



**LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY**

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**SELECT COMMITTEE ON FUEL PRICING**

Ms Tara Cheyne MLA (Chair), Mr Mark Parton MLA (Deputy Chair), Mr Andrew Wall MLA

# Submission Cover Sheet

## Inquiry into the Select Committee on Fuel Pricing

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The Committee Secretary  
Select Committee on Fuel Pricing  
Legislative Assembly for the ACT  
GPO Box 1020  
CANBERRA ACT 2601  
[Submitted via email]

Dear Select Committee on Fuel Pricing

Attached, please find a submission from Informed Sources (Australia) Pty Ltd pertaining to the Inquiry into ACT Fuel Pricing.

Should the Committee have any questions regarding our submission, we would be only too pleased to answer and assist wherever we can.

Kind regards  
Nick



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## **Submission to the ACT Inquiry into Fuel Pricing**

**11 March 2019**

*Accurate, Reliable, Timely*

# Executive Summary

## At a glance

- High petrol prices in the ACT are due to the scarcity of aggressive independents.
- Comprehensive price information is available to motorists on the cheapest sites.
- Regulation of price transparency is unnecessary and could even increase prices.
- The solution is to facilitate entry of new independent sites across the ACT.

## Term of reference 1

- Most of the difference between ACT and Sydney prices is in the retail margin, which differed by about 20 cpl on average over the past two years.
- All the capital and operating costs of a service station must be recovered from its retail margin. These costs may vary greatly between regional markets and between businesses in the same market.
- The competitiveness of markets is revealed by the way in which retail prices track terminal gate prices (TGP): in highly competitive markets, there is a close relationship. In markets with lower competition, the relationship tends to be less close.
- For the ACT, the relationship of retail price and TGP has substantial statistical variance, typical of many country markets in Australia. This mainly occurs because prices are “sticky” due to lack of competitive pressure.
- A wide variety of business models and ownership structures mean that there are different pricing strategies among retail sites, as well as different capital structures and cost bases.
- Fuel retailers have transformed over the past 20 years into convenience retailers, where the convenience offer not only generates substantial profits but enables much greater brand differentiation than fuel alone.
- Brand differentiation explains why some retailers can charge higher prices on a sustainable basis for products that are similar from a technical point of view (both fuel or convenience goods). Retailers with weaker brands need to charge lower prices to attract customers or may establish themselves as discount brands.

## Term of reference 2

- The ACT with 58 service stations in total is a small market relative to other states/territories and has a much smaller proportion of independent or minor branded retailers.
- Population per site does not explain Canberra’s higher prices than Sydney, although population density (people per hectare) and traffic density might have an impact.
- In a market such as Sydney, reduction in the number of service stations has favoured upgrading of sites on major traffic routes. In Canberra, because the original urban

- design tended to place service stations in urban villages off major routes, the ability to upgrade and develop new sites on major routes may have been limited.
- Supermarkets exert an important influence on ACT prices but the same is true of many, lower-priced markets around Australia. The lack of aggressively priced independents is the reason for high prices in Canberra, not the presence of supermarket fuel sites.

### **Term of reference 3**

- Not commented on in this submission. We will leave those more qualified in this area to make comment about the impact fuel prices have on the ACT community.

### **Term of reference 4**

- Canberra has few independent-branded sites but some major-branded sites in the same locality are also very competitive on price - certain sites near the airport and in Fyshwick (Costco, Caltex Woolworths, Caltex Airport, 7 Eleven) are significantly cheaper on average. Metro in Fyshwick is also well known as a discount site.
- For most parts of the ACT, prices are fairly similar, so motorists have no local opportunity to purchase petrol at significantly lower prices. Travelling across Canberra to purchase petrol is not economic in terms of time or vehicle operating costs unless there is another reason for travelling.
- In contrast, Sydney has a number of aggressive discount chains, including Westside, Metro, Budget and Speedway, which are most likely responsible for low Sydney average prices through their impact on price competition.
- Coles Express pricing has been relatively high for a number of years. Because Coles Express has 15 sites in the ACT, the largest number of any brand, its pricing strategy inevitably has an effect on the market.
- From a purely arithmetic point of view, assuming Coles had priced at the average market price, there would be only a small difference between this hypothetical case and actual historical prices.
- Coles has announced a new alliance with Viva Energy from early March 2019 under which Coles will be a commission agent for Viva for the sales of fuel, so that Viva will set the price at all Coles Express sites, which are currently priced by Coles.
- The entry of a retailer like Costco can have a dramatic effect on a local market. However, such impact may be short-lived if a retailer discounts heavily to gain market share then adopts higher pricing once the market share is achieved. For a new entrant to have a lasting impact, it needs to have fuel discounting as a core marketing strategy, as for Costco and Metro.
- Canberra was becoming more uniform over the period from 2009 to 2014. Costco at Majura opened in December 2014 with deep discounts and Metro at Fyshwick opened in mid-2015, also having a significant local impact. These sites would account for the large increase in the price spread from 2015.

- Historically, Canberra has consistently had the second or third highest average unleaded petrol price out of Australia's eight capital cities. When comparing Canberra with other Australian towns/cities of a comparable size in terms of population, this shows that Canberra has amongst the highest prices for unleaded petrol in 2018.
- A comparison of the 2018 minimum price in Canberra with towns in surrounding areas show that Canberra has the second highest minimum unleaded price of those towns compared with Yass only having a minimum unleaded price higher.

### **Term of reference 5**

- To put downwards pressure on prices in markets, the most important influence is a larger number of aggressive independents (or entry of such independents to the market, where few or none exist).
- Price transparency in Canberra is very high, with several apps and websites available free to motorists, so the key issue is making motorists aware of this comprehensive information and encouraging them to use it.
- Regulation of price transparency has not reduced prices and prices have in fact increased since the introduction of regulation in various jurisdictions.
- Best practice would be to ensure consumers have sufficient information to make well-informed purchasing decisions (which may include a wide variety of data sources from signboards to media to internet information) while allowing more aggressive retailers to "fly under the radar" of larger rivals.
- Best practice is not just about the availability of price information, as the more important issue is to introduce new competitors to markets with inadequate competition.
- Recent like-for-like site level analysis of NSW fuel prices by Informed Sources comparing the 28 months before FuelCheck with the 28 months after FuelCheck, benchmarked against the average Sydney terminal gate price, showed that: Sydney unleaded petrol prices have increased 2.3 cents per litre; regional NSW unleaded petrol prices have increased 0.8 cents per litre.
- In WA, under FuelWatch price regulation, communication and tracking of prices is formalised by government mandate, and stability of the coordinated pricing behaviour is underpinned by the ban on discounting. As a result, an authoritative academic study found, "New analysis of retailers in Perth over a period of five years [2010-2015] shows [FuelWatch] inflated the price motorists are paying to fill up their tanks, and retailers are making 50% higher profit margins as a result".
- In the NT, the ULP gross indicative retail margin has increased 5 cents per litre since MyFuel NT was implemented in late 2017. In centres outside of Darwin – Katherine and Alice Springs - the increase in fuel prices has been even greater.
- In all Australian States and Territories, there is a significant amount of reliable fuel pricing information available to motorists free of charge from private data providers.

## **Term of reference 6**

- Greater competition is the key to lower prices: a market such as the ACT requires new entrants, typically aggressive independents, to create downward price pressure on local competitors. Even less aggressive discounters can have a beneficial impact.
- Informed Sources supports fuel price transparency, but this needs to strike a balance between informing consumers and avoiding anti-competitive effects through provision of too much information to retailers.
- The information already freely available to consumers from various non-government sources strikes the right balance. Regulated schemes have failed to reduce prices and may be anti-competitive.
- In 2018, the Victorian Government adopted all three recommendations of its inquiry into regional fuel prices and similar actions are worthy of consideration for the ACT.
- A campaign which makes motorists aware of the savings they can achieve by shopping around for fuel prices, and where to find fuel price information i.e. apps and websites, would assist motorists to realise they can make real savings by comparing prices at service stations. Of course, this depends on significantly discounted prices being available, which is only true of one area in the ACT at present.
- State/Territory and local governments have an important role to play in facilitating the market entry of new, aggressive independents. This could be through general planning and environment regulation or even through targeted market interventions to favour certain types of retailers. In the latter case, safeguards would need to be in place to help ensure the intended competition outcomes were achieved.

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## Introduction

Informed Sources (Australia) Pty Ltd is pleased to provide this submission to the ACT Legislative Assembly Select Committee on Fuel Pricing.

Informed Sources operates Australia's leading fuel price monitoring services and has done so for 31 years. We make our fuel pricing data and associated services available to fuel retailers, government agencies including the ACCC, other third parties such as state motoring clubs (including NRMA and RACV), as well as direct to motorists through our fully owned subsidiary, MotorMouth.

Our expertise relevant to this inquiry and specifically the inquiry's Terms of Reference (TOR) is in the collection and dissemination of information on fuel prices. Our experience with supporting the retail fuel industry and consumers also provides insights into the determinants of fuel prices and potential means to reduce them in the Australian Capital Territory.

Accordingly, our submission is focussed on those TOR where we believe we can most assist the select committee. We will therefore not respond to the TOR such as the impact of fuel prices on the ACT community and leave to those more qualified to comment on this area.

We also focus on petrol pricing as this is the most contentious issue. However, much of the material is also relevant to other fuels.

## Inquiry terms of reference

1. Fuel price methodology and key determinants	Section 1
2. Characteristics of the ACT fuel market, including historical changes	Section 2
3. The impact of fuel prices on the ACT community	Not commented on
4. Reasons for significant pricing discrepancies within the ACT and when compared to other Australian communities and capital cities	Section 4
5. Consideration of best practice approaches and initiatives in other jurisdictions which have a meaningful impact on reducing fuel prices	Section 5
6. Regulatory and legislative solutions and barriers, particularly around competition and retail margin	Section 6

# 1. Fuel price methodology and key determinants

## 1.1 Introduction

The ACT is a very different market from Sydney, as discussed in detail in this submission. The following table summarises some key indicators, which are useful in understanding the ACT market. These indicators are discussed in this submission.

	ACT	Sydney
Price level/gross retail margin	High (20 cpl)	Low (10 cpl)
Int'l price tracking (retail v TGP)	2-3 week lag	2-3 day lag
Price cycles	None	Typically 4 weeks
Price change frequency (> 1 cpl)	Avg. 13 days	Avg. 2 days
Price dispersion	Low	High
Discount chains/independents	Few (9%)	Widespread (42%)
Traffic density	Moderate	High
Consumer price information	Complete	Complete
Level of competition	Mostly low	High

Figure 1: ACT market structure. Data is for period 1/1/17 to 31/1/19. Sources: MotorMouth and AIP

## 1.2 Structure of prices

About 85% of the retail price of fuel is cost of product and taxes, which leaves approximately 15% to cover wholesalers' and retailers' costs (including capital and operating costs, storage and distribution costs) and any profit. The percentage varies by location and over time.

The following chart shows the structures of unleaded petrol prices for the ACT and Sydney for the week ending 10 February 2019. Because this is a one-week average and Sydney has 3 to 4-week price cycles and Canberra has none, relative prices are affected by where Sydney is in its price cycle; the prices shown are to illustrate price structure and do not show average price differences. For example, over the period 1 January 2017 to 31 January 2019, the average price in Canberra was 21 cpl higher than in Sydney, compared to 19 cpl in the illustration.

	ACT (A\$ cpl)	Sydney (A\$ cpl)
Singapore petrol ex-refinery	53	53
Shipping+ terminal cost	4	4
Excise and GST (on TGP)	52	52
Indicative wholesale margin	7	7
Terminal gate price (TGP)	116	116
GST (on retail margin) + freight	5	2
Indicative retail margin	21	5
Retail price	142	123
Note: Total excise and GST	55	53

Figure 2: Retail price week ending 10 February 2019; Informed Sources calculation. Source: AIP website - weekly petrol price report

Petrol prices in Sydney and the ACT are based on the Singapore ex-refinery price of petrol (known as MOPS95), shipped to Sydney and stored in a bulk terminal. Prices are averaged over a period, typically a week, to minimise daily price fluctuations. Excise of 41.2 cpl is payable once petrol leaves the terminal and GST is payable on the sale ex-terminal.

In the example, it is assumed the petrol is sold at the published terminal gate price (TGP). Each supplier has its own confidential formula for calculating but it is known from published information that these are calculated in a similar way.

Freight around Sydney would be small (of the order of 1 cpl) but ACT retailers would have to pay the greater cost of delivery by truck from Sydney (data not available to Informed Sources but may be of the order of 3 cpl).

