



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON FUEL PRICING

(Reference: [Inquiry into fuel pricing in the ACT](#))

Members:

MS T CHEYNE (Chair)
MR M PARTON (Deputy Chair)
MR A WALL

TRANSCRIPT OF EVIDENCE

CANBERRA

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Secretary to the committee:
Mr A Snedden (Ph: 620 50199)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 11.31 am.

CARNELL, MS KATE, Australian Small Business and Family Enterprise Ombudsman

THE CHAIR: Welcome. I remind witnesses of the protections and the obligations entailed by parliamentary privilege, and draw your attention to the pink privilege statement, which is set out on the table; these are important. Ms Carnell, could you please confirm for the record that you understand the privilege implications of the statement?

Ms Carnell: Yes, I understand them.

THE CHAIR: Thank you. Before we proceed to questions, do you have an opening statement?

Ms Carnell: Thank you very much. I am the Australian Small Business and Family Enterprise Ombudsman but the basis upon which I appear today is having been Chief Minister at the time of the 1997 inquiry and efforts in the past around addressing the same issue that this committee is addressing, although I will briefly state the fact that in the ACT at the moment some of the major complaints and concerns that we have from small businesses are about the issue of petrol prices and the fact that they are significantly higher than in other parts of Australia. As you can imagine, for small businesses, particularly ones that are mobile—tradies, people who are in their cars all the time—petrol prices are a significant cost of doing business.

The issue of petrol prices has been the bane of the existence of assemblies since self-government and probably before. This is not a new issue in Canberra. When my government was elected in 1995, the previous government had started a process of tendering for some independents to enter the market. The view was at that stage, and has been on a number of occasions since, that the major problem for Canberra is a lack of competition which is exacerbated by our planning situation. The opportunity for independents coming in and finding a site or a set of sites to set up is pretty tough in the ACT with our planning requirements. The majors have capacity to acquire sites ahead of the game, just as major supermarkets have, and others. They come into new suburbs, sites are designated, and bigger guys have a much better capacity to pick up those sites than littler operators.

At that time, the two independent entrants into the market were proposed to be Woolworths, which was independent back in those days, and Gull. Gull of course has changed significantly since those days, with sales and being acquired by at least two different players and amalgamating with other independent chains. But back then Gull was predominantly a Western Australian operation. They had a not insignificant New Zealand operation.

Gull was also the only, I think, in those days, independent that was directly importing fuel. They were doing that because they had had trouble accessing fuel supplies from the major refiners in Western Australia, so they had decided to set up their own refinery operation in Western Australia and to directly import so that they were not

reliant on the majors for fuel supply. They picked up two sites in the ACT at that stage, and Woolworths entered the market as well, identifying a range of sites that I think were car parks, predominantly, of Woolworths supermarkets, or very much adjacent to Woolworths supermarkets. The process of getting that to happen was difficult for a whole range of reasons. There was significant pushback, obviously, from the majors; concern from a range of the franchisees about the impact upon the market.

Did the advent of the very small numbers of independents impact upon prices? Yes, there is no doubt that they did push prices down. But we do know what happened with Woolworths, and at the end of the day Gull could never get enough of a footprint in the Canberra market to warrant staying. The reasons for Gull leaving is something that I will not enter into. Gull should make those comments themselves.

THE CHAIR: Was Gull's only refinery still in WA?

Ms Carnell: In WA, absolutely.

THE CHAIR: So it was transporting the fuel from WA to the ACT?

Ms Carnell: As I understand it, and please—

THE CHAIR: I appreciate that it is a long time ago.

Ms Carnell: It is a long time ago. There was a bit of fuel swap happening. They would give distributors fuel out of their Western Australian refinery and swap for fuel on the east coast. So they were not just shipping a whole lot of fuel from Western Australia over to the east coast. But the fact is they had fuel that was theirs on the Australian mainland. They had imported it and they had refined it in Australia, so they were in a much stronger position to manage price.

