, and it would be interesting for the Under Treasurer to say, 'That is happening,' but how do we change the behaviour of the market?

Ms RYAN: When it was announced this would be happening – Meredith can correct me if this is wrong – the objective was to provide information and transparency. There is no ability to penalise for behaviour.

Ms DAY: No.

Ms RYAN: That is not where this goes and that is when you start getting into tricky ground around price regulation.

Mr BARRETT: We will know some stuff?

Ms RYAN: Yes, it is a disclosure bill.

Mr CHAIR: I would like to introduce Francis Xavier Kurrupuwu. Welcome, Francis.

Ms FYLES: Woolworths notes since the bill is likely to have a significant regulatory impact on businesses it should be subject to the regulatory impact statement process to evaluate potential costs and benefits to business, community and government that may flow from its introduction. Has the draft bill been subjected to an RIS and if so what was the outcome? If not, was there a reason why it was not subjected?

Ms DAY: Due to the short time in which it was developed, the bill has not been subject to a regulatory impact analysis at this time.

Ms FYLES: Is that something that, considering this is quite interesting legislation – the choice of word I use – that we should perhaps look at doing?

Ms DAY: The intention was to undertake the regulatory impact analysis at the time of the issuing of the Gazette notices because that is believed to be the point at which the detailed provisions are available for scrutiny.

Ms FYLES: Okay, but we have already had companies indicate that is something they might take on, so do you foresee that there may be issues with other legislation if we introduce this legislation?

Ms DAY: Well it is always possible. We have to consider the interactions but obviously that would be considered in the development of the Gazette notice.

Ms FYLES: Thank you.

Mr CHAIR: Could someone explain what the price motivator exemption actually means? My understanding is that you are going to look to see what the profit margin is and if we think the company is operating outside of a reasonable price profit margin you are not particularly going to worry about them, but if you think they are above what is reasonable you are going to have a look at them. So companies that have a reasonable profit margin will be exempted. Is that what it means? Or does it mean something completely different?

Ms DAY: That is a way in which it could operate and the details of that, as your committee will be aware are not included in this legislation. That is a matter for the development of the Gazette notices. That is one of the things the committee has been charged to consider, whether or not that would be something that would be helpful. Yes, I suppose there are a few ways that could work. But one way in which it could work would be for there to be, for example, an amount which is set as being so far above an average of other Australian jurisdictions, and if a price is within that region for a period of time then it would be exempt. That is one way it could work.

Mr CHAIR: I have had some trouble understanding where we are going with this bill in relation to what it is supposed to do. You are going to ask a fuel company to provide all the costs in relation to how it got to its retail price? One thing that does concern me – and I am not here to back up fuel companies but they are no different than any other company – what is the guarantee, for instance, that some of the information they give you which they feel is sensitive is not going to be publicised? Because I think they have rights to make sure their competitors do not know what they are doing either. That is why I asked you whether there is an appeal mechanism against what is published, and is that information really so that the government then can set up a mechanism for setting a price mode of exemption? Is that what we are doing? We are getting information, work out what they all charge and the Commissioner will work out what is a fair sort of profitability, and that will set up a mechanism so that some companies can be exempted from having to be investigated because the Commissioner believes their profitability is reasonable. Am I on the right path there or am I not?

Ms DAY: Certainly the idea of a price motivator could be informed by information that is received, and that would be a logical and sensible way to evaluate going forward.

Mr CHAIR: What does that actually mean, a price motivator exemption? Someone made this phrase up; what does it actually mean?

Ms DAY: As I, probably badly, attempted to explain earlier, the idea is that it is perhaps within tram lines if you like, so there is an amount which is set by reference to either an actual figure or perhaps more likely by reference to prices in other places, but allowing for the fact that there has been historically a higher price in Darwin anyway, in the Territory generally, in relation to fuel. So that, as I understand it, has been suggested.

Mr CHAIR: The Commissioner will be the person that is going to set that mechanism? The tram lines?

Ms DAY: The Gazette notices are issued by the Minister, not by the Commissioner, so under the way this bill is drafted at the moment it is the Minister who would be issuing the Gazette notices.

Mr CHAIR: The Bulman store sells fuel. Will it be asked – I do not know if it is owned by a fuel company. How will this work in a remote community? Will someone ask the store how it works out its retail price? Will the tram lines be a bit wider for it than for a service station in Casuarina?

Ms DAY: The tabling statement accompanying this bill indicated it was not intended to apply this in remote areas. There is nothing in the bill itself that says that, however, that is my understanding of the tabling statement.

Mr CHAIR: Why not? I want to ensure people in remote communities are not being ripped off. They already have a higher priced cost of living, and fuel is something they all depend on. Surely we need to know whether people in remote communities are getting a fair deal too.

Ms RYAN: I not sure, but I thought the intention was due to very limited numbers and you would be adding to the cost of doing business out there. This will be a cost to a business to do this reporting. For a remote fuel station it might add even more to the fuel price. The focus was really on the Darwin market and Alice Springs.

Mr CHAIR: This says the idea is to better inform motorists – it does not say remote or suburban – of the price structure of fuel and promote price competition. It seems we are looking at lucky people in the big towns, but are leaving out people who get fuel by barge or people who received it long distance – by road to Yuendumu?

Ms RYAN: It would depend. If you only have one choice, whether you want to go through all that cost for one choice, but it is something that could be looked at but not an intention at the moment.

Ms FYLES: A number of the submissions suggest the ACCC could be asked to prepare a one-off report. Gary, you mentioned some of that earlier so I apologise if you have already answered it, but has the government formally requested the ACCC to investigate the price of fuel in the NT and what was the response, and if not, was there a reason?

Ms RYAN: Yes, we have twice asked the ACCC to investigate fuel in the Territory and both times the response was there is no evidence of anti-competitive behaviour.

Ms FYLES: They are focused on that consideration?

Ms RYAN: However, the recent announcement by the Australian government that the ACCC will look at regional areas – they have picked three regions but have not told anyone what the three areas are.

Ms FYLES: They are not communicating very well?

Ms RYAN: No, but the Chief Minister has asked we are one of the three.

Ms FYLES: Jumping back to something Meredith was talking about, clause 6 of the bill says the Commissioner has any other function conferred on the Commissioner by the Minister. What are the limits on the Minister's power to confer functions on the Commissioner, and how does the Minister confer functions on the Commissioner?

Ms DAY: The Minister confers the functions administratively; however, given the breadth of the drafting of that clause it would be reasonable to expect that would be read down by the objects of this act. They would have to be functions within the objects of this particular legislation; it could not be an unrelated matter.

Ms FYLES: Are there any limits on the Minister's ability to confer additional requirements? I am looking at clause 5, enabling the Minister to gazette any other requirement about any matter the Minister considers necessary or convenient for the performance by the commission of its functions under this act or the Consumer Affairs and Fair Trading Act?

Ms DAY: Bearing in mind what I have already said, I am not sure I fully understand your question. The requirements would have to be related to the functions under the act. That is the crucial link. They would have to be related to the Commissioner's functions under the act or under the Consumer Affairs and Fair Trading Act. It is constrained by those particular functions.

Ms FYLES: Thank you.

Mr CHAIR: The act enables the Minister to legislate disclosure and other requirements by gazette notice. Can parliament disallow a gazette notice of such requirements? What opportunity does parliament have to review a minister's gazette notice?

Ms CHENOWETH: There is no real parliamentary oversight in relation to Gazette notices. They are issued by the Minister; it is an administrative document. So during the drafting of the legislation we considered whether we should do it in the form of regulations or Gazette notices because, as you are aware, regulations are subject to parliamentary oversight when they are put before the House. So one of the reasons we ended up making that decision in relation to Gazette notices was to allow us greater flexibility and the ability to respond to changes in the market as quickly as possible so that if there were some concerns about the market the Gazette notices are obviously something that can be issued more quickly than regulations which must go through a regulation making process.

So in the end that was the way we came down but the other option certainly is that it could be in regulations, bearing in mind that that would have that effect of limiting the ability to respond so quickly to changes.

Mr WOOD: I mentioned the appeals before. Did you look at an appeal mechanism where a company that might want to disagree with what is being asked, like in relation to information the consumer affairs commissioner is requesting, or at least appeals against that information being publically available?

Ms CHENOWETH: If they want to appeal against a decision to either publish this information or ...

Mr WOOD: Just for arguments sake, the Commissioner says, 'I am going to publish the cost of transport as it was raised to that company and the cost it is charging for transport. I am going to tell people how much they are charging for transport'. The company says, 'We do not really want to know because we are competing with another five other companies that have their transport costs and we do not want to tell them that. The Commissioner says, 'Too bad, I am going to publish it'. Is there no mechanism for the company to say, 'We appeal against that and we would like to go to an appeals mechanism?'

Ms DAY: As far as I am aware the mechanism would be only available through judicial review of an administrative decision of the Commissioner.

Mr WOOD: The question I would be ask, from the point of view of natural justice, is should they not have some right to appeal?

Ms DAY: Judicial review includes that and that is always available. Are you asking could there be provisions incorporated into this legislation, is that it?

Mr WOOD: Yes, I think so because you are asking companies to provide – we do not do it for people that provide rental accommodation. We do not ask this of anyone else. We are asking it of fuel companies so it is new legislation that requires the company to invite commercial in-confidence information, but there is no guarantee that commercial in-confidence information will not be given to the public under this act. It is all up to the Commissioner to decide what he will publish and what he will not. You would think, just from the point of view of fairness a company could, if it found out that is what the Commissioner was going to decide to do, have some way they can appeal or at least argue the case for that not to occur.

Ms DAY: Yes, of course it would be possible to redraft the legislation to include provisions limiting the Commissioner's power to publish or to require notification and then to allow companies to appeal possibly to the NT Civil Administrative Tribunal or something along those lines. It would be possible to do it; it would be a different approach to what has been taken to date, but obviously that is a matter for the committee's recommendations.

In relation to that it will also have to consider the effect of delay and the additional processes and costs associated with those procedures, so those are matters for the committee.

Mr BARRETT: I know these companies often enter into agreements with each other, with transport companies, with different arms of different energy companies, and they are very in-confidence kind of bits of information. They are actually contracted to not tell under their

agreements with those other companies. I wonder how we would get around if we are asking them to divulge some kind of information. How do we get around the fact that contracts they actually have in place from overseas or some Singapore terminals and things like that might actually undo because of our requiring them by law now to divulge that? Has that been considered?

Ms DAY: Yes, the complexity around that has been considered. As I think I said earlier, these are the sorts of matters that would have to be given very careful consideration in the drafting of the Gazette notices.

Mr BARRETT: I am aware we are about to have all these guys come in here asking questions and I am not a lawyer. They will be raising these issues and we will need a lot of work and more than, 'Yes, we will work on that'. It does not give us much to go on.

Ms DAY: If the committee has additional questions we could take them on notice. We would be happy to assist in that regard.

Mr BARRETT: That would be great.

Mr CHAIR: We have others but it is 11 am so we might send this as a question on notice if that is okay?

Thank you very much for coming. I appreciate all the hard work you have done in preparing for today. We will try to analyse it.

We will take a short break.

The committee suspended.

Mr CHAIR: My name is Gerry Wood, chair of this committee. I need to give you the formal bit first then we will ask questions.

At the table we have Natasha Fyles, member for Nightcliff; Nathan Barrett, member for Blain; Francis Xavier Kurrupuwu, member for Arafura; me, member for Nelson; and Russell Keith, who keeps us in line.

I will read the formal part first then we can get into questions.

On behalf of the committee I welcome everyone to this public hearing into the Draft Fuel Price Disclosure Bill.

I welcome to the table to give evidence to the committee from Caltex Australia Mr Frank Topham, Head of Government Affairs, and Mr Chris Blomfield, Transition Coordinator. Thank you for appearing before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made available for use of the committee and may be put on the committee's website. If at any time during the hearing you

are concerned that what you will say should not be made public you may ask that the committee go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions if you wish. Could you please each state your name and the capacity in which you are appearing.