It can be seen from the example that most of the difference between ACT and Sydney prices is in the retail margin. It is important to recognise these are gross margins, not profits: all the capital and operating costs of the businesses must be recovered from the margins. Whether or not gross margins result in reasonable profits (i.e. consistent with a competitive market), depends on costs and a reasonable return on investment. These may vary greatly between businesses in the same market.

Costs are not publicly available so assessment of profits can only be made by a body such as the ACCC conducting an inquiry using statutory powers to acquire cost data. This was done for its regional market reports. In the absence of such data, inferences can be drawn by comparison of prices in similar markets but there are many reasons why apparently similar markets may differ.

### 1.3 Costs

Service stations face widely varying costs for several reasons including, their operating structure, location and their business model/offer. For example, operating costs: one service station may be family-run and prepared to accept lower wages (as owners) than a competitor

with employees at award rates; another site might be old and have high repair and maintenance costs; another might have a large convenience store offer to spread its overheads with fuel sales.

Capital costs may also vary greatly. For example, a new site costing several million dollars requires a higher dollar return on investment compared to an old site with written-down assets; another old site may have replaced its fuel storage tanks for environmental reasons and require higher prices to pay for this capital improvement; and land values can vary greatly by location.

As an example of site costs, four modern Coles Express service stations in Sydney sold in 2018 for a total of \$33 million, with yields from their leases ranging from 4.1 to 5.6 per cent<sup>1</sup>. As a country example, a Chinese investor bought a newly built petrol station and fast food complex in Goulburn, leased to Woolworths, for \$4.53 million in 2017<sup>2</sup>. Service stations are expensive assets and investors, who may be independent of fuel companies, require reasonable returns.

It would be very useful if the inquiry could establish whether scarcity of suitable land in the ACT for building service stations has resulted in high land prices compared with other parts of Australia, including other capital cities, and which in turn has made it difficult for competitors to enter the market.

## 1.4 Competition

In national markets where there are strong competitive forces, the task of delivering an acceptable return on investment is challenging for retailers. This is why Australia has seen the retreat of several integrated oil companies in recent years from retailing fuel (ExxonMobil and Shell) and the emergence of new market participants who can use secure retail sales to maximise returns from their trading operations upstream (Trafigura/Puma and Vitol/VIVA). Caltex also has an active trading operation in Singapore.

In addition, Woolworths has agreed to sell its retail fuel business to EG Group and Coles has agreed that Viva Energy will take over fuel pricing at Coles Express sites, so that both Woolworths and Coles have withdrawn from fuel retailing, although service stations with their branding will remain.

In larger markets, such as Sydney and some other capitals, there has been a rise of aggressive discounters that have found a market niche undercutting their larger rivals. As documented by the ACCC, so-called "independent" retailers (i.e. not selling a traditional major brand of fuel – BP, Caltex, Mobil, Shell), have gained market share over the past 10 years<sup>3</sup>.

The relative strength of local competition is an important determinant of how a retailer sets its price. In competitive markets, if a retailer sets its price too high, it will experience a decline in volume. Conversely, if a retailer prices low in a competitive market, it will experience volume gain but at reduced margin. In less competitive markets, retailers are typically able to maximise their margins with much less threat of losing volume.

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<sup>1</sup> <https://www.commercialrealestate.com.au/news/four-sydney-service-stations-snapped-up-at-auction-for-more-than-33-million>

<sup>2</sup> <https://the-riotact.com/chinese-investor-buys-goulburn-service-station-for-4-53-million/209014>

<sup>3</sup> Australian Competition and Consumer Commission 2018, *Retail and wholesale petrol market shares in Australia*, September 2018

The competitiveness of markets is revealed by the way in which retail prices track wholesale prices: in highly competitive markets, there is a close relationship. In markets with lower competition, the relationship tends to be less close. The following chart shows how Canberra petrol prices track wholesale (terminal gate) prices.

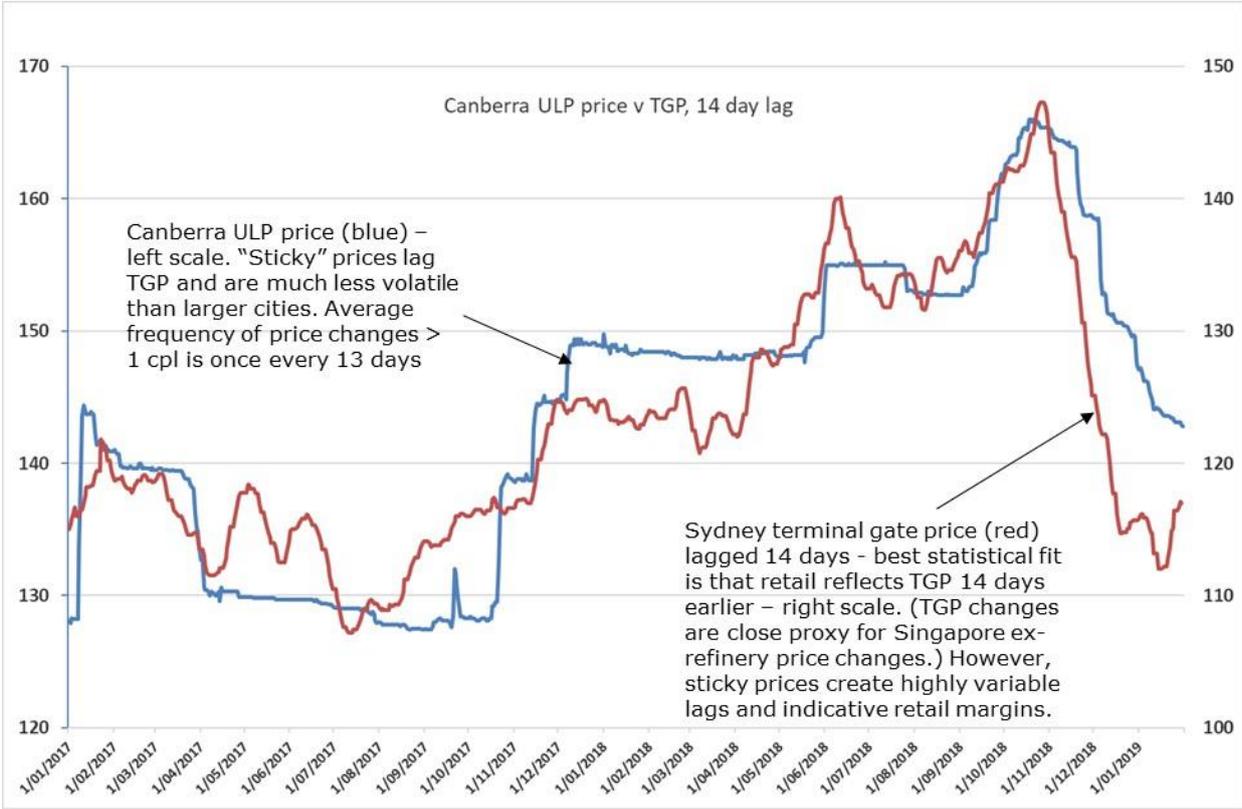


Figure 3: Canberra prices track TGP over time but are "sticky". Source: Informed Sources

Using the Sydney TGP as a proxy for MOPS95 (the Singapore benchmark price), the above chart indicates that Canberra petrol prices track Singapore prices (MOPS95) over time. The two lines are overlaid by the difference in average prices so the tracking is easier to see on the chart. (Average TGP is about 20 cpl less than average Canberra retail price over the period, so the TGP axis is shifted by 20 cpl).

However, the relationship of retail price and TGP has substantial statistical variance, typical of many country markets in Australia. Canberra prices lag TGP and a best fit of the two variables show that Canberra prices typically lag TGP changes by about 2-3 weeks. This lag achieves the best correlation of turning points in the two lines.

The large variance occurs because prices are "sticky" due to retailers' reluctance to change prices (due to risk of margin or volume loss) and lack of competitive pressure. In contrast, Sydney prices follow TGP changes closely with a 2 to 3-day lag and change frequently, with a typical 4-week price cycle.

Sydney price cycles result in frequent price changes. On average, over the last two-years, Sydney prices changed by 1 cpl or more every two days (local suburban prices changed more frequently within this average period). Canberra prices changed on average by 1 cpl or more every 13 days.

Sydney is a highly competitive market with 42% of retailers either independent or minor branded. It is the independents or minor brands that are often the most competitive in terms of price. Many country towns have high and "sticky" prices due to low local competition. Local circumstances can result in quite different prices in nearby areas.

In all markets (competitive or not), there is a tension for fuel retailers trying to optimise volume and margin. In more competitive markets however, this tension for retailers is more dynamic and challenging and often results in lower fuel prices, greater volatility and fuel price cycles.

Issues related to competition are discussed in detail in Section 4.

## 1.5 Sales and Marketing Strategy

From a technical point of view, most petrols of a particular grade (e.g. unleaded, premium, E10) are very similar and different brands may have the same bulk supplier in a particular location in order to minimise supply costs.

However, brands matter to consumers regardless of the technical characteristics of the goods they are buying. This applies to a wide range of consumer goods that might be considered "homogeneous". Retailers that have invested in fuel brands and innovated with products (such as 98 octane petrol and cleaner diesel), are able to charge a premium.

Fuel retailers have transformed over the past 20 years into convenience retailers, where the convenience offer not only generates substantial profits but enables much greater brand differentiation than fuel alone. Most fuel retailers also offer shopper docket or other forms of loyalty discounts.

Brand differentiation explains why some retailers can charge higher prices on a sustainable basis for products that are similar from a technical point of view (both fuel or convenience goods). Retailers with weaker brands need to charge lower prices to attract customers or may establish themselves as discount brands, so any perception of lower quality (regardless of the reality), is countered by a lower price.

Within the ACT (and more broadly the Australian fuel market), retailers will typically fall into one of three segments

- 1) Premium – categorised by strong brand and good overall offer (fuels and convenience store) – where fuel price is usually among the highest in the market
- 2) Convenience – categorised by very good convenience store offer, good locations and quality fuels – where fuel price is usually mid-range
- 3) Discounter – widely recognised as service stations that sell fuel at the lowest price in the market. Service stations in this segment will often not be in the best location or have a large convenience store offer. They are a fuels volume business.

The ACCC discussed the various retail models in its 2018 report on petrol prices by brand:

*There are currently around 7300 retail fuel sites in Australia and these operate under a range of business models. The variety of business models and ownership structures mean that there are different pricing strategies among retail sites, as well as different capital structures and cost bases.*

*For example, some retailers may consider that they have a 'premium brand', an attractive retail site, a good location and a superior convenience store, and set their retail prices higher to reflect these features. Other retailers may consider that they need to set prices below those of many of their local*

*competitors to attract customers to their retail site. Some may have competitive prices to attract consumers into their convenience store where margins are often higher than on sales of fuel.*

*Some retailers may offer discounts to qualifying customers. Examples of these include shopper docket discount arrangements of the supermarket chains, discount arrangements between some major retailers and state motoring organisations, and discounts associated with fuel cards. These offers may also influence a retailer's pricing strategy<sup>4</sup>.*

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<sup>4</sup> Australian Competition and Consumer Commission, *Petrol prices are not the same: report on petrol prices by major retailer in 2017, May 2018, p5.*

## 2. Characteristics of the ACT fuel market, including historical changes

### 2.1 Market structure

As the table below shows, the ACT with 58 service stations in total is a small market relative to other states/territories and has a much smaller proportion of independent or minor branded retailers compared with other States/Territories. While this data is on a brand basis (rather than site operator – who sets the price), and is for whole states/territories rather than capital cities, the low ACT figure stands out.

However, the percentage of independents is only one indicator of competition, as both NT and Tasmania have relatively high prices, not dissimilar to the ACT - the aggressiveness of independents is important.

State/Territory	Count of Service Stations	% of Independent or Minor Branded
Australian Capital Territory	58	9%
Northern Territory	214	57%
Tasmania	260	27%
South Australia	638	23%
Western Australia	859	22%
Victoria	1531	23%
Queensland	1631	25%
New South Wales	2331	35%

Figure 4: Service Station Count by State/Territory and % of Independent/Minor Brands. Source: Informed Sources NetWatch

The following chart shows service stations in the ACT by brand. "Major" brands are Coles Express/Shell, Caltex, Caltex/Woolworths, 7 Eleven/Mobil and BP. "Independents" include United, Metro, Costco and one other independent. The latter make up 5 of the total 58 sites (9%).

While the number of sites in the ACT is small in total, it has one site per 7,300 people, similar to Sydney (1 per 6,100 people). Population per site therefore does not explain Canberra's higher prices, although population density (people per hectare) and traffic density might have an impact.