I remember from talking to them that the absolute game changer in their business was when they had refinery capacity in Australia because it changed their profitability quite fundamentally. Mind you, they took risks as businesses like that do. But they had a large number of sites in Western Australia. They did not have six; they had 30 or 40 or so. They were reasonably big and so were able to do that. But they made the point that once they had control of their own refinery, the profitability of their business changed fundamentally at that point.

So did independents work in pushing down price and putting pressure on price? Yes. Was the long-term outcome what we hoped for? No, because Gull left and Woolworths are not an independent anymore. It is always interesting to me, though, that Fyshwick and the airport have lower prices even today than the rest of Canberra, and that is where independents actually operate still in Canberra. If you had any doubts, that really overcame it.

The sort of concern that was put to us at the time, again, was the capacity of the major companies to pick up the good sites in major shopping centres and so on. We all understand—especially anybody who has ever brought down a budget in the ACT, and I have done a few myself—that revenue is always difficult in Canberra.

You look for revenue where you can get it, and fairly obviously the big guys were willing to pay more.

I think the message for Canberra is that until we actually address this, until we do not let our planning requirements, our environmental requirements, our cost of getting in and our cost of getting out, and the planning requirements that stop you doing anything particularly innovative on a site getting in the way of independents that may operate a little differently from the majors, we will be back here time and time again having another inquiry because petrol prices will continue to be horrible.

THE CHAIR: What was happening with planning back then that allowed you to tender for three sites and for independents in particular?

Ms Carnell: The fact is that, the way the independents were brought in, we gave them special deals. It was that simple. There was not a competitive gig here. If there had been they would not have got them. It is that simple.

THE CHAIR: Without going into too much detail, you reached out to particular ones and said, “We’ve got a site. It looks pretty good. What do you reckon?”

Ms Carnell: My memory—and you guys can check this—is that the Labor government, before we came on board, had gone out to a select tender for some independents to come into the market. That had been somewhat messy. I am not having a go but it was not clear.

What had happened was that Gull had indicated interest, as had Woolworths. There were three sites that had been, I suppose, earmarked for independents to come in. Maybe it was four sites. Woolworths had a view on where they could put petrol stations around sites that they already owned, shall we say, or already leased, as it is in the ACT, and then a special deal was done. It was not a competitive process that included the big guys.

MR WALL: What were some of the enticements that were offered by government as part of the special deal?

Ms Carnell: It was access to land at an affordable rate and working with them on environmental requirements and so on; not undermining the law. You cannot do that. That goes without saying.

MR WALL: It was basically creating a clear pathway for them to acquire the site?

Ms Carnell: Yes.

MR WALL: And doing everything within government’s power to facilitate—

Ms Carnell: To help them do it. We did the same with Aldi, by the way, and so did the Labor government as well.

MR WALL: Was anything done in the space of concessions or holidays around things like payroll tax, rates?

Ms Carnell: You are going to need to check but the answer is yes.

MR PARTON: When it comes to the access to the land—please excuse my ignorance—if you had not done a special deal, if you had just decided that there were four sites that were going to potentially become petrol stations or I guess become—

Ms Carnell: Or had been and had, for whatever reason—

MR PARTON: Would that have just been like an auction process or would you put a—

Ms Carnell: It would have gone out to tender and the majors would have picked them up because they would pay more. The argument was always from treasury, I would have to say, that the government has an obligation to get the maximum return that it can for its property, because it is its major source of revenue in the ACT. That would be the treasury line. The problem comes if there is no competition in the market, or very little, and we know what happens.

MR PARTON: We also have covered off, in this inquiry on a number of occasions, the fact that you can make some changes to encourage some independents into the marketplace but you cannot actually legislate for retail courage, can you? At the end of the day whoever you get in will do whatever they do. What obligation was placed upon—

Ms Carnell: You can make sure that concessions only continue to live as long as the entity continues to operate as an independent. You can stop somebody selling on the basis that they lose their—

MR PARTON: I am not even talking about selling. What I am talking about is: you do not have a guarantee that they are actually going to challenge the market pricewise, do you?