Mr TOPHAM: Frank Topham, Head of government Affairs, Caltex.

Mr BLOMFIELD: Chris Blomfield, Transition Coordinator for Caltex.

Mr CHAIR: Thank you for that. Do you have any opening statements?

Mr BLOMFIELD: No, I think the executive summary of our supplementary submission would be what I would have in an opening statement so I think I will let it rest there.

Mr CHAIR: I will pass it on to some of our members if they would like to start off with a few questions.

Ms FYLES: Thank you. In your submission you suggest that higher retail prices and the stickiness of price movements in Darwin are not the result of an absence of competition but probably reflect the structural factors such as lower throughputs and higher operating costs. If this is the case, what other factors does Caltex believe may be responsible for the noticeable divergence of wholesale and retail prices since 2011?

Mr TOPHAM: I will kick off and if Chris has some additional comments then he will make them.

One thing we noticed looking over the history, and this is clear in our first submission, which was also provided at the Darwin Fuel Summit, is that there is a clear difference in the relationship of retail and wholesale prices from around about the middle of 2012. So in our view there has been a structural change in the market. What we observe is that the way in which retail prices follow wholesale prices, represented by terminal gate prices, seems to be much the same, but there has been a structural shift. What that structural shift is due to is something which we do not know. We know that the AANT has speculated on the reasons for it but we do not have any additional information.

Mr CHAIR: Could it be just a case of the companies want to make more money?

Mr TOPHAM: No, not really. I think one of the things that we say in our submission is that competitors do not really have the ability to determine a margin. In other words, any particular competitor cannot say, 'I just want to make more money and therefore I will put a higher mark-up on my wholesale costs in order to get to my retail', because they have competitors. There are lots of competitors in Darwin and in some of the other larger towns in the NT. So to my mind, the reason driving the change would most likely be cost factors, but what those cost factors are I do not know.

Mr CHAIR: But if there was no real change from each competitor – so we know about the difference between one service station and another was probably about 2c. As a consumer one would get a feeling, and maybe it is not the case, that there was a nice cosy relationship between the lot of them. 'We will just live with that 1c or 2c gap and we will make more

money. Can competition be there in theory but in practice in a small market people just do not compete.

Mr TOPHAM: No, I would not accept that. I think what we find in smaller markets – it is true a lot of regional towns in other parts of Australia – is that you have various types of competitors. For example, a competitor like Caltex, which is very small in Darwin – we only have two retail petrol sites – would tend to follow the competitors with more sites and in any market you will get people who tend to make the market and people who tend to follow the market. Who that is or which number of competitors it is will vary from place to place.

In Darwin you would have to ask who is really the competitive chain tending to set the level of prices. For example, if you had one competitor with a very high cost structure and therefore needed quite high retail prices to stay in business. The others might say, 'I have lower costs, but when I look at my business I would rather follow them and make a higher margin than discount in the hope of getting a higher volume'. Ultimately everyone will have to make a decision as to the trade-off between margin and volume. To me, everyone will have a business strategy which has to look at that question. Therefore, if you have relatively inefficient or high cost operators, it is quite likely the market will drift up to that level rather than other competitors seeking to push those people out of the market place through more aggressive pricing strategies.

Mr BARRETT: I note you mentioned mid 2011-12, when the divergence happened between these two lines on the chart – you believe it was some kind of structural shift but are not sure what that was. What evidence do you have that it was a structural shift?

Mr TOPHAM: I look at the relationship between retail prices and TGP. I plot the difference on a chart and see what it shows. Of course, there is volatility in that relationship. However, what I can see when I do that – I am sorry, I do not have that chart before the committee. You can see it off two the lines, for example ...

Mr BARRETT: We have it so we can see what you are saying.

Mr TOPHAM: The chart will be familiar to you because the AANT has produced it and we put it in our pack in our first submission. I take the top line – the retail price line minus the TGP line – and look at the difference. When you look at that it is clear the difference has been the order of 5c to 10c a litre. For example, I have plotted it from 2002 through to 2012 and it is around 5c to 10c a litre. Then when you get to July 2012, roughly, the average is about 20c to 25c a litre. There is a very clear difference.

What I find interesting is since 2012 it has been pretty constant. In other words, although there is volatility the difference between retail and wholesale – what we call the notional retail margin – has been pretty constant around 20c to 25c. Before the 2011-12 period the difference is 5c to 10c, after that 20c to 25c. Clearly something has happened in the marketplace. The only thing pointed to in submissions is the Puma acquisition of Ausfuel and Ausfuel's earlier acquisition by Archer Capital. I am not aware of any other major changes taking place in the market, but I cannot say whether that has caused a shift in the cost structure or not. It is quite plausible but something you would have to put to Puma.

Mr BARRETT: I note what you said earlier about the price drifting up to follow inefficient operators. Given the entire market should be in elastic based on basic economic principles – higher price slightly lower quantity on a price times quantity to create revenue scenario – a

higher price should, in most cases in an elastic market, result in high revenue. Would you agree with that?

Mr TOPHAM: That is correct. The volume in Darwin is fixed overall and the price will only cause a small difference in people's tendency to use fuel. You still have to do the regular things like go to work or go to the shops. The only difference that would make is a bit of discretionary motoring, perhaps on the weekend, you go a bit further if the price is cheaper. Perhaps if the price is high you would find alternative ways of doing the things you had to. Yes, the volume is pretty well fixed and I agree that high margins will increase your overall revenues. You are not going to lose any significant amount of volume; that is correct.

Mr BARRETT: So with that in mind, looking at what the options are available, how do you feel about this legislation that we are discussing today?

Mr TOPHAM: The position put in our submission is that the legislation will not make any difference to the competition in the market, the level of prices or the amount price information. We would see it as being ineffective. The problem with ineffective regulation is that it means that you can just shut off what we have regarded as more effective mechanisms, ones that are a lot cheaper and have less red-tape.

Ultimately I think the problem probably lies in the cost structure of the Darwin market. As we put in our submission, the only way of resolving that in the end is to have fewer sites with lower costs. That means the cost structure is lower then the prices can be lower, but that is not something which can be driven by government really, or not in a sensible way.

Mr CHAIR: Could I just ask a question in relation to the price of fuel in Darwin. I am fairly sure you stated it somewhere in one of your submissions, and other people have mentioned it. We have lower throughput, therefore that is one of the factors that means we pay more for fuel in this part of the world. You mentioned that the gap between the gate price and the retail price for the first part of the 2000s was somewhere around about 10c, and that went up, and it has nearly doubled. Say the issue for us is lower throughput, is the building of more service stations working against us in the Territory because you are spreading the throughput out amongst more service stations, therefore the argument would be that it is more costly to run those service stations because they have all got lower throughput?

Mr TOPHAM: Throughput is one of the factors, but what I find in examining prices in non-major metro markets around Australia is that there is actually no correlation between the throughput or the average throughput and the level of price.

It makes sense that volumes through a site must be a factor in prices, but it is not a determining factor. So going to your question more directly, what we are seeing with the construction of new sites, that includes Caltex, is sites which are more attractive to customers which should have lower costs, in terms of operating costs, although the capital costs are quite high. The process of competition should lead to better, larger, more competitive sites which over time would result in the closure of smaller less-attractive sites.

It is just part of the competitive process but if people are prepared to put up their money on quite expensive new sites, then in the long run they will expect a return. That means that each of those sites must have a reasonable throughput. That is a risk every competitor is taking in making the investment, and by its nature it assumes that some of the competitor sites will close over time, otherwise you cannot get the throughput.

Mr CHAIR: Thank you.

Mr BARRETT: Following on from that, you are stating there, effectively, that what we have happening in the Darwin market in particular right now is non-price competition. It is competitive, but not based on price.

Mr TOPHAM: No, I would argue that it is certainly competitive based on price.

Mr BARRETT: How so if it is upward sticky?

Mr TOPHAM: But it is sticky. I think there are two separate factors here. Something I have given a bit of thought to recently is what is the level of price? I think that relates to structural factors in the marketplace and in particular the cost structure of some of the higher cost players in the market. That would be one factor, but then you get this question of stickiness and that is also a feature of competition in many areas.

In the ACCC annual monitoring report, which comes out in December each year, or has come out in December each year, there is an interesting quote which if I might read because I think it would be quite useful for the Hansard.

One observation they made – this is from their December 2014 report, Monitoring of the Australian petroleum industry:

Furthermore, retail prices in some regional locations are ‘sticky’, i.e. they are less responsive – both upwards and downwards – to movements in international prices.

It went on to say:

In small country towns with a small number of retail sites there may be little incentive to reduce prices. This is because competitors will also quickly reduce their prices and the net result is the same volume of petrol sold at each retail site but with a lower margin.

That comment would also apply to Darwin. The ACCC is not saying there is a lack of competition; they are just saying the nature of competition is that prices are slow to move in both directions. That is something we have observed in Darwin. It is competitive, but the nature of competition is different from the major metro areas.

Mr BARRETT: Yes. I would hazard to say it is competitive, but price is not a major determining factor on a lot of the competitive nature but perhaps more on sites and where it is and who your targets are.

You said volume is not a determining factor so much in relation to the line of questioning from Mr Gerry Wood. Could you please outline what the determining factors are?

Mr TOPHAM: To elaborate on that, volume is clearly a factor. For example, if you had a certain level of costs between two sites but one site had half the volume, clearly volume has to be a factor in the kind of price you need to charge to be profitable. It is a factor.

We would agree with the ACCC in the kinds of factors. Volume is one, shop sales is another, because most modern service stations rely on both shop sales and fuel sales. Freight is a factor. In Darwin obviously the freight cost is relatively low, but in areas further out in the Northern Territory freight can be highly significant, including the costs of any depots you might have to hold.

Then there is the level of competition. The level of competition can vary according to the number of sites you have in the market, the nature of the business operation – is it a petrol plus convenience store, does it have another business like a tyre service or a food store associated with it, and there is simply the question of the individual motivations and strategies of the retailers. Some people, by very nature, are highly aggressive and try to follow a discount type strategy. Others are more content to just see what the competition does and go along with the prices set by them in the marketplace.

They are the factors the ACCC sets forward which I would agree with.

Mr BARRETT: You talked about the stickiness of the price in an upward and downward direction. There have definitely been times, if we look at these graphs, when it seems to have been much like wages are in a classical economic theory of saying they are upwards sticky, in once they go up they tend to be nowhere near as responsible coming back down. Do you have any comment on the upward stickiness on the price of fuel at various times in this market's history?

Mr TOPHAM: That contention is often made. In looking at the data we looked at various towns around Australia and the data does not bear it out. It seems to be sticky in both directions. In the supplementary charts I provided to the committee yesterday there is a chart which is an overlay – I think it is chart 4. It is headed, 'Overlay chart shows Darwin petrol tracks TGP with a 14-day lag'. My interpretation of that chart is pricing is pretty much the same in both directions. In other words, retailers will take some time before they drop their prices as wholesale prices move, and they will take some time before they increase their prices. My view is the data supports the idea that prices are sticky in both directions pretty well equally. There is a popular kind of concept, which I have heard described as rockets and feathers, which suggests that when wholesale prices rise then retail prices shoot up but when wholesale prices fall, retail prices are slow to fall. My interpretation of data for Darwin and other markets in Australia does not support that and the overlay chart demonstrates that things work pretty much the same in both directions.

Mr WOOD: We are a bit short on time here but we probably need just to come back to the legislation that the government is proposing. Obviously the government is saying to you as a company, 'We want you to provide us with a certain amount of information'. Some of that could be commercial-in-confidence. How does your company feel about being told that you must provide certain information about how you come to make up your retail margins?

Mr TOPHAM: I think it would be an increase in red tape which would not benefit anyone so we know that the way we price in Darwin, for example, is that we will follow what prices are typically being set in the marketplace. Whatever profits we get relative to our costs out of that is how it is. If we lose money, we lose money, but we cannot do anything about the level of pricing. I think it will be an increase in red tape and, as I have said earlier, I think the frustrating thing is that good data is publicly available. One of the things I wanted to demonstrate with the supplementary material I tabled yesterday is just how easily the price structure can be compiled with public data.