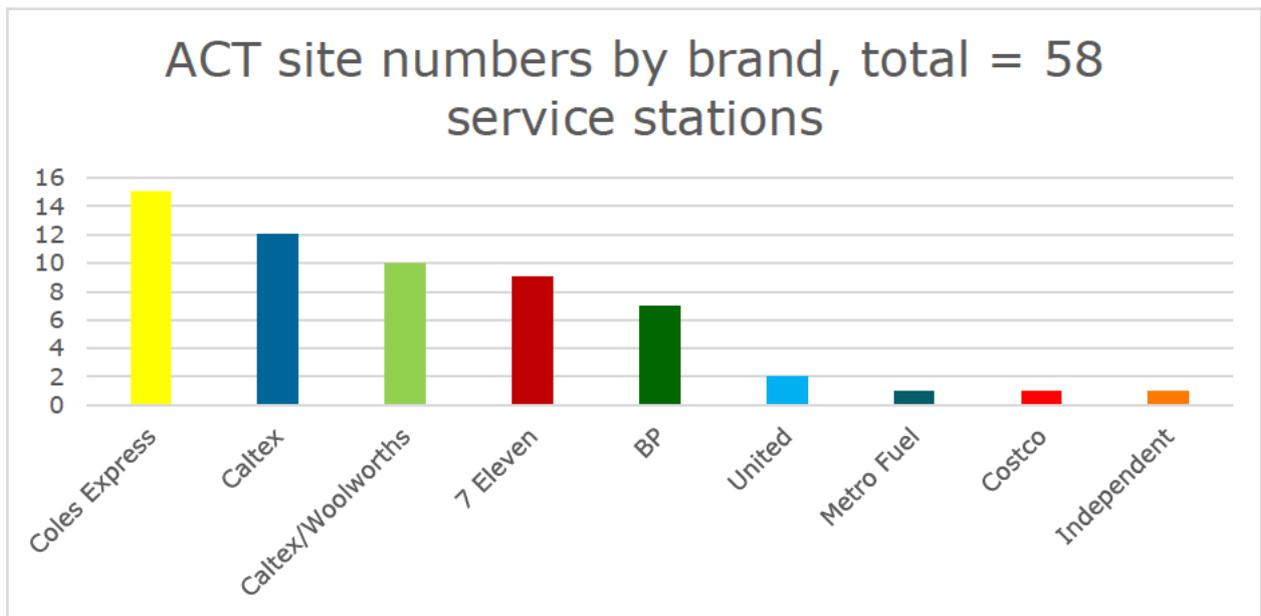


Figure 5: ACT Service Stations by Brand. Source: Informed Sources NetWatch

The following chart shows service stations by brand in Sydney<sup>5</sup>. Smaller chains (Metro, Budget, Speedway, United, Westside), and small independents (including Caltex and BP dealer owned and operated sites) make up 354 of 846 Sydney sites (42%). These sites could sell 33% of petrol volume (based on national average site volumes).

Chart 3.1: Number of retail sites by major retailer in Sydney as at 30 June 2017

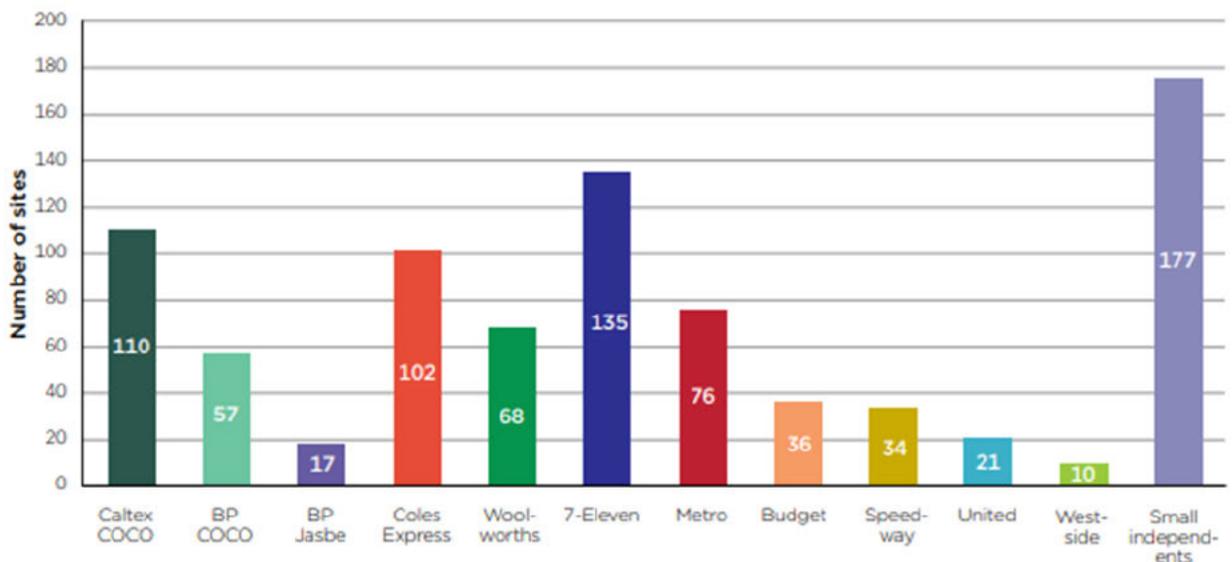


Figure 6: Sydney Service Stations by Brand. Source: ACCC, 2018

<sup>5</sup> Australian Competition and Consumer Commission 2018, *Retail and wholesale petrol market shares in Australia*, September 2018

## 2.2 Consolidation of service stations

Anecdotally, the ACT for many years comprised small, local neighbourhood service stations. As these services stations became uneconomical to operate due to higher fixed operating costs including more rigorous environmental regulatory requirements and growing competition from larger competitors, they have closed – 10 service stations have closed in the ACT in the past 10 years or about 20% of the total number of service stations (this compares to 12% for the whole of Australia)<sup>6</sup>. In addition, alternative site uses (such as commercial and residential uses), have offered better returns to site owners.

This consolidation of service stations is not unique to the ACT or Australia with other developed countries such as the United States experiencing sharp decline in the total number of service stations<sup>7</sup>.

However, in a market such as Sydney, consolidation has favoured upgrading of sites on major traffic routes. In Canberra, because the original urban design tended to place service stations in urban villages off major routes, the ability to upgrade and develop new sites on major routes may have been limited. The inquiry could examine whether development plans for the ACT have contributed to less competition because of the difficulty for new entrants in acquiring sites.

## 2.3 Emergence of supermarkets

Coles and Woolworths dominate the ACT market with 25 sites in total out of 58. Both Coles and Woolworths entered the fuel market in a major way in 2003 through alliances with Shell and Caltex respectively, although Woolworths had established itself under its own brand some years before. Fuel sales were seen as driving supermarket sales through shopper docket schemes and the combination of discounted fuel and major fuel and supermarket brands proved highly successful, with supermarkets approaching half the national retail petrol market.

As discussed earlier, both Coles and Woolworths have now sold out of fuel operations while maintaining contractual links to the convenience side of service stations carrying their branding and maintaining shopper docket discounts at those sites.

There is no doubt that supermarkets exert an important influence on ACT prices but the same is true of many, lower priced markets around Australia. This submission argues that lack of aggressively priced independents is the reason for high prices in Canberra, not the presence of supermarket fuel sites.

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<sup>6</sup> Informed Sources NetWatch database

<sup>7</sup> <http://www.bbc.com/autos/story/20170203-the-end-of-the-filling-station>

### **3. The impact of fuel prices on the ACT community**

As Informed Sources does not have expertise in this area, the submission does not address this term of reference. However, should the inquiry raise matters under this term of reference where it believes Informed Sources could assist (for example, by the provision of data or industry knowledge), we would be pleased to do so.

## **4. Reasons for significant pricing discrepancies within the ACT and when compared to other Australian communities and capital cities**

### **4.1 Independent retailers have only localised impact on ACT prices**

#### **4.1.1 Views of the ACCC - number and aggressiveness of independents is the key to lower prices in markets**

The ACCC has not undertaken a study of the ACT petrol market. However, some views of ACCC Chairman Rod Sims were reported in the media recently<sup>8</sup>.

The report makes some important points about the Canberra market. Excerpts as follows:

*"I think trying to put some local pressure on is really the best way to deal with this as a first step."*

*"There are many places where there's quite a difference in the price of fuel, and I think if people do keep some eye on that and just buy from the cheaper one of the two or three you've got to choose from on the way home, that starts to send signals," he said.*

*He said there was no single explanation for the fact that many small towns around Canberra, such as Gunning, Sutton and Gundaroo, had cheaper prices with little no competition.*

*But he reiterated that Canberra's main problem was the number of Coles outlets throughout the city, an issue that could possibly be addressed by zoning laws favouring independent outlets in more areas.*

In the Canberra Times report on 12 February 2019, Mr Sims refers to studies into regional cities (Cairns, Launceston, Armidale, Darwin) but the most relevant report is that on the Brisbane market, published by the ACCC in October 2017<sup>9</sup>.

The ACCC's Brisbane report highlights the role of independent retailers (mainly smaller branded retail chains), in driving competition and lower prices. It compares the Brisbane and Sydney markets; in this submission, Informed Sources compares the ACT and Sydney markets using the ACCC's insights and draws similar conclusions.

In its Brisbane report, the ACCC examines structure and pricing:

*Petrol prices in Brisbane have been significantly higher than those in the other four largest cities (i.e. Sydney, Melbourne, Adelaide and Perth) in Australia for the last eight years.*

*Over the last 10 years the number of retail sites in Brisbane has been broadly stable, at around 400 sites. However, compared with Sydney, Brisbane has fewer independent chains operating in the retail market, and they do not price as aggressively.*

*In Brisbane there are four independent chains: 7-Eleven, Puma Energy, Freedom Fuels and United. As at 30 June 2017, they had 138 retail sites in total, accounting for 34 per cent of the total number of Brisbane retail sites.*

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<sup>8</sup> *Coles the culprit in country's highest petrol prices: ACCC chief*, The Canberra Times, 12 February 2019.

<sup>9</sup> ACCC 2017, Australian Competition and Consumer Commission, Report on the Brisbane petrol market, October 2017

*In Sydney, there are seven independent chains: 7-Eleven, United, Speedway, Metro, Budget, Westside and Jasbe (a BP-branded but independently-operated chain). As at 30 June 2017, they had 330 retail sites in total, accounting for 39 per cent of the total number of Sydney retail sites.*

*In Brisbane, the four lowest priced retailers (7-Eleven, Woolworths, Puma Energy and United) were on average only around 1.3 cpl below the market average price, while in Sydney the four lowest priced retailers (Speedway, Metro, Budget and Westside) were on average around 3.8 cpl below the market average price.*

In its 2017 Brisbane report, the ACCC makes important comments on the role of independent retailers that are relevant to the Canberra market and its possible future (depending on policy developments):

*Over its years monitoring the petroleum industry the ACCC has found that independent chains can be vigorous and competitive price setters in large metropolitan markets, and their absence can mean that prices are otherwise higher.*

*The ACCC's recent petrol market studies have also indicated that small 'maverick' independent retailers may also have a pro-competitive influence on the market. Smaller independents may or may not be vigorous competitors depending on their type of operation, pricing strategy and the degree of competition they face.*

*The extent to which the independent chains aggressively set prices is also an important factor influencing competition in the market ... However, it appears that the independent chains in Brisbane are not as aggressive in their pricing behaviour as they are in Sydney.*

#### **4.1.2 Pricing by brand in the ACT and the impact of independents**

Market structure was discussed in Section 2.1 above. However, as noted by the ACCC in Section 4.1.1 above, the existence of independent chains may or may not have a significant price impact, depending on their pricing aggressiveness.

Canberra has few independent brands but some major-branded sites are also very competitive on price (Caltex/Woolworths and Caltex-branded sites in the vicinity of Costco and Metro), as revealed by publicly available pricing apps and websites, such as MotorMouth.

