LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

REVIEW OF PETROL SUPPLY ARRANGEMENTS

Report Number 13 of the Standing Committee on Public Accounts

September 1994

RESOLUTION OF APPOINTMENT

On 27 March 1992 the ACT Legislative Assembly established a Standing Committee on Public Accounts with the following terms of reference:

(1) Examine -

(a) the accounts of the receipts and expenditure of the Australian Capital Territory;

(b) the financial affairs of authorities of the Australian Capital Territory; and

(c) all reports of the Auditor-General which have been laid before the Assembly;

(2) Report to the Assembly, with such comments as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them to which the committee is of the opinion that the attention of the Assembly should be directed; and

(3) Inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question.

INQUIRY TERMS OF REFERENCE

That the committee inquire into and report no later than 25 August 1994 on the impact on ACT revenue and expenditure of arrangements between the ACT Government and independent operators with particular reference to:

(i) Burmah Fuels

(ii) the impact of these arrangements on petrol pricing in the ACT

(iii) any other related matters.

[Resolution of the Standing Committee on Public Accounts made on 23 May 1994; amended at the committee's meeting of 19 August 1994 to delete reference to the reporting date]

MEMBERSHIP

Mr Trevor Kaine MLA (Presiding Member)
Ms Annette Ellis MLA (Deputy Presiding Member)
Mrs Kate Carnell MLA
Mrs Ellnor Grassby MLA
Mr Michael Moore MLA (from 25 February 1993)

Inquiry secretary: Mr Rod Power

CONTENTS

	Page
List of Recommendations	vi
Chapter 1: Background	1
Chapter 2: Submissions	3
- ACT Government	
- Commonwealth Agencies	
- Oil Majors	
- Institute of Petroleum	
- Independents	
- Service Stations	
- Distributors	
- Consumers	
- Investors	
- Valuers	
- Builders	
Chapter 3: The Burmah Agreement	20
- Parties to the Agreement	
- Site and Duration	
- Objective	
- Handling of the Agreement	
- Financial Details	
- Clean-up Costs	
- Burmah/Chisholm	
- No Further Commitment of Sites	
Chapter 4: Policy on Further Independents	26
- Rationale	
- Government View of an Independent	
- Problems with the Government View	
- The Relationship Between Independents and Oil Majors	
- The Location of Independents	
- Consultant's Report to Government	
Chapter 5: Efficiency of ACT Service Stations	35
- Government View	
- The Retail Margin	
- Retail Space at Service Stations	
Chapter 6: Effect of the Government's Policy	40
- Effect on the Number of Service Stations	
- Effect on Petrol Prices	
- Effect on Oil Majors	
- Effect on Land Values	
- Effect on Investment	
- Effect on ACT Revenue	
Chapter 7: Conclusion	51
Dissenting Report by Ms Ellis MLA	57
Dissenting Report by Mrs Grassby MLA	59
Appendix 1: List of Submissions	63
Appendix 2: List of Witnesses	64

LIST OF RECOMMENDATIONS (the number in parentheses shows the paragraph number in which the recommendation appears)

1. The committee recommends *that the Government adopt higher standards of documentation and analysis of options when considering major changes to long established Government policy affecting the financial interests of local businesses and individuals (such as major changes to fuel supply arrangements in the ACT) [para 7.16].*

2. The committee recommends *that the Government reconsider its current policy favouring independents as the preeminent means to achieve sustained fuel reductions in the ACT, given the impact of the Government's policy upon local small businessmen and women and the various reasons advanced in this report for scepticism about the long term benefits of the Government's policy. In particular, the Government should consider one or more of the following options:*

- *setting the maximum base wholesale price of fuel, the maximum retail price of fuel, and the maximum retail margin in relation to fuel (utilising existing legislation);*
- *taking appropriate legislative action to enable franchisees to exercise their rights to purchase fuel from any supplier (without incurring punitive action on the part of an oil major);*
- *reducing the ACT fuel franchise levy by three cents per litre (thus achieving the savings to consumers so highly sought by the Government and consumer groups, yet without doing so in a manner causing severe financial distress to local small businessmen and women);*
- *allowing the use of Government sites as retail outlets;*
- *eliminating the existing restrictions on the number of service station sites in Canberra and releasing new sites on major thoroughfares (as recommended by the Industry Commission in its Draft Report on Petroleum Products) [para 7.18].*

3. The committee recommends *that the Government establish a scheme to provide compensation to those service station operators and others who can demonstrate financial loss as a direct result of the Government's decision to grant preferential access to the Canberra fuel market to Burmah and to lease three sites to 'eligible independents' [para 7.22].*

4. The committee recommends *that the Government flesh out the details of its policy on further independents in light of the immediately preceding recommendation, and advise the Assembly accordingly, before issuing leases to operators of the three sites already identified [para 7.24].*

5. The committee recommends *that the Government investigate the effect of national fuel supply arrangements with a view to assessing the most appropriate arrangements to secure the lowest possible fuel price in Canberra; that the Government make a statement to the Assembly about the results of such an assessment; and that the Government then actively seek to persuade the Commonwealth Government (if the assessment demonstrates that existing arrangements are not optimal) to change existing arrangements [para 7.26].*

6. The committee recommends *that the Government urgently investigate the effect of service station closures on the planning concept of local shopping centres and provide a report to the Assembly within three months [para 7.28].*

7. The committee recommends *that the Government implement those recommendations of the ACT Government Working Group on Petrol Prices calling for a more pro-competition policy in the location of service station sites, and that the Government generally leave the acquisition of sites for service stations as a matter of commercial judgement [para 7.30].*

8. The committee recommends *that the Government promptly adjust existing policies affecting the location and type of signs on main roads to permit appropriate branded signs (conforming to current guidelines) directing motorists to nearby service stations [para 7.32].*

9. The committee recommends *that the Government consider increasing the amount of non-fuel retail space permitted in service stations [para 7.34].*

CHAPTER 1: BACKGROUND

Grant of license to Burmah

1.1. In November 1993 the ACT Government granted a licence to Burmah Fuels Australia Limited to operate a service station site at Kingston, part Block 16 Section 8. The service station opened for business on 6 December 1993. The licence agreement and the valuation advice provided by the Australian Valuation Office were subsequently tabled in the Assembly.

Announcement of further sites for independents

1.2. On 19 May 1994 the Attorney General tabled in the Assembly a determination under section 6 of the *Subordinate Laws Act 1989* dealing with the criteria for direct grants of Crown leases to permit three further independent petrol sites, in accordance with the direct grant process under section 161 of the *Land (Planning and Environment) Act 1991*. The determination [Determination No.22 of 1994] sets out the criteria under which the ACT Government may make direct grants of land for the conduct of a service station.

Conduct of the Inquiry

1.3. Reflecting its on-going responsibility to inquire into and report to the Legislative Assembly on any item connected to the financial accounts of the ACT, the Standing Committee on Public Accounts decided on Monday 23 May 1994 to inquire into and report on petrol supply arrangements in the ACT. The inquiry's terms of reference are listed earlier in this report.

1.4. The committee authorised the placement of advertisements in the local press calling for public comment, and these ads appeared in the week commencing Saturday 28 May 1994. In addition, the Presiding Member - in accordance with decisions of the committee - wrote to a number of individuals and organisations to invite them to consider lodging a submission to the inquiry.

1.5. The committee received 24 submissions, which are listed in Appendix 1. The submissions reflect the diversity of opinion about the Government's initiatives. Submissions were received from the ACT Government, the Commonwealth Government's Prices Surveillance Authority, consumer groups, oil majors, a local service station operator and Motor Trade organisations, local investor groups, local valuers and the Master Builders' Association.

1.6. The committee authorised the publication of all submissions, copies of which are available from the Committee Office. The submissions were made available to interested persons prior to the public hearings, leading to a more informed discussion at those hearings.

1.7. The committee held public hearings on 2 August, 3 August, 15 August and 17 August 1994. While at first two whole days were thought likely to be sufficient to hear interested parties, the committee extended the hearings in order to hear additional witnesses and to enable more detailed questioning of Government witnesses. The committee appreciates the respect and care underlying all submissions and oral evidence. A list of witnesses is at Appendix 2

1.8. During the public hearings, the committee twice moved into confidential session to be informed by witnesses of financial material that those witnesses considered to be 'commercial-in-confidence'. The committee does not quote from this material in this report. Similarly, where the committee has requested supplementary information from the Government and where the Government itself has requested that this material be handled confidentially, the committee has respected that request; and has not quoted from it in this report. The committee regrets and rejects the assertion by the Attorney General (when appearing before the committee) that any allegation made in confidence to the committee should be treated with contempt.[1] There are substantial reasons which justify the presentation of evidence to the committee in camera. This in no way invalidates the evidence given.

Layout of the Report

1.9. This report is divided into seven chapters. Chapter 2 summarises the 24 submissions in order to provide an insight into the key issues raised in written material provided to the committee. The summaries contain quotations from the submissions wherever possible, so as to facilitate accuracy.

1.10. Chapter 3 examines the Burmah Agreement and Chapter 4 considers the Government's policy to encourage more independents into the Canberra market. Chapter 5 examines the efficiency of service stations in the ACT, a matter which was raised in submissions and oral testimony and which bears on any assessment of the Government's policy. Chapter 6 considers the effect of the Government's policy on a number of key factors identified during the inquiry. Chapter 7 sets out the committee's conclusions.

[1] Transcript pp334-335 (Monday 15 August 1994), Mr Connolly MLA

CHAPTER 2: SUBMISSIONS

ACT Government

2.1. **The *ACT Attorney General's submission*** states that the introduction of independents has 'benefits... for the ACT economy, consumers and small business which far outweigh any small loss to Government revenue which may occur'. The submission highlights the Government's conviction of the absolute need to introduce independents to the Canberra market:

> Month after month independents [in Sydney] are the driving force in keeping prices down with their retail prices consistently the lowest in the market ... Independents use their market power to extract wholesale discounts but ... they are also prepared to discount their retail margin (to zero in some cases) to maintain or increase market share.
>
> [This contrasts to the situation in Canberra, where] virtually all sites ... are either oil company commissioned agent sites or are franchised by them ... whereas on a national basis some 25 per cent of sites are operated by independents.

2.2. The effect of Burmah's entry is said to be:

> A cyclic pattern has begun to emerge, notional retail margins are lower and the price differential between Canberra and Sydney has been reduced. Because Canberra has yet to fully break away from its single market operation, Burmah's impact has been quite remarkable, given its single site.

2.3. The Attorney General' submission asserts that no reason exists for higher service station operating costs in the ACT - 'apart from possibly rent'.

2.4. In relation to the financial arrangements contained in the Burmah Agreement, the submission states:

> The Government believes the rent contained in the licence agreement [1.8 cents per litre (cpl)] is appropriate given all these factors [a licence rather than a lease; the small volume capacity of the site; the very small area for ancillary sales] and involves no loss of revenue to the ACT ....
>
> Burmah pays all water and sewerage rates and electricity charges ... Being a licensee, Burmah does not pay general rates nor land tax because that is the responsibility of the land holder which in this case is the ACT Government.

2.5. In relation to the effect on ACT revenue of releasing further independent sites, the Government submission states:

> The Government acknowledges that there may be some small loss in recurrent ACT revenue with the structural changes it is proposing. That loss will come from decrease in the valuation of existing sites because prices for the new sites will most probably be less than those paid previously and because retail margins are likely to be lower in a more competitive environment. Some may also argue that there will be one-off losses in land sales revenue.
>
> By any objective standard, land prices previously obtained were grossly excessive and accordingly no Government can reasonably expect such prices to be sustained in the 1990s

.... the Government's position is that there is no reasonable basis for saying that there will be one-off losses in land sales revenue.

As regards taxation revenue, in 1993-1994, the total unimproved value of service station sites in Canberra (as recently revised) was $77,222,000. Land tax and municipal rates collected from these service stations were in the order of $1,912,320. Treasury now estimates that, if the aggregate valuation for service stations were to fall by 10 per cent as a result of the release of the new sites, the loss in land tax and rates revenue would be in the order of $220,116 per annum.

If some existing sites were to close and such closures were directly attributable to the release of the new sites ... there would not be any loss of revenue. First, the closures would be offset by the opening of the new sites. Secondly, any closures would most likely involve the smaller suburban stations which, as past experience shows, might reopen again ... or continue as a workshop ... or be redeveloped as residential ... In the latter case, revenue will be enhanced through possible payment of betterment and increased valuation ...

In terms of the ACT economy, some may say that the new sites may cause loss of employment from existing sites because of reduced retail margins and sites closures ... However, any such loss needs to be off-set by the new employment opportunities created by the new sites and has to be balanced against the savings to small business in lower operating costs (arising from cheaper petrol) which may also increase employment opportunities.

2.6. The Attorney General's submission attached copy of the ***Report of the ACT Government Working Group on Petrol Prices***. This Group (consisting wholly of Government officials) was formed by the Government in December 1991 and charged with the task of suggesting appropriate changes to Government policies affecting ACT petrol prices. Its final report was released in November 1992. The Working Group found 'that the most important factor affecting the ACT market is lack of competition'.[2] The Working Group's report contained 16 recommendations, which are listed overleaf.

2.7. The Working Group noted that 'some adverse consequences' may follow implementation of its recommendations, although these would occur over time. They include:

Closures of service stations are likely to occur in the smaller suburban centres with some subsequent loss of amenity for local residents ... The Working Group believes this trend may be partially offset in sites with significant workshop and ancillary business, and by the entry of independents.

... changes to existing planning policies to allow the location of service stations on major ACT roads [which the community may or may not be prepared to accept].

... the proposed changes to planning and land policy will inevitably affect the value of existing sites and financial arrangements associated with some of that investment.

... Measures to increase competition are likely to reduce the cost of new service station sites and this will mean a corresponding reduction in revenue to the ACT Government ... [which] may be partially offset by more land being available for development and by the benefit to the whole community in reduced petrol prices.[3]

[2] Report of the ACT Government Working Group on Petrol Prices, p3
[3] Ibid pp5-6

Recommendations of the ACT Working Group on Petrol Prices (actual quotations)

(1) planning and other Government policies relating to service stations should have an overall objective of promoting competition in the ACT petrol market;

(2) [the Group's] recommendations ... be adopted as quickly as possible and the Working Group monitor, and advise the Government on, their implementation;

(3) the ACT respond to the Prices Surveillance Authority Paper 'Petroleum Products Freight Differentials' by calling for a fairer system in which outport centres make a reasonable contribution [and] seeking detailed information as to the PSA's assessment of the likely effect of the options canvassed in the Paper on the wholesale price of fuel in the ACT, and that this matter be taken up with relevant Commonwealth Ministers;

(4) the Government approve permanent surveillance of Sydney [petrol prices];

(5) measures be taken to promote a greater proportion of independent service station operators;

(6) land use planning policy should not unduly restrict service station development ... For example, service station development ... should be permissible in non-retail areas (including car parks) in Commercial Land Use Policies and on any site within Industrial and Entertainment/Leisure Policies. Similarly, retail-only or automated petrol sales should be permitted in retail areas in Commercial Land Use Policies;

(7) planning restrictions on petrol retailing from car parks, and any planning restrictions on petrol retailing from other retail outlets such as supermarkets and the like be removed;

(8) planning and traffic control policy be reviewed with a view to lessening restrictions on location of, and access to, service station sites adjacent to major roads;

(9) roadside petrol pump signs (for the purpose of advising main road traffic that a service station can be reached by turning off the main road) be available to service stations which seek them;

(10) in the medium to long term, the method of release of land should leave the acquisition of sites for service station development as a matter of commercial judgement. Service station land should be released as part of general commercial land, not as specific sites ... However, the Government should retain the capacity to intervene to maintain a competitive environment (eg to ensure that one operator does not monopolise all the sites in particular market area);

(11) the following short term intervention measure be undertaken to encourage the introduction of independents into the Canberra market: expressions of interest from independent operators should be invited in relation to the already nominated sites at Gold Creek and Gilmore and additional sites, up to a total of seven sites, to be nominated by persons or groups expressing interest; these sites should meet planning requirements as recommended by this Report and should be offered at market value by direct grant or restricted auction; a maximum time frame of six months should be set for the receipt and assessment of expressions of interest and the grant of sites; the eligible grantees would have to be owner-operators and not own more than three sites already in the ACT;

(12) Lease variation policy should be subject to the same (pro-competition) policy considerations applying to the grant of new leases and dealings with leases;

(13) ACT Public Works [identify] construction cost data;

(14) the industry [make submissions to Government on] the Mobil Meter Wholesale scheme;

(15) existing standards relating to secondary containment of service station underground storage tanks be maintained;

(16) the Working Group and the ACT Consumer Affairs Bureau continue to monitor developments at the Commonwealth level.

2.8. The submission from the ***Executive Director of the ACT Consumer Affairs Bureau*** supports independents entering the Canberra market:

> I am unaware of any feasible alternative suggestion from any source which would have produced real competition in the ACT petrol market other than through Government intervention to introduce independent operators. The introduction of Burmah has unquestioningly produced competition and benefited ACT consumers through lower prices. I believe that any transitional costs to a competitive marketplace are far outweighed by the benefits to the public at large.
>
> Furthermore, I believe that should the release of three independent sites not proceed for any reason, the ACT market would return to one of high petrol prices as a result of the lack of competition.

Commonwealth Agencies

2.9. The ***Prices Surveillance Authority (PSA)*** submitted that:

> there appears to have been a significant change in competitive activity toward lower prices in the Canberra market since the introduction of the Burmah site ... [in that] the margin between average retail prices and the PSA's maximum wholesale price for unleaded petrol has generally declined from around 5cpl to less than 3cpl. Reduced retail prices across much of the Canberra market over this six month period appear to reflect a two-sided response to discounted prices posted by Burmah.
>
> Firstly, oil companies have been forced to discount the buying prices of dealers to assist dealers to match Burmah prices. In late May, for example, retailers were posting (retail) prices at levels around the PSA's wholesale price, implying that the retailer's margin was being financed from rebates from oil company list prices. Secondly, dealer retail margins are likely to be lower from levels which existed prior to the introduction of Burmah - this may, in fact, be a condition for the receipt of discounted dealer buying prices.
>
> The post-Burmah period can be contrasted with the situation which existed for many years in the ACT when petrol prices were rarely discounted from PSA caps by oil companies and where retailers enjoyed higher retail margins than at present. While there were a range of factors which impacted to lift Canberra prices in this earlier period ... competitive activity between oil companies and between retailers during that extended period may have been less than desirable.