I recommend to the committee, if we do not have time to go through it today, that it looks at grabs from websites which show the data and then how you take each grab and put it together. In my view the structure of prices is very readily available from public sources, and

in order to provide a full set of information, only minor enhancement is required. For example, one idea might be that the AANT require a small subsidy to be able to get a full set of retail price data. That would be far more economical than the government doing it itself. The other thing we have said is that the ACCC has indicated it would do what they could around micro-reports, or deep dive reports, into a number of towns, and Darwin is on the list of towns that might be studied. I think the ACCC, with its expertise and budget, could derive a lot of the information on costs and profits which the bill would otherwise be trying to obtain. Then there would be a huge cost to the government in trying to process that information.

Mr WOOD: The Commissioner of consumer affairs can ask you for a fairly broad range of information. Some of that may be commercial-in-confidence, but he is able to publicise information. Would you object or would you see that there should be some method for you to be able to object or appeal if you felt some of that information was commercial-in-confidence and should not be publicised, because in the legislation as it is at the moment there is no specific appeals process except through the normal judicial processes.

Mr TOPHAM: Absolutely. Clearly costs are highly confidential commercially because they give competitors insights into operation which can be used against you competitively, so we would certainly support the idea that some information should not be provided and certain information should not be published, except perhaps in a very aggregated form. So yes, we see confidentiality being a real concern in the provision of data.

Mr WOOD: how do you understand the term 'price motivator exemption', which we are supposed to look at?

Mr TOPHAM: The concept as I understand it is that if you fail to meet a certain criteria, for example, if your retail versus TGP exceeds a certain amount, then you will be required to report, but if you are below the threshold you would not be required to report. In our view that would be completely ineffective, the reason being that the cost of reporting, whilst it is onerous, is relatively low in cents per litre. So for example, if the level is set at 15c per litre, notional margin the market was currently at 20c a litre, you would not give up a 5c a litre retail market just to save the red tape costs. What would happen is those red tape costs would be passed on to consumers in a competitive market to no one's benefit.

Mr CHAIR: That is very interesting. We have run out of time Frank and Chris. We appreciate your comments on the bill. If we have any other questions can we write to you for your opinion on those matters?

Mr TOPHAM: We would be happy to answer any questions you have.

Mr WOOD: Thank you very much.

The committee suspended.

Mr CHAIR: Good morning. I am Gerry Wood, Chair of the Fuel Price Disclosure Bill Scrutiny Committee, which is a mouthful and definitely not an acronym you can pronounce. I will go through the formal process and then we will get to questions.

On behalf of the committee I welcome everyone to this public hearing into the draft Fuel Price Disclosure Bill. I welcome to the table to give evidence to the committee from BP Australia Pty Ltd Mr David Stuart, Director of Government Affairs. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned what you say should not be made public you may ask that the committee go into a close session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Before that I will introduce members of the committee. We have Natasha Fyles, member for Nightcliff on my right. On my left is Nathan Barrett, member for Blain, Francis Kurrupuwu, member for Arafura, and Russell Keith, who keeps us in line. That is the committee, and we have apologies for Mr Ken Vowles.

Would you like to state your name and the capacity in which you appear? Do you have an opening statement?

Mr STUART: Thank you very much. Greetings to all on the committee. My name is David Stuart. I am appearing in the capacity as the Director of Government Relations for BP Australia.

Mr CHAIR: Right.

Mr STUART: I do have a brief opening statement but understanding that the committee would most likely want to ask questions of me, so it is rather brief before we kick off.

Mr CHAIR: That is okay. I forgot to mention my name. I am Gerry Wood. Have I met you before somewhere?

Mr STUART: Yes, we have.

Mr CHAIR: That is right. Fire away. You said you had a brief statement.

Mr STUART: Yes I, thanks Mr Chair. Good morning once again and thank you very much for the opportunity to appear today to comment on the Fuel Price Disclosure Bill. This short opening statement I will read through and then I will be available to answer some of the committee's questions.

Whilst BP does not set retail prices in the Northern Territory we hope that our participation as a wholesaler in the Territory, and as a retailer in other states around Australia, will provide value to the committee when commenting on the bill. BP supports well-functioning markets, not only to promote economic efficiency but also to deliver competitive outcomes that benefit consumers. Important elements of this include price transparency and consumer awareness. BP is concerned that the bill, as currently drafted to detail costs, profit and other information, will constrain the operation of well-functioning markets, and as such will not better inform Territorians about the fuels market likely causing confusion and unintended consequence,

and secondly, will not lower fuel prices. Indeed, due to the imposition of regulatory costs and probable market distortions resulting from the regulations, it may indeed do the opposite.

To allay the community concern in the Northern Territory fuels market, BP suggests to the committee a number of steps that would both promote price transparency and inform consumers to make informed purchasing decisions.

Firstly, utilise the ACCC's considerable expertise and information on the downstream petroleum industry. In addition to seven annual reports analysing, among other aspects, regional pricing, the commission has also recently announced that in the future quarterly issue specific reports will be published.

Secondly, limit any analysis to simply the retail price and establish benchmarks. This acknowledges that community concern in the Territory results from retail pricing, not wholesale pricing. Notably, such information is already available from the market using websites and consumer facing apps. Such an approach would minimise costs, and regulatory impost will avoid distortionary effects and will present information to motorists in a manner consistent with current practices. Thank you very much.

Mr CHAIR: Thank you David. We have a few questions. I might ask Natasha if she would start off with some questions.

Ms FYLES: In your submission you note that a transparent framework for market participation should be developed and in place before the bill is implemented. Could you briefly outline what such a framework would encompass?

Mr STUART: My reference to the submission, I believe you are saying, is around the position of BP having transparent settings to allow market participants to understand what they have to do and what they should be doing in a market. The concern that we have with the way the bill is currently constructed is that there is no definition of what constitutes reasonableness in order for a market participant like BP, possibly in the future, to have an understanding of what they should and should not be doing. It is based around an arbitrary decision made by a person of what constitutes reasonableness or unreasonableness.

Mr CHAIR: I should have asked you a question at the beginning, David, about your submission; you did say you wanted that confidential, is that correct?

Mr STUART: We had that preference for it to be noted confidential, yes.

Mr CHAIR: We did not see a lot in there that was much different than some of our other submissions, but is it possible that we could have a submission where you could take out those parts you thought might be confidential so we can still have a submission we can release to the public?

Mr STUART: Certainly, Mr Chair. Could I take on notice a commitment to go back to my legal team and redact any parts we would not like released to the wider market?

Mr CHAIR: In relation to the bill the commissioner has fairly wide powers, especially into the information he would like fuel companies to supply. If you knew you did not have the right to appeal against some of that information being publicised, because the commissioner can not only require you to provide information about how your retail price was formed, and the commissioner can publish what he wishes so the public knows how you came to that

retail margin, do you think if this legislation went through there should be a mechanism where you can appeal against that decision? There is nothing in the bill at the moment that allows a company to appeal a commissioner's ruling?

Mr STUART: Yes, that is a good question. That brings up transparency and what we were commenting on. Yes, a form of appeal would be most important. However, what is of importance to us is we do not understand how the information would be used, analysed, or indeed a determination made on what is reasonable or unreasonable for the commissioner then to publicise or use that information in particular ways.

We do not quite know what is black and what is white in order to operate in the way the bill is intending us, as a potential market participant in the Territory, to behave. We have an unknown requirement that we simply cannot accommodate, but we are being asked to provide a lot of information, much of which will vary from service station site to service station site, in the Territory. Those variations would need to be considered. There is no framework for how the commission or, indeed any other stakeholder in the Territory, would consider those variables. If they were to be considered individually it would then involve the promulgation of commercial-in-confidence information about that individual site with a net outcome which is unknown to the market participant prior to them going into the process.

Mr CHAIR: Obviously we have to look at this price exemption motivator. How do you understand that? You have touched on there being a margin, and you mentioned that margin can vary from service station to service station depending where they are in the Northern Territory or where they are in suburbs. What is your understanding of what the government is getting at in relation to that phrase?

Mr STUART: My understanding of the price motivator exemption is a participant in the market would be exempt from pricing disclosure if they retail fuel based on a particular margin or a particular profit range. That is my understanding of how it is drafted in the bill today.

My concern is the range nature, for want of a better term, is effectively defunct. Retailers – again reminding the committee BP is not a retailer in the Territory – would simply select a higher number and that would become the defunct number used in that particular event. More importantly, the provision would at best simply change things like internal accounting allocations where what was formally recorded in profit margin may be reallocated back to costs such as labour, maybe even to the manager or the owner of the service station in order to decrease the reported profit margin for the site.

What effectively that could be doing is exaggerating costs such as labour and, at worst, the mechanism would form a type of quasi pricing regulation that is taking effect in the Territory. That quasi pricing regulation, as I term it, will effectively constrain further investment and effectively limit future competitors coming into the Northern Territory market in order to drive down prices.

Mr CHAIR: Would you think it is the government's role in this day and age – many years ago it stepped in to regulate prices; prices for bread, milk and fuel were regulated. Do you see that as the role of government to regulate prices if that is what you say this is?

Mr STUART: We are seeing the stated positions of the government around the country and indeed through the Commissioner of the ACCC as being markets are driving that

process at this point in time, so deregulated fuel markets are what are in place around the country, and they are driving competitive prices for consumers around the country.

In saying that, I can see the community concerns in the Northern Territory with regard to retail prices. Again I go back to my comments of, what are the best mechanisms to allay that community concern, and we believe, from our insights in retailing around the country, there are two things. One is a level of price transparency: what is the retail price a motorist must pay to put fuel in their car? Secondly, consumer education and consumer awareness of how markets are operated and how that retail price has come together.

Mr CHAIR: Another question, David, when we spoke to Caltex earlier they said this would have no effect as cost is not big enough to affect pricing, do you agree?

Mr STUART: Could you just say that again please, Mr Chair?

Mr CHAIR: Caltex said – and we are referring to the price motivator – that it would have no effect as the cost is not big enough to affect pricing. Do you agree with that?

Mr STUART: I can understand their point. I think – and I am putting words into their mouth – what they are saying is that the potential cost of complying by foregone revenue, or foregone margin, are not worth it. I think that markets are what drives prices at the end of the day, not regulation in a deregulated market, leads me to the same conclusion, yes.

Mr CHAIR: You talked about how a company, if it wants to get around some of this, could move some of its accounting. You have service stations down south these days that have a big shop there and sell anything from gas bottles to ice cream; they have become convenience stores really. If the commissioner wants to know how much it costs you to sell your petrol, your fuel, is it going to get complicated when a service station does a lot of other things? In other words, could some of the costs of running the shop actually shift towards the cost of actually paying the retail margin for the fuel. Is that what you are saying, that it is going to be blurry?

Mr STUART: Indeed, it is. In the back-end of the submission that BP provided we did allude to this. In terms of what is seemingly a simple question to ask, by virtue of the different aspects of the service station, be it convenience store sales, be it the different allocation of costs which might not just relate to the one side but may be covered across several sites in a network in order to deliver scale, to deliver efficiencies, to keep prices low for consumers actually deducing those costs and allocating them to an individual store, to an individual fuel product line, over a particular time period, does become a complex thing to do.

We have alluded in the submission that in order to do that, much of that information would not be kept in the service station site, be it in the Northern Territory if we participated there or in service stations in other states where we do participate in the market, but are held centrally in a head office type of organisation, and involve gaining that information from several parts of the business – be it the retail fuel business, the supply business, the transport and logistics component of the business – and bringing all of that together over a particular period, deducing it and allocating it to a store, and then independent fuel product lines, be it diesel, regular unleaded, premium fuel – you can start to see how complex and perhaps even how opaque these sorts of numbers become.

Further to the concerns around getting that number, you possibly recall I alluded to the concerns we had with the bill that strike fairly hard penalties for people involved in the business, including the directors, where that information either is not provided or is not provided in time. There are fairly strict penalties for not being able to turn that information around quite quickly.