Ms Carnell: You have no guarantee of that but the reality is, for the smaller guys, unless they do they are going to die.

MR PARTON: That is how they win their market share?

Ms Carnell: I am not suggesting markets always work, because they obviously do not where there is a lack of competition, but for independents coming into the market, unless they shake the tree, they are—

MR PARTON: They are just not going to get enough market share.

Ms Carnell: They are not going to be able to compete with the big guys. I think the other point that I would make is that—and this is more dramatic than it was 20 years ago—retailing has changed. The way service stations work has changed. There are an awful lot of different services, products and so on sold through petrol distributors, and encouraging innovation in terms of how these people work is a really important thing.

I am not suggesting what that is. I am suggesting that that is the future. You are saying: are a lot of our petrol stations now petrol stations with convenience stores or are they convenience stores with a couple of pumps? What those convenience stores used to look like was bread and milk and the paper and now they do not look like that. They are increasingly looking like places that you pop in to be able to pick up the things you need to cook dinner at night.

MR PARTON: And, yes, petrol.

Ms Carnell: And I will get some petrol while I am there. Allowing innovation in that space is really important, because I am not sure that in the future an independent that is trying to only make money out of petrol has got a serious future. The thing that we cannot stop in the ACT is the bigger operators screwing price to take the little ones out until they go and then upping it again. Allowing independents to do innovative things that mean that their business is not solely about petrol, I think, is important for the future.

MR PARTON: Knowing what you know now, if you were the chief tomorrow, would you experiment in that same way again in terms of encouraging independents into the market in that way?

Ms Carnell: Yes, I would. But there are other things that I would do. I would make sure that there were enough sites for there to be a level of capacity for them to operate. Woolworths survived and prospered because they had size and access to sites and they were big.

MR WALL: Big capital backing, which is critical.

Ms Carnell: Yes. For Gull, with two sites, and not the greatest sites on the planet, I have to say—

MR PARTON: I am trying to think where they were. There was the one in Belconnen.

Ms Carnell: And there was one out at Hume; not horrible sites but not exactly the best sites in the universe. What I would have done was make sure that it was not just a few sites, that we actually ramped it up quickly and that we were not negative to new sites. The ACT is really good at planning. There was a site there, there was a site at Belconnen. Where we put petrol stations is in the plan. If somebody comes up and says, "I'd like to put a petrol station over there," the planners are probably under some form of meltdown. I do not mean that badly but that is generally the dilemma.

MR WALL: It does not fit the mould?

Ms Carnell: It does not fit the mould, does not fit the plan. Again, I make the point that when we go to new suburbs the petrol station site is there on the plan, next to whatever. And when we go out for expressions of interest, guess who is going to get them every single time? That is what happens. So it is actually quite a fundamental change.

The other thing that others may not have brought forward in this inquiry is that just in recent days the ACCC has put out a discussion paper with regard to enterprise agreements and allowing small to medium businesses, including franchisees, to do joint deals, to negotiate as a bloc. In the past that has not been legal, because that would be contrary to competition policy. For franchisees to be able to negotiate with major companies together could, I believe, make a difference.

You ask what I would do if I could go back. Trying to empower our franchisees—who, let us be fair, are Canberra small business people—to have more power in the relationship with the major petrol companies is something I would have looked at much more seriously, maybe because I now know more about how imbalanced that power arrangement is than I did then. The ACCC view about allowing franchisees to negotiate as a bloc to get better deals might be something that could work in the ACT. It is something that needs to be looked at.