2.10. The Commonwealth Government's ***Industry Commission*** was referred to in several submissions. The Industry Commission released a Draft Report on Petroleum Products earlier this year, and its Final Report is now complete and with the Commonwealth Government. The committee wrote to the Minister Assisting the Treasurer requesting a copy of the Final Report but he replied that he could not authorise an exception to the embargoed period. His letter to the committee, however, suggested the content of the Commission's Draft Report was not significantly amended in the Final Report:

> I am informed that the Industry Commission's discussion of the Canberra petrol market is primarily based on publicly available information. The Industry Commission has included some additional information in the Final Report, made publicly available by the ACT Government after the draft report was released. Therefore, I think it is fair to say that the analysis of the Canberra petrol market in the Industry Commission's Draft Report should be sufficient for your Committee's deliberations.[4]

2.11. The Draft Report of the Industry Commission contains several recommendations relevant to the ACT and a discrete section describing the type of 'locational controls' placed on service stations in the Territory. The relevant recommendations are that:

> - Ministerial Directions relating to petroleum product pricing should be withdrawn and the Commonwealth Government should refrain from regulating petroleum product prices;
>
> - State and Territory Governments should refrain from regulating petroleum product prices;
>
> - the oil majors and Transport Workers union should negotiate ways to accelerate the withdrawal of the Laidely Agreement;
>
> - the Commonwealth Government should repeal the *Petroleum Retail Marketing Sites Act* by 30 June 1995, leaving the *Trade Practices Act* to deal with issues of competition;
>
> - the Commonwealth Government should repeal the *Petroleum Retail Marketing Franchise Act* by 30 June 1995, leaving a strengthened Oilcode to deal with the conduct of franchise agreements;
>
> - restrictions on trading hours, the retail area and the range of goods sold at service stations should not be applied as a means of protecting other businesses.[5]

2.12. The Commission's outline of locational controls and retail restrictions in the ACT is directly relevant to this inquiry and quotations from the Draft Report appear overleaf.

Oil Majors

2.13. The committee received submissions from the five oil majors objecting to the Government's policy in favour of independents. All five submissions highlighted the industry need for high volume sites with significant retail space; and all five submissions stated the companies' interest in bidding for such sites if they became available. Specific details about each submission follow.

2.14. ***Ampol*** submits that Burmah's entry has reduced Government revenue because Burmah has not paid a market price/premium for the Kingston site - by comparison to the (net) licence fee payable by Ampol's Braddon outlet of 5.1cpl, Burmah is paying a licence fee of only 0.26cpl.

2.15. In relation to the effect of ACT planning and land management policies, Ampol submits:

> ACT's own planning, development and leasing regulations foster the appearance and actuality of the protected even "uncompetitive" pricing of petrol in the ACT ...
>
> It is Ampol's view that the ownership of sites bears little relationship to the level of competition operating within a market. Rather, it is the number of sites competing for the available market volume and the range of convenient locations which consumers have to purchase their needs.

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[4] Letter to the Presiding Member (Mr Kaine MLA) from Mr G Gear MP, Assistant Treasurer (dated 17 August 1994)

[5] Industry Commission *Petroleum Products (Volume 1: Report) Draft Report*, March 1994, Overview

***Draft Report of the Industry Commission Petroleum Products** (pp157-162, and Appendix H)*

The impact of government regulation in general, and planning controls in particular, on petroleum product retailing has been most visible in the Canberra market. Canberra has been a planned city since its inception with sites earmarked as service stations and released by public auction. The majority of sites are located in neighbourhood shopping centres rather than on the main thoroughfares. With both the number and location of service stations restricted, sites in the ACT fetched high prices, reflecting the benefits they conferred on the lessees.

These restrictions have imposed considerable additional costs on consumers. The PSA examined the Canberra petroleum products market in both 1987 and 1991, and concluded that consumers pay 3-5cpl extra for petrol as a direct result of ACT planning policies.

Restrictions on the number of sites have led to average volumes for Canberra service stations - 260 kilolitres per month - exceeding those of Sydney, although the average is distorted by a small number of high volume sites.. The 1992 site-to-population ratio across the ACT was 1:3,620, while for Sydney the ratio was reportedly 1:2,470. But a city-wide average for Canberra masks a considerable difference between Canberra suburbs in site to population ratios and as a consequence, average fuel sales per site. These differences largely result from changes in the planning guidelines in force when each of the sites were released.

Restrictions on the number and location of service stations have reduced the level of price competition ...

The monopoly rents associated with the restrictions on competition were largely captured by the ACT administration when it auctioned sites. The restrictions on the number of sites at each neighbourhood centre ... in conjunction with locational restrictions and rules forbidding advertising of prices on major thoroughfares hindered development of the vigorous price competition at the retail level that is seen in other major markets ...

[With respect to the operations of Burmah, the Commission noted that] in the three months following the opening of the Burmah site, prices fell by about 4cpl, not just in areas adjacent to the Burmah site but all over Canberra ... The Commission's analysis has found that most of the decline can be attributed to the strengthening of the Australian dollar and falling petroleum product prices internationally, but Burmah's entry seems to explain 1-2cpl of the fall [see extract from the Commission's Appendix H below].

It is difficult to explain the behaviour of prices across Canberra since Burmah entered, except as part of a complex strategic response to actual and threatened policy changes. The fall in prices was both greater and more widespread than might have been predicted from the release of just one additional site in a market the size of Canberra. The petrol market in Canberra may be such that service stations distant from Burmah could have maintained prices at higher levels. But operators could have foreseen that their failure to follow Burmah's price down would lead to additional pressures for further release for sites to independents, or other government action detrimental to their future in the ACT. As a result, Burmah's pricing policy may have a greater impact on the Canberra market than would be the case in a more certain policy setting.

Prices are again relative uniform across Canberra. It is not clear why in the longer term Burmah would continue to hold its prices down to the same extent other than to help ensure renewal of the existing site's licence, and to ensure that its applications for any further sites are viewed favourably.

In the absence of concerns about visual amenity, a solution would be to eliminate the existing restrictions on the number of sites in Canberra and the release of new sites on major thoroughfares. However, with the twin objectives of greater price competition and minimising the impact on Canberra's visual amenity, the ACT Government has favoured a policy of discriminatory release of at most a very limited number of additional sites.

Non-discriminatory rules are necessary for both efficiency and equity ... adopting policies which discriminate between firms could adversely affect the level of investment in Canberra, and thus the long term interest of consumers, by creating uncertainty as to future government treatment of firms complying with existing legislation.

[In relation to advertising, the Commission stated:] The ACT Government could consider allowing service stations, particularly those at local shopping centres, to advertise their fuel prices ... on nearby main roads, in addition to their location and brand of fuel. This could enhance price competition, albeit at some cost in terms of visual amenity ...

[In relation to retail floor space at service stations, the Commission stated] the restrictions on local service stations remain at 50 square metres. This is less than a third of the size of the average convenience store found elsewhere in Australia.

[Appendix H] The retail petrol market in Canberra is unique in Australia because of government policies affecting the location and siting of service station sites ...

[Between November 1992 and January 1994] the average retail price in Canberra has generally been 4-6cpl above the prevailing PSA maximum wholesale price and around 5-6cpl above the average Sydney retail price. These data suggest that the minimum retail margin in the ACT is in the order of 4-6cpl. The Canberra retail petrol market is also characterised by the closeness of the minimum and maximum retail prices across Canberra ...

changes in Canberra retail prices tend to closely reflect changes in the PSA maximum wholesale price. Sydney retail prices tend to be more volatile, even though they follow the trend in the PSA maximum wholesale price ...

the entry of Burmah has had a significant downward impact on retail prices.

2.16. Ampol quotes the Draft Report of the Industry Commission in relation to its finding that prices (post-Burmah) are again relatively uniform across Canberra and the Commission's comment that:

> it is not clear why in the longer-term Burmah would continue to hold its prices down to the same extent other than to help ensure renewal of the existing site's licence and to ensure that its applications for any further sites are reviewed favourably.

2.17. In relation to the effect of the Government's policy, Ampol submits:

> The "free-kicks" given to Burmah and other proposed independent operators enable them to operate on margins that are not sensitive to competition. This provides a haven for excess profits and inefficiencies. The impact of this is felt by both consumers and by public revenue.

2.18. Ampol submits that problems will arise with the definition of independents adopted by the Government:

> [The] Working Party's assumption that "Eligible independents" will be available to take on assignments of the independent preferential sites belies the difficulty in not only attracting appropriate candidates but also those fitting the definition of Eligible independents. It will only be a matter of time before land will lie vacant; the value of business will erode which will have flow-on consequences in the service station industry and other industry attracted to service station sites; and ACT revenue will be detrimentally affected in the form of decreased land tax and rate revenue.

2.19. Ampol notes that the Government's policy has 'substantial adverse financial effects on existing stakeholders ... [who] have invested in good faith and at great cost because of existing Land Use/Planning policies'. The submission suggests that compensation should be considered along the lines suggested in the Industry Commission's *Report on Urban Transport* (June 1994) with respect to deregulating taxi licensing.

2.20. BP submits that land tax payable by seven of the 85 service stations in the ACT (these being the sites 'where BP has accurate purchase price information') will drop by approximately 50-80 per cent due to the reduced land values post-Burmah, and hence:

By discriminating in Burmah Fuel's favour the ACT Government has effectively devalued all service station real estate in the Territory. The devaluation of service station land values will have a flow-on effect as it will impact on the Territory's revenue stream via reduced land tax charges and stamp duties derived from associated sales and leases.

[Also,] the impact of the Burmah Fuels Licence Agreement will be felt prior to any open market property sales as the ... agreement has set a precedent in the market as to the value of a service station location.

2.21. BP submits that 'the ACT market can be improved by selective rationalisation and networking of poorly located sites to more effective locations as well as by improving the ancillary income streams'. BP considers that higher fuel prices in the ACT are associated with the NCDC policy of giving each service station location 'a separate market ... [with] minimal passing traffic', meaning that even discounted petrol sales at these locations would not result in a significant increase in sales. Further, the lease purpose clauses applying to petrol stations do not permit 'ancillary income generation', despite the fact that 'state of the art service stations in other major markets receive between 50 and 75 per cent of their profit from non-oil activities'.

2.22. ***Shell*** submits that:

the ACT Government's policy of discriminating in favour of independents in releasing land for service station development ... unfairly prejudices individuals and organisations that have invested significantly in the ACT under previous rules, a precedent which could adversely influence potential investment in the Territory.

2.23. An attachment to Shell's submission expands on this point:

Government intervention by way of release of sites to independents on a preferential basis will not establish true "market values", may only reduce Government revenues from land releases, and will unfairly advantage new entrants at the expense of existing operators. Moreover, assisted entry to the ACT market will not ensure that independents remain in the longer term. Independents in the past have chosen to exist the Canberra market ... Furthermore, independents able to acquire sites in the ACT on artificially favourable terms may well decide to sell out and collect a windfall profit ...

Independents will be as keen as other types of petrol retailers to maximise their incomes and the return on their investment. They will therefore only cut their margins to the extent necessary to make the required level of sales ... Provided unnecessary restrictions on the availability and use of sites are removed, normal competitive conditions will ensure that the ACT market reflects the patterns of other major markets ...

In principle, there should be no restrictions on the opportunities for supermarkets to establish petrol refuelling facilities neither should there be restrictions on service station operators establishing food and grocery facilities.

2.24. A further attachment to Shell's submission highlights the higher operating costs of service stations located in Canberra:

The 1987 Public Inquiry into Canberra petrol prices identified the fact that Canberra petrol retailers faced notably higher operating costs than Sydney retailers. In particular:

- site financing costs (3-5cpl higher) attributable to the protection from competition inherent in ACT site lease and allocation policies;

- development costs (17 per cent higher) as a result of standards imposed by the National Capital Development Commission;

- construction costs (6 per cent higher);

- award wage differences (0.3-0.4cpl higher).

Shell's recent enquires have confirmed current differentials in operating costs at about these same levels.

2.25. ***Caltex*** submits that the Government's policy affects revenue in four ways:

loss of the lease premium paid at the sale by auction of service station site leases sometimes amounting to several million dollars; revenue foregone from the site being licensed to Burmah instead of being leased and improvements being sold on a commercial basis; revenue foregone from the nominal licence fee of about 0.3cpl instead of annual lease payments to the ACT Government on other recent site releases typically around 4cpl; [and] ... the lower rate levies due to reduced property values on all ACT service stations.

2.26. Caltex quotes the finding of the PSA in 1987[6] that 'ACT consumers pay 3-5cpl extra for petrol as a direct result of ACT city planning policies'. The submission estimates Burmah's financial advantage over other service station operators to be 11.7cpl, made up of[7]:

		Burmah	*Recent typical oil co. sites*	*Advantage to Burmah*
		cpl	*cpl*	*cpl*
1	Land lease premium	Nil	4.3	4.3
2	Construction costs	Nil*	6.0	6.0
3	Annual licence/lease rental	0.3	1.7	1.4
	TOTAL	**0.3**	**12.0**	**11.7**

* Rebated with volume

2.27. Caltex submits that the release of further sites to 'eligible, independent petrol retailers' will:

add to capacity in the industry and in a discrete market with marginal growth will lower average throughput at the remaining sites and further squeeze these sites. Clearly some of the remaining sites will not survive ...

[This] arbitrary intervention in the petrol market **will** affect general investor confidence in the ACT just as it has already affected confidence of prospective investors in service stations as well as confidence of dealers entering into long term franchise arrangements and the value of goodwill involved [emphasis in original].

[6] Prices Surveillance Authority <u>Inquiry in Relation to the Supply of Petrol in the Australian Capital Territory</u> (December 1987)
[7] Submission 19 (Caltex), p3

2.28. ***Mobil*** submits that the Government's policy deters investment in the ACT:

> the small gain to the consumer from marginally and artificially reduced petrol prices is outweighed by the costs to existing service stations and the impact on the confidence of potential investors ...
>
> The ACT Government's policy of releasing a limited number of additional sites to one category of market participants is discriminatory and is a disincentive to investment in the Canberra market.

2.29. In relation to the effect of planning and land management policies in the ACT, Mobil supports the recommendations of the Report of the ACT Government Working Group on Petrol Prices, noting that:

> ... deregulation of service station planning controls would provide an environment in which competition can drive efficiencies and cost reductions.
>
> Deregulation would reduce the level of investment required for service station development and allow for the emergence of high volume locations on major thoroughfares... the issue is that prevailing ACT planning policies have increased the cost of investment.

2.30. Mobil states that planning (and other) controls include 'controlled supply of land for service station development', significant 'restrictions on retail space to 50 square metres' of a service station (thus restricting the scope for 'other profit centres on service stations'), 'siting restrictions and rules forbidding advertising of prices on major thoroughfares'.

2.31. In relation to the effect of Burmah's operation on petrol prices in the ACT, Mobil submits:

> Burmah's entry seemed to explain 1-2 cpl of the fall ... this marginal reduction in prices is due to the advantages granted to Burmah.
>
> The Burmah site not only has location advantages but Burmah, through its agreement with the ACT Government, appears to have also received substantial cost concessions ... the marginal reduction in price is not attributable to the fact that Burmah is an independent company, or to efficiency gains which have conferred a competitive advantage, but rather that Burmah is the recipient of a Government sponsored market advantage.

2.32. The ***Australian Institute of Petroleum Ltd (AIP)*** submits that:

> any benefits to the consumer perceived to flow from the entry of Burmah into the market are largely illusionary, and are completely outweighed by the long-term detrimental effects on the petrol retailing industry and other industries in Canberra ... [As] the Industry Commission pointed out [in its *Draft Report on Petroleum Products*], external factors seemed to explain most of the price falls [in Canberra] and prices quickly returned to relatively uniform level across Canberra.

2.33. The AIP submits that the Industry Commission concluded that most of the decline in ACT petrol prices since Burmah's entry is due to a stronger Australian dollar and falling international petrol prices; 'however, Burmah's entry seemed to explain one to two cents of the fall'.

2.34. In relation to the effect of ACT planning and land management policies, the AIP quotes from the Industry Commission's Draft Report:

> the ACT has had long standing planning controls which have the effect of creating a more stable market, where competition between service stations is constrained. Higher petrol prices are a cost of maintaining the high level of visual amenity enjoyed by Canberra residents. Consideration should be given to relaxing controls on the number of sites and to allowing service stations to advertise their fuel prices on nearby main roads, in addition to recent initiatives to release sites on main thoroughfares.

2.35. In relation to the policy of discriminatory site release, the AIP submits:

> Any discriminatory release system is in effect a subsidy to the new operators [through the restricted auction of sites] which affects the taxpayer through the increase in taxes necessary to offset the Government revenue foregone ... [and] the existing service stations suffer both through the reduction in the value of their businesses and through the redirection of consumption patterns under the new policy ...
>
> It is particularly inequitable for new protected entrants to come in on subsidised terms which allow them a significant cost advantage compared to existing service stations ... since the costs of these investments in existing service stations were inflated by Government policies, implementation of the new policies should minimise any adverse reaction to existing businesses ...
>
> The oil majors are happy to compete in the new proposed less-regulated ACT market environment, and would be expected as a result to continue to be major investors. However, policies which discriminate against the oil majors must act as a major deterrent to such investment plans. Again this will be at a cost to the community ...
>
> [Also, the] Industry Commission has pointed out the necessity for non-discriminatory policies. This approach was also stressed by the Hilmer Report on *National Competition Policy*. Any major departures from such policies will concern any party considering a major investment in Canberra ...
>
> In summary, ... any apparent gains to the consumer are illusory in the long-term, and are outweighed by the very real costs being incurred both by the taxpayer, the existing service stations, and potential investors.

Independents

2.36. ***Burmah*** was the only independent to write to the committee in response to the call for submissions. However, Burmah's correspondence simply advised that the company would make an oral submission to the inquiry.

Service Stations

2.37. The ***Motor Trades Association of Australia (MTAA)*** submits that Government revenue is reduced by the 'detrimental impact on the capital value of service station sites in the ACT' brought about by the entry of Burmah. The MTAA considers the way to achieve long-term reductions in petrol prices in Canberra (and throughout Australia) is for the Commonwealth Government to introduce 'a more transparent and open wholesale pricing system ... [namely,] a terminal gate price arrangement'; also, 'the Price Surveillance Authority's petroleum price surveillance role and its setting of the maximum endorsed wholesale price ... for each of the refiner/marketeers should be abandoned'. MTAA states that:

> Since the introduction of Burmah to the ACT market there has been virtually no impact at all on the oil companies, the greatest impact, by far, of that decision has been on the service station operators ... [And] the decision ... to introduce Burmah to the ACT market and the more recent decision to offer three further sites to "independent" operators will not result in long term lower prices to motorists.

2.38. The ***Motor Trades Association ACT Limited (MTA-ACT)*** submits that:

> The action of the present ACT Government in introducing Burmah to Canberra on terms which undercut [the] existing market can only be described as a breach of faith, a sharp tilt of the playing field, and an action certain to undermine business and investor confidence in the ACT. In addition, it will make lending institutions much less willing to support small businesses without substantially increased collateral. The ... impact... on the existing operators is so adverse as to warrant compensation to those who can demonstrate loss of a capital or income nature ....
>
> The MTA-ACT believes that the pursuit of lower retail prices is a laudable objective, but is strongly of the view that subsidising discounters will at best create sporadic price volatility to the continuing annoyance of consumers, and at worst send local family businesses to the wall, leaving the way open for the major oil companies to have even greater control of the retail market through 'rationalisation' of sites.

2.39. ***A local service station operator*** (Mrs Shooks) submitted that the Government's policy will 'destroy our business by allowing three new independent service station sites in Canberra'.

Distributors

2.40. The ***Australian Petroleum Agents and Distributors Association (APADA)*** submits that:

> The ACT Government should reverse its current policy of discriminatory assistance to one party in the industry, and allow free access for any new sites deemed necessary to satisfy market demand. The need for such sites should be left to the industry to determine.