In regard to transparency, which I alluded to earlier, for about eight years or since 2008 BP, along with other major petroleum companies, has provided this data to the ACCC. We have been providing it in an annual regime where we submit data in two tranches specifically in about April and in about June/July each year. The ACCC no doubt has established processes where it goes about analysing, critiquing and ultimately deducing what is happening in the overall downstream petroleum market. It is those deductions that are appearing in that annual report. They have built up a wealth of information over about eight years' worth of reports now, hence our recommendation to the committee to consider utilising that expertise and the reporting regimes they have.

Mr CHAIR: Thank you.

Mr BARRETT: Looking at the retail margin in the Northern Territory at the moment – I mean everything downstream from wholesale effectively – if you look at the wholesale price here then what the retail price is here compared to other places in Australia given the complicating factors that exist in operating in the Northern Territory, I am not sure what is happening in the rest of Australia is particularly reflective of what is happening in the Northern Territory. This legislation is about working out what is happening in the Northern Territory. Would you agree what is happening in the Northern Territory is not particularly reflective of what is happening in Australia?

Mr STUART: Yes, some words at the start of my submission – I have at all times through this processing, including attendance at the fuel summit late last year, understood and acknowledged the community concern. There were some interesting comments made by the fuel summit which I took on board. Those comments were within the Territory we have always been used to paying a higher price for something. We have that message and we do it with food and all items in our life, including fuel. The concern we heard from the fuel summit was we cannot understand where there was a correlation of retail prices to wholesale prices over a period of time that had stopped as at a period of time and seen to be uncorrelated moving forward. Again BP's view on that ...

Mr BARRETT: In light of that information ...

Mr STUART: ... I will just finish that sentence. In light of that we see there is community concern over a particular issue, but that particular issue is retail prices in the Territory are no longer trending with wholesale prices in the Territory. The way to address that is to ensure transparency in an ongoing manner of retail prices to inform Territorians, and secondly to provide a level of consumer education around those two things.

Mr BARRETT: I think this legislation cuts to the heart of exactly that. The information we are receiving through the formats you have suggested do not really give us the breakdown or a solid understanding of exactly how the cost structures are produced and exactly how this pricing is created. This legislation is more about making that transparent, given the case in

the Northern Territory and the uncorrelated low OR value between the two things you just spoke of – why is this happening? We need a clearer picture.

Mr STUART: Yes, my view on that is that is where the ACCC can come in with the expertise they have. The concern I have is by moving into a process where there is a review not of end retail pricing, which is the issue – this lack of correlation – but instead the issue is now about making threshold matters around cost and profit which ends up in the scenario of what if there are benefits to consumers by lower retail prices but the market participant is getting a higher level of profit relative to other operators? With the way the bill is structured at the moment that particular market participant would be penalised, for want of a better term. Yet the market participant who may be charging higher retail prices to consumers but is making less profit would not be targeted, for want of a better term.

The is the only word of caution that I have is that I completely understand your point but by going to a piece which is not what the consumer buys fuel based on, which is the retail price, but going into other elements that constituted and making judgments around reasonableness, or otherwise, ends up in a state of quasi-price regulation, with the distortions that creates.

Mr BARRETT: Yes, I understand the economic arguments around price settings. I do not think the intent of this is to create a quasi-price control mechanism over the fuel. I think that range is being put in place so it can target areas of high profitability that may be perceived by some to be too high profitability, not so, necessarily, we can do anything amazing with that information if it comes to light today, just so we actually understand what is happening. Right now we actually do not understand how this market is operating, which is concerning because with a lot of conflicting information coming across and a lot of smoke and mirrors happening it is really hard to assess where to from here without some clear information. That is really where this is going.

Mr STUART: I understand and in response all I can say is our views around the ACCC having the expertise in order to take you through that process would be most valuable from our perspective.

Mr KURRUPUWU: David, I have a question. According to the ACCC, petrol price cycles that occur in Sydney, Melbourne, Adelaide, Brisbane and Perth are the result of deliberate pricing policy of petrol retailers and are not directly related to changes in wholesale cost. Can you explain why petrol price cycles do not occur in Canberra, Hobart or Darwin?

Mr STUART: I cannot, Francis. I am familiar with the part of the ACCC publication that you are referring to, which is a retail price cycle that is characteristic in several places around Australia, except the cities that you just spoke of; but, no, I cannot provide you an answer. I am happy to provide something on notice if I could.

Mr CHAIR: We can do that, David. We will get something on notice.

Ms FYLES: Are there any other issues that BP would like to raise regarding the proposed bill or the development of more competitive retail fuel market in the Northern Territory?

Mr STUART: No, thanks, Natasha. Most of my points are contained within the submission and I feel that I have been given a good opportunity to talk through a number of those other concerns today, so thank you very much.

Mr CHAIR: Thank you, David. We appreciate you giving your time to answer the committee's questions. If you can get that submission to us in a form that would not be in-confidence, that would be good. We appreciate you answering all our questions. Thank you very much.

Mr STUART: Thank you very much Mr Chair and thank you very much Committee for the ability to appear today.

Mr CHAIR: Thank you

The committee suspended.

Mr CHAIR: Welcome. We have Natasha Fyles, member for Nightcliff, Francis Kurrupuwu, member for Arafura, Nathan Barrett, member for Blain, me, member for Nelson, and Russell Keith, Committee Secretary.

On behalf of the committee I welcome everyone to this public hearing into the drafting of the Fuel Price Disclosure Bill. I welcome to the table to give evidence to the committee from the Automobile Association of the Northern Territory Mr Edon Bell, General Manager and Mr Kym McInerney, Manager Sales and Marketing. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask the committee to go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing?

Mr BELL: My name is Edon Bell, General Manager of AANT.

Mr McINERNEY: Kym McInerney, Manager Sales and Market AANT.

Mr CHAIR: Would either of you like to make an opening statement?

Mr BELL: Yes, I would like to open this session with a statement of why we are here. AANT has long been a representative of members. As an incorporated association we speak on behalf of 20 000 members across the Territory. Not only that, we speak on behalf of all motorists and have long been a concerned voice on the price of fuel in the Territory.

Fuel pricing has been quite concerning in the last few years and we have been informing public, media and government as and when required as to the issues at hand. We have long been that voice so it is interesting looking at some of the submissions and those who have attended this panel today. In most part we agree with a lot of the detail provided in the

submissions, although one of our concerns and part of our submission is making some speculations around change.

A key point discussed is we all agree there has been a significant shift in what is occurring in the market in the Northern Territory. That is not just Darwin, but the whole of Territory. That occurred in around that 2011-12 period, and as you will note from our submission the only key item – I think Frank mentioned in his references today – he agrees there was a significant shift in the market. We draw the committee to the fact there was a significant change, which was Archer Capital firstly making the acquisition of Ausfuel, and further to that the bolt on acquisition about nine months later of the Gull brand.

Mr Chair, this morning you asked the finance team what that meant in respect of retail price control. That detail was provided by Frank in his previous submission to the fuel summit, and what that means in Darwin is we have a – I guess we can only surmise an investment company has acquired a significant retail portion – so close to 45% or 50% - of the market share retail outlet in the Northern Territory and purchased at a significant value. From that point forward we have noticed a significant shift in how the market operates.

The market behaved in a particular manner up until that point but beyond that we saw the market change significantly. We saw what we describe as ratchet pricing where the market was quick to respond to increases in the terminal gate price. What had not occurred was the falling of prices when we saw deep discount periods, so the prices lifted and remain high – or sticky if you will – but if there was a return response it was very minimal and not in line with what was occurring at the terminal gate price.

I think we see a correlation in the market change that occurred at the time. What we saw then was Archer Capital sell out at – it was, I think, a record margin peak at that point, around 25c or 26c a litre. This investment company came in, sold out and has now moved on. As we know we have the Puma brand who took over that. What we have seen again in shift is Puma – as you all know they have been rebranding a significant number of their sites so it is probably clearer that Puma is a key player here now in the market. What is driving the price? Well that remains to be understood, but I am sure we will delve into a bit more detail as we proceed today.

That is a general summary of where we are at. I think we have made a submission which also talks around – in order to fix what we see as a broken bargain, we need to understand what is occurring in the market. There are significant gaps in knowledge around what is occurring, not only in respect of that wholesale to retail price but also in the different types of arrangements that occur. Is it just a straight retail outlet? What is the model structure and is that having an impact as well? That is a key component to what work might be undertaken. Are they a franchise arrangement or are they a direct relationship? There are a few things to unveil in that regard.

I think we have also mentioned in our submission that we see – we make it clear up front that we understand that this is about market or volume. We agree that it is really back – the consumer has a role to play in fuel pricing. Providing them with the necessary information, there is a lack of – whilst there is good information out there, there is clearly a lack of information to retailers specifically about that day-to-day pricing at their local petrol site.

Whilst we do offer some level of pricing on our website, it is limited to the greater Darwin area. There is value in extending that level of information across major centres and more regional centres, looking at Alice Springs and Katherine for example. There is room for improvement in pricing availability to the public to make an informed decision.

Around the price motivator mechanisms, again, it was unclear what that meant when we referred to the terms of reference as presented, but we have made our own speculation around what that might look like in the form of – I think it has been discussed here today that it could well mean a particular margin range or a capping on a margin range, but what we have seen is margins exceed realistic positions. Prior to that point in time the market ranged from 5c to 15c long term. Someone was leading a price because as the price fell someone in this market was driving a downward shift and others were following. That is how competitive markets work. We saw that change and that stopped occurring so we are keen to understand, as everyone here is, to what will be required to ensure we see some movement back in the positive direction for motorists when the available savings are made.

Mr CHAIR: I will ask a couple of general questions in relation to your statement. If you believe the price went up because of this acquisition in which one company paid a lot more probably than it should have and therefore it was trying to attempt to recover its costs by having a higher margin, why did the other companies not just stay at the lower margin as they were before, or did they see an opportunity to make a few extra dollars themselves?

Mr BELL: We can only look at the market – in the absence of any other advice or explanation we simply noted that occurred. We do not have any evidence as to which particular operator – you consider the market as it stands. We have the Puma brand now, and at that point it was the Archer Capital group which was Ausfuel Gull, but Coles, Woolworths, United and a few independents. Out of that group someone potentially had to lead a price. If someone led a price in an upward direction others likely followed. What did not occur was the downward pressure.

It is unclear and we need to understand why. We can only make assumptions around market change in the absence of any other advice. As to why, one can only see you had a significant player in Archer at that time having, according to this graph, 45% of the retail outlet. If Coles and Woolies were not necessarily price leaders they were just following along. As Frank highlighted this morning, the smaller players will simply follow suit. Someone is setting the price but we do not have that level of information on a day-to-day basis – the trigger point – who takes the first step to change the price on any given day.

Currently the terminal gate price is lifting. At some point someone will make the first move. A key point to understand is who is the trigger point in the market consistently driving a price change.

Mr CHAIR: If we had not had that event in 2011-12 do you think we would be here today discussing it, or do you think people would have accepted the margin we previously had as being reasonable considering where we live?

Mr BELL: The 2005 Parry report was undertaken because at that point a lot of people were concerned about the price of fuel. I can see another reason, but that would not have been undertaken if that was not the case. The Parry report clearly demonstrated that whilst margins were sticky – and there was some very good reasoning in that report as to why that

occurred – I think a margin range between 5c and 15c – what people were concerned about at the time was the lack of timing between a fall in the wholesale price. We saw that stickiness occur but, nonetheless, we saw – in the trends you can see price did follow suit. I think there was concern there was no correlation between Darwin as a market versus – comparing to other capital cities.

We agree with the fuel market, you cannot compare the Darwin market to the likes of Sydney. That is a key point to understand. It is a very different operating market and whilst there were concerns then, it could be easily explained why the market behaved that way. I guess we were concerned why there was a significant shift post that.