THE CHAIR: Is there anything else that you would have considered at the time, knowing what you know now, particularly developments in other jurisdictions? I know that in 2001 there was an ICRC report that said, “Mandatory reporting: no.” Now—

Ms Carnell: I think mandatory reporting, yes, is the story. Some of the good stuff that has happened is much more availability of real-time pricing, but that could be done lots better. The Western Australians do that pretty well. I am sure others do now as well; I am just not quite in the loop anymore.

THE CHAIR: Do you think we should lock in prices for a period of time?

Ms Carnell: For 24 hours—that deal? I do. I have thought about that a lot. If you do not, you cannot stop them moving really quickly, and that is what has happened. I am sure the petrol companies will tell you that they would never do it and there is absolutely no—any of those words that you are not allowed to use because they are really illegal—in the market. But it is interesting how prices do tend to move en masse from time to time. So if you do not lock in, how do you stop the petrol price being listed and an hour later moving? So as much as I hate petrol—

THE CHAIR: It kind of takes the anxiety out of it.

Ms Carnell: Yes. I must admit, much as I loathe the idea of price setting and a whole range of other things, this is a market that is not working. And it has not worked.

MR WALL: It is not a free market because, particularly in the ACT, it is not open to new entrants to the same extent.

Ms Carnell: No, it is not open to new entrants. The people who are in it have a cosy relationship. That is the nice way of putting the other thing that is illegal. Even for the most solid free marketeer, where governments should get involved is where you have market failure. And market failure happens when you do not end up with proper competition in a market and when prices end up being artificially elevated. That sounds like the ACT petrol market. No matter how you look at it, that is what it looks like. There have been lots of inquiries, lots of looks at this. But it seems pretty

obvious that there just needs to be more competition and potentially better reporting and better information available to consumers.

MR PARTON: But there has been a high focus on information to consumers. I think it is abundantly clear that if all you do is increase information to consumers it is not actually going to achieve much.

Ms Carnell: It cannot, by the nature of it. You have got to have a market first where people are discounting, so that people know about the discounts, and that has to be not just in a couple of sites at Fyshwick or out near the airport. You have got to have a market to start with and then people have got to have access to the information on who is discounting and where that discounting is; and, I have to say, a really close eye on what the majors do in terms of anti-competitive behaviour to the discounter. Loss leading is a reasonable thing to do but you do not do it to push out the little guys. There is an effects test in competition policy law. Big guys are not supposed to use their market power to push small guys out of the market.

MR WALL: We have already had one retailer say that they do sell below cost.

Ms Carnell: Well, there you go—keeping not just an eye on that but also a big mattock on that sort of behaviour being contrary to competition policy.

MR WALL: Swapping hats from former Chief Minister to your current role, are you able to give us an insight into what you have seen in your role as to the way the dynamic and the relationship work between the major oil companies and the franchisees? We have heard that most of the chains set their prices for even their franchisees.

Ms Carnell: They do.

MR WALL: So the little guy who has put his house on the line is trying to run a business but has no control of his purchasing costs and little control of his retail costs. I am keen for your insight as to how that relationship works.

Ms Carnell: At the far end of that behaviour, some majors like Caltex decide they are just going to discontinue their franchising arrangements, full stop, thank you very much. You can give your franchise back. They will pay you out the years you have got left, so if it is a 10-year contract and you are at nine years you get some small pittance of money, full stop, even if your business is trading really well and you have been in it for 30 years. The power imbalance is significant: the capacity of the majors to utilise their power in the market to set the price and to require you to get your supermarket stuff from them or based upon their contracts with others. The sites, as you know, are on the whole owned by the petrol companies. So you are in a position where if you complain too much you could easily be out on your ear. So things need to change.