2.41. APADA submits that Burmah's entry affects local employment and profitability:

> In the Canberra ... area there are five distributors employing around 130 people; in addition, these distributors operate or supply service stations ... employing well over 200 people ... Margins achieved by our members have dropped by almost half to the point where profitability is being severely eroded. Distributors are essentially small to medium businesses actively involved in local economies and employing local labour; the likely result will include both reduction in employment and reduced expenditure on development activity ...
>
> Reduced profitability for the oil companies as well as distributors and service station operators, is also likely to lead to greater direct deliveries from Sydney, eliminating distributors and other services they provide to the local market.

2.42. In terms of lowering petrol prices in the ACT in the long-term, the submission states:

> We understand that there was an expectation that Burmah would be able to trade at 1-2cpl below "the market": this demonstrates a basic misunderstanding of how "the market" operates. Such a differential is not sustainable and most players will rapidly move to the same level.

2.43. The submission states that long-term reduction in petrol prices in Australia will follow the introduction of terminal gate pricing, along with associated measures.

Consumers

2.44. The ***Australian Consumers' Association*** calls for reduced petrol prices to be maintained in order to benefit consumers. The ***Canberra Consumers Inc.*** expresses concern at 'the inordinately high petrol prices in the ACT resulting from market manipulation by the major oil companies' and calls for 'sufficient operators [to] be brought in to break the grip of the majors ... even if ... there is some short term cost to the community'. The submission estimates 'that breaking the majors' grip will reduce petrol cost to the community by some $15,000,000 pa'. Further, Canberra Consumers support the recommendations of the Petrol Price Working Party, including 'allowing retail petrol sales by supermarkets as well as independents'.

Investors

2.45. The ***Building Owners & Managers Association of Australia (BOMA)*** submits that the Burmah arrangement reduces ACT revenue in the following ways. First, no premium is payable by Burmah on acquisition of the lease of the service station site (unlike the position that applied to lease acquisition by existing service stations):

> It has not been unusual for premiums of several million dollars to be paid to the ACT Government ... The Government could expect as a result of the new policy to have its revenue reduced by at least $2,000,000 to $3,000,000 per annum by not releasing each site on an unrestricted basis to the open market.

2.46. Second, the submission states that:

> a further reduction in revenue will result as falling capital values for existing service stations lead to dramatic reductions in Land Tax and General Rates payments. At the very least we believe that there will be a reduction, on average, of at least $500,000 in capital value for each of the existing service stations in Canberra. If this is applied to each of the existing 70 service stations we believe that there will be a total reduction in Land Tax and General Rates payments of at least $875,000 per annum.
>
> There will also be a reduction in Stamp Duty payments to the ACT Government as the value of rental payments fall on the existing sites.

2.47. Third, BOMA submits that ACT revenue will be reduced because Burmah is required to pay to the Government about two cents per litre for all fuel sold (in lieu of a premium for acquisition of a lease), but that 'this two cents per litre will only be paid after the cost of capital works spent by Burmah Oil have been deducted'.

2.48. Fourth, the submission implies that ACT revenue and expenditure will be adversely affected by 'the inevitable closure of small volume service stations' (those with 'less than 400,000 litres throughput a month'):

> These small volume service stations are generally located in the suburbs and provide convenience to local residents ... [They] assist with the viability of small suburban shopping centres. Additionally, there will be reduced job opportunities and increased unemployment and loss of livelihood for the current operators and staff.

2.49. Fifth, the submission implies that ACT revenue and expenditure will be adversely affected by the 'impact on investor confidence which the proposed arrangements will have as a result of a further erosion of the integrity of the ACT leasehold system'. Further, the arrangements are said to 'create problems with respect to mortgage funding':

> The providers of finance within the ACT have already started to express concern at the risk flowing from a diminution in value arising from Government action in reducing asset values.

2.50. In relation to the petrol price at Burmah's service station, BOMA submits:

> The introduction of discount petrol at the Burmah site has been achieved simply by reducing the occupancy costs on both the acquisition and ongoing running costs for Burmah Oil .... the average occupancy cost for other service stations in the ACT is about 8.5 cents per litre. With Burmah selling petrol at about 5 cents per litre below the previous prevailing price and with its occupancy cost (that is, the direct and only payment to Government) being about 2 cents a litre, it is clear therefore that in fact Burmah is not a discounter but rather a profiteer. It is clear that Burmah is not discounting "profit" but is simply passing on the consumer part of the concessional land tenancy arrangements it obtained from the ACT Government. The concession is being provided at the expense of revenue to the ACT Government.

2.51. The ***Canberra Business Council Inc.*** requests:

> That the ACT Government release details of the arrangements between it and Burmah Fuels in order to restore business confidence;
>
> That the ACT Government not restrict future auctions of petrol retailing sites to a limited field OR with preferential conditions attached;
>
> ACT Treasury to carry out an evaluation of revenue impacts for both before and after Burmah's entry into the ACT market to assess full revenue financial implications;
>
> The above evaluation to be made public;
>
> A full assessment on expenditure impacts should be conducted and made public;
>
> An impact analysis should be conducted and made public before any further Government intervention in the market place in regard to price manipulation or control;
>
> The ACT Government should issue a clear policy statement on future land releases for commercial activities;

> All petrol retailing sites to include the normal environmental safeguards required for pre-Burmah petrol retailing sites.

2.52. The ***ACT Chamber of Commerce and Industry Limited*** submits that 'every attempt must be made to remove restrictions on potential bidders for future 'Independent' sites'.

2.53. ***Local shareholders in a company owning a service station in Canberra*** submit:

> As a result of direct interference in the stability of the commercial property market, we will have to give considerable thought to our continued support of the market in the future. We feel [we are] the victims of ill considered executive action that will lead to:
>
> - individual losses by us on our investment bearing no relation to natural market forces;
>
> - limited short term gains to us as motorists which have now been eroded back almost to the starting point of the "independents policy";
>
> - loss of revenue to the ACT from reduced Land Tax/General Rate Revenue, due to the devaluation of all service station sites in the ACT;
>
> - loss of revenue from the sale/leasing of sites to independents at ridiculously concessional rates.

2.54. In relation to the sites for independent operators, the submission states:

> If independent outlets were required they should have been identified at more remote, less prominent locations as is traditional for discount petrol outlets in the States. By identifying prominent, prime sites at Phillip and Belconnen, the Government is only tempting the new operators **not to discount** as they are already assured of a good market share by their very location [emphasis in original].

2.55. Further, the submission states:

> We would also suggest that the Government note the sixteen recommendations of its Working Group on Petrol Prices Report. Fifteen of the solutions/recommendations contained in that report, would not have disrupted and disadvantaged ordinary Canberra citizens.

2.56. The ***Canberra Property Owners Association Limited*** submits that Government revenue will fall due to reductions in the value of service station sites brought about by the entry of Burmah; and that investor confidence in other commercial sites will fall due to reduced confidence by investors in the ACT's leasehold system. Further, the submission states that Government revenue has fallen 'from the direct subsidies to Burmah in the form of forgone revenues such as site premiums, land rates and taxes and rentals'.

2.57. The submission suggests that 'independent' fuel operators are unlikely to exist in Australia until the Commonwealth Government introduces a system of terminal gate pricing:

> until the powers of the petrol companies to discriminate within and between markets is curtailed, any so-called independents must be part of some type of arrangement with the five petroleum companies, and it will be impossible to find a true independent regardless of how the definition in Determination 22 of 1994 is manipulated.

2.58. In this regard, the submission calls for full details to be revealed of the relationship between Shell and Burmah.

Valuers

2.59. The ***Australian Institute of Valuers and Land Economists Inc. ACT Division***, submits that:

> On the assumption that due to lack of evidence and the short time between the establishment of Burmah Oils [commenced trading on 6 December 1993] and the date of revaluation of rateable ACT land [1 January 1994] there has been no substantial reduction in values ascribed, there will be no resulting loss of revenue to the ACT Government in the 1994/95 year.
>
> Should appeals against the ascribed values be successful then ... there could be losses in revenue from service station sites by way of general rates and land tax in the order of 40 per cent to 60 per cent [based on the reduced rental that oil companies are prepared to pay for existing sites, perhaps amounting to 3cpl less than the pre-Burmah figure].
>
> Furthermore, the release of any other sites not restricted to independent operators are likely to attract correspondingly reduced premiums ...
>
> The question is raised as to whether the ACT Government has ensured that Burmah Oil is not able to walk away from a contaminated site at great cost to the ACT community. Without release of the ACT Government/Burmah Oils agreement, can the ACT community be assured that they have not been left with an expensive site clean up? ...
>
> the ACT Government's attitude to the release of sites restricted to independent operators is doing nothing more than "fiddling" with a free market and destroying business confidence.

2.60. ***McCann and Associates*** submits that the likely 'shortfall in rates and land tax revenue' as a result of the "Burmah Policy" is $875,000 per annum:

> It is our contention that the value of Concessional Leases within the ACT will determine the unimproved value of existing Leases within the ACT for service stations. The Concessional Leases will require discounting, which from the "Burmah experience" will pass on the Crown Lease concession to the consumer, whether or not the operator discounts operating profit.

2.61. In relation to betterment revenues, the submission states:

> it is unlikely that there will be any shortfall in betterment revenues flowing from the "Burmah Policy", rather there will be an increase in betterment as the majority of small volume service stations close and the sites are redeveloped for other uses, principally medium density residential in accordance with the ACT Government's Urban Renewal Policies. We do however notes that there will be diminution in land tax and general rate revenue from the closure of small volume service stations, not from the actual site when reused, but from the diminution in unimproved values of the adjoining neighbourhood shopping centres that are already under economic stress from major supermarkets in Group and Town Centres and the closure of the service stations will further diminish the reason for customers to visit neighbourhood centres.

2.62. Further, the submission states:

> The worst case scenario arising from the "Burmah Policy" will be a lack of confidence by purchasers and mortgagees in the ACT Leasehold System. The Government's ability to change policy that diminishes value of Leasehold interest is of grave concern to the investment market ... [as shown by] the concessional pricing arrangements for residential land in 1973/74 that stripped value from residential property throughout the ACT and caused significant disquiet and lack of confidence in the ACT Leasehold by the banking system. The "Burmah Policy" at the very minimum will diminish values of existing service stations and has already caused grave concern with the banking system and commercial investment market. Any investment in service station Crown Leases within the ACT can only be considered as risk capital whilst the "Burmah Policy" remains ...
>
> We have not calculated any diminution to the potential land tax and general rate revenue from the overall commercial market that may occur as a result of a growth in a lack of confidence in the ACT Leasehold System caused by the market's perception that if the ACT Government can change the policy for service stations Leaseholds, then it can do it for any other Leaseholds, similar to the concessional residential arrangements of 1973/74.

Builders

2.63. The ***Master Builders' Association of the ACT*** submits that an independent operator such as Burmah would be more interested in the new service station site on the corner of the Federal Highway and Antill Street at North Watson if planning approval was given for a service road in the current road reservation:

> Access from the Federal Highway by way of a service road would substantially increase the accessibility of the site for residents and visitors. It would be consistent with industry trends for improved access to 24-hour service station operations [and] would make the site more attractive to an independent operator ...

CHAPTER 3: THE BURMAH AGREEMENT

Parties to the Agreement

3.1. The parties to the Burmah Agreement are the ACT and Burmah Fuels Australia Limited. The Agreement was signed on 22 November 1993. Signatories to the Agreement are Mr Peter Guild, First Assistant Secretary, Land Division, Department of the Environment, Land and Planning [for the ACT] and Mr Robert Atkins, Managing Director and agent of Burmah [for Burmah Fuels Australia Limited). The actual negotiations leading to the Agreement were handled, on the Government's part, by the Chair of the Working Group on Petrol Prices and Deputy Law Officer, Mr L Sorbello, and the Director of Land Sales in the Department of the Environment, Land and Planning, Mr R Callaghan.[8]

3.2. Mr Atkins informed the committee that 'Burmah Fuels Australia Limited is a subsidiary of Burmah Castrol PLC, a UK publicly listed company that operates retail fuels businesses in seven countries internationally'.[9]

Site and Duration of Agreement

3.3. The Burmah Agreement 'licenses [Burmah] to use the premises to operate a motor service station': the premises are part of Block 16, Section 8, Kingston (on Wentworth Avenue). The Agreement is for three years, with a further two years permitted at the request of the licensee.[10] The Agreement specifies that either party may terminate the Agreement 'by written notice to the other party if the other party commits a material breach of any of its obligations and has not remedied that breach within 30 days of receiving written notice of the breach'.[11]

Objective of Agreement

3.4. The objective of the Agreement is described as follows:

> The Licensee has entered into this licence agreement in the full understanding that the Territory requires more competitive retail petrol pricing in the ACT and this licence will enable the Licensee to quickly introduce a more competitive environment.[12]

3.5. Mr Sorbello told the committee that the Agreement does not bind Burmah to sell fuel at any particular price, since to do so 'would be price maintenance'.[13] He stated that 'supply arrangements [are] not ... relevant to that licence agreement'.[14]

3.6. Burmah's view of the Agreement, in relation to the price of fuel sold, is that:

> I believe it imposes upon us an obligation to be competitive within this market, that is to operate at a price position which is less than that which historically was the case in the ACT.[15]

[8] Transcript p242 (Wednesday 3 August 1994), Mr Sorbello
[9] Transcript p91 (Tuesday 2 August 1994), Mr Atkins
[10] Licence Agreement, pp1-2
[11] Licence Agreement, p4
[12] ibid, p1
[13] Transcript p18; also p33 (Tuesday 2 August 1994)
[14] Transcript p12 (Tuesday 2 August 1994)

> I do not think that we made a statement that we are going to be the cheapest in the market place. I have said that we will be competitive'.[16]

Handling of the Agreement

3.7. Mr Sorbello informed the committee that 'the licence arrangement with Burmah was fortuitous', following on the Government's decision to adopt recommendation No.11 of the Working Group report dealing with Government encouragement of independents into the Canberra market.[17] He stated that:

> Burmah approached the Government and said, "There is a site out there lying vacant. Why don't you give it to us and we will introduce competition in the ACT?"[18]

3.8. Burmah confirmed this account.[19] The committee confirmed that Burmah's initial approach was by telephone and that no departmental file note of the call was made.[20] The officer handling Burmah's oral request advised the Attorney General in writing of its content and the Attorney agreed to accept Burmah's approach 'providing terms and conditions can be worked out between the parties'; further, the Attorney agreed to Burmah submitting a formal proposal.[21] Then, 'we got the formal approach and all the other matters were dealt with'.[22]

3.9. Mr Sorbello told the committee that he received advice from the ACT Planning Authority that the Wentworth Avenue site could not be released to Burmah under the Territory Plan:

> Now, the trick is that we were not able to sell the site, without amending the Territory Plan that is. The Territory Plan permitted a temporary use and temporary use is defined as "the use of land for which a licence has been issued for up to a maximum of three years, but which may be renewed" ...
>
> It has to be a licence, otherwise it would be contrary to Territory Plan ... [and] the Territory Planning Authority ... would not have ... supported such a variation.
>
> [Also] we did not see the need to ... amend the Territory Plan to enter into a lease agreement ... [for] we weren't particularly interested in having that site opened as a service station.[23]

3.10. Mr Sorbello told the committee that 'any other person apart from Burmah could have come forward with ... such a proposal [but] no other oil company and no other person came forward with [a proposal].[24] This advice was criticised by witnesses appearing before the committee on two grounds. The first criticism is that insufficient evidence exists to be sure the initial proposal came from Burmah rather than from the ACT Administration itself (- the committee's conclusion on this matter appears in the final Chapter of this report). The MTAA told the committee that:

[15] Transcript p104 (Tuesday 2 August 1994), Mr Atkins
[16] Transcript p101 (Tuesday 2 August 1994), Mr Atkins
[17] Transcript p18 (Tuesday 2 August 1994), Mr Sorbello
[18] ibid; also see Transcript p28 and p239
[19] Transcript p100 (Tuesday 2 August 1994), Mr Atkins
[20] Transcript p391 and p393 (Wednesday 17 August 1994), Mr Connolly MLA (Attorney General)
[21] Transcript p397 (Wednesday 17 August 1994), Mr Connolly MLA (Attorney General)
[22] Transcript p404 (Wednesday 17 August 1994), Mr Connolly MLA (Attorney General)
[23] Transcript p29-31 (Tuesday 2 August 1994)
[24] Transcript p30 (Tuesday 2 August 1994)

> It is our suspicion ... that Burmah was certainly induced to come in and that was done orally and that in consequence various documents were prepared that would pass for an approach to the ACT Government.[25]

3.11. The second criticism is that the ACT Administration did not inquire whether any other person or organisation was interested in operating the site. Mr Sorbello told the committee that no other persons or organisations were advised of the Government's proposal for the Wentworth Avenue site - though in his view, 'people had the same opportunity' as did Burmah 'to take advantage of an opportunity'. The following exchange then followed:

> [The Chair]... would it not have occurred to you to go and see who else could offer some competition and perhaps on better terms? ...
>
> [Mr Sorbello] Not necessarily. These one to one things occurred ... Developers and others approach the Government on all sorts of special one-off development projects.[26]

3.12. The committee confirmed that Ampol had not been aware that the Wentworth Avenue site was available.[27] When Ampol was asked if it would have bought the site had it known it was available, Ampol's response was:

> Without having been faced with that proposition, I am going to equivocate. What I would say to you though, is that it would be very attractive on economic grounds alone, but it certainly does not fit our model of the sort of service stations we think we should be building for the next ten years.[28]

3.13. When BP was asked whether it would be interested in taking up one of the sites to be allocated to independents under the Government's policy - on terms similar to those offered to Burmah at Kingston - BP's response was:

> Certainly, we would like to get a site on the terms and conditions that Burmah have had. It is an extremely attractive deal ... It is by far and away the best deal that has ever been done anywhere in the country, I would think, for a service station. The question as to what level of discounting we would then be able to provide would then depend on what amount of subsidy we would be prepared to provide our other operators to meet those same prices - because that is the problem, that is the dilemma we would have, that we could certainly retail at that location far cheaper, based on the costs of that particular site, but we also have some network implications that would need to be considered as well.[29]

3.14. Further, the committee was told by the MTAA that:

> no one knew that site was available. No one could even contemplate it was a available because, under the existing policy and following the passage of the Land and Planning Act, it could not be used for that purpose ... No one understood that using such a site to retail

[25] Transcript pp142-143 (Tuesday 2 August 1994), Mr Delaney
[26] Transcript p31 (Tuesday 2 August 1994)
[27] Transcript p83 (Tuesday 2 August 1994), response by Mr Ash
[28] ibid, p84
[29] Transcript p322 (Monday 15 August 1994), Mr Body

> fuel could involve a pre-existing use - because it was never a retail site - and second, that it could be temporary if it was for five years.[30]

3.15. The Attorney General advised the committee that:

> this was a very unusual process, not the way one would normally go about dealing in interest in land in the Territory - driven by our determination to create ... a fair and competitive market.[31]

3.16. The Attorney General stressed to the committee that:

> I made a political decision to do everything that was lawfully open to me to facilitate competitive pressure in the Canberra market before Christmas of 1993.[32]

Financial Details

3.17. The License Agreement specifies that no licence fee is payable by Burmah 'for the first year of the licence' and that the licence fees for subsequent years is the greater of $9,300 or 'the sum calculated by multiplying the Total Annual Fuel Sales by 1.8 cents less the sum of $55,481'; further, that 'Total Annual Fuel Sales' means 'four times the volume in litres of all sales of petrol ... made on the Premises in the months of July, August and September preceding the date for the calculation of the Licence fee'.[33]

3.18. The Agreement specifies that the licensee is to pay all water and sewerage rates and electricity charges, and that the ACT Administration is to pay for all general rates.