If the market was continuing on today it would probably be status quo in that people would still complain there might be a bit of stickiness occurring, but it would be a much better position to be in than what we currently face and have faced in the last couple of years.

Ms FYLES: The committee has heard higher retail prices in Darwin reflect structural factors such as lower throughputs and higher operating costs rather than an absence of competition. Would AANT agree with this claim? If so, what other factors does AANT believe may be responsible for the noticeable divergence of wholesale and retail prices since 2011?

Mr BELL: Nothing that I can see or view, and Treasury could probably verify this. Nothing occurred in 2012 that would indicate day-to-day operating costs – rents or otherwise – shifted so significantly that it required margins that ranged between 5c and 15c long term, which seemed to be an acceptable margin range – to operate a business should then need to shift to then peak out – we have heard figures of 20c to 25c. We saw 35c per litre peaking just prior to the fuel summit, and considering the likes of Alice Springs – they did not see the effects of post-summit where the price fell. They held onto prices significantly longer and margins peaked out at 50c plus there which is absurd.

I do not see there has been a significant shift. I do not see any justification for the margins that were allowed to peak at the levels they have done in recent times.

Ms FYLES: Can you explain why the Darwin fuel price went down at the end of last year? Do you guys have any thoughts on that?

Mr BELL: Well, I think in Frank's, or Caltex's submission, he made it clear that what drives the fuel price here in the market of the Northern Territory, Darwin is – it is about consumer behaviour competition. If we saw a particular trend over two or three years occurring, which did not see the price or savings being passed on in a timely fashion in times of significant falls in the terminal gate price and benchmark pricing, if that trend long-term was to keep prices high but all of a sudden post the summit – the summit was clearly a trigger point for something to occur. There have been other factors post that. There has been significant of pressure from government. AANT has certainly ramped up its advocacy position in respect of that.

There was the bill. Key points within that presentation this morning showed some trigger points online that saw some price movements in the market. Just post-January we saw another one, but I think overall they were – and it was highlighted during the course of today that whilst we saw a fall in price that is in line with the fall in terminal gate price or benchmark price – it has been great and motorists have enjoyed the fall in price – we were still seeing,

up until about a week or so ago, 25c per litre on margin, which is more than double the national average.

Mr BARRETT: You said before there are significant gaps in our knowledge about how this market is working. Would you be able to outline what some of those gaps might be? You guys and other organisations like MotorMouth collect various sorts of benchmark information; what information do you think is missing from this jigsaw puzzle?

Mr BELL: As highlighted today, the gaps in the knowledge between what occurs at a wholesale level – we know the terminal gate price is advertised daily, but that is an indicative price. If someone is a high-volume customer they might have buying power and we do not know that necessarily is the price they buy it, but it is the maximum. The margins that we post is all publicly available information.

Clearly there is a lack of understanding around some of the associated costs. Once the tanker pulls out from the Vopak terminal, what then occurs? What are the associated costs? Again, we do not have the means to interrogate or investigate any fuel stations. It is the ACCC that we have long called on as playing the role in that space. Hopefully we see some outcomes. Darwin, Northern Territory, Alice Springs – I do not think it matters which area, but with the ACCC we were calling for the Territory to be a focal point as one of those three regional areas to understand and get to the bottom of what some of these associated costs are.

There have been lots of notices made in respect of that. The fuel companies are saying there are all these reasons it is occurring, but in order to understand and resolve the issue we need to better understand what is occurring. What is the distribution model? Do independents have a fair go? I have heard some of the smaller operators saying they are inhibited in what price they can put on the board at the front on a retail level because someone – a middle man, potentially – might be taking a significant clip of the ticket. Is that occurring? I do not know. I think that is what the bill goes to the heart of understanding. What are some of those costs associated which allows for a retail margin to be applied and the retail price be set and displayed.

Ms FYLES: Has the AANT formally asked the ACCC about being one of the regions?

Mr BELL: Yes, we have. We made a submission through our affiliate organisation and put a case forward. We have also advocated publicly, more recently, that given the history of fuel pricing in the Northern Territory over the last few years, we see there is a very strong case. We recognise that there are similar concerns in Hobart and Canberra. We see a similar trend occurring in how fuel price mechanisms work. The Territory particularly is of a significantly greater scale as to the issue in respect of the margins that have blown out to the levels they have.

Ms FYLES: Have they indicated to you they may choose the Territory?

Mr BELL: The ACCC, I understand, advised they would keep that quiet purely because they did not want to signal to any particular area. We hope that would be a consideration, and I believe it will be March when they make an announcement as to those three areas. They have resources available to investigate three regional markets specifically each year. There is no guarantee. We may or may not get that level of understanding. If we do not are we next cab off the rank? I think that needs to be considered carefully by the committee in

respect of how we understand in more detail what is occurring and clearly understand where we need to target to fix the current issue.

Mr KURRUPUWU: Mr Bell, in your submission you note it is imperative that consumers have ongoing access to daily pump prices to help inform purchase decisions. Do you have any data regarding the number of people per day who access the fuel data on the AANT website?

Mr BELL: I cannot advise the exact number to the committee, I will have to take that on notice. I know that at times where we have promoted the service through our newsletter – one of the highest click-through on the pages is clearly demonstrated. Yes, we can provide some reporting. We will provide that confidentially to the committee if it chooses to do so. The type of people looking – it is a good website. It is not only the AANT website that is available. That is a service we pay for on behalf of our members. Also the likes of MotorMouth provide similar information but I think it is limited to Darwin.

I think there is scope to broaden that information. Getting it onto a mobile device – there is currently an app available through MotorMouth. Again, it comes back to the cost of providing that service and how that information is collected. There is value in arming consumers. Thinking about consumer behaviour in the Northern Territory, our view – again this is anecdotally – people believe it is what it is and they have to pay. There is no motivator to drive consumer behaviour.

We see that as a key part of going forward. If every person in Darwin decided to shop at a particular brand then it makes sense that will drive competition because the other companies would need to reduce their prices to become competitive. Part of the issue is ensuring people are informed and able to make an informed decision.

I see that possibly limited to Darwin, Alice Springs and Katherine at this stage. Some of the more regional locations – how that information is obtained – I am sure it could be, but there needs to be a mechanism for that to be introduced. MotorMouth currently has that format but it is about how they obtain the information. It comes at a cost, unfortunately.

Mr CHAIR: Do you have any evidence to suggest publication of that data promotes competition?

Mr BELL: What we have is some behaviour through our website. Where we have promoted shopping for fuel we can look at how many people are using that information. I think our best comparison would be interstate. South Australia is a good example; you can see consumer behaviour. I know the RAA of South Australia have some – their expectations are working to a price cycle, which do not have here. Consumers tend to shop and have a clear understanding of what price cycle occurs in fuel and they tend to shop when the price is down in that cycle.

Given we run a fairly flat market here there is not a lot of encouragement for people to shop around. Generally there is only a few cents variation between sites. There needs to be other motivators to drive consumer behaviour here.

Mr WOOD: We have to look at this bill they are putting forward, and the terms of reference state that we have to inquire into the effect of the bill and meeting the aims of better informing motorists of the price structure of fuel and promoting price competition. We

are also inquiring into mechanisms for setting a price motivator exemption to be gazetted under the bill. As you said, you have been listening to some of the discussion today. Do you have a view on whether this bill will do what it is trying to achieve, what it is meant to achieve, or do you think some of this information we already know? Do you think even setting a price motivator exemption system is going to make any difference?

Mr BELL: Again, we can only speculate, as others have today, and make our own assessment as to what price motivator exemption means. AANT's view is that there is a need to understand what is occurring. There are gaps in that knowledge that need to be filled. Whether or not publicly advising that – that is not really our call to make.

In order to fix the problem, I stand by the comment that we need to understand the whole of the market, not just snippets of information. It is continually raised that companies are profiteering, etcetera. Someone of the right authority needs to understand what is occurring. We submitted that it was the intention to have a cap. There are plenty of market analysis reports that talk specifically on that issue and look at different markets and where that might be applied. I think there was one done from Germany that did some modelling around that exact type of modelling where they cap or have a limit – or an upper pricing cap on the margin allowed – and there is some interesting study there that we will not go into the detail of today.

One of the issues I see is the intention to simply have a realistic cap and allow the market to remain competitive within that. One can ask if 35c per litre in Darwin is reasonable. I would say that is well outside an expected level or reasonable level. I would say that if the committee is reviewing how they determine what might be a reasonable level, that is not really our call either. All we know is that up to the point in time where the market shift is significantly – 5c to 15c seem to be the norm. Allowing it to go out to 35c or 50c – as to how we turn that around again, there is no one answer. There needs to be several angles taken on this. Affecting consumer behaviour or promoting more competition in the market clearly has to be the preference.

Mr WOOD: Do you see that this can be a bit discriminatory that we are only dealing with the regional centres? How do you apply a margin to the Barkly homestead who runs their own power; they are a monopoly out there. Sometimes if you are running out of fuel that is where you have to get your fuel and it could be out on the Plenty Highway. I have got fuel out there at \$2.30 per litre. How do we help those people, or do you see this not having a role because what was put to us today was that it will be fairly expensive for a company to come up with all this information, and it will be very hard for a small operator out bush to be able to come up with these sorts of figures. Do you feel that we cannot just look at the city, that we should look at regional and remote otherwise we are sort of only ...

Mr BELL: If you consider some of the remote communities, I have heard prices in excess of \$4 per litre for fuel and you only have one option. You pay the you the price at that site; that is it. There are costs obviously associated with getting to remote areas, but in understanding whole-of-market, a good first step will be to unravel – the only way this bill could be successful going forward is to have a clear and full understanding of the market. That is both what is occurring here in the greater Darwin area and being quite specific in respect of looking at some of those regions. Clearly those key regional sites need to be understood.

Some of the findings from those areas would translate to some of the smaller regional outlets. Some of those smaller regional outlets will be quite specific, for example fuel being barged in. There will be barge operators taking their clip of the ticket etcetera, but prices exceeding \$4.00 a litre is unheard of. I do not understand how, despite the additional cost, it could ever get to that level.

Mr CHAIR: Yes, and I am only giving a personal point of view. We might satisfy the people in Darwin, but the people with the higher cost of living and lower incomes are the people hit with the highest fuel prices. I do not know if this committee can cover that area, but I would hate to see those people left out of any improvement in pricing.

I will go back to that famous term 'price motivator exemption'. I think BP raised it. It will not be so easy to work that because not only will service stations be different in Darwin – there might be a different type of service station and one might have far more options such as gas bottles, convenience store, one might be just a couple of fridges and bowsers. You might have different places throughout the Territory as well.

Do you think it will be easy to set a benchmark type margin that can be used by the commissioner?

Mr BELL: Whilst it has been described it is going to be a very difficult process, I draw back to the long-term position. Five to 15 was the long-term position. No one has really delved into what caused the market shift. Some of the analysis might come back to understanding who is driving that price up and down within the market and that will assist in making further decisions around how the bill may or may not be applied, but five to fifteen was the norm. The national average is 10. Margins exceed that significantly – is 35c reasonable, I do not know. I am not sure what the intention is. We can only surmise that if it exceeds or goes outside a particular range you will be scrutinized. What else they do I do not know' it is not really AANT's call.

There is probably some good argument around saying a cap may be considered and let the market flow within that. What has occurred in the Northern Territory, aside from anywhere else in the country, is that the margins and the way they have ratcheted and continued to ratchet in an upward direction – that is more to the issue. There has to be a point where we should be allowing that to stop.

That might have been the norm in the last couple of years, a reset of the market. We have seen a change in the market in that Caltex is opening a couple of new sites. I think Puma Energy has rebranded and is going strong in respect of pushing their own brand rather than being seen – prior to that it was a BP site or another branch site. They are consolidating their brand and wrapping that up. It is good to see that in the last few months we have seen that fall in price, but I think to allow that to be maintained and continue we need to see some better competition in the market or different price motivators somehow tackling the – in summary it is more back to informing the consumers.