There has been a major inquiry federally into franchising agreements. In this particular area it is the oil code rather than the franchising code that covers these entities. The oil code is not as strong as the franchising code but the recommendation is that they should be similar—in fact it is a bit hard to work out why there is an oil

code and a franchising code—for all of that. The answer on what needs to be done is that there need to be some significant changes to franchising generally to get rid of unfair contract terms in franchising agreements, like the ones that say, “We can terminate at any time we like really, we can set your prices, we can stop you buying from others,” and all of the things that make it impossible or very difficult to run an independent business. And we need to strengthen up the penalties for franchisors who behave badly. That is happening at a national level, but working with franchisees here is really important.

THE CHAIR: Setting maximum retail margins—how do you feel about that?

Ms Carnell: I struggle, because I do not know how you set the thing you are putting a margin on. What is the wholesale price? It is in the eyes of the beholder in this scenario, or that was our experience. When you try to get petrol companies to tell you what the wholesale price is, assuming that is what you are putting a margin on to have a maximum margin, it seems that they control it to a large extent.

THE CHAIR: Particularly with Viva and their control of terminal gate.

Ms Carnell: And the control of the terminal gate has become more dramatic, not less, in the 20 years since I was there. Much as it sounds like a nice idea, I am not sure you do not just get yourself into a world of pain in attempting to work out what it really looks like.

MR WALL: What your starting point is.

Ms Carnell: What is your starting point, and are the terminal gate prices a figment of some—anyway. Trying to work out how you actually know what wholesale price you are putting a maximum margin on is, I think, a challenge. If you can do that, it is worth a look. But I think they will find a million ways around that one. I wish I had a better answer to that question but I do not.

MR WALL: There is no easy answer.

THE CHAIR: No, there is no easy answer. You have been incredibly helpful today. Thank you very much for your time.

DESMOND, MR SCOTT, Manager, Caltex Fyshwick

THE CHAIR: Before we begin, Mr Desmond, could you confirm for the record that you understand the privilege implications contained in the pink statement on the table.

Mr Desmond: Yes, I do.

THE CHAIR: Thank you. Do you have an opening statement?

Mr Desmond: Yes. I thought about this when I was driving in here today. We have only been in the game for less than a year, so I am not the greatest witness to the history of fuel prices and things like that. I have done a lot of research leading up to this, but I will talk about my experience in the past less than 12 months or so.

When this all kicked off with the initial claim that we are making exorbitant profits and all that sort of stuff, to be honest, at first I was like “Well, that’s kind of cool. I didn’t realise you could make that much at the fuel game.” The experience so far is not at all what has been portrayed.

As an independent, there are definitely two sides to the coin. I think the independent is not being represented very well in the sense that we, and I personally, are not making the kind of money that we are claimed to make. We are in it to be competitive. I do not have any friends in the game; I do not know anyone; I am learning the rules as we go.

Hopefully, today we can discuss it all. I can let you know what it is like from my perspective as an independent branded as Caltex. I have no affiliation. I choose my prices. I choose my hours. I choose what price we set. There are no backhand movements. It is entirely us trying to be competitive in the Fyshwick market.

THE CHAIR: Thank you. To start off with, I appreciate that some of these things are perhaps commercial in confidence, so please be comfortable just sharing what you can, or indeed saying that no, you are not going to tell us. What factors into the setting of prices for you each day, or each hour, indeed?

Mr Desmond: It is each day. It is the one thing that I have noticed that has come up quite a bit: do we change prices a lot? We do not. I change price so infrequently; it is a daily thing. As I drive to work, I drive around, I see what everyone’s prices are and I try to beat that based on the backside of the equation, which is my finances. I have a lot of fixed costs. I have factors that I need to account for. We get drive-offs every week. We got ram raided a few months ago. We got broken into a few weeks before that. We have a lot of expenses that keep occurring. My pumps at the moment need to be rewired. They are only six months old. That is expensive.

I basically go off that free market idea. If everyone is pricing this, if I can, I will go a little bit cheaper because, if I can, I draw more customers to my site. It is a volume game. It is not set the highest margin and then just kick back and ignore the rest; it does not work that way. The consumer, which I was six months ago, and I still am, will fill up. If it is convenient to me and it is cheaper, fantastic; I will go there.