3.19. Mr Sorbello told the committee that the Australian Valuation Office was asked 'for a valuation based on, I think, the Draft Licence Agreement that was being drafted at the time'.[34] Also, Mr Sorbello asked the PSA to provide 'some confidential information about the sort of rentals that might be paid by independents in interstate capitals for a site equivalent to the Kingston site'.[35] The upshot of these approaches was 'the figure of 1.8 cents a litre' appearing in the contract.[36]

3.20. While acknowledging that other service station operators have to pay significant up-front costs, Mr Sorbello stated: 'we did not feel that was appropriate in this instance. We were giving the ... temporary use of a site for a particular purpose'.[37] In the Government's view:

> There were approximately $200,000 of works that ... we consider would be landlord costs such as new tanks and pumping equipment, which were landlord costs ... allowed to amortise over the five years at 12 per cent ... but it was going to take three months to set the thing up. Nine months of the 1.8 cents a litre was less than the allowance we were making for the capitalisation of the works that they carried out - if you like, the landlord costs. I think it came out of the negative rent we called it, nil. The other years there is $55,000

[30] Transcript p137 (Tuesday 2 August 1994), Mr Delaney
[31] ibid
[32] Transcript p406 (Wednesday 17 August 1994); reiterated Transcript p410
[33] Licence Agreement, p2
[34] Transcript p43 (Tuesday 2 August 1994)
[35] Transcript p44 (Tuesday 2 August 1994)
[36] ibid
[37] Transcript p47 (Tuesday 2 August 1994)

> being taken off the overall rent to compensate for the capital works that have been done to the site which are landlord costs [38]

3.21. Burmah advised the committee that the cost to Burmah of setting up in Canberra was 'about a quarter of a million dollars'.[39]

3.22. The committee was advised that 'Treasury supported this proposal and the analysis' leading to Burmah's entry,[40] although 'Treasury did not make a formal submission or analysis of the Burmah Fuels' proposal'.[41]

Clean-up Costs

3.23. The committee notes the requirements contained in the Agreement relating to maintenance and make good of the site, namely, that the licensee:

> on completion of the term of this Agreement hand back the Premises in good repair and clean condition having regard to their condition at the date of this Agreement or pay to the Territory such monies as are required to restore the Premises to that state [and]
>
> the licensee acknowledges its obligations ... under the *Dangerous Goods Act 1975* (NSW) in its application to the ACT to ensure that any underground tanks on the Premises licensed to the licensee for the keeping of flammable liquid are abandoned in accordance with Rule 8.7.8 of AS 1940-1988.[42]

Burmah/Chisholm

3.24. Mr Sorbello informed the committee that 'Burmah has contracted with Chisholm [Fuels Pty Limited] ... as a commissioned agent'.[43] He stated that the licensing agreement allows for sub-licensing: 'It does not breach that licence and it is perfectly consistent with it. It is a normal industry practice':[44]

> The arrangement is that they [Chisholm] agree to only sell the petrol and they get a commission out of ... how much they sell, but the pricing structure is determined by Burmah. They have no discretion in that, price is set by Burmah.[45]

3.25. The relevant part of the Licence Agreement in this regard reads as follows [clause 3]:

> The Territory hereby licenses the Licensee to use the premises to operate a motor service station on the terms and conditions set out herein. Nothing herein contained will be construed as creating any estate or interest in the Premises in favour of the Licensee and the rights hereby granted will be personal to the Licensee and will not be capable of being transferred or assigned by the Licensee.[46]

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[38] Transcript pp47-48 (Tuesday 2 August 1994), Mr Callaghan
[39] Transcript p98 (Tuesday 2 August 1994), Mr Atkins
[40] Transcript p256 (Wednesday 3 August 1994), Mr Sorbello
[41] Transcript p263 (Wednesday 3 August 1994), Mr Sorbello
[42] Licence Agreement p3
[43] Transcript p48 (Tuesday 2 August 1994)
[44] Transcript p49 (Tuesday 2 August 1994); also see Transcript p248 (Wednesday 3 August 1994)
[45] Transcript p50 (Tuesday 2 August 1994)
[46] Licence Agreement, p1-2

3.26. The committee was provided with formal advice to the Government by the ACT Government Solicitor which concludes:

> there is no breach of clause 3 of the Licence between the ACT and Burmah by reason of the entering into the Commission Agency Agreement with Chisholm Fuels Pty Limited.[47]

3.27. Some witnesses appearing before the committee disputed this view. The MTAA and the Canberra Property Owners Association stated (respectively):

> We believe that the operation of the site by Chisholm Fuels Pty Limited is, prima facie, in breach of the licence agreement, and have legal advice to that effect.[48]
>
> there is a breach, a fundamental breach, and that fundamental breach justifies a termination of the one-sided agreement as it exists at the moment.[49]

No further assurance of sites

3.28. The committee was told by the Chair of the Working Group that 'there is absolutely no foundation' for claims that Burmah has been assured of sites other than Kingston becoming available in the future.[50] The committee notes the contrary view of some witnesses, including that of an industry analyst ('Without some commitment of other sites of much higher quality than Kingston, Burmah would not have been interested in the first place'[51]) and that of the Canberra Property Owners Association ('those conditions are drawn in such a way as to ensure that only Burmah will get those sites...'[52]). Comments passed by Burmah at the public hearings are relevant in this regard and are noted in Chapter 6 of the report.

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[47] Advice dated 10 August 1994
[48] Transcript p133 (Tuesday 2 August 1994), Mr Delaney
[49] Transcript p230 (Wednesday 3 August 1994), Mr Whalan
[50] Transcript p41 (Tuesday 2 August 1994)
[51] Transcript p141 (Tuesday 2 August 1994), Mr Mark
[52] Transcript p213 (Wednesday 3 August 1994), Mr Whalan

CHAPTER 4: POLICY ON FURTHER INDEPENDENTS

Rationale

4.1. In relation to the Government's proposal to lease a further three sites, the Attorney General told the Legislative Assembly that it was 'a development which will sustain the gains we have made so far'.[53] He stated the sites would be leased:

> as part of a direct grant process under section 161 of the *Land (Planning and Environment) Act 1991*. We have chosen this path, rather than release the sites by auction, because we do not believe that raising revenue should be the sole determination in this situation. With lower petrol prices, consumers will save money which, in turn, will be injected into the ACT economy ...
>
> we see this as a once-only intervention in the market. We would not expect to go through this process again.[54]

4.2. The Attorney General amplified these remarks during the public hearings:

> During 1993 I was getting increasingly frustrated in dealings with the [oil] industry. I have met, I think, with the Chief Executive Officers or their representatives of just about all the majors during that period. They all came into my office and they all told me: "Minister, there is no way we can be competitive in the Canberra market. You cannot have competition in this market". I kept saying to them that the Government found that unacceptable, that I did not want to intervene.[55]

4.3. The committee notes that one motive for the Government's actions is community concern about the pattern in Canberra of higher fuel prices being set uniformly across the city just before holiday weekends. The committee was interested in the frank response of Ampol that such actions demonstrated 'profiteering in the marketplace',[56] though this was not the view of BP.[57] As noted earlier in this report, these were the only oil majors to appear before the committee at public hearings.

4.4. With respect to the effect of independents entering the Canberra market, the committee was interested in the blunt comments of APADA at the public hearings:

> Our position would be that if an independent wishes to come into a market on a normal competitive basis, good luck to him, but we do not want them to come in.[58]

4.5. The Government's approach was summed up by Burmah's representative in the following way:

> As I understand the Government's position, it is one of saying, "We want to bring some competition into the market, therefore we have three or four locations that we would like to market to independents and, having done that, we will then go back to a normal market place

[53] Mr Connolly, *Hansard* p1771 (19 May 1994)
[54] ibid, p1772 and p1774
[55] Transcript p340 (Monday 15 August 1994), Mr Connolly
[56] Transcript p88 (Tuesday 2 August 1994), Mr Ash
[57] Transcript p321 (Monday 15 August 1994), Mr Body
[58] Transcript p121 (Tuesday 2 August 1994), Mr Watts

> competitive environment". In other words, we will in fact create the situation where we create a normal market competitive response rather than this closed shopping environment that has existed here for some time.[59]

4.6. The Government's view is that independents induce major oil companies to give wholesale discounts and provide price support to their franchisees:

> the independents have captured a certain market and they are basically using that market power to extract a discount when supply is in excess and then the oil companies, wearing their retailing hat, go in and compete with those same people they have just sold the petrol to at a discount level, and it is at that stage that their own franchise operations are then given what is called price support to enable them to compete obviously with the independents.[60]

4.7. In relation to planning and land management policies, the Government considers that:

> previous planning policies ... and land release policies were such that monopolistic markets were created in the ACT which created extremely artificially high land prices when compared to the rest of Australia and particularly Sydney ... [with the result] that small business people simply could not get a foothold into the market. They were excluded effectively by the auction system which ... induced very high prices for which only private developers or the major oil companies were left in the bidding.[61]

4.8. The result, in the opinion of the Attorney General, was that Canberra's petrol market is controlled by a 'cartel'.[62] The effect of the policies was 'that of the stations released as service stations by auction as service stations in the 1980s all of them sold for double the reserve price'[63] and 'in some cases the actual final figure ... [was] anything up to three or even four times ... the price of an equivalent site in Sydney ... on the north shore'.[64] The following observation of an oil major is relevant in this regard:

> Canberra has got a lot of independents, but they have all chosen to lease their sites through other oil companies. I think all the sites, bar one, that have been released in the last ten years have been bought by people other than major oil companies and they have chosen then to lease them to the oil companies.[65]

4.9. Burmah told the committee that past planning and land policies had deterred its entry:

> It is very difficult to come into the Canberra market when essentially it has been a closed market and either through developers or through the major oil companies any amount of money would be paid to keep the market where it is.[66]

[59] Transcript pp108-109 (Tuesday 2 August 1994), Mr Atkins
[60] Transcript p14 (Tuesday 2 August 1994), Mr Sorbello
[61] Transcript p15 (Tuesday 2 August 1994), Mr Sorbello
[62] Transcript pp351-353; also p360 (Monday 15 August 1994)
[63] Transcript p15 (Tuesday 2 August 1994), Mr Sorbello
[64] Transcript p16 (Tuesday 2 August 1994), Mr Sorbello
[65] Transcript p332 (Monday 15 August 1994), Mr Body [appearing for BP]
[66] Transcript p105 (Tuesday 2 August 1994), Mr Atkins

Government View of an Independent

4.10. The Government's view of what constitutes an independent is set out in the criteria listed by the Attorney General when tabling Determination No.22 in the Legislative Assembly on 19 May 1994. This Determination deals with the criteria for direct grants of Crown leases for three independent petrol sites, made pursuant to subsection 161(5) of the *Land (Planning and Environment) Act 1991*. In tabling Determination No.22, the Attorney-General stated:

> The Government proposes to publicly invite expressions of interest from all persons who can bring themselves within the criteria specified ... In summary, the criteria provide that sites will be released only to applicants who will operate the service station themselves and who are independent of the five major oil companies, their parent or subsidiary companies, their agents or employees; whose infrastructure is not owned by a major oil company; who will give a commitment to act competitively in this Territory; who can demonstrate the ability and the financial capacity to remain in the ACT market as a competitive force; and who will not enter into a franchise agreement with a major oil company.
>
> If an applicant is able to meet these conditions, the applicant will also have to agree, as part of the lease agreement, that for a period of ten years the applicant will not sell, transfer or sublease the site to a person or company other than to another eligible independent, except with the permission of the Minister; and if, within a period of ten years, the applicant is taken over by a company that would not be an eligible independent, the acquiring company must divest itself of the site to an eligible independent within a time frame agreed by the Minister.[67]

4.11. In a condensed form, the Attorney General views an independent as a person or firm 'independent of the five major oil companies', <u>and</u> a body 'whose infrastructure is not owned by a major oil company'; <u>and</u> one that 'will give a commitment to act competitively in this Territory [and] who can demonstrate the ability and the financial capacity to remain in the ACT market as a competitive force' <u>and</u> one that 'will not enter into a franchise agreement with a major oil company'.

Problems With the Government View

4.12. The committee was told by the Secretary of the Department of Environment, Land and Planning that 'there are some difficulties in making those words work in practice'.[68] Another officer of the Department elaborated as follows:

> We are preparing documentation which we expect will best be able to attempt to reflect the Government's decision in the disallowable instrument and at the present moment we are having discussions with the Crown Solicitor as to what documentation would have to be provided by people so as to give evidence of their qualifications to take part in the process.[69]
>
> ... what we have been attempting to do is to provide criteria which would meet the requirements of the disallowable instrument. We are trying to put that together and then call for expressions of interest.[70]

[67] Mr Connolly, *Hansard* p1773 (19 May 1994)
[68] Transcript p246 (Wednesday 3 August 1994), Mr Townsend
[69] Transcript p247 (Wednesday 3 August 1994), Mr Guild
[70] Transcript p251 (Wednesday 3 August 1994), Mr Guild

4.13. The committee noted that the Chair of the Working Group expected the difficulties to be overcome:

> I believe it is possible to carry out the Government's intentions. That is not to say without difficulty. I will not dispute that it is a simple task ...[71]

4.14. One of the difficulties concerns the guarantee of supply of fuel at competitive prices (as implicit in the Attorney's statement about 'a commitment to act competitively' and able to 'demonstrate the ability and the financial capacity to remain in the ACT market as a competitive force'). The committee was told by Mr Sorbello that he had 'telephone contact ... with Matilda and Gull' who both said, "Look, we might find it difficult to ... make suitable supply arrangements if we set up shop in the ACT".[72] He thus confirmed the comment of the MTAA that 'industry intelligence' says that 'other firms such as Matilda and Gull ... could not guarantee the supply of fuel to the extent and for the duration which the Government sought' when implementing the Burmah policy.[73] This evidence suggests that there may be problems in the future about the capacity of any independent to provide a guarantee of potential supply as sought by the ACT Government.

4.15. Underlying this problem is a question-mark about the nature of the relationship between an independent and the oil major supplying it with fuel. Some of the independents operating in Australia at present are Gull, Southern Cross, Matilda, and Independent Fuels (in Queensland).[74] The MTAA told the committee that it expected these independents will be bought out by oil majors 'over time', just as Solo had been bought out by Ampol. But the MTAA did not expect this to happen to Burmah, because (in the view of the MTAA) Burmah 'is a deliberate, strategically placed, second order brand controlled, we believe, by Shell and placed in the market ... [for specific reasons]'.[75]

4.16. If this was true (particularly the claim that Burmah was 'controlled' by Shell), then Burmah could not be regarded as an independent in the terms stated by the Attorney General ('the sites will be released only to applicants ... who are independent of the five major oil companies'). The committee was told that the Government had conducted a company search in Australia and England to see if there was any affiliation or holdings between Burmah and other major oil companies (including Shell); and that the search proved negative. Also, the committee was told that Burmah was asked orally if it had any affiliation with Shell.[76] Further, the committee notes Mr Sorbello's advice that supply arrangements are not relevant to the licence agreement between Burmah and the ACT[77], as well as the view of the Australian Institute of Petroleum that:

> While there might be supply arrangements negotiated between individual companies and other companies - I think that Shell/Burmah is a case of that - there is no ownership issue, so Shell does not own Burmah, Burmah does not own Shell in that sense. They [simply] come to contractual arrangement on a supply basis.[78]

[71] Transcript p248 (Wednesday 3 August 1994), Mr Sorbello
[72] Transcript p244 (Wednesday 3 August 1994)
[73] Transcript p129 (Tuesday 2 August 1994), Mr Delaney
[74] Transcript p127 (Tuesday 2 August 1994), Mr Watts
[75] Transcript p152 (Tuesday 2 August 1994), Mr Delaney
[76] Transcript p270 (Wednesday 3 August 1994), Mr Sorbello
[77] see Chapter 2
[78] Transcript p55 (Tuesday 2 August 1994), Mr Starkey

4.17. The committee would have liked to discuss this matter with Shell during the public hearings; but Shell declined the committee's invitation to appear. Burmah's representative at the hearings was not prepared to discuss any aspect of Burmah's supply agreement with Shell.