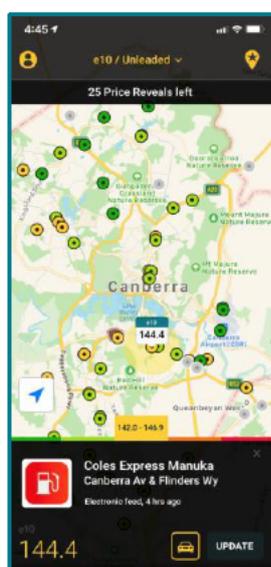
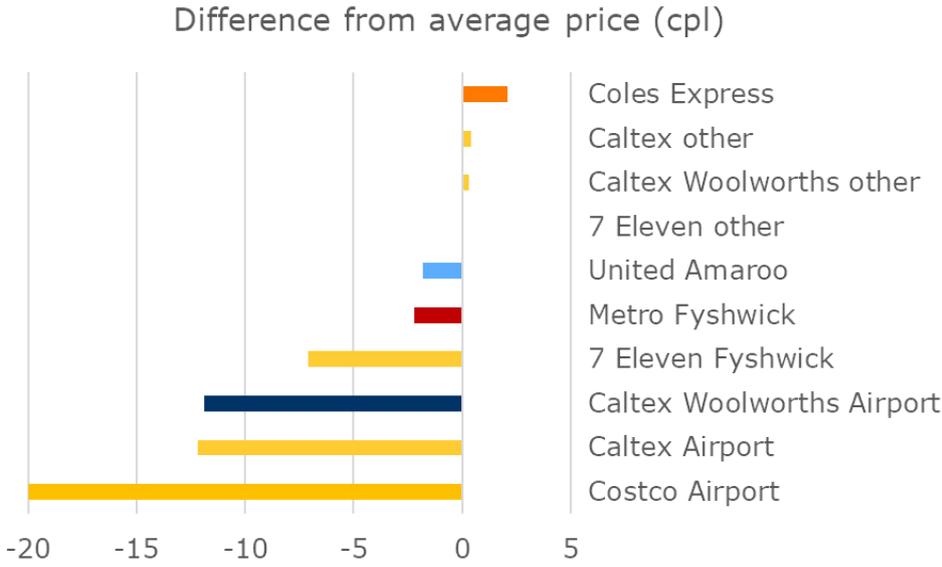


Figure 7: Screenshot of MotorMouth App, 8 March 2019

The chart below is derived from Informed Sources’ data for the period 1 January 2018 to 31 January 2019. It can be seen that certain sites near the airport and in Fyshwick (Costco, Caltex Woolworths, Caltex Airport, 7 Eleven) were significantly cheaper on average over the period. Metro in Fyshwick is also well known as a discount site.

However, for most parts of the ACT, prices were fairly similar, so motorists had no local opportunity to purchase petrol at significantly lower prices. Travelling across Canberra to purchase petrol is not economic in terms of time or vehicle operating costs unless there is another reason, such as shopping, air travel or work, to visit the cheaper sites.



Note: BP prices not available, most likely similar to Caltex. Costco membership \$60 p.a.  
 Note: Average prices for ULP, 1/1/18 to 31/1/19. Reference: Informed Sources

Figure 8: Lack of smaller chains/independents limits price competition in the ACT. Source: Informed Sources

The ACCC published a report in 2018 that for the first time set out Australian petrol prices by brand<sup>10</sup>. For the first time, data was published that quantified prices by brand in larger cities and demonstrated the impact of certain independent brands on prices, albeit on average (local competition may differ from suburb to suburb).

<sup>10</sup> Australian Competition and Consumer Commission, *Petrol prices are not the same: report on petrol prices by major retailer in 2017, May 2018.*

Difference between each major retailer's annual average E10 price and the market annual average E10 price in Sydney in 2017

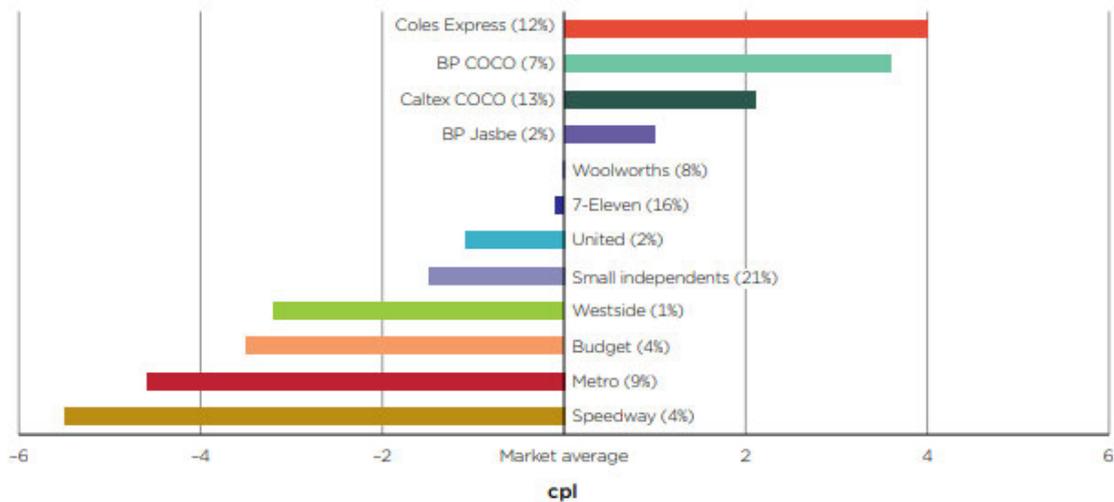


Figure 9: Prices by brand in Sydney. Source: ACCC, 2018

If the ACT and Sydney are compared, inferences can be made about the existing and potential roles of independents, noting the views of the ACCC that both the presence of independents and their pricing aggressiveness are important.

In the ACT, there is a competition hot spot near the airport/Majura and Fyshwick (which are adjacent). Costco and Metro are most likely the price drivers but have strong local competitors, including the major brands Caltex, Woolworths and 7 Eleven.

Outside of the airport/Majura and Fyshwick precinct, average prices across the rest of the ACT for all brands and sites are higher.

In contrast, Sydney has a number of aggressive discount chains, including Westside, Metro, Budget and Speedway, which are most likely responsible for low Sydney average prices through their impact on price competition.

## 4.2 Coles Express is not the main reason for higher ACT prices

### 4.2.1 Coles Express prices are 2 to 4 cpl higher than average in capital cities

In its 2018 report on prices by brand in Australia's five largest cities, the ACCC<sup>11</sup> found:

*Coles Express was on average the highest priced major retailer in all five cities.*

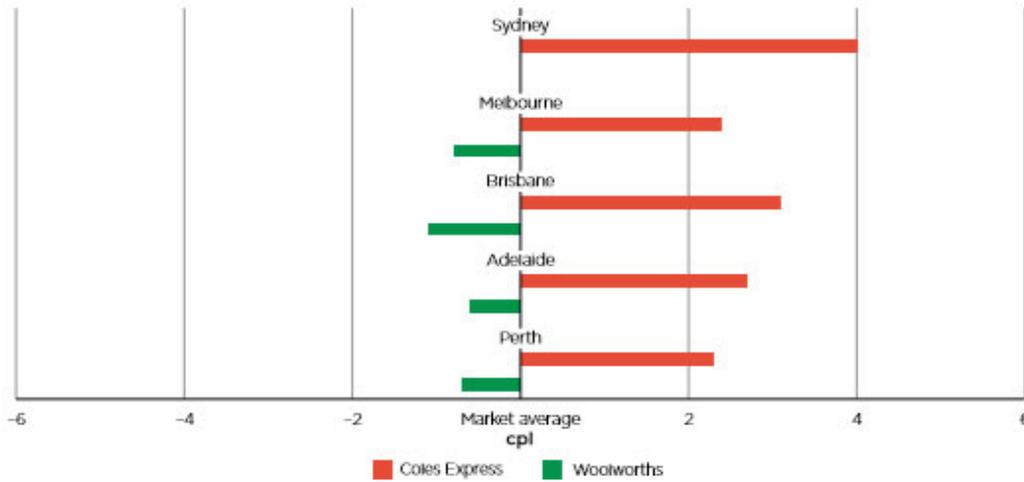
<sup>11</sup> Australian Competition and Consumer Commission, *Petrol prices are not the same: report on petrol prices by major retailer in 2017, May 2018.*

Coles Express' average prices were higher than the market average price in all five cities, ranging from a high of 4.0 cpl in Sydney to a low of 2.3 cpl in Perth. These are the board prices and do not account for any shopper docket discounts.

The ACCC also commented

Consumers often consider the two supermarket chains together, but it is clear from chart 2.13 that they have significantly different petrol prices.

**Chart 2.13: Difference between Coles Express and Woolworths' annual average petrol prices and the market annual average petrol price in each of the five largest cities in 2017**



Source: ACCC calculations based on Informed Sources data.

Note: The annual average Woolworths price in Sydney was equal to the market average price.

Figure 10: Coles and Woolworths have different pricing strategies. Source: ACCC, 2018

As Figure 11 below demonstrates, Coles Express prices in the ACT were about 2 cpl above the average in the period considered, which is consistent with pricing in larger capitals found by the ACT in its report.

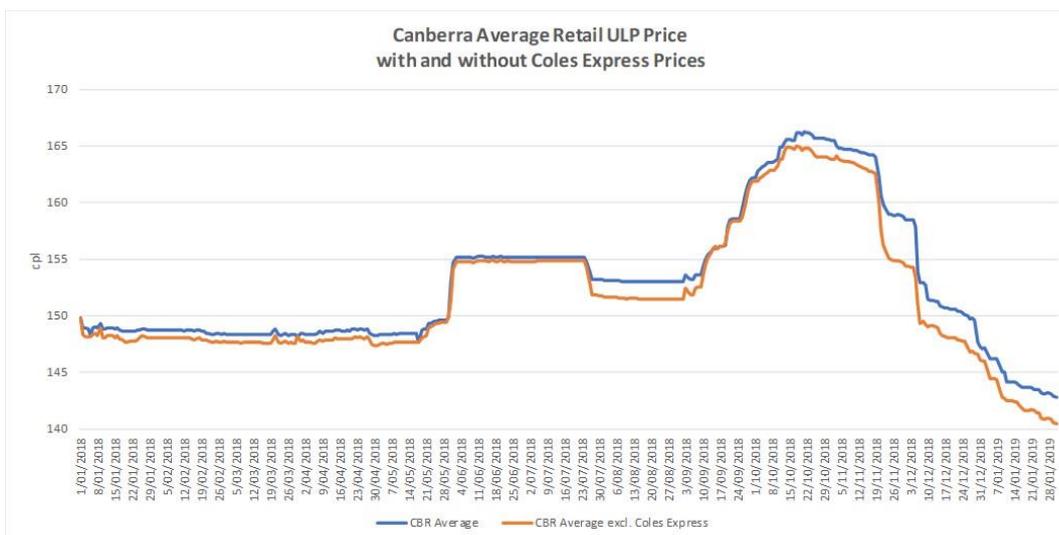


Figure 11: 2018 Canberra Average ULP price compared with average ULP price excluding Coles Express. Source: Informed Sources

While ACCC Chairman Rod Sims is reported by The Canberra Times as saying Canberra's main problem was the number of Coles outlets throughout the city (Section 4.1.1), publicly available evidence does not support this view and the ACCC's views may not have been accurately represented.

From a purely arithmetic point of view, assuming Coles had priced at the average market price, there would be only a small difference between this hypothetical case and actual historical prices. Canberra prices would remain high compared to many other cities and towns.

#### **4.2.2 New fuel supply agreement between Coles Express and Viva Energy may have a modest impact on ACT prices in future**

Coles Express has 15 sites in the ACT, the largest number of any brand, and because of this, its pricing strategy inevitably has an effect on the market.

In its February 2019 media release<sup>12</sup>, Coles and Viva Energy announced new arrangements to their alliance with Viva Energy becoming responsible for retail fuel pricing and marketing at all Coles Express service stations from early March 2019.

Tony Boyd ("Chanticleer") in the Australian Financial Review commented:

*Under the old arrangements Coles Express had the power to impose its own profit margin on top of the wholesale fuel price charged by Viva. This profit margin on top arrangement was pushed through by former Coles managing director John Durkan. It made the Coles fuel offering uncompetitive<sup>13</sup>.*

In an ASX release on 6 February 2019, Viva Energy said the new deal would *improve competitiveness*<sup>14</sup>. A Sydney Morning Herald story the same day reported on comments by Viva Energy CEO Scott Wyatt:

*Viva Energy chief executive Scott Wyatt said by shifting the control of the pump from Coles back to Viva the fuel price would likely drop.*

*"Historically, Coles set the retail pump price but we felt in order to grow our business we had to have control over how the pump price is set," Mr Wyatt said.*

*"Part of this deal is focusing on improving our fuel offer and improving the competitiveness of pricing."*

*He said the company was aiming at a modest increase in fuel sales, rising from the average of 64.2 million litres a week sold last year to between 70 and 75 million litres a week<sup>15</sup>.*

The inference that can be drawn from the releases and media comments is that Coles Express' strategy of pricing significantly above its competitors will be scrapped once Viva Energy takes control of fuel pricing.

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<sup>12</sup> <https://www.colesgroup.com.au/news/?page=media-releases>

<sup>13</sup> Australian Financial Review 2019, *Viva fuel deal puts Coles Express over a barrel*, 6 February 2019

<sup>14</sup> <https://www.asx.com.au/asxpdf/20190206/pdf/442dnnvjxnx6s.pdf>

<sup>15</sup> Sydney Morning Herald, *Coles Express signals petrol price cuts as earnings plunge*, 6 February 2019

### 4.3 The spread of prices in the ACT increased with the entry of Costco and Metro

The spread of prices in a market is important in offering motorists choice based on price. While information on prices is important (and comprehensive free pricing information is already available in Canberra from various apps and websites), such information has little value if all local service stations have similar prices. As discussed in Section 4.1, ACT prices tend to be quite similar except in one area.