Personally, I probably would not drive 20 minutes out of my way to save 6c a litre or whatever, but if they will, so be it.

Each day I do my drive. I then utilise the design of my service station. We have a large forecourt; it is really open. We have big trucks that come in and out nice and easily. We have conveniences nearby; there is a carwash; there is a café; there is Domino's Pizza. There are some things that make it convenient for the consumer.

At the same time, I have to take into account that it is Fyshwick; it is a commercial area. I only really have commercial trucks and commercial cars or people shopping at Bunnings. I also have about a five-day trading week, really, not seven. If I were to compare myself to the city, they are probably chock-a-block seven days a week, so they have a little bit of leeway potentially because they have an extra two days of trade. In Fyshwick, if you go to my site on the weekend, you could wait 20 or 30 minutes, or 40 minutes, before you see a car. That is just because there is not really much in Fyshwick. We developed north side; we did not really go south to Symonston. It is kind of a Monday to Friday trade game; then it really quietens down over the next two days.

THE CHAIR: You said that in the mornings each day as you are driving to work, you drive around and look at what other sites are doing. Is that other sites just within your region?

Mr Desmond: Yes, it is in my region. I would not drive to Gungahlin to determine my price. I would not drive to Mawson. If I was being really onto it, I could look on some of the apps and say, "Okay, hang on. What are they doing over there?" But I am not going to get the guy from Mawson. He is not going to drive to my site because he is going to save half a cent.

THE CHAIR: Why don't you use the apps even just to look at your region? Surely that would save you a bit of time.

Mr Desmond: It probably would, but they are not accurate. The one I use particularly is Petrol Spy. I am sure you are aware that anyone can edit that. It is quite annoying; I wish it was not like that. I will check periodically and find that my price has jumped 10c. No, it has not; my price board does not show that. But someone does not like me, potentially, or someone is being a bit shady or whatever, or maybe someone thinks it is a fun game, so suddenly my price jumps a bit. So I have to jump on there. Every day I do it, sometimes twice a day, because the price gets changed.

THE CHAIR: That is fascinating.

MR PARTON: Wow. That is the first time we have heard that.

Mr Desmond: When we opened up we heard about all these spy apps. We had never used them in the past, but I thought, "Okay. This is really convenient. I am of the tech generation. Jump on there and make sure my prices are pinpoint every day." Then we started noticing that they jump around, and we do not enter them so it is not us.

THE CHAIR: And you are not doing intraday trading.

Mr Desmond: No. We do not need to. The prices do not move that much. Each day is pretty good.

MR PARTON: Is it your understanding that your price ends up on MotorMouth, or does it not?

Mr Desmond: MotorMouth? I am not sure. That might be another app I need to jump on. Thank you; I knew there was another one.

THE CHAIR: So we can determine from that that you are not a customer with informed sources?

Mr Desmond: I guess not. I know there is Fuel Map Australia and Petrol Spy, and I think there is another one that we check.

THE CHAIR: GasBuddy.

Mr Desmond: There are so many. It is a jump across all of them. Give me the one that only I can edit; that would be terrific. I sent an email to Petrol Spy saying, “I will confirm I am manager of the site; you can have some employment certificate. Consumers can complain that the price is not reflective if they want to. But if anyone can change it, anyone can change it, for good or bad. I could change my price to the consumer without even changing my price on the board.”

MR PARTON: You talked about the fact that it is a volume game.

Mr Desmond: Yes.

MR PARTON: And you are participating in the market as a competitor. Have you ever considered being a bit more courageous with retail price to generate more volume?

Mr Desmond: Yes.

MR PARTON: Have you experimented in that space?

Mr Desmond: Yes, we have.

MR PARTON: How has that worked?

Mr Desmond: I think over the course of 12 months I might be able to say. On a day-to-day basis, no, not really.