4.18. Of concern to the committee was the comment by an MTAA consultant (and industry analyst) that Burmah's agreement with Shell was, in effect, a tit for tat: Burmah wanted 'to get a foothold in Australia' and Shell, 'as the market leader, needed a secondary market chain which they did not have'.[79] The industry analyst thought that Shell's agreement with Burmah involved 'an absolutely water tight exclusive supply arrangement with Burmah'.[80] He described the relationship of Shell and Burmah in the following terms:

> Burmah was the ideal opportunity for Shell. Burmah are absolutely at the behest of Shell because as a result of the disastrous market that Burmah found itself in [upon entering Australia], they very quickly ran up huge debts to the Shell company and as a result, whereas Shell may not own Burmah, they certainly are very closely linked with them ... There is no doubt that Burmah act in concert with Shell ...
>
> [In looking at cyclic discounting in the industry] ... Shell as the market leader usually is the one to lead the price back up. The very day almost to the hour that Shell decide they are going to withdraw all price support and go back to the maximum PSA wholesale price, Burmah go with them and Burmah sit just below them until the discount cycle starts [its] ... downward path again and then Burmah leads it down.
>
> When it is on the bottom, Burmah are the lowest of all of the discounters, bearing in mind that all they are selling is Shell petrol, so Shell is selling at both ends of the market flat out ... [Once the ACT Government] signalled that they were going to positively discriminate in favour of an independent to bring cheaper petrol to the ACT ... what did Shell as the market leader do, say: 'if they are going to have an independent in the ACT let us have one there that we can control', and you have got Burmah.[81]

4.19. The committee heard the following speculation about the likely price to Burmah of petrol purchased from Shell:

> We do know, because of industry patterns, that you can establish that it is probably seven cents below the ... maximum wholesale price, but that is based on intelligent guessing, based on their performance in the market place.[82]

The Relationship between Independents and Oil Majors

4.20. During the public hearings, the committee was told that most independents obtain their fuel from 'the five refiner marketing companies' in Australia (Ampol, BP, Caltex, Mobil and Shell)[83] - although 'there are one or two chains [of independents] which actually import, but I think they also source somewhat locally as well'.[84]

[79] Transcript p140 (Tuesday 2 August 1994), Mr Mark
[80] ibid
[81] Transcript p141 (Tuesday 2 August 1994), Mr Mark
[82] Transcript p234 (Wednesday 3 August 1994), Mr Whalan
[83] Transcript p52 (Tuesday 2 August 1994), Mr Starkey
[84] Transcript p55 (Tuesday 2 August 1994), Mr Starkey

4.21. The committee was told that an oil major will sell fuel to independents so as 'to sell more product in total than it would if it did it all through its own retail chain':[85]

> ... Shell, by introducing another operator into the game through its supply [arrangement to Burmah] is able to increase in total its sales in the Canberra market.[86]

4.22. The oil majors need such sales as 'refinery runs are below capacity'.[87] The oil industry analyst continued:'

> they lose money if they cannot keep their refineries operating at around about 95 per cent efficiency ... incremental volume costs virtually nothing to produce ...
>
> The problem [for the refineries] with getting rid of excess supplies ... [is that] it must be got rid of very rapidly to be of value in terms of its distribution from the oil companies' point of view ... [for] if they just said, "All right, we've got excess. We'll lower the price" ... there would then be an expectation ... that the lower price should be the prevailing price. It is therefore in their best interests to maintain on the surface a consistent price but to almost clandestinely get rid of their excess through just distributing it in very high volume markets where it will be disposed of rapidly and they can get back to normal pricing. That has been the fundamental philosophy of the oil companies since they became more efficient with their refineries, and suddenly found themselves in a position of having that excess capacity and not enough storage to take care of it ...
>
> hence they will dump it through independent oil companies where they do not have to reveal the price, or through major distributors, where again they do not have to reveal the price, with a commitment by those receivers that they will pass on those substantial savings at wholesale in order to sell that petrol very quickly. Hence the huge cycles and the quite incredible levels of discounting that are reached from time to time but only in the high volume markets.[88]

4.23. The committee was told there are:

> two classes of independents, one who are on a supply agreement and get the use of the Ampol brand [or other major brand] ... and another ... who have their own brand, their own marketing and they ... will have a supply agreement that often is different from the Ampol branded independent ...
>
> essentially, we just wholesale to them and the price they pay will at times be dictated by the volume that they purchase.[89]

4.24. The committee was told that, in order to protect their volume market, oil majors respond to an independent selling discounted fuel by discounting their own prices and providing price support for their franchisees:

> It happens most frequently and most obviously in the markets where the demand is greatest and the opportunity for increasing total sales is highest, and that is why deep discounting is more a feature of the major metropolitan markets than it is of regional markets.[90]

[85] Transcript p56 (Tuesday 2 August 1994), Mr Starkey
[86] Transcript p60 (Tuesday 2 August 1994), Mr Starkey
[87] Transcript p56 (Tuesday 2 August 1994), Mr Macpherson
[88] Transcript pp280-281 (Monday 15 August 1994), Mr Mark
[89] Transcript pp76-77 (Tuesday 2 August 1994), Mr Ash

4.25. In relation to contracts between the independents and oil majors, the committee was told:

> it would be unusual to find [an independent] swapping between companies on a short-term basis, but on a long-term basis, you can find them moving between the companies.[91]
>
> A lot of them [non-branded independents] are on 30 day supply agreements.[92]

The Location of Independents

4.26. The three sites identified by the Attorney General for release as independent sites are strategically placed with a great volume of passing traffic. The sites are the corner of the Monaro Highway and Sheppard Street, Hume [Block 23, Section 2, Hume], the corner of Coulter Drive and Luxton Street, Belconnen [part of Block 1, Section 14, Belconnen], and the corner of Hindmarsh Drive and Athllon Drive, Phillip [Block 1, Section 53, Phillip].

4.27. The location of these sites can be contrasted to the type of Sydney site chosen by independents. Mr Sorbello advised the committee that most of the Sydney independents selling fuel below the wholesale price were probably 'along Canterbury Road, probably along Princes Highway around Kogarah area, places like that'.[93]

4.28. BP advised the committee that equivalent locations in Canberra do not exist, that is, locations 'on large volume roads ... that carry anywhere from 30,000-60,000 cars a day'. Such sites:

> provide independents ... [with] an opportunity to drop price down and actually capture business from other sites, sites where those customers would normally buy, and they are looking for a trade-off between lower margins, higher volumes and also with the higher volumes they are looking to make up ancillary sales - and if they can sell an extra can out of their shop, or an extra Mars bar or something else out of their shop, they can make up for the lost revenue that they would have on that litre of petrol that they have just sold.[94]

4.29. Mr Sorbello also advised the committee that four independents existed in Canberra before Burmah's entry: the Pink Pump at Fyshwick, the Williamsdale Service Centre (selling Ampol-branded fuel), a Mobil site at Dickson and a Shell site at Duntroon.[95] Of these, Mr Sorbello thought only the Pink Pump was not tied to a particular brand of fuel products, nor tied to display a brand name of fuel.[96] The MTAA considers that only the Pink Pump and Williamsdale are actually independents. The owner of the Williamsdale service centre considers that it is 'the only true independent in the Canberra market'.[97]

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90 Transcript p56 (Tuesday 2 August 1994), Mr Starkey
91 Transcript p55 (Tuesday 2 August 1994), Mr Macpherson
92 Transcript p77 (Tuesday 2 August 1994), Mr Ash
93 Transcript, p8 (Tuesday 2 August 1994), Mr Sorbello
94 Transcript p319 (Monday 15 August 1994), Mr Body
95 Transcript p9 (Tuesday 2 August 1994), Mr Sorbello
96 Transcript p10 and p11; also, p19 (Tuesday 2 August 1994), Mr Sorbello
97 Letter to the committee (dated 8 August 1994), Mr Moore

Consultant's Report to Government

4.30. The Attorney General's statement announcing the release of a further three independent sites quoted from a consultant's report prepared by Mr Coubrough of Joco Property Marketing Services. The Attorney General quoted the following comment by the consultant;

> [The foremost task for the ACT Government] is the lowering of land prices levied in the ACT for service station outlets and the outrageously high returns expected by developers on their investments.. Major oil companies ... are paying rentals which are two or three times what they would be in other States and represent returns to the investor of up to 40 per cent or more on purchase and building costs at sites in Kambah, Kaleen, Chisholm and Tuggeranong. These incredible returns are being funded by the petrol buying public of Canberra. As an example, the average return expected from gilt edged commercial property in all parts of Australia, including the ACT, is around 10 to 11 per cent.[98]

4.31. The committee learnt that Mr Coubrough was considered a market expert by the Chair of the Working Group, that Mr Coubrough had not been paid a fee for his advice, and that both the Attorney General and Mr Sorbello were 'satisfied that Burmah was certainly not paying him.[99] Mr Coubrough confirmed in a letter to the committee that he at no time had been employed by Burmah. His letter also set out the basis for his financial estimates. As these were keenly disputed by some witnesses appearing before the committee[100], the following extract is provided for one site at Chisholm:

> Sold in 1985 at auction as a Group Centre, the cost being $4,550,000 for the full site. It is believed the service station site constitutes less than 20 per cent of the overall area, suggesting a Land cost value of:

suggesting a Land cost value of:	$910,000
Estimated building costs in 1985	$1,000,000
Total estimated capital expenditure	$1,910,000
Estimated Annual Headlease Rental	$700,000
Current investment return	37%

> Assessments have been given on Land First Cost plus estimated Construction Cost; oil companies in these situations usually provide salesroom fit out, dispensing pumps, console and sometimes, tanks and installation. Costs, therefore, have been assessed on all other items.[101]

4.32. The Attorney General's reliance on the consultant's report might be seen to reinforce a point made by some witnesses about the limited nature of the advice sought by the ACT Administration in identifying the cause of higher fuel prices in Canberra. The Working Group on Petrol Prices was composed entirely of Administration officials - service station operators and even oil industry analysts were not represented on the Group. The owner of Williamsdale service station told the

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98 Quoted by Mr Connolly (Attorney General), *Hansard* p1772 (19 May 1994)
99 Transcript pp265-267 (Wednesday 3 August 1994), Mr Sorbello; Transcript p346 (Monday 15 August 1994), Mr Connolly (Attorney General). Also see Transcript pp372-373
100 Transcript p231 (Wednesday 3 August 1994), Mr Whalan
101 Letter to the committee (dated 26 August 1994). Mr Coubrough provided similar calculations for sites at Weston (sold in 1985), Kaleen (sold in 1985), Calwell (sold in 1989), NATEX (sold in 1990), Kambah (sold in 1985) and Tuggeranong.

committee that 'I was paid a visit one day by the Working Group ... [but the Group] was an in-house group with no representation whatsoever from the industry'.[102] He commented further, in relation to the decision to lease a site for an independent at Hume (not far from his service station): 'I have had no opportunity to have any input into that service station'.[103]

[102] Transcript p302 (Monday 15 August 1994), Mr Moore
[103] ibid

CHAPTER 5: EFFICIENCY OF EXISTING SERVICE STATIONS

Government View

5.1. The Government is very critical of the efficiency of service stations in the ACT. The Chair of the Working Group on Petrol Prices, Mr Sorbello, told the committee that:

> there is no competitive pressure [in the Canberra market and so] we cannot be certain that the service stations are operating under maximum efficiency ...
>
> [Operators] should look at how they can make their operation more efficient, do they need so many casual staff, do they need so many permanent staff ...
>
> I would suggest that there is room for greater efficiency based on the sort of operations that you have in Sydney and other capital cities ....
>
> I would put to you that the reason why retailers in Sydney who, allowing for the fact that they are getting oil company price support, the reason they can afford to keep prices lower than in Canberra is not just simply because they have got lower rent, etcetera, but they would keep their costs down ... to a minimum.[104]

5.2. When Mr Sorbello was asked: 'If you gave any other service station in Canberra a three cent break in their on-costs, do you think they'd put their prices down three cents?', he replied:

> I do not know. The history in the ACT gives you no confidence ... In the past three or four years there has been very little price discounting if any at all between the retailers themselves and what confidence would you have that if you did reduce their costs they would pass that on to the consumer.[105]

5.3. There are at least two strands to this proposition: one concerns the capability of Canberra service stations to lower the price of fuel delivered to them by oil majors, and the other concerns the operating costs (excluding fuel) of those service stations. In regard to the first point, the committee notes that the Report of the Working Group acknowledged the lack of control by service station franchisees of the price of fuel delivered to them:

> [The retail price component of fuel prices] is the margin charged by the retailer for profit and to recover costs. In theory, most retailers set their own retail prices according to their own requirements and the market in their area. **In the case of the refiner-majors' company-operated and commission-agent sites, the relevant oil company sets the retail price** [emphasis added].[106]

5.4. This was confirmed by the service station representatives. One franchisee told the committee that 'the minute I start buying fuel, if I can purchase it somewhere else a couple of cents cheaper, they will throw me out of my site instantly'.[107] The MTAA told the committee that:

[104] Transcript pp35-36 (Tuesday 2 August 1994), Mr Sorbello
[105] Transcript p34 (Tuesday 2 August 1994), Mr Sorbello
[106] Report of the ACT Government Working Group on Petrol Prices, p18
[107] Transcript p183 (Wednesday 3 August 1994), Mr Job

the operators of the service stations in the ACT are as much the victims of high prices as are the consumers. We are obliged always to buy, delivered, for cash at our sites for the highest price. We have no choice but to buy on that basis ...

We say that the Government of the ACT could not change that circumstance, and however well intentioned its measures were, they could not produce or procure the outcome that was sought: ultimately, only the Commonwealth can do that ... [For] there is no competition at wholesale between oil companies and, indeed, not between Burmah and any other oil company at wholesale because all of the terminals and refineries are closed ... in an arrangement between the oil companies and the relevant unions.[108]

5.5. And the MTAA's consultant added:

there is nothing in themselves that retailers in Canberra - much as they would love to sell at similar prices to Sydney - there is nothing that they can do unless their company decides to help them out. So, that really takes the retailer out of the equation.[109]

The Retail Margin

5.6. The retail margin is a small component of the overall cost of fuel - in August 1992 the Working Group found the retail margin to be 5.81cpl when the total fuel price was 74.9cpl. This amounts to under eight per cent of the total fuel price.[110] The MTA-ACT indicated the retail margin at present was only four per cent:

The local retailer can control no more that four per cent of the cost of any litre of fuel and out of that he has to pay his wages and operating cost ... [For] 59 per cent of the cost of a litre of petrol goes to Government at one level or another, and 37 per cent goes in production and distribution.[111]

5.7. A local service station operator told the committee that 'the franchisee I bought the service station off had been there 15 years, and his average margin was about 5.2 cents'.[112]

5.8. Most, if not all, witnesses agreed that Canberra's cost structure was higher than that in Sydney:

there is no doubt that the structural arrangements within the ACT, such as the planning and development arrangements, have contributed to the unsatisfactory state of petroleum marketing.[113] [Canberra Consumers]

past Government policies and regulations ... have ... promoted a high cost structure for the industry, both in terms of capital and in terms of operating costs. The consequence has been the need for Canberra's retailers to charge higher margins than would be the case and is necessary in other capital cities.[114] [Australian Institute of Petroleum]

108 Transcript p131 (Tuesday 2 August 1994), Mr Delaney
109 Transcript p139 (Tuesday 2 August 1994), Mr Mark
110 Report of the ACT Government Working Group on Petrol Prices, p13
111 Transcript p192 (Wednesday 3 August 1994), Mr Riding-Hill
112 Transcript p195 (Wednesday 3 August 1994), Mr Shooks
113 Transcript p305 (Monday 15 August 1994), Mr Pentony
114 Transcript pp52-53 (Tuesday 2 August 1994), Mr Starkey

Previous Commonwealth policies gave priority to planning ideals, rather than competitive realities ... [leading to] high costs of establishing and operating service stations.[115] [BP]

It costs on average between three and five cents a litre more to run a service station in the ACT than it does in Sydney. Most of that is based on the fact that the oil companies need, or perceive to need, to recover the huge outlays that they put out to get the service stations in the first place ...

[This accounts for] five or six [cents of the] disparity between those markets [in Sydney on the Hume Highway and Canterbury Road) and Canberra, plus the 1.8 [cents] freight which does not apply anywhere in Sydney ...

on that basis, it is not possible to see, under normal circumstances, the price of petrol to generally come down in the ACT [though] it will come down temporarily to squeeze somebody like Burmah.[116] [MTAA consultant]

[Service stations in Canberra] only ever averaged at best about five cents a litre - that is gross - and because their on-costs left them with a very skinny net margin, they were never in a position to be moving the prices up and down in the same way that you will find retailers in other areas.[117] [MTAA consultant]

the Prices Surveillance Authority has commented on the fact that in their view, margins of six to eight cents or more are not unreasonable outside the metropolitan areas.[118] [APADA]

5.9. While Canberra Consumers told the committee that 'the evidence points to operating costs being roughly the same in the ACT as in Sydney',[119] other evidence disputes this claim. BP stated:

the cost of operating in Canberra is much higher than other regions ... both the initial cost of setting up the facility and the return you need to get on that set-up cost, and then the cost of on-going operation itself.[120]

5.10. Ampol also stated that operating costs are higher in the ACT, including the level of wages: 'Wage differences are higher [than in Sydney and] we estimate [they] add about 0.3 to 0.4cpl to the cost'.[121] Local service station operators told the committee their wage costs were not high, and some of the operators said they had reduced their operating costs since Burmah's entry, including by reducing staff.[122]

5.11. Ampol noted that 'operating costs vary from site to site. Some dealers obviously are working 80 hours a week. Some are obviously working 60 hours a week so operating cost vary'.[123] When asked to provide greater detail, Ampol stated that one of its local service stations had 'operating costs ... greater than three cents a litre'.[124]

115 Transcript p317 (Monday 15 August 1994), Mr Cumming
116 Transcript pp137-138 (Tuesday 2 August 1994), Mr Mark (Consultant to MTAA)
117 Transcript pp145-146 (Tuesday 2 August 1994), Mr Mark
118 Transcript p116 (Tuesday 2 August 1994), Mr Watts
119 Transcript p304 (Monday 15 August 1994), Mr Pentony
120 Transcript pp318-319 (Monday 15 August 1994), Mr Body
121 Transcript p66 (Tuesday 2 August 1994), Mr Ash
122 Transcript p191 Mr Taylor; Transcript p193 Mr Shooks (Wednesday 3 August 1994),
123 Transcript p79 (Tuesday 2 August 1994), Mr Smith
124 Transcript p80 (Tuesday 2 August 1994), Mr Smith

5.12. The committee was told that many Canberra service stations do a great 'amount of business ... by credit card ... which can reduce your margin... between one and a half cents, maybe more, depending on the type of card and the arrangement you have with that credit provider'.[125]

5.13. A description of the circumstances of some service stations was provided by an industry analyst:

> There is no doubt that there are many service stations that have been forced down to an absolute family concern where the husband and the wife and perhaps a couple of teenage children ... [are] exclusively in that service station and to be able to keep paying the bills and to run on such skinny margins ... he is locked into an overdraft of huge proportions ... probably backed up by his own residence ... So he is absolutely locked in and desperately hoping things will improve.[126]

5.14. The same analyst thought that, on top of the above, the operator has likely paid about $400,000 to go into the service station first of all, compared to about $200,000 'in Sydney where you do not need the same sort of capital that you do because of the previous policies of the Federal Government in the ACT'.[127]

Retail Space at Service Stations

5.15. The committee was told that the newly introduced Territory Plan allowed service stations (apart from those at local shopping centres) to increase the size of retail space at service stations from 50 square metres to 150 square meters.[128]

5.16. The fuel industry supported the Government's moves to increase retailing space at service stations, as shown by the summaries contained in Chapter 2 and by the following varied comments during public hearings:

> If you change the planning rules and you allow those convenience stores to be attached, you will find that there will be less need for the companies to run higher margins on the petrol sales.[129] [Australian Institute of Petroleum]

> as sites are released and as the ACT allows convenience stores to start developing through Canberra, you will find that the dealers themselves will compete and start lowering their prices.[130] [Ampol]

> The regulations restricting the nature and range of merchandise and services offered at service stations are restricting service station operators' viability and profitability. It could be enhanced if existing restrictions on non-oil activity were removed.[131] [BP]

[125] Transcript p178 (Wednesday 3 August 1994), Mr Taylor
[126] Transcript p288 (Monday 15 August 1994), Mr Mark
[127] ibid
[128] Transcript p26 (Tuesday 2 August 1994), Mr Sorbello; and Transcript p276 (Wednesday 3 August 1994), Mr Tomlins
[129] Transcript p59 (Tuesday 2 August 1994), Mr Starkey
[130] Transcript p72 (Tuesday 2 August 1994), Mr Ash
[131] Transcript p317 (Monday 15 August 1994), Mr Cumming

> If you look at the US experience you will see that petrol margins are declining internationally and that for service station operators to succeed in the long run they are going to have to rely more and more on the revenues out of shops and car washes and issues like that.[132] [Burmah]

5.17. The committee was very interested in the nature and extent of control by oil majors over the non-fuel retailing operations of franchisees. Ampol told the committee that:

> if you are in a service station and you have got four sources of profit in the service station as opposed to one or two, you can reduce your margins in all of those if you so choose ...