The following chart shows the spread of prices in the ACT on average over the past ten years.

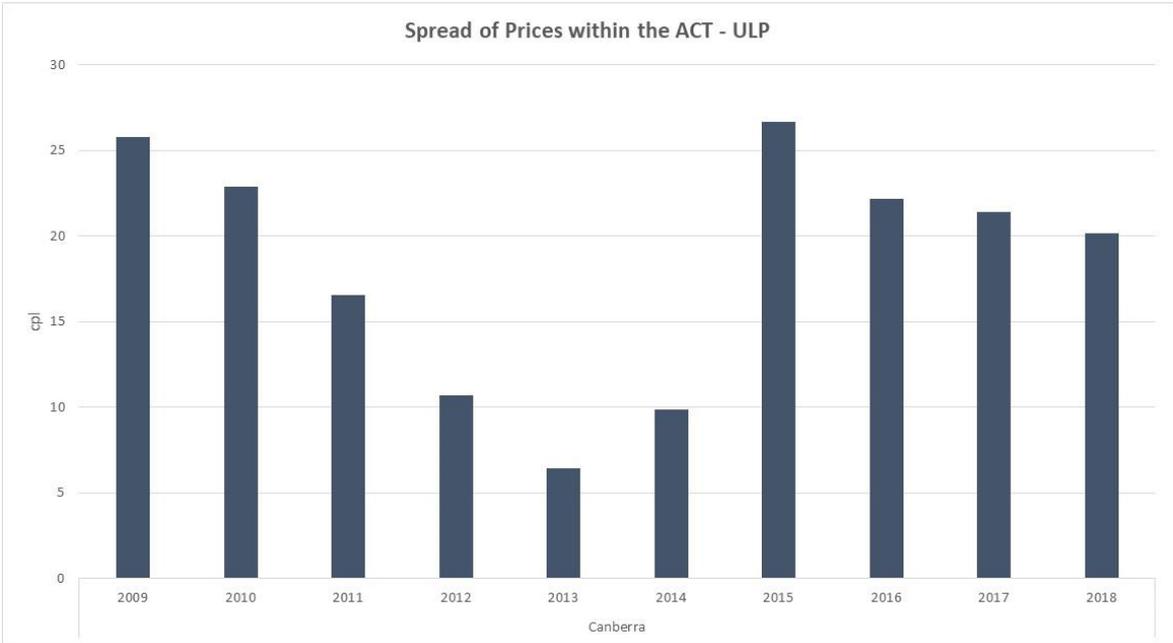


Figure 12: Average difference between minimum and maximum price of service stations in the ACT – last 10 years. Source: Informed Sources

Over the past 10 years, the average difference between the minimum and maximum unleaded price in the ACT has been approximately 18 cents per litre – see Figure 11. This spread of prices was declining between 2009 to 2013 and then started to increase in 2014.

In 2018, the average spread of prices between the minimum and maximum price in Canberra was 20 cents per litre. This is not insignificant if one compares the cost impact of a motorist filling up with 50 litres of fuel at the most expensive service station compared to the least expensive service station – a saving of \$10 per tank.

However, driving to the cheapest locations in the ACT may not be an economic decision in terms of vehicle costs or time (personal or business opportunity cost). Data on the spread of prices may be quite misleading – location also matters.

Figure 12 also suggests pricing in Canberra was becoming more uniform over the period to 2014. Costco at Majura opened around this time with deep discounts and Metro at Fyshwick opened in mid-2015, also having a significant local impact. These sites would account for the large increase in the spread in 2015 and later.

The entry of a retailer like Costco can have a dramatic effect on a local market. However, such impact may be short-lived if a retailer discounts heavily to gain market share then adopts higher pricing once the market share is achieved. For a new entrant to have a lasting impact, it needs to have fuel discounting as a core marketing strategy. This appears to be the case with Costco (although there is an annual fee), Metro and several Sydney retail chains.

While detailed data on Costco's entry to Canberra has not been compiled for this submission, the following chart shows the impact of the entry of a Costco fuel site at Northlakes in Brisbane in May 2014.

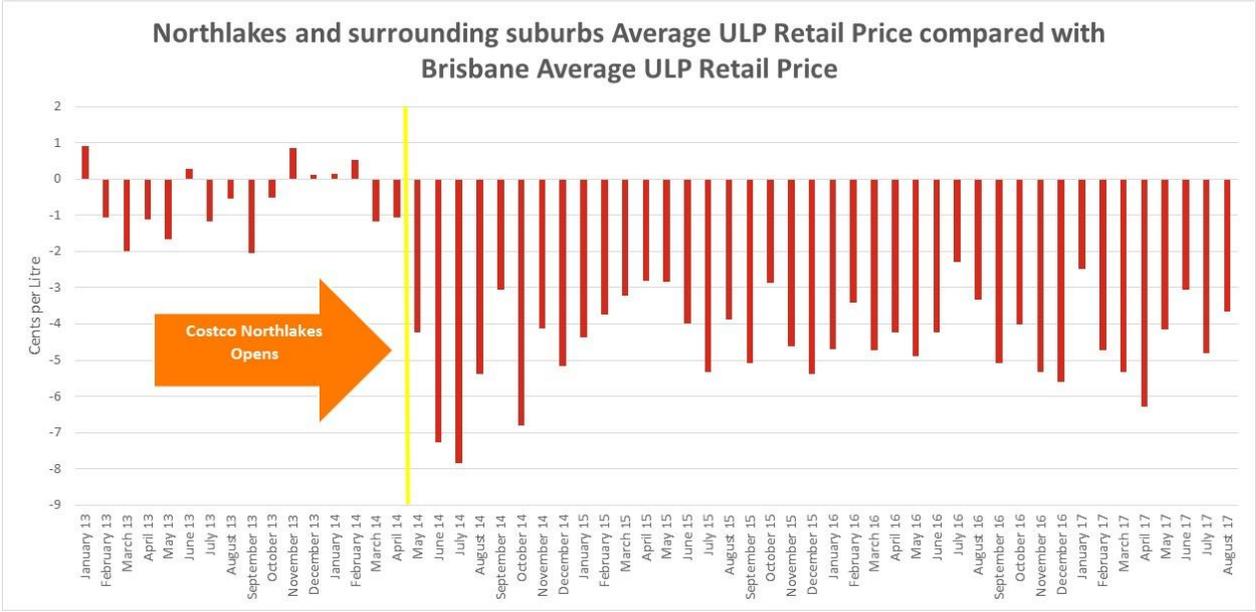


Figure 13: Impact of Costco market entry in Brisbane. Source: Informed Sources

## 4.4 ACT compared with other cities and towns

### 4.4.1 Comparison with capital cities

Historically, Canberra has consistently had the second or third highest average unleaded price out of Australia’s eight capital cities. Canberra is the grey, third bar in Figure 14 below.

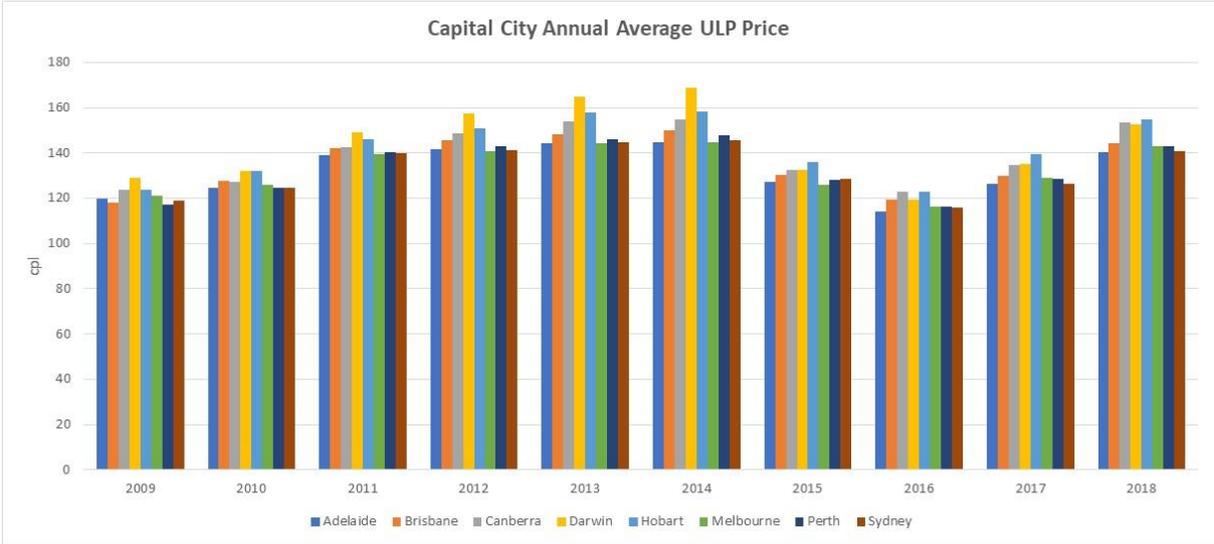


Figure 14: Annual average ULP Price by Capital City (2009 - 2018). Source: Informed Sources

### 4.4.2 Comparison with cities and towns of comparable size

When comparing Canberra with other Australian towns/cities of a comparable size in terms of population, this shows that Canberra was amongst the highest price for unleaded petrol in 2018.

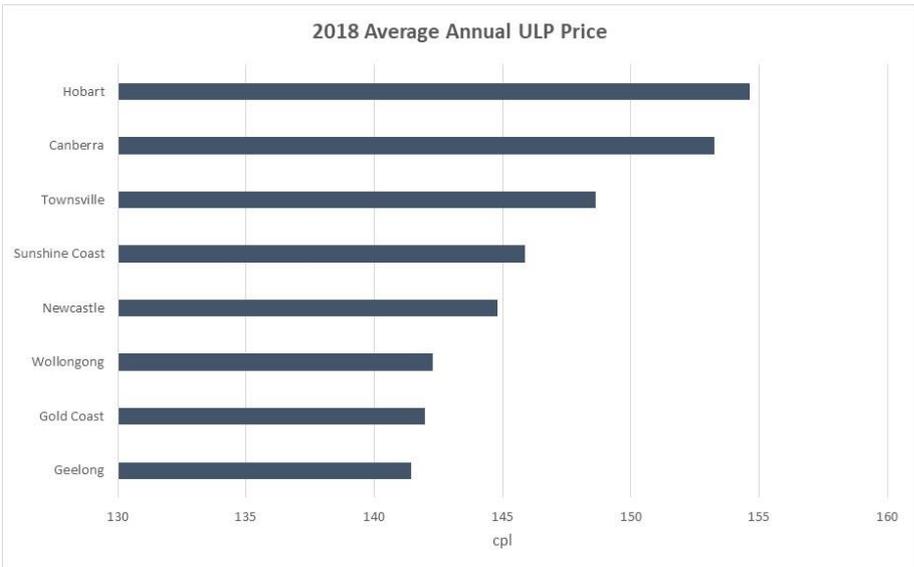


Figure 15: 2018 Average ULP price comparing Canberra with other towns/cities with similar population size. Source: Informed Sources

### 4.4.3 Comparison with surrounding areas

A comparison of the 2018 minimum price in Canberra with towns in surrounding areas show that Canberra has the second highest minimum unleaded price of those towns compared with Yass only having a minimum unleaded price higher. Of the towns compared, Canberra has the highest average unleaded price.

The minimum price in Canberra allowed a notional retail margin (GIRD) of about 8 cpl, allowing for distribution costs. While the costs of operating in Canberra may exceed the other locations shown in the chart, it seems likely that margins were substantially higher than would be expected if there were vigorous competition.