MR PARTON: You just end up losing a bit of money?

Mr Desmond: Yes, but at the same time we hope—this is why we do it: if you do look on Petrol Spy or one of those apps, you will notice that we are very cheap compared to some of the bigger players and all that—that consumers will see that all across my site it says “independent” and they will go, “As an independent they are not

trying to swindle us out of our money, and it was reasonably priced today so I will come back.” That is all we hope for.

MR PARTON: What do you get out of being branded Caltex?

Mr Desmond: The biggest factor is that Caltex is a known brand. It is trustworthy, it has good quality fuel and it has StarCard.

MR PARTON: StarCard is the biggest thing out of that?

Mr Desmond: Pretty much, yes. It is a nice red colour. There are not many great persuasive things either way. We did talk to all the different suppliers. There are a few Shells already in Fyshwick. There are a few BPs—at least one. There was no Caltex. Caltex has nearly 40 per cent or something of the fuel card market, so that is quite appealing to our site, being commercial. Commercial trucks usually have a fuel card, if not several different types, for their drivers. So that was one of the deciding factors.

MR WALL: Can you talk us through, as an independent, some of the background overheads, to the extent that you can? We have heard from one of the major retailers about the varying site costs that they have, from the leasing and maintenance of sites through to geographical differences. For your business, what does that look like? Can you paint a picture of how tight it is, or how much breathing space there is in the margins that you have?

Mr Desmond: Not much; that is the short answer. The long answer is contained in all of these little dot points. Fuel delivery to Canberra is a lot more expensive than even the draft report suggested, by a couple of cents per litre. Rates are a big factor for us. On that site alone in the past 15 years it has gone up 660 per cent. That is about two to three times higher than the exact comparable competition in Queanbeyan, which is only four kilometres down the road. That factors in to your fuel pricing because you have to find that money to pay those rates, not to mention the GST on top of all of that.

With the geographical location, Fyshwick does not have any night trade. It is a great place to break into. It is quiet. As I said we have had one ram raid. That cost us \$30,000 plus \$10,000 for security for the week afterwards until we got our roller door shutters repaired. There are break-in attempts. We have drive-offs regularly, at least one to three a week. You cannot stop that. You cannot jump on the car.

Rent is probably comparably higher than in New South Wales and other areas. As I said we only have a five-day trading week. We have all of these extra costs: half a million dollars to set up the site; repairs on pumps, as they are not the most reliable things, as I am discovering. All of these come into it again and again. One of the bigger ones is that I have a huge expanse. I have a big site, literally, I need to be able to fit in big trucks. That works because I get trucks, but it means I have to pay rates on a huge expanse of concrete, a huge forecourt.

MR PARTON: A personal question: did you pick the wrong game? If you could go back to a year and a half ago, would you do this again?

Mr Desmond: I find it to be fun. It is exciting and it is enjoyable. It is competitive. It

is certainly not like what everyone perceived. I remember when petrol prices went from less than a dollar to a dollar a litre, and everyone was outraged. Everyone was saying, "It's so expensive, it's a dollar a litre," and then it kept climbing and now we are at \$1.40 or whatever a litre. I had that same impression, that they must be ripping us off. But once you get into the game, you get to see the other side of the coin. We do not really control 85 per cent of that. We control 15 per cent, roughly. Do not quote me on those numbers, but it is the percentage that is actually our retail end of it. That is much tighter than we ever thought.

I get two fuel deliveries each week. The question that we have, and it is a perfect example, is this: we have a \$40,000 OPT about to be installed. It allows us to trade diesel 24 hours. It will not make a great deal of trade but it makes me look a little bit more competitive. The truckies can say, "At 4 am I can fill up, instead of waiting until 6 am." That costs \$40,000. I spoke with my accountant yesterday. She said, "Can we wait? Can we push that off for just a moment?" I need \$70,000 twice a week for fuel supply. That gives you an idea that we are not kicking back and counting cash. We are trading on.