> the operator is being provided with a business opportunity that constitutes selling fuel, selling car washes, servicing cars, selling shop items, and he pays rent, and the rent formulas can vary from company to company ...[133]

5.18. However, the committee learnt that reducing the margin on fuel sales was not likely to be a feasible option for a franchisee, in that he (or she) is unable to obtain fuel from the oil major at any cheaper price or any more favourable terms than any other franchisee in the industry - given the tight control held by oil majors over the price of fuel sold to franchisees (and to the industry generally). The effect is that franchisees would need to make very high returns on the non-fuel elements of their business to cover the low returns from selling fuel. The committee considers that the proposition that diversified retailing is the solution to the problems of franchisees is difficult to accept.

[132] Transcript p97 (Tuesday 2 August 1994), Mr Atkins
[133] Transcript p89 (Tuesday 2 August 1994), Mr Ash

CHAPTER 6: EFFECT OF THE GOVERNMENT'S POLICIES

Effect on the Number of Service Stations

6.1. The committee was told there were 83 service stations in Canberra, although the Commissioner for ACT Revenue noted that there are 78 sites 'specifically identified as petrol distribution sites'.[134]

6.2. While Ampol considered that planning policies had limited the number of service stations in Canberra ('there have not been enough service stations in Canberra to give you adequate competition. ... We have been seeking to build additional service stations in Canberra for years'[135]), most witnesses considered that Canberra was undergoing the same sort of rationalisation as is occurring in other cities - where oil majors are closing their less viable service stations. The MTAA's consultant stated:

> The average volume in Canberra is about the same as the average volume in Sydney, around about 230,000-240,000 litres a month. You could not possibly sustain any more service stations. What you will find is that the oil companies would be delighted to be able to get highway sites ... where they can sell perhaps 1 1/2 million litres a month at the expense of maybe six or seven of the sites that they have got now, which they would then discard.[136]

6.3. APADA described the changes in the industry over recent years:

> [The number of] oil companies has gone from nine to five, the service stations have gone from about 20,000 ... to about 9,000. Distributors and agents have gone from 7,000 to about 500. It is all part of rationalisation to save money, reduce costs, be more efficient, more productive and try and make a profit in what essentially is a mature market ... there is not a lot of profit in the industry.[137]

6.4. The committee acknowledges that these changes were affecting the Canberra market before Burmah's entry - as the Attorney General's submission stated: 'local dealers are facing a number of challenges from within their own industry, regardless of Government action'. BP advised the committee that:

> There are probably too many sites in most cities around Australia, particularly with margins being competitive as they are in those areas. What you find is the smaller volume which tend also to be the poorer located sites do disappear out of the network, and most of the companies then try to concentrate their facilities on to bigger blocks, high profile locations and therefore work on smaller margins. They are always these days convenience store type sites, so they are also selling the grocery lines and convenience lines ... All the major companies are doing that. All doing the same thing and what you are also seeing is that prices are getting more competitive in those locations.[138]

6.5. The process of rationalisation has taken on a new speed, however, following Burmah's entry and the Government's announcement of further independent sites to be made available. The evidence put to the committee by local operators made this point abundantly clear:

134 Transcript p358 (Monday 15 August 1994), Mr Faichney
135 Transcript p69 (Tuesday 2 August 1994), Mr Ash
136 Transcript p146 (Tuesday 2 August 1994), Mr Mark
137 Transcript p125 and p126 (Tuesday 2 August 1994), Mr Watts
138 Transcript p329 (Monday 15 August 1994), Mr Body

> We are the actual meat in the sandwich. We are the people who are funding the Government's policies here. We are the ones that it is directly affecting. It is not directly affecting the oil companies, it is not affecting anywhere else, It is affecting us and our profitability. It is affecting us as small business proprietors **and forcing us into a situation where we cannot possibly exist** [emphasis added].[139]

6.6. The Draft Report of the Industry Commission commented that the Government's policies restrict the number of additional sites able to be used for fuel-retailing. The Commission states in relation to locational controls existing in the ACT that:

> in the absence of concerns about visual amenity, a solution would be to eliminate the existing restrictions on the number of sites in Canberra and the release of new sites on major thoroughfares. However, with the twin objectives of greater price competition and minimising the impact on Canberra's visual amenity, the ACT Government has favoured a policy of discriminatory release of at most a very limited number of additional sites.[140]

6.7. The reason for the added pressure on existing service stations is the necessity that they actively compete against Burmah's lower prices. (The Attorney General observed that service stations lowered their fuel prices even before Burmah actually commenced operations.) Their reasoning was said to be concern that, in a small market like Canberra's, one outlet selling cheaper fuel will affect the whole Canberra market - not just a certain proportion of it. The committee was told that:

> the perception in the market place is that if there is a reduction on a price board or a reduction at a service station then people will go there. Operators of other service stations will find that their volumes are starting to drop so they will respond. It really does happen - the domino effect.[141] [APADA]

> Canberra is small enough, so that if one outlet reduced its price, then the one nearby really needs to do the same and before long it has gone pretty much around the town ... If [an operator] has not reduced his price within 24 hours, he will reduce his volume [sold] straight away.[142]

6.8. The Government is aware of this effect, though expressing surprise at the effect on the Canberra market of just one outlet selling cheaper fuel. In explaining the Government's decision to release just three new sites to independents rather than the (up to) seven sites recommended by the Working Group, the Attorney General stated:

> I can say that the reason we did not go to seven ... was because the impact of Burmah ... had been much greater than we had anticipated. We had anticipated ... that the Kingston site would impact on prices in the inner urban area ... In fact, it has had an impact on price boards from Tuggeranong to Belconnen... [The Government decided] that three would do the trick.[143]

139 Transcript p177 (Wednesday 3 August 1994), Mrs Zdjelar
140 Op cit, pp160-161
141 Transcript p120 (Tuesday 2 August 1994), Mr Watts
142 Transcript p184 (Wednesday 3 August 1994), Mr Riding-Hill and Mr Job
143 Transcript p376-377 (Monday 15 August 1994), Mr Connolly (Attorney General)

6.9. In passing, the committee notes that this comment suggests that the Canberra market does not fit the Sydney pattern as described by the Attorney General: 'the hallmark of a competitive market in Sydney ... is regional pricing'.[144] It may be that the Canberra market is too small and concentrated to permit regional pricing.

6.10. The MTAA considers that 'at a minimum ... there could be 33 sites closed'.[145] The MTA-ACT considers 'the smallest 19 service stations are at great risk of closure and any of the next 15 or 20 are also at substantial risk'.[146] A local valuer told the committee that the Government's policy 'will close the majority, if not all, of the sites doing less than 400,000 litres per month'.[147] The owner of the Williamsdale service station told the committee that:

> Since the introduction of Burmah to the market, our gross profit on petrol has dropped up to three cents per litre which has been our profit, and the value of the service station real estate has been reduced up to 50 per cent. If the service station at Hume is allowed to go ahead, this service station will be forced to close.
>
> I am worse off since Burmah has come to Canberra. We have never had a situation here where we were not making profits enough to cover our overheads. At the moment, our profits are not covering our overheads ... My gross loss in the last six months up to the end of June was approximately $35,000.[148]

6.11. Other service station operators told the committee that Burmah's entry has reduced 'my gross profit ... by 40 per cent'[149] and gross profit by about 35 per cent.[150] APADA advised that the effect of Burmah's entry upon his (approximately) 130 members[151] was to reduce their margins 'by perhaps 30 to 40 per cent'.[152] The APADA representative told the committee that the entry of any independent to the Canberra market would financially disadvantage his members.[153]

6.12. Burmah advised the committee that its Kingston site is 'averaging about 400,000 litres' a month.[154] Perhaps inadvertently, Burmah indicated the volume of its preferred type of service station when commenting that the Kingston site 'is not capable of ... pumping ... a million litres a month'.[155] This reinforces the point made above by the MTAA's consultant and industry analyst that the more viable type of service station is one selling over a million litres a month. However, he commented that 'there is not that available volume in the ACT ... [for service stations] to reduce margins even further in the hope that they will get a little bit more volume'.[156] Of those service stations more likely to generate such volumes, it might be expected the three new sites to be released to independents will come as close (or closer) than any already existing in Canberra.

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[144] ibid
[145] Transcript p134 (Tuesday 2 August 1994), Mr Delaney
[146] Transcript p192 (Wednesday 3 August 1994), Mr Riding-Hill
[147] Transcript p161 (Wednesday 3 August 1994), Mr McCann
[148] Transcript p293 and p298 (Monday 15 August 1994), Mr Moore
[149] Transcript p187 (Wednesday 3 August 1994), Mr Job
[150] Transcript p194 (Wednesday 3 August 1994), Mr Shooks
[151] Transcript p115 (Tuesday 2 August 1994), Mr Watts
[152] Transcript p119 (Tuesday 2 August 1994) Mr Watts
[153] Transcript p122 (Tuesday 2 August 1994), Mr Watts
[154] Transcript pp95-96 (Tuesday 2 August 1994), Mr Atkins
[155] ibid
[156] Transcript pp145-146 (Tuesday 2 August 1994), Mr Mark

6.13. One factor that all operators in the industry are agreed upon is that the viability of service stations is enhanced by the ability to supplement fuel income by convenience store type of sales. This was noted at the end of the preceding Chapter. Canberra continues to impose restrictions upon the size of retailing operations - as noted earlier, the Territory Plan imposes a 50 square metre limit on service station retail outlets at local shopping centres, and a 150 square metre limit on service stations at other locations (refer to paragraph 5.18).

6.14. The importance of non-fuel retail sales may be particularly borne out by Burmah's current and future activities. In relation to its current activities, Burmah stated that the Kingston site was 'a second class location ... at the bottom end of the market by any stretch of the imagination'.[157] This is because:

> It has virtually no revenues other than gasoline revenues. It does not have the capacity to generate shop revenues, carwash revenues, etcetera ... That site is limited in its capacity by how much volume it can pump.[158]
>
> locations such as Kingston do not have a long term future in the petrol retailing business. They are sites which are being closed by the majors on a regular basis'.[159]

6.15. At first glance, Burmah's comments in relation to a site that, more than most in Canberra, fits the Canterbury Road type of pattern which the Government noted was a typical location for independents, seems a little odd. Yet this is not the case when account is taken of the significant move by most sections of the service station industry to expand non-fuel retail sales (which Burmah obviously endorses); and Burmah's statement is even less out of place if its ultimate aim in setting up in Australia is to generate a very large proportion of its income through convenience store outlets located in its service stations. The committee was told by the MTAA's consultant and industry analyst that Burmah's 'core business ... was running very high cost supermarket type operations through service stations, in other words, convenience stores'; and that Burmah moved in this direction once it acquired 'five per cent of the market as a critical mass'.[160] The industry analyst added that Burmah is 'the second biggest retailer in the UK but they price with the major companies, not with the discounters'.[161]

6.16. If Burmah obtains one or more of the sites to be released to independents (and it confirmed that it would bid for the new sites[162]), it will be interesting to observe if the above comments are borne out by Burmah's subsequent activity.

Effect on Petrol Prices

6.17. The Government submitted that:

> The Government estimates that ... the average reduction in petrol prices is at least 3cpl on a full year basis. Based on Treasury estimates of petrol sales for 1994, it is estimated that the recurrent savings to the ACT economy will be in excess of $9 million per annum. These

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[157] Transcript p95 (Tuesday 2 August 1994), Mr Atkins
[158] Transcript pp95-96 (Tuesday 2 August 1994), Mr Atkins
[159] Transcript p99 (Tuesday 2 August 1994), Mr Atkins
[160] Transcript pp139-140 (Tuesday 2 August 1994), Mr Mark
[161] Transcript p140 (Tuesday 2 August 1994), Mr Mark
[162] Transcript p99; also see p101 (Tuesday 2 August 1994), Mr Atkins

> estimates are based on the effect of the temporary site at Kingston - with the release of three permanent independent sites, there is the potential for the savings to be greater.[163]

6.18. The Attorney General advised the committee that, at the time public hearings were held, the fuel price in Canberra was close to the Sydney price, taking account of the freight differential:

> the average price in Sydney was 69.9, so the price at Burmah at 72.5 ... is within 2.6 cents of average Sydney prices which ... - when you take the 1.8 cents freight differential - means about 0.7 of a cost difference ... [as opposed to a differential pre-Burmah of] six cents. So, we are still doing good.[164]

6.19. The Attorney General compared the Canberra price to that in another regional market, Wagga Wagga, where the price on the above occasion was nine cents more.[165]

6.20. Burmah's own view of the effect of its operations is that the price of fuel has dropped by about two cents a litre:

> Based on the data produced by the Prices Surveillance Authority, I think they are suggesting ... that it has moved from about an average of five cents retail margin to about three cents on average ... it is probably too short a period to be absolutely conclusive about the impact, but clearly something in that order, and clearly there has been lower petrol pricing.[166]

6.21. It was noted in Chapter 2 that some submissions to the committee pointed out that fuel prices in Canberra since Burmah's entry are relatively uniform and that Burmah's entry seems to explain only about 1-2cpl of the fall in fuel prices.[167]

6.22. The committee welcomes this fall in fuel prices but is not confident the long term effect will be so pronounced. There are several reasons for this scepticism. One reason concerns the nature of the underlying structural change taking place in the industry, with its emphasis on high volume sites with significant non-fuel retail turnover. If the new independents in Canberra behave as Burmah may do in the view of one industry analyst (described above), then there may be an incentive not to hold fuel prices down. A second reason is that the present surplus capacity in the Australian oil refineries may not continue indefinitely, and hence the need for refineries to quickly dispose of surplus production may not continue. (It has been noted already that this surplus capacity is the reason for oil majors seeking to utilise independent retailers.) A third reason is that the size of the Canberra market may not allow for regional effects such as feature in the Sydney market, and hence there will remain an incentive for **all** service stations to post roughly similar (if not the same) fuel prices. The committee was told by the oil majors and service station operators that this fact helped to explain the regular level of fuel prices in the ACT over many years, including the tendency for all service stations to raise or lower prices at the same time.

6.23. A fourth reason for scepticism about long term falls in fuel prices in Canberra was provided by Burmah, which in commenting on the costs of establishing and operating a service station in the ACT, said:

[163] Submission by the Attorney General
[164] Transcript p419 (Wednesday 17 August 1994)
[165] Transcript p339 (Monday 15 August 1994)
[166] Transcript p93 (Tuesday 2 August 1994), Mr Atkins
[167] Submissions from Ampol and the Australian Institute of Petroleum (quoting the Industry Commission's *Draft Report into Petroleum Products*) and submission from Mobil

> I could not commit to you that we could go and spend four or five million dollars on a service station and bring to this market petrol pricing that this market desires. It may be that we can do it slightly cheaper but it is not at the two to three cent level.[168]

6.24. This comment seems to reinforce the point made in many submissions about the higher cost of service station activity in Canberra; and it might be seen also to give credence to claims that Burmah's lower fuel price is based more on the cost concessions obtained from the Government than on any inherent capacity of an independent to be a 'low cost operator' in the way outlined by Burmah, namely, that independents are inherently 'low cost operators' because they:

> do not have large scale advertising programs that they have to spend a lot of money on, they do not spend money in the areas of administration and other expense areas that the major oil companies do. It is that cost advantage that allow them to make a smaller contribution at the site level and pass that all the way through to the bottom line.[169]

6.25. A fifth reason for scepticism about long term falls in fuel prices relates to the control by the refineries of the price of fuel sold through them. As outlined in Chapter 4, the oil majors are at present able to sell at both ends of the market: at the top through their franchise operators, and at the bottom through independents - and they may be in a position to control the price at which large scale independents like Burmah sell their fuel. In this regard, the MTAA's consultant and industry analyst observed: 'I do not think it will be in Shell's best interests to see Burmah come down another cent in the ACT at this time'.[170]

6.26. This degree of control over price seems to be supported by the experience of the owner of Williamsdale service station, who told the committee:

> I have gone out looking for fuel. I have been to Sydney looking for fuel and I have found although the freight differential from Sydney to Canberra is 1.8, you cannot get it carted for 1.8. The cartage costs are 2 cents to 2.2 cents a litre to get that fuel carted. If you are buying it on a Sydney market you are paying freight-free and then you have got to pay your freight costs on it. I found that in this last 12 months, the difference between what I can buy fuel for through shopping around and buying it here directly from Ampol is not worth me shopping around for it ... [A] few years ago it was a different situation, but that situation has dried up.[171]

6.27. A sixth reason for scepticism about the long term capacity to secure lower fuel prices in Canberra was contained in some of the submissions referred to in Chapter 2, namely, that the Draft Report of the Industry Commission has found that falling Canberra fuel prices are due to a stronger Australian dollar and falling international petrol prices - except for a fall of one to two cents per litre which might be attributed to Burmah's entry.

6.28. There is also the point, made in some submissions and also by the MTAA's consultant and industry analyst, that:

[168] Transcript p106 (Tuesday 2 August 1994), Mr Atkins
[169] Transcript pp91-92 (Tuesday 2 August 1994), Mr Atkins
[170] Transcript p286 (Monday 15 August 1994)
[171] Transcript p295 (Monday 15 August 1994), Mr Moore

> whereas ... it may seem fine for the price of petrol in a general sense to come down three cents in the ACT, it may well be that [consumers] are still paying three or four cents too much ... [given that Burmah is] buying seven cents cheaper than most retailers and they are going to pass three cents of that on to the consumers of the ACT.[172]

Effect on Oil Majors

6.29. Both the Government and consumer organisations stressed the importance of taking action in Canberra to 'break the grip of the oil majors'.[173] The Government submitted that, in relation to the underlying structural changes within the fuel industry:

> The danger for the ACT in these developments is that, unless there is Government intervention to encourage genuine competition in the Canberra market, **the present market concentration of the major oil companies will increase** and consumers will not share in the efficiency gains which will be pocketed wholly by the majors [emphasis added].

6.30. The committee notes that there is some reason to doubt any weakening of the capacity of oil majors to dominate the market, at least while ever the refineries are able to control the price of most of the fuel sold at service stations. The committee note with interest the view of some industry groups that this situation cannot be altered until terminal gate pricing is introduced, along with cessation of the role of the PSA in setting a maximum endorsed wholesale price.[174]

6.31. The Attorney General told the committee that he expected the oil majors will give their franchisees 'more and more price support' as competition in the Canberra market increases. He thought that 'once discounting is accepted as a fact of life in Canberra we will see ... average metropolitan levels of price support'.[175] Some idea of the level of price support so far given by oil majors may be seen by the testimony of Ampol that it has provided $170,000 in price support for its ten Canberra dealers since Burmah's entry[176] and BP's advice that it has provided price support of $195,000 for its ten branded sites.[177] If a rough average is assumed of $180,000 per every ten sites and given that there are roughly 80 service station sites in Canberra, then the total level of price support so far given by oil majors might be about $1.4 million.