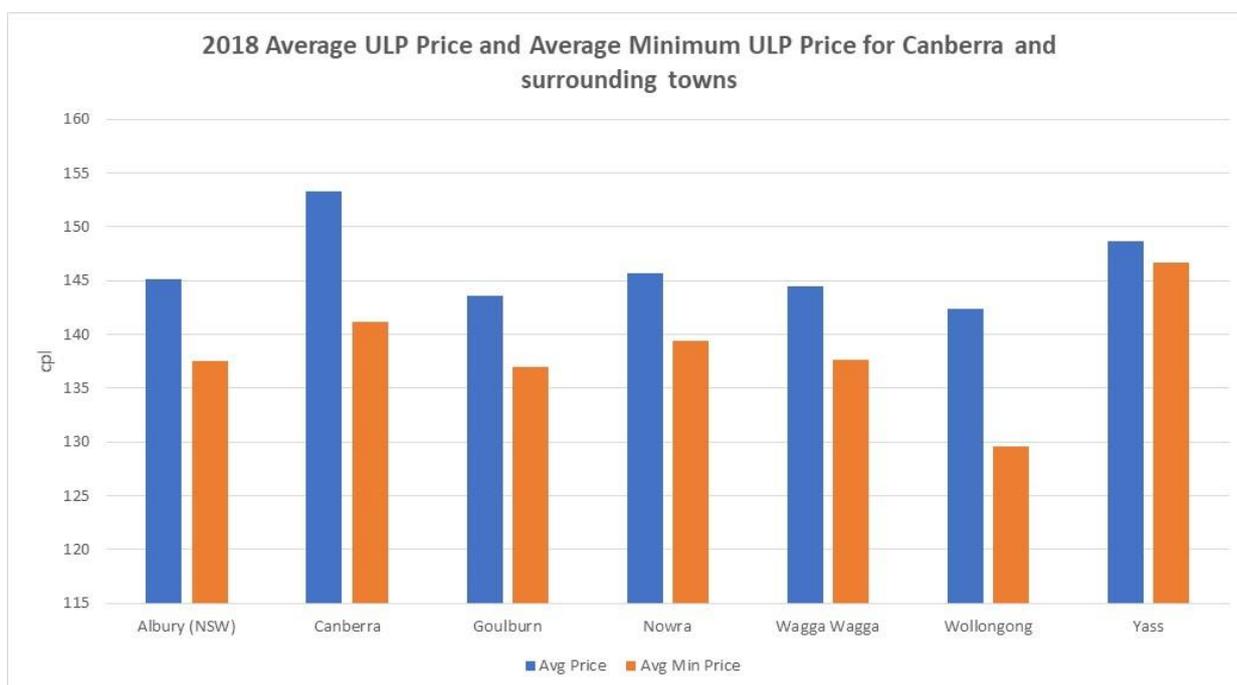


Figure 16: 2018 Average and Minimum Average Price for Canberra and nearby towns. Source: Informed Sources

### 4.4.4 Reasons for higher prices in regional Australia

#### 4.4.4.1 Drivers of prices

Canberra demonstrates many of the same characteristics of a large regional town. The ACCC explains regional fuel prices as follows:

*Petrol prices in regional Australia change more slowly than in the five largest cities—both up and down—because retailers in many regional areas tend to have lower stock turnover than city sites. Regional prices tend to be more stable than prices in the five largest capital cities, which generally move in cycles.*

*Fuel prices are generally higher in regional Australia due to:*

- lower population and demand resulting in fewer outlets, leading to less competition;
- higher costs for transport and storage of fuel;
- less demand for convenience sales like drinks, food and newspapers that can enable retailers to add to overall profits and keep fuel prices lower;

- *the location of outlets - whether or not they are on a highway and likely to get a high number of customers<sup>16</sup>.*

Petrol retailers rarely provide detailed commentary on fuel prices; however Caltex offered the following in 2015 when responding to Questions on Notice in a 2015 Senate inquiry<sup>17</sup> when asked about regional versus capital city prices:

*Regional service stations vary greatly in fuel volumes, from volumes similar to larger city sites to very small. These small volume sites may be sustained by relatively high retail margins or income streams from other businesses on the site. Some small country sites may see one fuel tanker (up to 40,000 litres of fuel) making a delivery every 2 to 3 weeks versus one tanker per day at some city sites. Storage and handling costs may be significant for some country areas where fuel must be stored in depots and "double handled" rather than delivered directly from coastal terminals; this adds to distribution costs which must be passed on to retailers.*

Caltex continued by saying that:

*... distance (and thereby freight costs) is a factor in higher regional and rural prices but is generally not a significant factor in explaining town to town differences. Freight is typically around 1.5 to 4 cents per litre greater for country than city delivery.*

Caltex also stated that:

*In most markets, costs vary between competitors and there are varying degrees of interdependence, meaning that the actions of one competitor may influence, and be influenced by, the independent decisions of other competitors.*

#### **4.4.4.2 Price stickiness affects price differences between cities and towns**

As discussed in Section 1.2, ACT prices are "sticky" because competitive interdependence means that retailers look not just to their costs and sales volumes when setting prices but the actions of competitors.

No two markets are alike. The effect of stickiness and the resultant lags (versus wholesale prices, represented by TGP), need to be considered when analysing why variances can occur between markets over time. These variances can exceed average differences due to dynamic competitive effects.

Lags refer to the amount of time that passes between a shift in the wholesale price and when that becomes reflected in the retail price. Service stations with lower volumes will typically have longer operational lags as it will take longer for these sites to receive deliveries and to clear "old stock". In Sydney, the lag may only be a few days whereas in regional towns, the lag may be 3 or more weeks.

Stickiness creates non-operational lags where retail prices move independently of input costs. These lags are related to competition. Country towns are likely to be sticky markets<sup>18</sup>. Putting up prices ahead of competitors risks loss of revenue, unless the increased margin offsets the loss in volume. Similarly, discounting risks loss of revenue unless volume gain exceeds margin loss. As most people are risk-averse, it usually seems safer to leave prices unchanged unless

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<sup>16</sup> Australian Competition and Consumer Commission, Fuel in Regional Australia, <https://www.accc.gov.au/consumers/petrol-diesel-lpg/fuel-in-regional-australia>

<sup>17</sup> Commonwealth of Australia, 2015, Senate inquiry into Australia's transport energy resilience and sustainability, pp. 100-104

<sup>18</sup> Byrne, D 2015, Gasoline Pricing in the Country and the City, p. 30.

forced by competitors to adjust. This is the reason for price stickiness and depends on the nature of local competition.

Stickiness is generally not observed in the largest urban areas because some competitors can secure permanent increases in site volume by positioning themselves as “price discounters” or “budget sites”. Sufficient numbers of city motorists are willing to reward this pricing strategy by shifting their purchases from site to site. Such a discount strategy is more likely to succeed where there are high traffic flows, hence large potential markets, and a discount competitor’s action has relatively less impact on other competitors’ volumes. This means the discounter is less likely to suffer price retaliation from a larger and financially stronger retailer. As a result, larger markets tend to accommodate a wider range of prices because competitors learn to accommodate others’ strategies to maximise their own revenues.

## **5. Consideration of best practice approaches and initiatives in other jurisdictions which have a meaningful impact on reducing fuel prices**

### **5.1 Introduction**

In its various reports on Australian markets, the ACCC has identified lack of competition as a key factor in higher prices. Other factors include those discussed in Section 4.4.4.1 above.

To put downwards pressure on prices in these markets, the most important influence is a larger number of aggressive independents (or entry of such independents to the market, where few or none exist).

Downwards pressure can also be exercised through consumer preference for lower-priced sites and can be facilitated through greater price transparency, which in practice means the free availability of consumer information through pricing apps and websites and other information sources.

Price transparency in Canberra is very high, with several apps and websites available free to motorists, so the key issue is making motorists aware of this comprehensive information and encouraging them to use it.

In some states and territories, governments have chosen to regulate fuel price transparency (i.e. the public availability of pricing information) and, in the case of WA, also regulate prices. Other jurisdictions have adopted other approaches.

As will be discussed in this section, regulation of price transparency has not reduced prices and prices have in fact increased since the introduction of regulation. Unfortunately, regulation of price transparency has enabled various governments to be seen to be acting on fuel prices but the regulation has been a costly failure.

Economic theory suggests that in oligopolistic markets such as fuel retailing, regulated price transparency can be anti-competitive by facilitating the coordinated conduct of competitors and exposing smaller, more aggressive but financially weaker competitors to retaliation by larger rivals. While transparency can assist consumers with price discovery, it can provide a greater advantage to retailers.

Best practice would be to ensure consumers have sufficient information to make well-informed purchasing decisions (which may include a wide variety of data sources from signboards to media to internet information), while allowing more aggressive retailers to “fly under the radar” of larger rivals.

Best practice is not just about the availability of price information, as the more important issue is to introduce new competitors to markets with inadequate competition. To Informed Sources’ knowledge, only one jurisdiction has explicitly adopted the more difficult policy of facilitating independent competition: the Victorian Government has recommended it and local governments review planning policies to encourage the entry of new service stations to regional fuel markets with low competition. However, planning and environment and other regulatory settings may vary between jurisdictions that have the effect, even if not explicit, of facilitating service station development. In some locations, consideration could be given to

market intervention to positively discriminate in favour of certain new entrants but Informed Sources is not aware of such interventions.

## 5.2 New South Wales

Regulation was introduced in NSW in 2016 requiring all service stations to register with the Department of Fair Trading and from August 2016, all retailers have had to ensure that current fuel prices are uploaded to Fair Trading's FuelCheck website in real time. This information is then provided to consumers on the FuelCheck website and app and supplied free of charge to commercial organisations such as the NRMA who use it to attract customers. The data is also available free of charge to fuel retailers and third parties such as private data aggregators.

The FuelCheck scheme was designed to promote ethanol-blended fuel by making the price of E10 more visible. This was despite consumers already understanding E10 to be a cheaper, although less fuel-efficient, grade of petrol.

When FuelCheck was introduced, a large number of lower-priced independents were added to the price database. As a result, there was a downwards effect on average Sydney prices of the order of 0.8 cpl. As a result, analysis of the impact of FuelCheck needs to examine prices at the same set of service stations before and after the regulation ("like for like" analysis).

Recent like-for-like site level analysis of NSW fuel prices by Informed Sources comparing the 28 months before FuelCheck with the 28 months after FuelCheck, benchmarked against the average Sydney terminal gate price, showed that

- Sydney unleaded petrol prices have increased 2.3 cents per litre
- Regional NSW unleaded petrol prices have increased 0.8 cents per litre.

In regulating that retailers provide consumers with access to real-time fuel prices, the NSW Government has

- not reduced costs for motorists (and may have increased them)
- duplicated existing private sector fuel information services
- created a new and costly bureaucracy
- increased the red-tape burden for small business (most service stations are small businesses)
- threatened the existence of some independent retailers who did not wish their prices to be published because of greater risk of attack by larger and stronger competitors.

The regulation was introduced without regulatory assessment or meaningful stakeholder consultation and without consideration of the anti-competitive aspects of price transparency, specifically regulated schemes.

Lack of consultation and effective implementation has seen a number of issues arise, including

- systemic misreporting of prices by retailers, made worse by an inadequate compliance program
- lack of technical support to manage system failures - one system failure caused a pricing anomaly across Western Sydney
- misrepresentation of scheme usage by Fair Trading
- retailers and site operators use FuelCheck almost as much as consumers.

The ineffectiveness of FuelCheck is explained further by its limited usage and the fact that it effectively duplicates existing information. 2017 analysis showed that there are on average about 170,000 hits per month on the FuelCheck website, a rate of about 2 million per year.

This sounds impressive until the annual number of fuel purchases in NSW is considered. There are about 5.5 million vehicles on NSW roads<sup>19</sup> consuming about 10 billion litres of fuel per year<sup>20</sup>; at an assumed average fill of 50 litres that equates to about 200 million fills per year.

FuelCheck is therefore used on the surface by only 1 per cent of fills. However, this percentage overstates the scheme's usefulness because retailers and site operators are also heavy users of the FuelCheck scheme for monitoring their competitors' prices.

Informed Sources estimates the split of consumer vs commercial usage of FuelCheck to be in the order of 60/40 suggesting that the scheme attracts about 100,000 sessions per month from actual consumers or only 20,000 to 25,000 consumers (unique users) when considering users will likely log 4 to 5 sessions per month. This is an expensive service for the NSW Government to operate for a very small proportion of the population.

It is sometimes argued that regardless of the impact on average price levels, such schemes can save individual consumers money by helping them shop around. However, such claims, which are usually extrapolated to the whole market, ignore the fact that free, comprehensive pricing information was available to consumers before the regulation, most consumers do not wish to actively "shop around" and in many cases the savings would not justify the cost and effort. In addition, in markets like the ACT with fairly uniform pricing, there is no local "shopping around" available.

## 5.3 Western Australia

Western Australia introduced regulation in 2001 that requires all fuel retailers in the Perth area and the majority of regional WA to provide by 2 pm each day, the prices at which they will sell fuel for 24 hours starting 6am the following day. These prices are available from 2.30pm on the government website. Fuel must be sold at the posted price; variation in price or discounting is illegal.