How do we better get the information out to consumers around what is their local service station and what is the best price they can get, be it a 2c or 3c cent difference. Our position is we need to get out there. Public education might not seem like we are making a difference today, but if you actively participate in the market and contribute a collective approach from all concerned, it will ultimately have a net positive effect.

That is a key part to resolving going forward and a better understanding in the background without not necessarily making that publically available, but being well informed as to the whole of the market and then starting to look at where we can improve and drive better competition in the market. They are two key things to occur.

Mr CHAIR: Thank you, Edon and Kym. We have to finish it there. We appreciate you coming along to give us your views on a very important matter. Thank you.

The committee suspended.

Mr CHAIR: David, we have to do an opening statement first. before I start that I will just introduce our committee. On my right is Natasha Fyles, member for Nightcliff; over on the other side is Nathan Barrett, member for Blain; Francis Xavier Kurrupuwu, member for Arafura. Russell has just popped out for a minute. Russell is the secretary; and I am Gerry Wood.

Mr SZYMCZAK: Thank you very much.

Mr CHAIR: I have seen you at the fuel summit. I will just do our opening address please, David.

On behalf of the committee I welcome everyone to this public hearing into the draft Fuel Price Disclosure Bill. I welcome to the table to give evidence to the committee from United Petroleum Mr David Szymczak, Chief Operating Officer. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee, and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made available for the use of the committee and may be put on the committee's website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask that the committee go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement if you wish before proceeding to the committee's questions.

So could you please state your name and the capacity in which you are appearing today?

Mr SZYMCZAK: Yes, I am David Szymczak, Chief Operating Officer of United Petroleum.

Mr CHAIR: Thank you, David. Would you like to make any opening statement?

Mr SZYMCZAK: I will say a few words. I have not had the benefit of sitting through the rest of the public hearing, nor have I spoken really to anyone in the Northern Territory about the objectives of the bill. I imagine the objectives of the bill arise out of concerns about fuel margins in the Northern Territory. The Fuel Price Disclosure Bill is, I guess, a lever that the

Northern Territory government would like to use in order to drive those margins and bring cheaper fuel to the Northern Territory.

I believe the bill, as it is set, will not meet those objectives if they are the objectives. I also think the bill is not necessarily the right way to collect the information you are seeking to collect in that currently the – and for at least the last five years – the Australian Competition and Consumer Commission has been collecting a large amount of information from oil companies in Australia, including ourselves, and each year publishes a book on the oil industry. We have two people who work about six months of the year to put together all the information they collect. They collect an enormous amount of information and would have all the information you seek for the Northern Territory and would have that from all the players there.

I am wondering if the Northern Territory government, in setting down this process – is really the best way of going about it rather than asking the ACCC to provide the information.

Mr CHAIR: Yes, I know the Northern Territory government has asked the ACCC, as part of its latest inquiry into three regional centres, to include us as one of the regional centres. That has been a request but we do not know if that will happen. The committee accepts that is very important, but at the moment we do not have any guarantee that will happen.

The bill talks about informing motorists of the price structure and promoting price competition. Are you saying you do not think this bill would provide any more competition or information than we know already? Do you think it would have some possibility of increasing or promoting price competition?

Mr SZYMCZAK: No, I do not think it will produce price competition because what I envisage out of this bill is – you will find United's margin is 20c, Puma's margin 22c, Caltex's margin is 21c or whatever, and in some way you would seek to name and shame in the NT News. I do not think that will necessarily create competition in the marketplace because I think the Northern Territory Fuel Summit showed that information is already known and available and the ACCC could provide that information. I am not sure how it promotes competition. I do not think it will.

Mr CHAIR: What is your understanding of the other part of our Terms of Reference to inquire into mechanisms for setting a price motivator exemption to be gazetted under the bill? Do you have an understanding of what the government is trying to do in relation to a price motivator exemption?

Mr SZYMCZAK: No, I do not. I would love to have it explained to me. I do not understand it.

Mr CHAIR: We have other questions, but that is something we have to look at. Perhaps you could come back to us with your understanding of it. We think it is a price margin the government will look at as being what it feels is fair and reasonable and if you go above that it will ask why you are going above that retail margin. We think that is what they are trying to do with this price motivator exemption.

Mr SZYMCZAK: Right.

Ms FYLES: The committee has heard higher retail prices in the Northern Territory reflect structural factors such as lower throughputs and higher operating costs rather than an

absence of competition. Would you agree with this claim? If so, what other factors does United Petroleum believe may be responsible for the noticeable divergence of wholesale and retail prices since 2011?

Mr SZYMCZAK: I think it is a mixture of things. I will repeat what I said at the fuel summit. It is structurally higher to do business in the Northern Territory, and that includes all things, including electricity which is almost double what it is in Victoria. The cost of doing business is higher in the Northern Territory, but one of the underlying factors is that the price competition is not as strong in the Northern Territory, in Darwin and other places, because the consumer is less price-sensitive. It is as simple as that.

When we sell at a discount to the price of the Puma station up the road, we get a lot less volume for our margin than we would in Victoria, Sydney and other places. That is because the consumer there does not vote with its feet as much as it does in other capital cities. For example, Adelaideans are extremely price-sensitive, and it always has been that way in Adelaide, but less so in Darwin. One of the things that came out in the media when we dropped our E10 price was to encourage people to support us and go and buy at a lower price. Partially it is less competition, and that is driven to some degree by consumer behaviour.

Mr BARRETT: Looking at what you are saying that it is just more expensive to do business in Darwin, and you quoted a power price there which is interesting – I will probably have a look at that, the power price difference between Victoria and Darwin, because I am not entirely sure that is the case. However, are we not taking into consideration, at least in part, that the long-term difference in the wholesale price and retail price that did exist in Darwin for many years takes into consideration those factors of how hard it is to do business in Darwin, as you suggest. That does not seem to indicate why the divergence happened between those two metrics in 2012. It looks on paper like it is a price-ratcheting scenario because it is upward sticky in terms of the price activators in Darwin. We are in a situation where we are paying more than we should. Do you have a response to that?

Mr SZYMCZAK: Yes, I do. Firstly, on the subject of electricity, I have supplied some information to the Northern Territory government in that regard. I have supplied a number of service station electricity bills to illustrate the point that it is more expensive.

In relation to competition in Darwin and what happened in 2012, I cannot explain what happened in 2012. I do not know why that is the case. As I said, the reason for higher margins on fuel in the Northern Territory is a mixture of things, including the fact that it is a less competitive market because people are less price-sensitive. That has driven a lot of it.

If people buy where the petrol and diesel is the cheapest and follow the price boards, the price will come down because when you run a service station a lot of the costs are fixed. Your rent is fixed, your electricity goes up a little when you sell more fuel, but it is not – you still have to run the same power lights. You still have to have one or two staff in the service station, so their costs are fixed. There is a big incentive for petrol retailers to grow their volume because you grow your profitability by doing it. If people are more price-sensitive and buy from the cheapest it does drive the price down.

A good illustration of that is Katherine. The margins in Katherine are much lower than they are in Darwin. The reason for that is we compete very strongly with an independent gentleman in a BP site.

Mr BARRETT: Would you not conclude that an increase in quality information that informs the public about where the prices are coming from and how it is being put together could improve their ability to become more sensitive to price, which is the aim of this legislation?

Mr SZYMCZAK: I think more information helps consumers; there is no doubt about it. Where the cheapest petrol in town is great information. How the costs are derived is good public information for interest but does not necessarily drive competition. It comes down to consumers voting with their feet and buying where it is cheapest.

Mr BARRETT: I have noticed you and United fuel were of late really visible in trying to drop the price of fuel a few cents in order to assist in that process and improve that sensitivity. Could you give us some colour around how that has gone in regard to volumes?

Mr SZYMCZAK: Yes, we have done a number of things and are looking towards a couple of other promotions we are working on at the moment. United entered the Northern Territory about 10 years ago. I think the first site we took on was Ludmilla. Since that time in Darwin we have been very competitive because being competitive, to United as an independent petrol retailer, is what we do. We always want to be at market or below market in any case.

After the fuel summit we decided to increase the gap between the price at which we sell E10 petrol and unleaded petrol. Part of that is in response to that, but it is also because it is a very good product and we want people to sample it and see that E10 petrol is superior to unleaded. That has grown our E10 percentage but not to the same degree it would interstate.

We have also started to accept Coles and Woolworths vouchers, their 4c shopper docketts, which again has given us a volume kick. It is a little difficult for us to really measure well because it is the Wet Season so is it really the same as last year and is it all the same? However, we have had a volume kick as a consequence of that. Some of it is in response to the fuel summit, but also some of it we see as an opportunity to grow business in the Northern Territory.

Mr BARRETT: If we ask for some data around that to assess it from our point of view – around the ability for United to be a price leader in the Northern Territory – would you be willing to submit some kind of general data or analysis of data that would say whether or not it is seen to be effective price leadership?

Mr SZYMCZAK: Yes, we are happy to do that as long as it is kept confidential.

Mr CHAIR: That would be fine from the committee's point of view.

Mr KURRUPUWU: David, according to the ACCC petrol price cycles that occur in Sydney, Melbourne, Adelaide, Brisbane and Perth are the result of deliberate pricing policies of petrol retailers and are not directly related to change in the wholesale cost. Can you explain why petrol price cycles do not occur in Canberra, Hobart or Darwin?

Mr SZYMCZAK: Yes, I can. Petrol price cycles are an outcome of a very competitive market. The more the competitive the market generally the more the market will cycle. The market will cycle with the competitiveness or the reactivity of people buying. For example, in Melbourne generally if you drop your price by 0.2c per litre compared to a service station across the road you could probably expect a 5% increase in volume. If you drop your price by 0.2c in Canberra compared to your competitor – who is likely to be not across the road but probably in another suburb within Canberra because of the way Canberra is set out – you are not going to get a 5% increase.

In Darwin for example we are 0.2c below – at Ludmilla – that BP that is just before us. I do not expect that we would get a 5% increase, so it is really the competitiveness of the market; it is where the service stations are located so that the more competitive markets will tend to have price cycling.

Sometimes when we build a new service station in a country town, for example, that is a new market that we move into. Often we will go into that town and price discount for a while, quite heavily, so we are 10c below the market for a while in order to get customers used to coming to our premises – introduce them to our company, introduce them to our new service station. Sometimes those markets, as we fight with the local competitors, will cycle, but when we start to reduce the gap between our price and their price the market will tend to slow down and stop cycling. But it is purely competition, board pricing amongst retailers fighting for the incremental litre.

I hope that sort of answers it; it is a difficult question to answer to be honest.

Mr BARRETT: In terms of the information the ACCC is asking you guys for – I see a couple of people worked for about six months putting the information together for you – is that information regional, state, national outlet by outlet? When they ask for this data are they asking for something where it would not be an imposition to provide that information to us also because the information is already done, or is it aggregated to a national level and sent into the ACCC?

Often people talk about the costs involved like this would be a major cost imposition, but if you are already doing it could it not just be something that is forwarded back through?

Mr SZYMCZAK: I think the way to do it would be for the Northern Territory government to get with the ACCC and say, 'This is what we want'. They set out a template every year – I think it is about April/March; maybe it is even June now. I am not sure. They will give us a template to fill out for 2015. Hopefully it is the same as last year, but usually it is not and they ask for reams of information. They ask for individual petrol prices in the Sydney base and per site.

To add a little bit more on to that is probably not a great issue for us but it is from the ACCC point of view – all collated, there is no company's confidential information set out in their report. But they have a lot of information and the ACCC is really the best place for the Northern Territory to get the information because they do check it; they make sure it is right and a lot of effort does go into it.

Mr BARRETT: Are they asking you for the cost structures downstream from the wholesale price? The way those costs are built? Are they asking for that much detail or are they just ...

Mr SZYMCZAK: They do – extraordinary amounts of information.

Mr BARRETT: That is site by site?

Mr SZYMCZAK: Yes. Not every site but I think it is all the sites in the metro area. There is quite a large – there are two large excel templates that need to be completed.