6.32. Though the Williamsdale service station is a branded Ampol site, its 'independent' status might be attested to by its owner's testimony that:

> I receive no price support from Ampol. I would also like to say that in this last six months when I have lost probably $35,000, Ampol have not lost a cent - not one cent at all.[178]

6.33. Service station operators told the committee that, even with price support, they could not operate at a profit. One operator stated that his price support 'is usually only between 3.2 and 3.5 cents per litre, and you cannot operate on those margins'.[179] Another operator whose operating

[172] Transcript p283 (Monday 15 August 1994), Mr Mark
[173] Transcript p308 (Monday 15 August 1994), Mr Howitt
[174] See Chapter 2
[175] Transcript p349 (Monday 15 August 1994)
[176] Transcript p78 (Tuesday 2 August 1994), Mr Ash
[177] Transcript p323 (Monday 15 August 1994), Mr Hendricks
[178] Transcript p302 (Monday 15 August 1994), Mr Moore
[179] Transcript p195 (Wednesday 3 August 1994), Mr Shooks

costs exceeded the level of price support of three cents a litre was said to be 'going backwards'.[180] And a further operator said that:

> the level of support that I receive from my oil company is 3.5cpl on the calculated volumes ... [which] does not take into account the ... amount of business that we do by credit card in the ACT which can reduce your margin ... between one and a half cents, maybe more, depending on the type of card and the arrangement you have with that credit provider.[181]

6.34. The committee notes that in these circumstances, even the more efficient operators might have trouble negotiating higher levels of price support - as the Chair of the Working Group, Mr Sorbello, thought they should do when he observed that franchisees 'require some negotiating skills, obviously'.[182]

6.35. The committee does not hazard a guess about the length of time that oil majors might be prepared to extend price support to their Canberra franchisees but - on the basis of experience locally and elsewhere - it is unlikely to last a long time and the upshot of the process is that a number of service stations can be expected to close. The committee was interested in sighting correspondence from an oil major to its franchise operators advising that the PSA had acted in August 1994 to reduce the fuel price able to be charged by the oil major and that as a result, the major will be taking into account its reduced wholesale margin when offering temporary price assistance. The committee sees this as further evidence of the excessively dominant position of oil majors vis-a-vis their franchisees.

6.36. Further, the committee notes that a perhaps unexpected consequence of the Government's policy is to hasten the rationalisation activities of the oil majors, encouraging them to move faster than they otherwise might have done to close ACT service stations.

Effect on Land Values

6.37. It was noted in Chapter 2 that many submissions stated the Government's policy was adversely affecting the unimproved capital value of service station land and, in some cases, the value of adjacent local shopping centres. A Government witness advised the committee that 'there has been an effect on the values of service station sites' but it is not flowing right across the board.[183] The Chair of the Working Group noted that the unimproved capital value of some service station sites has increased once the stations were closed and the land used for other purposes.[184] The Commissioner for ACT Revenue noted that the unimproved value of service station sites had fallen from $66.280 million to $61.240 million but this decline was 'simply following the trend of commercial land values across the ACT'.[185] Since the most recent rate notices are based on valuations as of 1 January 1994, it is too early to identify any decline due to reasons other than the general decline in commercial property.

[180] Transcript p80 (Tuesday 2 August 1994), Mr Smith
[181] Transcript p178 (Wednesday 3 August 1994), Mr Taylor
[182] Transcript pp258-260 (Wednesday 3 August 1994), Mr Sorbello
[183] Transcript p274 (Wednesday 3 August 1994), Mr Guild
[184] Transcript p 38 (Tuesday 2 August 1994)
[185] Transcript p358 (Monday 15 August 1994), Mr Faichney

6.38. The MTAA estimates that land values could fall by 'as much as $1 million' following the closure of service stations as a result of the Government's policies.[186] And a local valuer told the committee that the effect of Burmah's Kingston operation on the nearby Shell Manuka service station is to reduce its value by 'not less than $1 million, or maybe greater'.[187]

6.39. The committee was told by a local valuer that many existing service stations 'are unsaleable' in terms of their existing use.[188] However, the land may prove to be quite valuable if used for other purposes and one of the oil majors told the committee that it would normally seek to convert non-viable sites to other uses.[189]

6.40. The committee was told by local investors that the reduced values of service stations have forced local investors owning service station sites to seek re-financing from lending authorities, which has proved very difficult.[190] The witnesses stated that banks are not interested in service stations any more; they see them just as 'raw land'.[191]

6.41. The view of an authoritative valuer is that the upshot of releasing three independent sites would be that all Canberra service stations:

> will be worth much the same [as the value of the independents]. In other words, the concessional arrangements will be the lowest common denominator and they will set the new level of low values through the industry in the town.[192]

Effect on Investment

6.42. The summary of submissions in Chapter 2 indicated the concern of many submitters about the impact of the Government's policy on investment in the ACT. During the public hearings, the Australian Institute of Petroleum commented that:

> the message of preferential treatment to new investors at the expense of existing investors will undoubtedly discourage new investment, not only in petroleum retail but in other businesses as well ... [because] you cannot be sure that at some time in the future the game is not going to be changed for you and people are, in fact, discouraged from investment. Sovereign risk, if you like, becomes a more significant part of the equation ... [and so people and organisations will] be looking for higher returns than might otherwise be the case ... it forces you to become very short term in your thinking ....[193]

6.43. Another witness described the Government's policy as 'probably the worst impact on confidence in the leasehold system that has come to play'[194] - though the same witness added that: 'At this stage I do not believe that there has been any flow on' to other forms of business.[195]

186 Transcript p134 (Tuesday 2 August 1994), Mr Delaney
187 Transcript p162 (Wednesday 3 August 1994), Mr McCann
188 Transcript p169 (Wednesday 3 August 1994), Mr McCann
189 Transcript p328 (Monday 15 August 1994), Mr Body [for BP]
190 Transcript p204 (Wednesday 3 August 1994), Mr Tsoullias
191 ibid, p205
192 Transcript p161 (Wednesday 3 August 1994), Mr McCann
193 Transcript pp53-54; and p62 (Tuesday 2 August 1994), Mr Starkey and Mr Macpherson (for the Australian Institute of Petroleum Ltd)
194 Transcript p160 (Wednesday 3 August 1994), Mr McCann
195 Transcript p165 (Wednesday 3 August 1994), Mr McCann

6.44. The MTAA's view is that:

> The costs in terms of wrecked businesses and investment of Canberra families in terms of undermined confidence in the leasehold system, in terms of negative messages to potential investors and financiers, in terms of lost revenue to the ACT Government, these costs far outweigh any perceived benefit.[196]

Effect on ACT Revenue

6.45. It was noted in Chapter 2 that the Attorney General submitted 'there may be some small loss in recurrent ACT revenue' arising from the Government's policy. The Report of the Working Group on Petrol Prices also noted the likelihood of reduced Government revenue, and the ACT Consumer Affairs Bureau stated that 'any transitional costs to a competitive marketplace are far outweighed by the benefits to the public at large'. Canberra Consumers supported the Government's policy 'even if ... there is some short term cost to the community'.

6.46. Most other submitters claimed that the effect of the Government's policy was to significantly lessen Government revenue, for the following reasons: the absence of any lease premium payable by Burmah for use of the Kingston site; the low nominal licence fee payable by Burmah, which anyway is offset by an allowance for the capital works spent by Burmah; a reduction in land tax and general rates following the decline in unimproved capital values of service station sites (and of the associated local shopping centres); a decline in Stamp Duty payments to the Government as the value of rental payments fall on the existing sites; a drop in the premiums likely to be paid for new service station sites; and a decline in investment in the ACT as the Government's measures impact on investor confidence. A few submissions and/or witnesses raised the possibility of a further effect on Government revenue if compensation should be necessary to existing operators.

6.47. The committee has not found it possible to put dollar signs beside each of these alleged effects; and it seems that this exercise has not been attempted by the ACT Treasury, either.[197]

6.48. In relation to the absence of a lease premium for the Burmah site, the committee acknowledges this was a result of the Government's decision to grant Burmah's request for the temporary use of a disused site. The ACT Government undoubtedly lost revenue by licensing the site rather than leasing it; but in the Government's view, this was an essential aspect of its policy to introduce an independent to the Canberra market.

6.49. In relation to the nominal licence fee payable by Burmah, the committee notes the valuation advice provided to the Government which led to the setting of the fee; but the committee also notes the comment in some submissions that the nominal fee is very much lower than comparable fees elsewhere in Canberra.

6.50. Other parts of this chapter have considered the effects of the government's policy on land values and investment in the Territory. In relation to the former, the committee was told by the Government that - on the extreme assumption that **all** existing service stations were 'totally

196 Transcript p200 (Wednesday 3 August 1994), Mr Whalan
197 Transcript p256, p263 (Wednesday 3 August 1994), Mr Sorbello; Transcript p352 (Monday 15 August 1994), Mr Connolly (Attorney General) and Transcript p354, Mr Woods (Under Treasurer)

devalued' - the Government would lose $1.9 million in land taxes and rates.[198] In relation to the closure of service stations, a prominent local valuer stated that the closures:

> will not impact on the Government's revenue because most of those sites are in locations where they can be redeveloped ... [and betterment] would make up for loss of revenue, particularly on a residential basis. We instance the Chifley and Hackett property.[199]

6.51. It is too early to tell whether the premiums to be paid for the three new sites for independents will be lower than has traditionally been the case; but again, the committee notes the Government's wish to break the grip of what it sees as a cartel working to push up land prices for service station sites, and on this basis the Government might be expected to be pleased if premiums are lower as a result of its policy.

[198] Transcript p3 (Tuesday 2 August 1994), Mr Sorbello
[199] Transcript p161 (Wednesday 3 August 1994), Mr McCann

CHAPTER 7: CONCLUSION

7.1. The options considered by the Government to achieve its fuel pricing objectives bear on the type of conclusions that might be drawn from the preceding analysis, and so the committee first examines these options. That other options were considered by the Government is clear from the testimony of both the Attorney General and the Secretary of the Department of Environment, Land and Planning. The Attorney General noted that one option available to the Government is to utilise provisions of the *Fair Trading (Fuel Prices) Act 1993*, which makes provision for the Minister to determine the maximum base wholesale price of fuel, the maximum retail price of fuel, and the maximum retail margin in relation to fuel. In introducing this legislation into the Assembly, the Attorney General stated:

> we do not want to set prices in the ACT. We would prefer that this legislation was never used, But we believe that the time has come for this Assembly to take steps to ensure that the law enables intervention where it is necessary ... [It is incumbent upon the oil companies to] deliver real competition to the Canberra motorist. If that happens, this Bill may ... never be enforced when enacted.[200]

7.2. During the public hearings, the Attorney General updated this comment:

> We have that legislation on the table. We would invoke it if we felt we needed to but I would say that since that legislation has gone through the Assembly, we have not seen evidence of that large and unexplained jump before a long weekend with prices dropping ... after the long weekend. We are seeing price fluctuation but we are seeing price fluctuation that you would expect in a competitive market.[201]

7.3. The MTA-ACT drew the committee's attention to the possible support of local service stations for Government action in terms of the *Fair Trading (Fuel Prices) Act*:

> The major problem is that the retailers in the ACT cannot buy at any price less than the rack [price] and if the Government is unable or unwilling to do something for its local constituency on that level, then it may have to turn to the use of price regulation under the legislation that it already has in place or else we will not have a local industry... [because] Canberra is at grave risk of being fully controlled by oil companies in the future.[202]

7.4. The MTAA suggested two further options open to the Government:

> to legislate to proscribe price discrimination against franchised petroleum retailers by oil companies ... [and] legislate to permit franchised petroleum retailers to secure a proportion of their fuel stock from any supplier.[203]

7.5. One option considered by the Attorney General was for the Government to utilise its own sites at Dickson and Kingston to pump petrol so as 'to force a bit of competition in the market'.[204]

[200] First reading of the Fair Trading (Fuel Prices) Bill 1992, speech by the Attorney General (Mr Connolly), *Hansard* p1266 (25 June 1992)
[201] Transcript p365 (Monday 15 August 1994)
[202] Transcript p192 (Wednesday 3 August 1994), Mr Riding-Hill
[203] MTAA, supplementary submission (dated 12 August 1994), p11
[204] Transcript p341 (Monday 15 August 1994), Mr Connolly (Attorney General)

The Minister ruled this out because 'it would have been very difficult to justify that expense on the public purse'.[205]

7.6. The option to utilise existing legislation was no doubt one of the options in the mind of the Secretary of DELP when he was asked whether there were ways other than the Government's current policy to encourage lower fuel prices in Canberra:

> We put forward various options at the time, but I suppose the Government took a decision on those options and we should not canvass those publicly because it is a matter of Government policy, but there are plenty of ways to achieve the end I think ....[206]

> I suppose the debate is really all about whether you can achieve this [lower land premiums for service station sites] without bringing in independents and if you make that your first assumption then you go down a certain track. If you do not make that assumption, then there are other ways of doing it.[207]

7.7. The committee would have benefited from an outline of the various options considered within the ACT Administration. It notes the point made by the Secretary of DELP that to do so would involve breaching the confidentiality of advice tendered to Government. Given the predominant position of the five oil majors, it may be that the way to achieve permanent retail price reductions is to impose wholesale price controls.

7.8. The Chair of the Working Group, Mr Sorbello, told the committee that the option of releasing five to seven service station sites was ruled out because:

> there is a distinct possibility that certain players in the markets, possible principally the oil companies and maybe some local developers ... would in an open bidding auction system available to all-comers, would ensure that the price remains high to exclude smaller people from the process.[208]

7.9. It might be doubted that a multi-national company like Burmah fits the description of 'smaller people'. Mr Sorbello's comment confirms Government concern about the power of the 'cartel' noted by the Attorney General earlier in this report. The committee notes that, although the Attorney General used the term 'cartel', he provided no evidence that one existed.

7.10. It is obvious that the Government ruled out an option suggested by the MTAA at the public hearings:

> the concessions [given by the Government to Burmah] could have been offered more generally. Some of our members might have been in a position to take them up. The Ampol operator at Williamsdale, he owns his own site. He has a supply agreement with Ampol. Why not him? Why not everybody else?[209]

[205] ibid
[206] Transcript p252 (Wednesday 3 August 1994), Mr Townsend
[207] Transcript p254 (Wednesday 3 August 1994), Mr Townsend
[208] Transcript pp253-254 (Wednesday 3 August 1994), Mr Sorbello
[209] Transcript p136 (Tuesday 2 August 1994), Mr Delaney

7.11. In relation to the independents already operating in Canberra before Burmah's entry, the Government seems to have been little interested in encouraging their greater influence in the market. It is not clear that the Williamsdale operator was ever seen as a genuine independent by the Working Group, and in relation to the Pink Pump at Fyshwick, the Attorney General commented that it 'has never had an impact on the major market ... [being] very poorly located'.[210] Yet the Government indicated its awareness of the importance of location for an independent by allowing Burmah to utilise the Kingston site.

7.12. The option favoured by the oil majors is for "more sites to be made available in stronger locations'. The oil majors consider this would bring prices down 'but it would not happen overnight'.[211] Further, the view of the oil majors is that:

> You do not need independents to drive that process. The majors are competing well and truly between themselves bringing prices down but you need to have the right facility in the right location.[212]

7.13. With these points out of the way, the committee turns its attention to the nature of the conclusions able to be drawn from the committee's inquiry.

7.14. In relation to the Burmah Agreement, the committee is compelled to observe hat it was a hasty, inadequately documented process which achieved both the Government's aim and that of Burmah: in the case of the Government, to have an independent operating in Canberra (with some sort of commitment to lower fuel prices) by Christmas 1993; in the case of Burmah, to gain entry to the Canberra market on very good terms (most likely with a view to demonstrating its bona fide in relation to the further issue of more permanent service station sites in the future). It is obvious to the committee that the Government was not particularly concerned about the reasons why Burmah was able to sell fuel cheaper than existing outlets, and that raising Government revenue was not a factor in setting the terms and conditions for Burmah's use of the Kingston site.

7.15. There has been adverse comment about the failure to comprehensively document the process. The lack of documentation is unfortunate in that handling of the Burmah Agreement showed a lack of concern for appropriate administrative process.

7.16. <u>The committee recommends</u> ***that the Government adopt higher standards of documentation and analysis of options when considering major changes to long established Government policy affecting the financial interests of local businesses and individuals (such as major changes to fuel supply arrangements in the ACT).***

7.17. While acknowledging the desirability of lower and more competitive fuel prices in Canberra, the committee is concerned about the evidence put to it that the impact of the Government's policy has fallen predominantly upon local small business people rather than upon the oil majors whose lack of competitive activity so frustrated the Attorney General [see Chapter 4].

[210] Transcript pp347-348 (Monday 15 August 1994)
[211] Transcript p322 (Monday 15 August 1994), Mr Body [for BP]
[212] Transcript p329 (Monday 15 August 1994), Mr Body [for BP]

7.18. The committee recommends ***that the Government reconsider its current policy favouring independents as the preeminent means to achieve sustained fuel reductions in the ACT, given the impact of the Government's policy upon local small businessmen and women and the various reasons advanced in this report for scepticism about the long term benefits of the Government's policy. In particular, the Government should consider one or more of the following options:***

- ***setting the maximum base wholesale price of fuel, the maximum retail price of fuel, and the maximum retail margin in relation to fuel (utilising existing legislation);***
- ***taking appropriate legislative action to enable franchisees to exercise their rights to purchase fuel from any supplier (without incurring punitive action on the part of an oil major);***
- ***reducing the ACT fuel franchise levy by three cents per litre (thus achieving the savings to consumers so highly sought by the Government and consumer groups, yet without doing so in a manner causing severe financial distress to local small businessmen and women);***
- ***allowing the use of Government sites as retail outlets;***
- ***eliminating the existing restrictions on the number of service station sites in Canberra and releasing new sites on major thoroughfares (as recommended by the Industry Commission in its Draft Report on Petroleum Products).***

7.19. In relation to the impact of the Burmah decision upon existing operators, the committee notes that the fall in fuel prices has severely eroded the retail margin of existing operators. If the gross retail margin of ACT service stations before Burmah's entry was about 4.5-5.5cpl and operating costs were about 4.0-4.5cpl, then the approximate net retail margin was up to 1.5cpl. With prices dropping about 3cpl since Burmah's entry, then the net retail margin is negative and operators are only able to stay in business by utilising sustained price support from the oil majors and/or by using whatever financial reserves may be available in individual cases. Operators are losing not only in terms of revenue but also in terms of volume (since in a market of fixed size, Burmah's sale of about 400,000 litres per month is at the expense of existing operators). As well, the owners of service stations have experienced a substantial decline in the value of their sites.

7.20. One option to reduce the price of fuel in Canberra is for the Government to reduce the amount of fuel franchise fee it collects on each litre of fuel sold in Canberra. The redistribution in this case would have been directly from Government revenue back to fuel users, leaving the viability of existing service station operators unaffected and having no adverse effect on property values. The committee notes that 3cpl of the current fuel franchise levy was added only as a temporary measure in 1990 and was intended to be removed in 1992.

7.21. It is clear that the ACT Government has fundamentally changed the nature of the marketplace in which existing service stations operate. The Government knew that granting Burmah a licence on preferential terms was a political decision which would negatively impact upon existing service stations. Where a political decision taken by a Government directly and substantially impacts upon the viability of a business, a majority of the committee considers that the Government has an obligation to compensate for the loss. Precedents which are relevant include the Commonwealth schemes applying to dairying (where farmers were encouraged to leave the industry following the Government's decision to discontinue market support arrangements), pharmacists (where a scheme is in operation to facilitate the departure of pharmacists from the industry where they have been disadvantaged by changes to the method of federal payments to

pharmacies), prawn fishermen (in the Northern Prawn Fishery in Queensland), and the schemes of assistance applying to the automotive industry as well as the textile, clothing and footwear industries.