A definitive 2017 study by Australian academics David Byrne and Nicolas de Roos<sup>21</sup> found that FuelWatch facilitated practices which created price stability, enabled firms to resolve conflict quickly and resulted in significantly higher prices for motorists. The abstract for the paper states:

*We show how price leaders can use price experiments to tacitly communicate collusive intentions, resolve strategic uncertainty, and create mutual understanding among rivals over a collusive strategy.*

In a summary of the study's conclusions in an article in *The Conversation*, Byrne says:

*New analysis of retailers in Perth over a period of five years [2010-2015] shows this inflated the price motorists are paying to fill up their tanks, and retailers are making 50% higher profit margins as a result...*<sup>22</sup>

Clearly, the process of tacit collusion examined by Byrne and de Roos benefits enormously from FuelWatch price regulation: communication and tracking of prices is formalised by government mandate, and stability of the coordinated pricing behaviour is underpinned by the ban on discounting. It is ironic that a scheme that was intended (albeit mistakenly), to

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<sup>19</sup> Australian Bureau of Statistics, 2015, Motor Vehicle Census, cat no.9309.0, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/9309.0Main+Features131%20Jan%202015?OpenDocument>

<sup>20</sup> Department of the Environment and Energy, Australian Petroleum Statistics: Table 3b. Sales of Petroleum products by state marketing area, March 2017 Quarter, <http://www.environment.gov.au/system/files/resources/08464198-e56c-4f99-a8df-5195573493a1/files/australian-petroleum-statistics-june2017.pdf>

<sup>21</sup> Byrne and de Roos, 2017, Learning to Coordinate: A Study in Retail Gasoline, <http://dx.doi.org/10.2139/ssrn.2570637>

<sup>22</sup> Byrne, D 2017, New research shows how petrol retailers pushed prices up in Perth, *The Conversation*, <http://theconversation.com/new-research-shows-how-petrol-retailers-pushed-prices-up-in-perth-72792>

benefit consumers has ended up facilitating tacit collusion that results in increased pump prices.

In summary, the problems with FuelWatch are:

- Government and motorists supportive of the scheme have traded certainty (in the form of a weekly price cycle and fixed daily prices), for higher prices
- the 24-hour rule facilitates oligopolistic outcomes because it makes it easier for competitors to predict others' behaviour
- coordination is substituted for competitive rivalry – competitors learn to accommodate others' strategies to maximise revenues
- smaller competitors are disadvantaged because intra-day discounting is illegal and prices fully exposed – they can't be tactical price discounters (unlike Sydney, for example)
- larger brands can "game" system by posting low prices at a few sites to head up the price rankings and create a low price image
- government bureaucracy and costs, and industry costs, are increased.

Participation in FuelWatch would create legal concerns under the Competition & Consumer Act if not operated by WA Government.

Clearly, the failings of the WA scheme show it would be of no benefit to the ACT and would in fact be harmful. In addition, the ACT is a very different market from WA now and at the 2001 introduction of FuelWatch: the ACT has no price cycles, infrequent price changes (average 13 days), little geographical spread of prices (except airport/Fyshwick), and very few smaller chains/independents.

## 5.4 Northern Territory

The Northern Territory Government implemented its MyFuel NT scheme in late 2017, which is very similar to the NSW FuelCheck scheme. Regulation passed in the NT makes it mandatory for fuel retailers to report their prices to the NT government when they change price. The NT Government in turn, publishes this information on the MyFuel NT website.

Similar to the ACT, Darwin is a very small and contained market with a small number of market participants – the Darwin fuel market is dominated by Puma Energy and Coles Express.

Recent analysis by Informed Sources reveals that the ULP gross indicative retail margin (GIRD – difference between the average retail price and terminal gate price) has increased 5 cents per litre since MyFuel NT was implemented. In centres outside of Darwin – Katherine and Alice Springs, the impact on fuel prices has been even greater with the gross margin increasing significantly more than 5 cents per litre.

In some further analysis performed by Informed Sources in 2018, it was found that the difference between the Darwin Terminal Gate Price and the Darwin minimum price (i.e. the lowest price service station) has increased markedly since MyFuel NT commenced on 1 November 2017 as highlighted by the graph below. This suggests that "cheap fuel" is less available in Darwin because retailers are now easily able to see what the whole market is doing and then able to adjust prices accordingly to maximise margins.

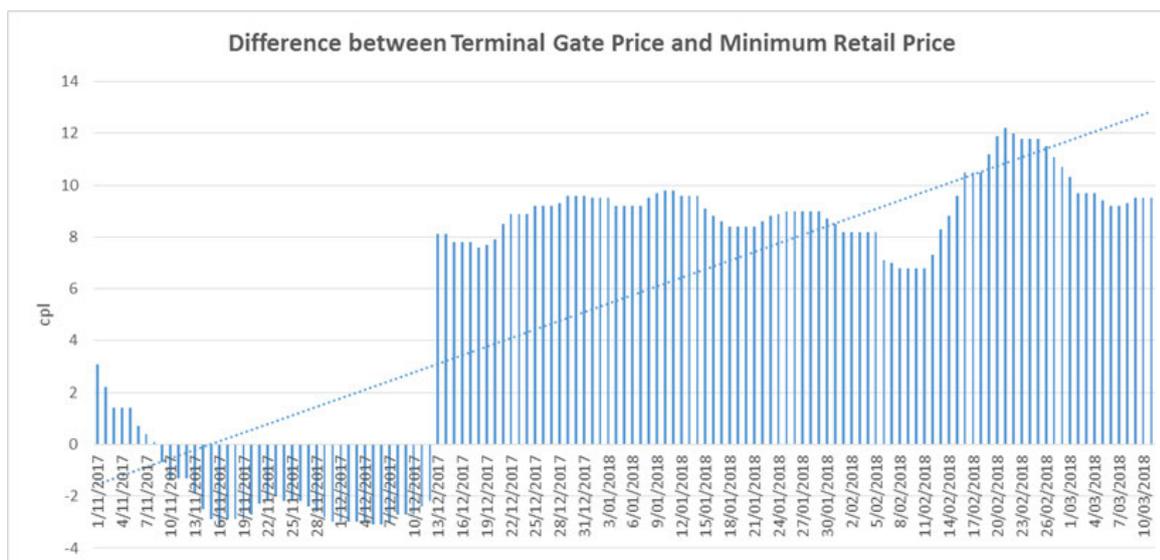


Figure 17 Impact on minimum fuel price benchmarked against TGP. Source: Informed Sources and AIP

Similar to NSW where very few motorists are accessing the fuel pricing information, Informed Sources understands anecdotally that only a few thousand NT motorists have visited the MyFuel NT website.

## 5.5 Queensland

The Queensland Government implemented a mandatory fuel price reporting trial in December 2018 after a sustained campaign by the RACQ to do so. Whilst it is too early to assess the impact of the scheme on fuel prices, there are a number of noteworthy points relating to the scheme.

- 1) The RACQ was the biggest proponent of the scheme and benefitted in a commercial sense from the trial's implementation. The RACQ previously paid a commercial data provider for access to fuel price information and now obtains data free of charge;
- 2) The Queensland Government would seem wary of any negative impact the scheme may have on fuel prices and has therefore implemented it as a trial for 2 years;
- 3) The Queensland Government outsourced the operation of the scheme to an experienced third party through a tender process who is responsible for aggregating the data from all Queensland fuel retailers. Informed Sources was appointed as the aggregator to run the scheme on behalf of the Queensland Government;
- 4) The Queensland Government has not created its own website or app. Rather, the government appointed aggregator has created an API which data consumers and publishers including app developers can freely access.

## 5.6 Victoria

The Victorian Parliament conducted an inquiry into regional fuel prices in 2017 and handed down its report and recommendations in 2018. This Parliamentary inquiry was the only such inquiry held by any other State or Territory up until the ACT's 2019 inquiry. No such inquiry

was held in WA, NSW, NT or QLD before these jurisdictions implemented mandatory fuel price reporting regulation.

In its report, the Parliamentary committee recommended the following courses of action:

- 1) The Victorian Government conduct a public awareness campaign in regional Victoria to encourage the use of fuel price apps;
- 2) The Victorian Government support the RACV's efforts to improve the coverage of fuel prices on its app through crowdsourced data;
- 3) The Victorian Government and local governments review planning policies to encourage the entry of new service stations to regional fuel markets with low competition.

The inquiry did not recommend mandatory fuel price reporting regulation and found that:

*there is no evidence that mandatory fuel price reporting schemes in Australia and overseas have reduced fuel prices<sup>23</sup>.*

In its August 2018 response to the Parliamentary inquiry, the Victorian Government supported each of the above three recommendations in full<sup>24</sup>.

## 5.7 All Australian States and Territories

In addition to the abovementioned government regulated schemes operating in Western Australia, New South Wales, Northern Territory and Queensland, all Australian States and Territories access fuel pricing information from private data sources. Across Australia, there is a substantial amount of reliable fuel pricing information available to motorists free of charge.

Sources of information include

- third party apps and websites including MotorMouth and Compare the Market
- motoring clubs including the RACV
- fuel retailer apps such as Woolworths Fuel and 7-Eleven
- media – radio, television and print
- fuel retailer price boards.

With academic research indicating that government regulated mandatory fuel price reporting schemes facilitate tacit collusion<sup>25</sup>, remove retailer uncertainty and increase pump prices, services provided by private data providers including MotorMouth are superior in our view because these services do not have every fuel price for every service station.

Instead, services offered by private data providers such as MotorMouth have fuel prices for most service stations (MotorMouth provides free of charge to motorists current pricing for

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<sup>23</sup> Inquiry into fuel prices in regional Victoria, 2018, Parliament of Victoria, [https://www.parliament.vic.gov.au/images/stories/committees/eejsc/Fuel\\_Prices\\_in\\_Regional\\_VIC/EEJSC\\_58-03\\_Text\\_WEB.pdf](https://www.parliament.vic.gov.au/images/stories/committees/eejsc/Fuel_Prices_in_Regional_VIC/EEJSC_58-03_Text_WEB.pdf)

<sup>24</sup> Victorian Government response to the Economic, Education, Jobs and Skills Committee's Inquiry into fuel prices in regional Victoria, 2018, [https://www.parliament.vic.gov.au/images/stories/committees/eejsc/Fuel\\_Prices\\_in\\_Regional\\_VIC/Victorian\\_Government\\_response.pdf](https://www.parliament.vic.gov.au/images/stories/committees/eejsc/Fuel_Prices_in_Regional_VIC/Victorian_Government_response.pdf)

<sup>25</sup> Byrne and de Roos, 2017, Learning to Coordinate: A Study in Retail Gasoline, <http://dx.doi.org/10.2139/ssrn.2570637>

90% of service stations across the ACT), operate very reliably and achieve the right balance by giving consumers access to sufficient information whilst not providing retailers with all information. Where sites are not listed, consumers can use information for nearby sites to assess whether a board price is attractive (all service stations are required to have price boards).

Less than 100% coverage ensures a degree of uncertainty exists in the market with retailers constantly alert to the fact that lower prices may be available from competitors (which keeps retailers on their toes).

Crowd-sourced data services such as GasBuddy and PetrolSpy cover all sites but the data updates may be less frequent, so consumers are well-informed but tactical pricing changes by retailers are usually not so evident to competitors as a "real-time" service.

In Tasmania, the Government has provided financial assistance to the local motoring association who formed an alliance with a fuel pricing app (GasBuddy), to help raise awareness about the availability of fuel price information.

## 5.8 Other jurisdictions

A paper from Ariel Ezrachi, Professor of Competition Law at Oxford University, to the June 2017 meeting of the OECD Competition Committee posits that digital technology is changing the face of competition and this throws up new challenges for competition law.

The paper<sup>26</sup> cites studies in Chile, Germany and WA that show an increase in prices after transparency regulation. It follows that regulation in other Australian jurisdictions may also be anti-competitive and harm consumers through higher prices.

In Chile, where petrol stations had to post their fuel prices on a government website and to keep prices updated as they changed at the pump, the Ezrachi paper notes:

*The petrol stations' margins increased by 10% on average following the prices being posted on the government website.*

In Germany, where petrol stations are required to report price changes for gasoline or diesel fuel in real time, the paper notes:

*Rather than lowering prices, the enhanced market transparency, one economic study found, increased prices further. Compared to the control group, retail petrol prices increased by about 1.2 to 3.3 euro cents, and diesel increased by about 2 euro cents.*

The Ezrachi paper refers to the study by Australian academics Byrne and de Roos and comments:

*Fuelwatch proved useful in promoting tacit collusion. Rivals could see on-line the prices for every petrol station in the market, and after 2:30 pm each day, tomorrow's prices. What the economic study found was that the market leader, BP, through trial-and error and experimentation, eventually facilitated tacit collusion, which "substantially improved retail margins, created price stability in the presence of aggregate shocks, and enabled firms to resolve conflict quickly.*

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<sup>26</sup> Ezrachi 2017, *Algorithmic Collusion: Problems and Counter-Measures* - Note by A. Ezrachi & M. E. Stucke, OECD Roundtable on Algorithms and Collusion, 21-23 June 2017

## 5.9 MotorMouth – a national fuel pricing service

The independently run MotorMouth service operating since 2000 publishes the fuel prices of many retailers in real time across Australia - up to 90% coverage in many locations across Australia.