Mr BARRETT: Okay, thanks.

Mr CHAIR: We are just about out of time, David. Going back to the price motor exemption. I realise that you may not have come across it but basically the commissioner for consumer affairs will have the power to request that a fuel company provide information to the commissioner in regard to how they got their retail margin. The commissioner also has the power to publicise that information. That may be good in theory but do you think that certain information should not be able to be released to the public and if the commissioner was to do that, do you think fuel companies should have the right to appeal about whether that information should be released?

Mr SZYMCZAK: There are two bits of information. The information we would be very upset about is any information that, from a competitive point of view, puts you in a situation where a competitor gets information about your business you would rather have them not have. The most sensitive information is our buy price. When you boil it down it does not matter how you talk about TGP, wholesale, whatever you want, at the day it is the buy price. If I had Puma's buy price they would be horrified; if they had my buy price I would be horrified. It is a competitive business and information like that is very important.

For example, if we went for a big tender to supply Crocodile Gold, having your competitor's buy price and knowing your price is 0.5c better than theirs is great competitive information. Publicly releasing information someone is compelled to give you is a dangerous track because there can be unintended consequences.

Mr CHAIR: When you say your buying price is very sensitive, are you saying each fuel company is able to negotiate a price lower than what we see – the published gate price? We see a gate price on the website but it is not necessarily the price fuel companies pay?

Mr SZYMCZAK: No, a terminal gate price is the price you are prepared to sell to someone at the gate if they turn up with a truck and pay you cash for the fuel.

Mr CHAIR: It is a bit like purchases in hardware, etcetera. If you buy one tonne of timber you will get it at a cheaper price than if you bought a few slabs.

Mr SZYMCZAK: That is right.

Mr CHAIR: It is the same with you. You get a better deal when you purchase a higher volume of fuel?

Mr SZYMCZAK: That is right. Our volume is relatively small compared to others in Darwin. In fact, Puma has the largest volume. I expect their buy price is better than ours.

Mr CHAIR: Do you negotiate with Vopak or the company that brings the fuel to Darwin?

Mr SZYMCZAK: Vopak is really only a tank renter. That is the best way to think about them. They do not get involved in anything. Really all they do is rent you tanks, make sure the gantry works and so forth. About two times a year, each half, there are buy-sell

negotiations between all the players and terminal. Anyone in that terminal has the right to basically supply anyone. There is a process whereby – it could be, for example, that ExxonMobil will put in a price too. You have to understand usually there are only two people who can supply Darwin to make the ship economics work, and clearly it works better with only one supplier in Darwin. You buy parts of ships.

For example, ExxonMobil might decide they will supply to Darwin and will contact us, they will contact Puma, they will contact Caltex and BP and say, ‘This is the price we are prepared to supply you at. Are you interested?’ BP might decide to try supplying Darwin and will have their price. Basically everyone talks to everyone and in the end someone gets the supply into Darwin by agreeing with the others.

In this half at the moment we are buying our fuel from Trafigura. I think the previous half was ExxonMobil about twice. Prior to that it was Shell. I think at the moment Trafigura is bringing in half the fuel, maybe more than half. I think Shell is bringing some fuel into Darwin as well.

Mr CHAIR: That is where you negotiate your price?

Mr SZYMCZAK: Yes, that is right. We are probably going to negotiate the second half in a couple of months.

Mr CHAIR: We have run out of time. Thank you very much for giving us your time to answer our questions. We appreciate you coming to do that.

Mr SZYMCZAK: A pleasure. Thank you.

Mr CHAIR: Thanks, David.

The committee suspended.

Mr CHAIR: You have heard everybody’s name because you have been here for a while, Cameron, so I will just get straight into it. Sorry we are a little bit over time now.

On behalf of the committee I welcome everyone to this public hearing into the Draft Fuel Price Disclosure Bill. I welcome to the table to give evidence to the committee from Puma Energy Australia Mr Cameron White, State Manager NT. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply.

This is a public hearing and is being webcast through the Assembly’s website. A transcript will be made for use of the committee and may be put on the committee’s website. If at any time during the hearing you are concerned that what you will say should not be made public you may ask that the committee goes into closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear, and I ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing?

Mr WHITE: Cameron White, State Manager for Puma.

Mr CHAIR: Thank you, Cameron. Do you have an opening statement that you would like to make?

Mr WHITE: Yes, I would like to give an opening statement. We did not submit a submission earlier so I will run through a couple of things here.

I would first like to give a brief overview of Puma. Puma has invested significantly in the Northern Territory, and as such we are committed to building an efficient, sustainable fuel industry in the region. We have been delivering fuel-related services throughout the remote areas and the metropolitan areas for well over thirty years. We are the largest fuel industry investor in the Northern Territory and continue to invest and support local communities for installation and maintenance, supply of equipment and fuel, where many suppliers have chosen to concentrate in the major centres only.

Whilst this strategy has mutual benefit for both Puma Energy and the local communities we service, it does require a significant support structure to ensure continuity of supply and the ability to respond to breakdowns, equipment maintenance, etcetera, on a timely basis.

Puma has made these investments and has infrastructure and personnel based in Darwin, Katherine, Alice Springs and Kununurra, with local offices, depots and maintenance facilities in these locations to ensure continuity of fuel supply and the technical support in the areas we operate. We are over the whole of the Territory – remote communities where we have a significant number of installations.

In terms of the price bill, it is our view that there is a great degree of transparency already existing in the market. In most cases, all of the oil companies, and indeed Puma Energy, post a terminal gate price and every price board on a Puma Energy site is posting prices to the market. In terms of fuel transparency we believe that there is a substantial amount already existing.

In addition to this – and a couple of the others have mentioned it – there are a number of mobile apps that have been developed and maintained by various companies which readily provide pump prices and comparative retail data, certainly across a lot of the geographies.

The draft bill requires the disclosure of cost, profit and other information related to operating a business or the way in which pricing is determined by a retailer. These provisions require dissection and cost apportionment of our operations in ways not required for the everyday operating of a business. Quite simply, the industry does not look at business in the way the bill is requesting data to be presented and certainly in its format at the moment. It is our view the proposed provisions add a layer of costs and complexity that do not exist today.

To give you an example, under the draft bill fuel retailers would be responsible for disclosing the apportionment of costs such as health and safety, sales and marketing, rents and leases, advertising, customer support, insurance, electricity, labour, maintenance

depreciation and human resources. The apportionment of these costs to individual sites could possibly be arbitrary and highly theoretical. The costs also need to be allocated across various operational areas of a business.

As you know fuel retailing which is the subject of this bill is one aspect or one business a retail site may operate, but they will also operate a convenience store or may have a restaurant. We have depot storage, we have warehousing, a transport business, a network loyalty card, a lubricant business and we also maintain a lot of vehicles. The apportionment and allocation of costs across operational areas like this again we see is complex, arbitrary, and in our view the data produced will not be meaningful but will be a cost to the industry.

Further to those operating costs the bill would impose, the bill also adds further complication as it does not address the fact that more than one business can be carried out at a retail site. As several of the other folks who have presented here today have mentioned, a retail site may operate businesses such as car wash, convenience store, hire and rental services, a workshop and restaurant in addition to fuel retailing. Allocating some costs that are split across all of those individual businesses within the one site is not easy and, in our view, it will be highly theoretical.

Of note, a lot of operations at those stand-alone sites – they are not stand-alone so you add on a particular non-fuel income business to those sites to make the site more profitable or offset costs – if you are not making enough out of the fuel. That is why there are not many sites now that solely do fuel.

These provisions increase red tape, increase the cost of business and, ultimately, are likely to increase costs in the industry.

The legislation does not address fundamental issues of retail site economics in the Northern Territory. Territory sites, as every other building, has a higher construction and operating cost. The sites here have lower volume of fuel sales and certainly lower convenience sales than sites in other capital cities. This means individual sites generally require higher average fuel margins in order to generate an acceptable return on investment.

It is our assessment the bill will drive costs up in the industry. We believe the most meaningful and sustainable solution to lower fuel prices in the NT will be for the government to make it easier and more cost effective for fuel operators to access and develop new sites in high traffic corridors. In addition to the increased land access and high traffic corridors, planning systems need to be able to process applications in a timely manner with the least amount of red tape and without expensive traffic and road changes which often makes developments uneconomic. Lower development costs, access to high traffic corridors and efficient approvals will help drive competition into the market and benefit consumers and the industry alike.

Thanks for allowing us to put forward that submission.

Mr CHAIR: Can I ask a couple of questions on your opening statement?

I am not sure the taxpayer needs to fund exits and entrances to service stations. I think that is part of any development. If you want to put a service station somewhere you have to pay for the planning issues that come with it. Obviously you might not have to put an extra

line in a highway, but I think you would have to pay for the normal standard entrances and exits to a service station. You would not disagree with that, would you?

Mr WHITE: No, I would not disagree with that. What I am disagreeing with though is at times – and some of the sites that we have looked at – we would argue that the additional requirements of those road changes make adding a site there uneconomic.

Mr CHAIR: I know what you are talking about. There is a site the government has picked on Tiger Brennan Drive, I think, but there are obviously going to be some extra costs for a user because it is wet; it is a drainage area. Also, would you agree that the government, if it is going to select a site, needs to select a site that has not got other costs associated with it that might make it harder to be economic?

Mr WHITE: That is a great site to question because it does not actually have access to Tiger Brennan Drive, which we would say is the exact road that you want to have access to. That site has access to Wishart Road. There are already two sites on Wishart Road and the site you are talking about is really a diesel site only. A lot of the diesel market is driven by a fuel card, not necessarily just for consumers.

Mr CHAIR: Can I ask you another question that has come up? AANT brought it up? Is your company – and do not get me wrong, I am not using the name, but everyone said the margin jumped up in 2011 and people are inferring that the purchase by Archer and then by yourselves was the cause of a larger margin than previously. What is your feeling about that and would this bill not enable the government to see, when you showed your margin, whether a percentage of that margin was paying back the purchase price of the original company?

Mr WHITE: Thank you for that because there are a couple of things we would probably like to correct with what a lot of people have said. One of those is that 1) we do not operate any Shell sites in the Territory, 2) we do not operate 49% of the 100 or so sites in the Northern Territory. I think at my last count we had around 24%. Just talking about the number of sites – I would also caution about actual volume through those sites. There are a lot of much higher volume operators in the Territory. That probably might be a better way to look at it.

I guess the last point on that one, apart from that, certainly it is our view that any site or any operator can move their price up or down in the market. It does not need Puma to help them do that. They should be doing that themselves. To suggest that we are an obstacle there is mischievous at best.

Mr CHAIR: You were referring to comments – I if you put your price up that did not mean everybody else had to follow it.

Mr WHITE: I am referring to comments specifically in relation to saying we control 49% of the sites here. We control 24% of the sites. In terms of your other question, in terms of the disclosure, trying to get the level of disclosure you are looking for, my personal view is you will not be able to get enough meaningful information out of the data. In terms of trying to identify how much of that was related to a purchase of a business, surely you would not be looking for that type of information anyway.

Mr CHAIR: I suppose what was being inferred by others is that there was a high purchase price at a time when the margins were – it was a good time to buy and then to cover the purchase price of that company. It is inferred that, therefore, the price went up to help cover the purchase price.

Mr WHITE: Yes, Gerry, and I think again some of the statements were simply incorrect. I think people are looking at the charts and they have seen the price had moved in 2011. Puma actually bought that business in 2013, so well after that move. Secondly, the first acquisition was in 2010. I would just like to have on record that some of the dates and the inferences probably are not necessarily entirely correct.

Mr CHAIR: You said you have about 26% of the market, is that right?

Mr WHITE: Yes.

Mr CHAIR: Caltex had this data out before Esso and it shows Puma Energy network is 49%.

Mr WHITE: I do not know if that is Caltex or if that is from Treasury.

Mr CHAIR: That was Treasury, beg your pardon, Caltex. It was not Caltex; it was the Treasury site. That is what they said was your percentage of the market.