7.22. The committee recommends ***that the Government establish a scheme to provide compensation to those service station operators and others who can demonstrate financial loss as a direct result of the Government's decision to grant preferential access to the Canberra fuel market to Burmah and to lease three sites to 'eligible independents'.***

7.23. In relation to the Government's policy on further independents, the committee concludes that the Government has not fully examined the ramifications of its policy - in particular, whether its criteria for 'eligible independents' are realistic given the nature of the fuel industry in Australia. There are serious grounds for concern about the capacity of any non-oil major to sustain fuel discounting in the medium to long term in Australia - since any such 'independent' exists clearly and solely by the grace of a major; but the Government seems not to have considered this matter in reaching its decision to invite independents to express interest in further Canberra sites. Also, the Government seems not to have seriously considered the fact that independents already operate in Canberra and might be interested in assisting the Government's policy.

7.24. The committee recommends ***that the Government flesh out the details of its policy on further independents in light of the immediately preceding recommendation, and advise the Assembly accordingly, before issuing leases to operators of the three sites already identified.***

7.25. In relation to the general nature of the Australian fuel market, the committee is concerned that the Government appears to have directed its energies toward just one aspect, namely, the desirability of independents. The committee heard sufficient evidence during its inquiry to cause it concern about existing arrangements relating to the supply of fuel in Australia, and in particular, about the operation of the maximum wholesale price that is set and monitored by the PSA. It seems to the committee that lower fuel prices in Canberra (and everywhere else in Australia) may be more achievable with other arrangements in place; and in this regard, the committee heard calls for the introduction by the Commonwealth Government of terminal gate pricing at refineries. The committee considers the ACT Government should develop a position on these national arrangements.

7.26. The committee recommends ***that the Government investigate the effect of national fuel supply arrangements with a view to assessing the most appropriate arrangements to secure the lowest possible fuel price in Canberra; that the Government make a statement to the Assembly about the results of such an assessment; and that the Government then actively seek to persuade the Commonwealth Government (if the assessment demonstrates that existing arrangements are not optimal) to change existing arrangements.***

7.27. In relation to existing service stations located in local shopping centres, the committee concludes that a fundamental change is taking place in the fuel industry which severely lessens the viability of these stations; and that, as a result, a considerable number of local centres in Canberra will be affected. It is not obvious to the committee that any considered analysis is underway within the ACT Administration about alternate uses for these sites or about the impact of service station closures on the whole idea of local shopping centres.

7.28. The committee recommends ***that the Government urgently investigate the effect of service station closures on the planning concept of local shopping centres and provide a report to the Assembly within three months.***

7.29. In relation to the location of service stations, the committee concludes that recent changes to the Territory Plan permitting service stations in a wider number of Land Use Policies is appropriate. However, the committee sees room for further loosening of land use controls to more fully allow implementation of the Working Group's recommendation No.10 that 'the method of release of land should leave the acquisition of sites for service station development as a matter of commercial judgement'. Also, the committee is attracted to the call by some submitters, including Canberra Consumers, for greater retailing of fuel by shops and supermarkets; the committee sees this as one way to encourage further players into the Canberra market and for those players to be keenly interested in the benefits of selling discounted fuel.

7.30. The committee recommends ***that the Government implement those recommendations of the ACT Government Working Group on Petrol Prices calling for a more pro-competition policy in the location of service station sites, and that the Government generally leave the acquisition of sites for service stations as a matter of commercial judgement.***

7.31. Also in relation to the location of service stations, the committee is not aware of progress toward implementing recommendation No.9 of the Working Group calling for greater encouragement of signs on main roads directing motorists to service stations located just off those main roads. The Working Group recommended that a trial be made of branded signs (indicating the brand of fuel sold at the nearby service station) and the committee sees benefits in this policy as it could encourage competition. It was also suggested that these signs permit the price of fuel to be displayed.

7.32. The committee recommends ***that the Government promptly adjust existing policies affecting the location and type of signs on main roads to permit appropriate branded signs (conforming to current guidelines) directing motorists to nearby service stations.***

7.33. In relation to the amount of retail space permitted at service stations, the committee concludes that - notwithstanding the recent changes incorporated in the Territory Plan and described earlier in this report - the nature of changes taking place in the fuel retailing industry indicate that viable service stations will need a larger non-fuel retail outlet than so far allowed for in the ACT (whether located in local shopping centres or elsewhere). The committee acknowledges that the success of a non-fuel retail outlet is greatly dependent upon a service station's location on roads carrying a great volume of traffic, and that this fact in itself has implications for the viability of local shopping centres (hence reinforcing the need for the study called for above).

7.34. The committee recommends ***that the Government consider increasing the amount of non-fuel retail space permitted in service stations.***

Trevor Kaine
Presiding Member

13 September 1994

STANDING COMMITTEE ON PUBLIC ACCOUNTS

REVIEW OF PETROL SUPPLY ARRANGEMENTS

DISSENTING COMMENTS FROM ANNETTE ELLIS, MLA

The reactions of the major oil companies to the attempt by the ACT government to make this petrol retail market more competitive has been swift. In fact, we saw petrol discounting because of the Burmah factor even before Burmah opened for business. In examining the large amount of evidence before this inquiry, I believe it was vital that we kept foremost in our minds two things. Firstly, that the ACT government was attempting to lower retail petrol prices in Canberra and secondly, given historical understanding of this market, that the major players would do all possible to ensure an outcome attacking that attempt.

The committee report draws certain conclusions with which I cannot agree. There has been an acceptance of evidence that large numbers (eg, 30) of local service stations will close because of the Burmah arrangement. There has been acceptance of argument that very large property losses have occurred. And there has also been acceptance of the argument that franchisees and local owners of the service stations in the ACT are suffering huge loss of income, again because of the Burmah arrangement.

As a result of the acceptance of these arguments there is a recommendation that the government should consider financial compensation where direct cause can be attributed. There was a wide range of evidence given to the committee which makes it impossible for me to accept that recommendation. The entire petrol industry was well and truly on notice for some years that both the consumer and, on their behalf, the government were demanding realistic and fair petrol pricing in Canberra. I find it impossible to agree with the comparisons drawn by the committee in their argument for compensation.

Whilst there is argument for cause and effect in relation to the Burmah arrangement, there is in my opinion overwhelming evidence which points to a different conclusion being drawn. It is a fact that service station closures were already occurring in the ACT. It is a fact, on evidence to the committee, that the major oil companies have begun a program of rationalisation of their outlets with a view to reducing their number and increasing their individual size.

This is already of concern to me when I consider the viability of local service stations adjacent to local shopping centres, and on this basis, I question the recommendation that the government consider increasing the amount of non-fuel retail space permitted in service stations. I am also convinced by evidence before the committee that any pressure on the franchisees and retailers to receive a reasonable return through their business operations was already occurring through the contractual arrangements the majors had with them.

In fact, I do not believe it is at all far fetched to draw the conclusion that additional pressure on those outlets by the majors over the past few months could be a manipulative tool used to undermine the Burmah arrangement.

Another major point of contention has been the committee's doubt that long term supply arrangements of fuel will be available to enable independents to operate in this market. Well known and large independents have been able to operate in other major markets throughout the country for some years with no apparent threat to their supply of fuel. In fact, we know, that by the majors selling fuel through those independent outlets they are able to maintain a certain level of market volume to suit their potential.

It is acknowledged that, for a variety of historical reasons, the 'real estate value' of service station sites in the ACT has been very high. This has guaranteed that only the major players are in a position to develop a site in the ACT and therefore the ability of an independent operator to buy into the Canberra market has been severely curtailed. The willingness of the major players to maintain high real estate value for service station sites in Canberra has ensured that they can continue to extract the high profit margin available in Canberra.

A circuit breaker to this cycle was, I believe, necessary and this is the reason why the decision was taken to allow independents into the ACT retail petrol market. This was a decision taken only after rigorous and lengthy attempts by the Attorney-General to convince the majors to participate in a truly competitive way in this market.

In conclusion, there is one specific comment (1.8) in the committee report that I wish to address. While I accept the Committee's view that certain commercial information should be allowed to be given in confidence, I cannot accept that allegations made by individuals or organisations are within this category. Such allegations could be given credence without the person or persons involved being given the opportunity to defend themselves. In fact, for any committee to make findings based on allegations of that kind could be considered a breach of natural justice.

I therefore cannot agree with my fellow committee members that we reject and regret the Attorney General's statement, as I believe that allegations received in this way should be able to be defended, or categorically disregarded.

ANNETTE ELLIS, MLA
14 September, 1994

DISSENTING REPORT ON PETROL SUPPLY ARRANGMENTS BY ELLNOR GRASSBY MLA

COMMITTEES CONCLUSIONS

It is clear that a majority of the Committee were more interested in the political outcome of the inquiry than in the information gathered during the inquiry process. The Committee was totally obsessed by the Burmah contract and paperwork from the Attorney-Generals Department. It demonstrated its ignorance of business arrangements and paid scant regard to part (ii) of its terms of reference which required that it inquire into "the impact of these arrangements on petrol pricing in the ACT".

The Committee blindly accepted that costs were 'just higher' in the ACT for service station operators and hardly sought to test their relative efficiency. It devoted a paltry four pages to consideration of such matters in this report, of which over three-quarters was direct quotation from submission and testimony.

If the majority of the Committee had even bothered to analyse the information presented to it, they would have understood that the 'rack' price is not the true market price which service stations buy fuel in at. Terms such as 'rebate' and 'price support' have been used by oil companies to portray a sense of generosity or concern for small operators. These terms have been used in a way as to indicate that they are an 'unusual' way of doing business. This is not the case.

In the major markets such as Sydney, Melbourne and Brisbane, the only figure individual service station operators are interested in is the net market cost of fuel from the oil company. The gross figure which is constantly referred to, the rack price, is an irrelevance. Competition in these markets necessarily involves some form of discounting by the major oil companies not so much as to retain individual service stations, but to maintain market share.

My specific comments on the conclusions reached in the report are set out below.

Paperwork by Government
I do not consider that the paperwork of the relevant departments was substandard or inadequate. Records were maintained to substantiate decisions which were comprehensive. Governments should not have to resort to employing historians to produce an encyclopedia each time policy is changed, otherwise nothing will ever change. Governments should always consider consequences of policy initiatives but they should not have to achieve a "Paretian Optimality" before proceeding with such changes. Changes in policy will always create winners and losers.

Decline in value of sites
Prices paid for sites over the last decade have included a substantial component for scarcity and greed. Some purchasers have paid millions for sites in the hope that they will keep out competitors and capture significant market share at the expense of suburban outlets. This is reflected in a trend for new service stations to operate in the town centres and around the clock. Changes in the nature of the market such as these have caused the decline in outlook for suburban stations and site values. The introduction of independents is not responsible for this change. Accordingly, argument on this basis must then focus around the impact on the pace of this change, if any.

Given the small share of the market that Burmah has and it being only one player, it is incomprehensible to suggest that the value of sites from a supply perspective has diminished so significantly in value terms. The price that buyers are prepared to pay for sites could only have fallen as a result of a re-alignment on the demand side. Furthermore, given that the Government has announced it will only be offering a further three sites to independents, this could only be a small part in contributing to a lower land value from a demand perspective. It could reasonably be postulated that potential buyers perceive that there is a more normal rate of profit within the industry rather than the super-normal profits that were previously occurring.

Compensation of service station owners

The majority Committee report is factually wrong in referring to schemes in 7.19 as compensating businesses for political decisions. These schemes were not set up on this basis, particularly for PMV and TCF. No owners in these industries were compensated for changed tariff arrangements or micro-economic reform. There were and are schemes operating for labour adjustment or industry efficiency pilots, but no money is being used to compensate any businesses for changes in policy. Some of the programs referred to were announced well in advance, such as three years for TCF, which provided industry with a significant lead time to adjust. The petrol industry was on notice since self-government to lower the retail price of petrol or face the consequences. It chose to ignore the government by keeping prices up, particularly around long weekends and holiday periods and it must now face the music.

Independents policy

The policy of the Government regarding petrol independents is available and generally understood in the community. I will not support any recommendation or continuation of past policies in the petrol retailing market which are anti-competitive and force upon my constituents in Belconnen and Hall higher prices. If the Liberals want to play political football over important investment and business decisions and retain the present anti-competitive industry structure with its resulting higher petrol prices, they should stand up and say so.

Abolishing three cent per litre government levy

The three cent per litre levy was introduced by the Alliance Government both for uniformity with NSW taxation and as a revenue raising measure. Petrol prices were high in the ACT before this levy was introduced, along with pricing uniformity and high prices around long weekends and holiday periods. Given historical analysis, there is no reason to suggest that the Canberra petrol retailing market would be any more competitive because of this action. Furthermore, there is no sustainable argument on either budgetary, equity or fairness grounds why this levy should be abolished to underwrite an uncompetitive market in the ACT. ACT residents know that every time they travel to Sydney via Marulan, petrol is usually five to seven cents per litre cheaper, with only a fraction of this being explainable by cost issues.

FURTHER COMMENTS

Franchise arrangements

Evidence from the inquiry raised many important issues relating to the competitiveness of the industry in the ACT. The majority of the Committee appear to accept that the "business rules" within the industry are the same as for other industries. At a regulatory and a commercial level, competitors are not free to come and go as they please. This should be contrasted with highly competitive sectors like video rental or home delivered pizza where businesses are free to set up and leave with minimal legislative regulation and unparalleled commercial freedoms. It should also be noted that real prices have tumbled in these sectors over the past decade.

The oil industry is characterised by a handful of big players and large investments in refineries and service stations sites. There is a myriad of legislative controls and commercial arrangements which have resulted in high levels of both horizontal and vertical integration in the industry. Franchisees can expect to pay between $200,000 and $400,000 for a site. The stranglehold of the oil companies is so considerable that franchisees have minimal commercial freedoms and are in effect at the mercy of the oil companies. Consistent with all franchises, businesses are prohibited from purchasing other brands of petrol, contributing to the anti-competitive nature of the industry. As one franchisee pointed out during the inquiry, if he sells a red bottle of Coca Cola, the oil company knows about it immediately.

Franchisees indicated during the inquiry that they probably work for the worst remuneration in Australia. They generally worked seven days per week for 12 to 14 hours per day. During the inquiry when an oil company was asked if they thought $1.70 per hour was too much to be paid, they were hesitant to answer, knowing only too well this was all franchisees were receiving. During private discussions with franchisees, they said that they were sucked in to these deals and there was no way they could get out. The Government should thoroughly investigate franchise arrangements within the industry and bring forward either a code of practice or legislation to prohibit grossly unfair franchise arrangements.

Increased supermarket floor area

It was indicated by the oil companies during the inquiry process that they wanted an increase in the floor area for supermarket retailing. This would have considerable consequences for local shopping centres which are already suffering from the pressures of late / all night trading by major shopping chains like Woolworths and Coles. If an increase in space is to be permitted, local supermarkets should be allowed to have their own pumps and retail petrol from their premises.

APPENDIX ONE: SUBMISSIONS

1 Building Owners & Managers Association of Australia Limited (ACT Division)

2 Burmah Fuels Australia Limited (letter only)

3 Australian Consumers' Association

4 Canberra Consumers Inc

5 Australian Institute of Valuers and Land Economists (Inc.), ACT Division

6 McCann and Associates (for the Motor Trades Association of Australia)

7 Canberra Business Council Inc.

8 Master Builders' Association of the ACT

9 Ms Shooks (Caltex service station operator)

10 ACT Chamber of Commerce and Industry Limited

11 Motor Trades Association ACT Limited

12 Mr R Adcock and Ms J Maliganis

13 Ampol Limited

14 Australian Institute of Petroleum Ltd

15 ACT Government

16 ACT Consumer Affairs Bureau

17 BP Australia Limited

18 The Shell Company of Australia Limited

19 Caltex Oil (Australia) Pty.Limited

20 Mobil Oil Australia Limited

21 Australian Petroleum Agents and Distributors Association

22 Motor Trades Association of Australia

23 Canberra Property Owners Association Limited

24 Prices Surveillance Authority

APPENDIX TWO: LIST OF WITNESSES

Tuesday 2 August 1994

ACT Government
- Mr L Sorbello (Chair, ACT Govt Working Group on Petrol Prices)
- Mr R Callaghan (Director, Land Sales, DELP)

Australian Institute of Petroleum Ltd [AIP]
- Mr J Starkey (Executive Director)
- Mr E Macpherson (Manager, Govt & Public Policy)

AMPOL Limited
- Mr D Ash (General Manager, Marketing)

Burmah Fuels Australia Limited
- Mr R Atkins (Managing Director)

Australian Petroleum Agents and Distributors Association [APADA]
- Mr G Watts (Development & Admin Manager)

Motor Trades Association of Australia [MTAA]
- Mr M Delaney (Executive Director)
- Mr B Mark (Consultant)

Master Builders' Association of the ACT
- Mr R Purdon (Peak Councillor, MBA)

Wednesday 3 August 1994

McCann and Associates
- Mr N McCann

Motor Trades Association ACT Limited
- Ms P Zdjelar (Chair, Service Station Div'n)
- Mr P Job (Vice-Chair, Service Station Div'n)
- Messrs P Taylor and R Wise (Members, Service Station Div'n)
- Mr J Riding-Hill (Executive Director)

CALTEX service station operator
- Mr Shooks

Canberra Property Owners Association Limited
- Mr J Sarris (President)
- Mr C Tsoulias (Vice President)
- Mr T Efkarpidis (Executive Member)
- Mr P Whalan (Consultant)

Canberra Business Council Inc.
- Mr O Kleinig (Executive Director)

ACT Government
- Mr J Townsend (Secretary, DELP)
- Mr P Guild (First Asst Sec, Land Div'n, DELP)
- Mr G Tomlins (Chief Planner)
- Mr Sorbello (Chair, ACT Govt Working Group on Petrol Prices)

Monday 15 August 1994

Mr B Mark (industry analyst, appearing as a private citizen)

Mr R Moore (owner of Williamsdale service centre)

Canberra Consumers Inc.
- Mr B Pentony (Chairman)
- Mr W Howitt (ex-Chairman and committee member)

BP Australia
- Mr D Cumming (Senior Analyst, Government & Economic Affairs)
- Mr G Body (Regional Manager, NSW)
- Mr S Henricks (Retail Territory Business Manager)

ACT Government
- Mr T Connolly MLA (Attorney General)
- Ms J Baker (Senior Private Secretary to the Attorney General)
- Mr Sorbello (Chair, ACT Govt Working Group on Petrol Prices)
- Mr M Woods (Under Treasurer)
- Mr G Faichney (Commissioner for ACT Revenue)
- Mr V Aleksandric (A/g Executive Director, Policy & Research Branch, Economic Development Division)

Wednesday 17 August 1994

ACT Government
- Mr T Connolly MLA (Attorney General)
- Ms J Baker (Senior Private Secretary to the Attorney General)
- Mr Sorbello (Chair, ACT Govt Working Group on Petrol Prices)
- Mr M Woods (Under Treasurer)
- Mr G Faichney (Commissioner for ACT Revenue)
- Mr V Aleksandric (A/g Executive Director, Policy & Research Branch, Economic Development Division)