MotorMouth fuel pricing data is sourced

- electronically, from participating fuel retailers
- directly from service station site operators, who can input their prices using our online service [www.myPriceboard.com](http://www.myPriceboard.com);
- from users, who can collect prices at their local fuel station to help the wider community.

Service station operators who do not participate in Informed Sources' subscription-based Oil PriceWatch service can freely upload prices to [www.mypriceboard.com](http://www.mypriceboard.com) free of charge at any time or via the MotorMouth smartphone app.

Fuel prices from all MotorMouth data sources are consolidated and made available via MotorMouth platforms free of charge to consumers and to third parties taking our Application Programming Interface (API) services, such as app developers, motoring clubs, information service providers such as Compare the Market and media who often chose to disseminate fuel pricing information.

## 5.10 Fuel pricing information and consumer behaviour

The 'market' for providing fuel pricing information to consumers who pro-actively compare prices is very small (perhaps a few percent of the total motorist population). Of this very small market, it is also important to recognise that the majority of consumers are satisfied with accessing decision support tools to assist them on where and when to make a fuel purchase and not site level pricing.

MotorMouth usage data reveals that only half of MotorMouth app users use the "reveal" feature to see individual site prices. The MotorMouth website usage is running at a similar level to MotorMouth App usage and does not include site level pricing. In short, these two platforms run roughly 50/50 of the total MotorMouth patronage. Given that only half of the App users click through to reveal site specific prices, this means that approximately 25% of all MotorMouth users click through to reveal prices. Further, the large majority of these click through clients are satisfied with 2 to 3 site prices per session.

That leaves 75% of the MotorMouth community accessing price band dot-e-maps (see image below) and recommendations on good days to fill up, despite site level pricing being available.

Decision support tools developed by Informed Sources are what motorists want and allow motorists to quickly and easily make purchase decisions. These tools do not require 100% site level coverage which makes mandatory reporting by retailers unnecessary from a consumer's perspective.

As noted above, services with less than 100% coverage do not represent a problem anyway because with motorists knowing what is happening across the majority of the market, if they pass a price that is not displayed on MotorMouth or another app, they know immediately whether or not a good deal is to be had.

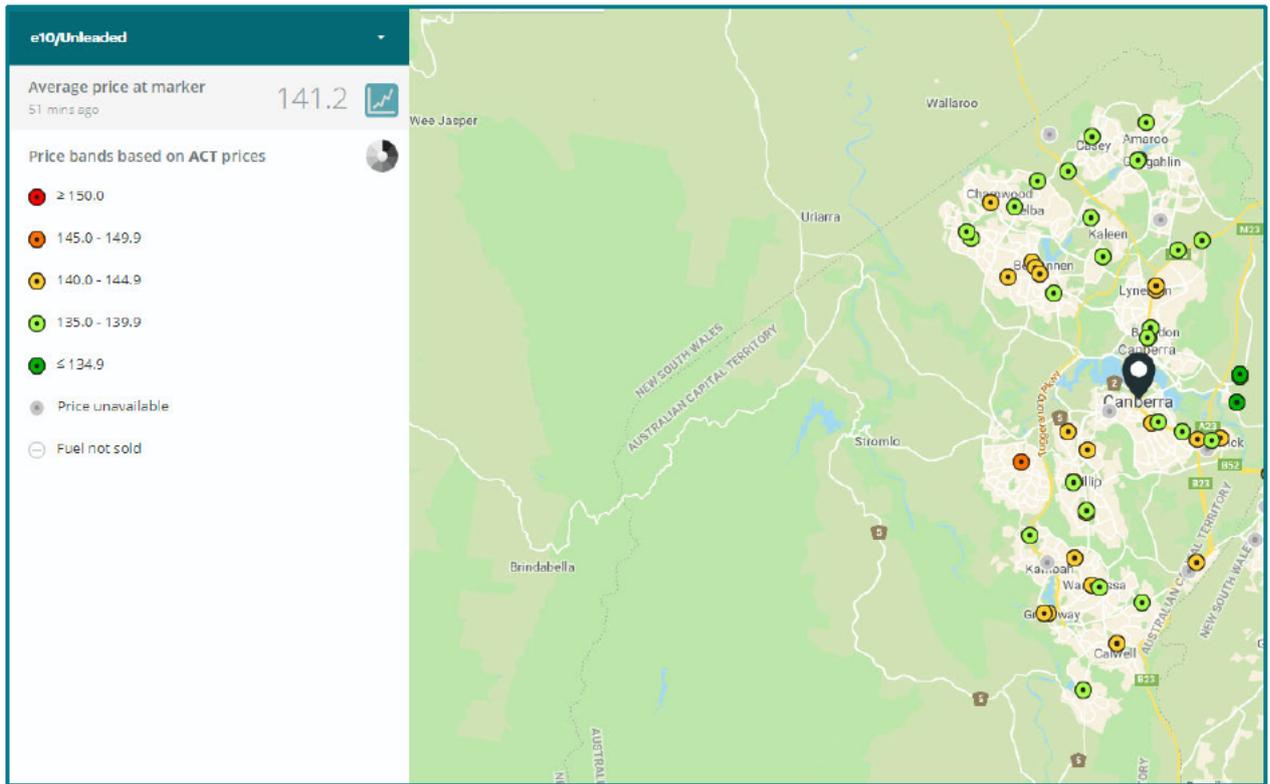


Figure 18: MotorMouth price band dot-e-map

## 6. Regulatory and legislative solutions and barriers, particularly around competition and retail margin

### 6.1. Introduction

This submission argues that greater competition is the key to lower prices. Greater competition in a market such as the ACT requires new entrants, typically aggressive independents, to create downward price pressure on local competitors. Even less aggressive discounters can have a beneficial impact.

In its examination of the Launceston market, the ACCC found that a new discount scheme between United and RACT had a significant effect on prices and reinforced the positive role of petrol discounters.

In its media release of 20 July 2016, the ACCC Chairman Rod Sims said:

*The downward pressure on retail petrol prices, particularly due to this discounting agreement, is a clear indicator that competition is the best way to create lower prices for motorists<sup>27</sup>.*

### 6.2 Demand-side measures

Informed Sources supports fuel price transparency but, as discussed in Section 5, this needs to strike a balance between informing consumers and avoiding anti-competitive effects through provision of too much information to retailers.

The information already freely available to consumers from various non-government sources appears to strike the right balance. As argued in Section 5, regulated schemes have failed to reduce prices and may be anti-competitive.

In 2018, the Victorian Government adopted all three recommendations of its inquiry into regional fuel prices, including:

*RECOMMENDATION 1: The Victorian Government conduct a public awareness campaign in regional Victoria to encourage the use of fuel price apps.*

*RECOMMENDATION 2: The Victorian Government support the Royal Automobile Club of Victoria's efforts to improve the coverage of fuel prices on its app through crowdsourced data.*

Similar actions could be worthy of consideration in the ACT, noting that real-time fuel price data is already available for the ACT.

Whilst petrol prices receive significant media attention particularly when prices are high, MotorMouth usage data indicates that the 'market' for this data for people who pro-actively compare prices is relatively small - a few percent of the total motorist population.

Interestingly, 60% of motorists purchase their fuel from the same few petrol stations<sup>28</sup> and many do not proactively search for pricing information when purchasing fuel. In fact, our data and industry data supports that in addition to price, there are a number of factors motorists take into consideration when purchasing fuel – location and access factors as well as brand

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<sup>27</sup> <https://www.accc.gov.au/media-release/more-competition-and-increased-transparency-key-to-driving-lower-petrol-prices-in-launceston>

<sup>28</sup> ACAPMA, National Monitor of Fuel Consumer Attitudes 2015 Research Report

loyalty being important factors in motorists' minds<sup>29</sup>. Retailers compete on much more than just price.

A campaign which makes motorists aware of:

- 1) the savings they can achieve by shopping around for fuel prices, and
- 2) where to find fuel price information ie. apps and websites

will assist motorists realise they can make real savings to their household budget by taking a few moments to compare prices at service stations in their area. Of course, this depends on significantly discounted prices being available, which is only true of one area in the ACT.

Fuel pricing data supports as does economic theory, that in markets with regulated mandatory price reporting schemes, fuel prices inevitably rise. As discussed in Section 5, this is due to retailers being able to access real-time, accurate data for all competitors by these government schemes which removes uncertainty and facilitates tacit collusion.

In light of the evidence that supports that regulated mandatory price reporting schemes put upward pressure on prices, it is curious why some, including the motoring clubs, advocate such schemes.

The motoring clubs offer an array of products and services to their members and non-members including breakdown services, insurance, banking, holidays and more. The clubs use fuel pricing information to strengthen their brand through regular media commentary and as a traffic generator to their websites and other digital media.

Fuel pricing for the motoring clubs is a loss leader and effective mechanism for them to engage with their membership as a platform for cross selling various products and services. As large, sophisticated commercial organisations, they are driven by profit and extracting the best possible value from suppliers. They are opposed to paying for access to fuel pricing information from private data providers and use their advocacy activities to encourage governments to establish regulated fuel price reporting schemes as a means of accessing fuel price information for free.

The Queensland Government decided upon a two-year trial for mandatory fuel price reporting. While Informed Sources does not support regulation, this correctly cautious approach in our view will allow the Queensland Government to assess the impact this regulation has on fuel prices. Contracting out data collection and IT services also avoids building a government bureaucracy and minimising budgetary costs.

In summary, Informed Sources is strongly of the view that regulation should be kept to a minimum and only implemented where public interest necessitates or where market failure occurs. This is because regulation within the retail fuel industry will always cost consumers whether it's through retailers incurring additional cost in managing regulatory change and compliance or in the case of mandatory price reporting schemes, facilitating tacit collusion.

In the June 2017 quarterly report on the Australian petroleum market, commenting on high Gross Indicative Retail Difference (GIRD) in the 5 major Australian cities, the ACCC notes that a number of retailers have advised that the increase in GIRDs is reflective of retailers having to meet regulatory and compliance costs.

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<sup>29</sup> ACAPMA, National Monitor of Fuel Consumer Attitudes 2015 Research Report

## 6.3 Supply-side measures

The ACCC's focus on the demand side i.e. consumer action and price transparency, reflects the ACCC's federal statutory responsibilities. However, as argued in this submission, state/territory and local governments have an important role to play in facilitating the market entry of new, aggressive independents. This could be through general planning and environment regulation or even through targeted market interventions to favour certain types of retailers. In the latter case, safeguards would need to be in place to help ensure the intended competition outcomes were achieved.

Section 4.3 illustrated the effect that new entrants can have on a market. Figure 13 illustrated the dramatic effect in reducing fuel prices in Brisbane's northern suburbs when the entry of Costco forced nearby competitors to drop their prices in order to compete.

Speaking in the Northern Territory Parliament in March 2017, the Opposition Leader, Gary Higgins MLA put forward some suggestions for putting downward pressure on fuel prices in the Territory fuel market. The Opposition Leader suggested a number of measures including:

- the Government setting aside prime land for additional petrol stations to attract new retailers
- providing subsidies and assistance to independent retailers.

The Victorian Government also adopted the following recommendation of its inquiry into regional fuel prices, which Informed Sources supports:

*RECOMMENDATION 3: The Victorian Government and local governments review planning policies to encourage the entry of new service stations to regional fuel markets with low competition.*

## 7. About Informed Sources

Informed Sources is an Australian family owned business that has been collecting fuel prices in Australia since 1987. We are at the forefront of innovatively collecting, packaging and reporting data and now export our services to more than twenty countries.

Informed Sources receives fuel pricing data from a variety of sources. These sources include

- direct data from BP, Caltex, 7Eleven, Viva Energy and Woolworths amongst other retailers who provide pricing data to Informed Sources electronically;
- drivers across Australia that we employ to fill gaps in our coverage;
- the MotorMouth community via the MotorMouth Smartphone App;
- smaller service station operators and independent chains through our web portal, [mypriceboard.com](http://mypriceboard.com).

In addition to providing petrol pricing information to commercial clients, government agencies and regulators as well as state motoring clubs, Informed Sources provides petrol pricing information direct to motorists via our consumer awareness initiative, MotorMouth. This service was established in 2000 and is now the leading source of pricing information for motorists. In the ACT, MotorMouth publishes accurate, reliable and timely fuel prices for approximately 90% of all service stations.

MotorMouth's core purpose is to help drivers fight cost of living pressures by finding the best deal on fuel. MotorMouth comprises a website and smartphone app for members of the motoring public to source fuel pricing information to buy better and smarter. In fact, every 10 seconds, someone launches MotorMouth and reveals 5 site prices to buy better and smarter.

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