Mr WHITE: I would like them to send the data through. The sites we own and operate across the Territory – around 23% or 24%.

In regard to the information on the number of sites, there are a lot of – I am talking about the sites where we operate and control the price, which I think the heart of that graph is. There are a lot of sites that buy at the gate or a gate-related price and then are delivered to. Those sites are independent businesses; they set their own price. We do not have any control over their price, nor do any other wholesalers that sell to the other sites. There are a number of wholesalers in the Territory. It is not just the five participants of us, Shell, BP, Caltex and United. There are other wholesalers that operate in the Territory and sell to sites as well. A number of them are actively in the market as well.

Mr CHAIR: Yes, Caltex is 26% site – 26% Puma.

The other issue we have asked people is about the price motivator exemption. Some people are not sure about it and some are guessing what it means. What do you feel it means, do you think it will help when it comes to people being better informed as to whether the consumer is being ripped off and will it make a difference when it comes to competition?

Mr WHITE: The first part of the question, the definition, I understand it is some sort of – I liked the description of the tram tracks – putting a band in that if you go over the margin, be it whatever it is – 20c – you go over that margin then you come under scrutiny. That is probably how I understand it. I think it will be difficult getting to that band. Having been around the industry for a long time, and particularly in my early days where there was a lot of regulation, it was very difficult to assess whether those pieces of regulated pricing – be it transport, a wholesale margin – was the right number. I think the government of the day moved away from price deregulation because it thought it breed inefficient markets. I think if you look across a lot of industries they have been deregulated because of that. Our view is the market should operate as a true market and let demand and supply set the price.

Mr CHAIR: You said it will be very difficult to take the fuel side of the price out of a service station that does other things, but when you set the price in the first place you have obviously worked out a margin that will cover something. What do you set that price on? What is it the margin you have on your fuel meant to cover? Will it cover transport, will it cover wages? You will have to have worked out some sort of calculation to separate it from the section that sells ice cream and the labour required for the shop.

Mr WHITE: We do not split it out that way. Transport, without question, because transport is directly related to fuel. You will look at it as a delivered cost. But the other site operating cost – you might have one person at the site. They might have a convenience store, they may have hire equipment and they will have fuel retailing. There could a number of different elements in that business. We do not then allocate out that person against just fuel retailing.

You look at the site as an economic unit and then you look at adding on businesses if that unit is not achieving a sustainable return on investment.

Mr BARRETT: Can I ask – this might be too sensitive and feel free to say, ‘too sensitive I am not answering the question’ – but what kind of ROI are you looking for?

Mr WHITE: I will say it that is not something that we will disclose.

Mr BARRETT: You are saying it will be difficult to get down to a 20c margin tram track – that top band of that tram track. Is that because you need a greater than 20c margin to cover your costs?

Mr WHITE: No, I did not say it would be difficult to get down to a 20c margin. I gave a hypothetical number that it could be 20c in describing how I saw the definition of a price motivator. What I did say is it would be hard to determine what that band should be.

Mr BARRETT: I would hazard to say they would look at that band in terms of the long-term margin that existed prior to whenever those two lines started diverging for whatever reason they started diverging. I would love to hear your thoughts on why you think, what possibilities – I asked the question of the Caltex guy. I said, ‘Well you have said this was a structural shift, but you have not said that there was a structural shift per se, so what evidence do you have there was a structural shift?’ I would like to ask you the same question in relation to that divergence, but I would think they would set those limits around what the long-term margin was. I wonder if that is really hard to get to. I wonder whether that is because it is just a very high-cost industry right now.

Mr WHITE: I think you could pick that band at any number I guess.

Mr BARRETT: The long-term average seems to have been in place for 20 years.

Mr WHITE: When you say long-term I think you are looking at five years before 2011. I do not see that as long-term, but let us say you picked it at whatever number the government chose, for example. My personal view is that it is a form of price regulation, and I think that breeds inefficiency in the market.

Mr BARRETT: I think you are right, so I do not think the attempt is to be a price regulation. I think it is an indicator of where we will start looking rather than just looking at everybody. You kind of eliminate people you do not think you really need to look at. I see

what you are saying and if they said, 'If you are not in this band then we are going to do this to you', and it was not just providing information with some kind of punitive or other kind of thing, you are in the same economic situation where that will not work; price cap, price ceilings, price wars – they are not good economics and do not make good economic sense.

I would like to know what you think the cause of that difference between the retail and wholesale price – when that diverged around that time we are not sure what happened there. What are your thoughts around that?

Mr WHITE: I cannot put my finger on it. Puma did not own the business when it occurred so it is difficult for us to – I know a lot of people have speculated and they have certainly pointed the finger at us, but we did not actually own the business.

Mr BARRETT: I do not think they pointed the finger at you; I think they pointed the finger at the guys who owned it before you perhaps.

Mr WHITE: Well that was not Puma.

Mr BARRETT: Yes, I realise that.

Mr WHITE: Puma acquired the business in 2013, I think around February 2013. I do not know what the divergence is. We can all speculate: people decided to make more money; the cost of living changed; some new sites came onto the market and that has made sites less profitable. The sites up here do have a lower average volume. I can count at least another five sites coming on the market and we have had about three or four in the last – this is just Darwin – in the last eighteen months that have come onto the market.

Mr BARRETT: Do you think it is not counter intuitive then to say that the government needs to be more efficient in releasing land for new sites?

Mr WHITE: No – and one of the other panel members mentioned this before – what will eventually happen is the sites that are lower quality sites will eventually be turned into apartments or something else. People will leave the industry and you will have bigger, much more diverse sites in the market. They will have a much higher percentage of non-fuel income, is what will – in our speak, non-fuel income really supports a lot more of the site than fuel income.

Mr CHAIR: I know, because I drink iced coffee.

Mr WHITE: Right.

Mr CHAIR: I know the price.

Mr WHITE: I think that will happen. But my point around the release of new sites – what I am specifically referring to is sites in high traffic corridors. Getting sites like that will drive the volume up. I have a different view of some of the others; I believe volume is a determinant. The higher the volume, the lower the margin you can operate on because it is a fixed cost business in many ways.

Mr BARRETT: Of all of the businesses that exist, would you say that you have the highest market share compared to anybody else?

Mr WHITE: In retailing?

Mr BARRETT: The amount of fuel you bring in and sell in the Northern Territory?

Mr WHITE: I think it would be close. There would be two of us that are pretty close. There are some ...

Mr BARRETT: May I ask who the other is?

Mr WHITE: Yes, you may. It is Viva, I would say are quite big as well, or Shell.

Mr BARRETT: If you match them in terms of the market share of fuel coming in and volume is a price determinant, would it stand to reason then that Puma service stations should have a materially cheaper price than say United?

Mr WHITE: When I talk about that market share, that is across all segments, so a lot of that volume may be to the mining sector which operates on different margin structures than other sectors. Some companies sell to a lot of wholesalers who then sell volume on. Some have a higher percentage of market shares in the mining segment. Some are very big in the bunker or ship market and some have a bigger retail type site market share, but in terms of our retail market share I will stand by saying we are around about 24%.

Mr BARRETT: With a market share of around a quarter and a high volume anyway, do you not think it would stand to reason that a Puma service station should be materially cheaper in price or be able to be materially cheaper in price but given – I understand how economics works; there is no point in dropping the price if you do not have to. Would that be just profit you would pick up on the top or are you able to provide a cheaper price than most of these other players just by virtue of the fact that whether you are talking about a wholesale level or a retail level, 24% of the market is significant? If you are equal with the greatest market share in terms of wholesale, I would see that as material.

Mr WHITE: Yes, we have a material market share in the Territory, without question. Certainly if you have got X amount of volume and a lot of your costs are fixed then you should have a lower operating cost. I will make one other point though; Puma has 160 people in the Territory. We are a significant employer. We do not operate a fly-in, fly-out model. We have operations in four different centres and we are a big employer.

Mr BARRETT: Are you saying that the total Territory-wide operations you have, have to be offset by a high price in the Darwin area to offset costs in other places?

Mr WHITE: No, what I am saying is we have continued to provide a service across the depth and breadth of the Territory. We have made that strategic decision. It is in our interests as well as in the community's interests, and we want to continue to be able to do that. We are committed to a lot of the local and remote centres where other people are not. They have either pulled out or they do not bother entering. I guess it was just a way of me explaining that that is the business model we have put forward into the Territory.

MR BARRETT: So I would look at this piece of legislation and say from a transparency perspective – and I am a little confused about transparency when you say it is a very transparent market. I am dead sure that United does not know what you are doing and neither does Caltex, and you do not know what Caltex are doing. So there are levels of transparency and there are levels of necessary non-transparency.

Mr WHITE: They do know what that gap is between the TGP and the pump price. They do know what the pump prices are in terms of – because they are highly visible.

MR BARRETT: That is what I am saying. There are some tiers of it that are incredibly transparent and there are these gaps that are incredibly not transparent. Given what you are saying about your model and if it can be ensured that the information does not go further than what this legislation is trying to achieve, surely transparency would be in your best interest through those dark spots.

Mr WHITE: I am not sure why it would be in our – I guess if I go back to what the bill is proposing, it is collecting a lot of data. I think you will end up choosing whether you put the bill in place or not, and we will comply. Where I was coming from when I was reading it, I think it will provide a lot of meaningless information and it will be hard for anybody to reconcile and use that to make any effective change. But without question – and we have been on record – Puma will comply with whatever is requested of us.

Mr KURRUPUWU: Concern has been raised regarding the possibility that suppliers and retailers may be required to disclose (inaudible) sensitive and confidential information. Is this a matter of concern to Puma Energy? If so, can you clarify for the committee the impact that publication of such data would have on your operation and the fuel market in the NT?

Mr WHITE: Francis, I think they are talking about costs information there. Costs information is a very competitive piece of information that all the companies would prefer to keep commercially confident, or in confidence. The reason why is that, particularly in the Territory where – let me just give one example; transport is a significant component of the cost. I think somebody was mentioning Alice Springs had a massive margin but they failed to realise it costs a lot of money to drive to Alice Springs and deliver fuel. It does not arrive there by ship. I think in something like the transport sector, it is a very – it is a competitive market, the fuel distribution or any distribution business.

We think if that information was shared or passed around competitors, 1) it gives away our competitive edge and, 2) it may actually be anti-competitive because then people start keeping their prices at the same amount and you remove competition. Fundamentally we are a market-based company and we probably think that things like pricing or cost information is best kept within each company and let them fight on the street.

Mr CHAIR: You just mentioned something about Alice Springs. We have a graph here. This is from AANT and it shows a regional comparison September average for ULP: Alice Springs \$176.70, Mt Isa \$158.50. You said transport is a big cost. Alice Springs is a fair distance from Adelaide but Mt Isa is a lot further.

Mr WHITE: How does Mt Isa get its fuel?

Mr CHAIR: From Townsville.

Mr WHITE: By rail or ...

Mr CHAIR: I have been on that railway line. I reckon a truck would beat it. I do not know. Are you saying that the form of transport would be ...

Mr WHITE: Some folks rail to Alice. One of our competitors has a railhead and they have an advantage. We do it by quad road trains. I think we have a pretty efficient model, but it is not as efficient as the rail necessarily. Mt Isa, I think, might be railed in by some companies. However, my point on the transport was in relation to the Darwin market versus Alice Springs. There is a significant transport cost, probably six times as much as the average

cost in Darwin or a cost to get it to Alice Springs. So it was more to do with the price in Darwin versus Alice, or the perceived margin.

I think the numbers they must have been comparing is TGP Darwin and pump price versus TGP and pump prices in Alice. I think it was a misleading representation.

Mr CHAIR: All right. I will have a look at it again. Thank you, Cameron, for making the time to come to the committee meeting and answer the questions. We have certainly had a lot of information today. We will probably have to have some clear air time while our good secretary puts this information together so we can see where this information is going to lead us into giving the government a recommendation in regard to this bill.

Mr WHITE: Pleasure.

Mr CHAIR: Thank you for coming today. That concludes today's committee meeting.