Would I get out of the game? Ask me in 12 months. I do not think I would. It is a competitive thing to do. It is a large site. I think it has great potential, but it is a lot more competitive than I had realised.

MR PARTON: Are you making less money than you thought you would? You do not have to answer that.

Mr Desmond: I personally did not really have ambitions of making heaps of money. It was a site that was open that we took over. My experience is that you just have to keep trading. If you get an opportunity, you jump in. I do hope that we do not go broke and that it backfires. That would be really terrible and if that happens, as an independent, that sucks. We are not sitting back and saying, "We're not making nearly as much money as we thought." We are not short-sighted here. We are just thinking, "Can we do this? Can we do that?"

In two or three years time I hope we have paid back our capital costs. I hope that break-ins decrease. I hope that the volume increases. But it is a declining market, anyway. We have 15 or 20 years until we are all driving electric cars, hydrogen or something else, or the efficiency will be so tremendous that fuel will become just a side-seat game. So it is kind of a short-term game.

MR WALL: Can you give us some insight on volumes? The site that you operate has been in operation for a long time. What information do you have regarding the trend in volumes?

THE CHAIR: And do you have a plan—I think you do—to increase your volume?

Mr Desmond: The trend in volume is down. There are a couple of factors in that regard. Over the past 20 years we have had these highway super-sites come in, commercial sites. The trucks fill up before they get to us, on the way to Sydney, on the Hume Highway and things like that.

We have more service stations in Canberra; I think it is up 25 per cent in 15 years or something like that. We are moving more that way again. If we had developed Symonston 10 years ago, I probably would have had more consumers coming to me. Maybe I would have had seven days worth of trade. Since we took over the site our volume has been slowly increasing, as we went from what was United to now Caltex. It is slowly ticking on the way up, but it is not where it was when BP was there 20 years ago. It is definitely down from there.

As to how we intend to increase our volume, it is by being known as independent, by being known as having cheap fuel. We cannot compete with some of them. They get their fuel way cheaper than I get it, I guess, but we do our absolute best and we utilise the convenience of the site: the easy access, the associated businesses next door and things like that.

THE CHAIR: In terms of other sites or retailers getting their fuel cheaper, is that something that you have considered in terms of your negotiations for how much you are paying for fuel?

Mr Desmond: We did our very best to negotiate, but I am just Scott Desmond; I do not really have much negotiating power. If I owned the fuel supply, I might be able to give it to myself cheaper, potentially, and sell it more cheaply or in greater volume. We did our very best. We do not think that we got a bad deal, by any means, but there are definitely some sites that can offset their loss leading. I will not name names because I do not want to start a fuel war, but I cannot offset with membership. I cannot offset with my grocery store. I cannot increase the price of coffee to discount the fuel. We are a stand-alone. We provide fuel at the most competitive price possible, while at the same time always being aware that we have these fixed costs; we have fuel costs and things like that. That little wiggle room is fixed cost versus the most competitive price we can give the consumers so that they keep coming back.

MR PARTON: MotorMouth do not give your pricing.

Mr Desmond: Are we on MotorMouth?

MR PARTON: No. They indicate that there is a petrol station there, but it says “price unavailable”, because you are not a client of theirs, I am assuming.

Mr Desmond: There we go. MotorMouth: I will look into that one.

THE CHAIR: It is run by a company called Informed Sources. Different companies share their fuel prices and that makes them more available to other companies.

Mr Desmond: So it is not even for consumers?

THE CHAIR: Due to an ACCC crackdown, that is why Informed Sources now has a consumer-facing, public-facing website, so that everyone benefits, not just the few.

MR PARTON: Are BP an independent or are they—

Mr Desmond: Down the road from us?

MR PARTON: Yes.

Mr Desmond: I think they are an independent.

MR PARTON: Because their price is also unavailable.

Mr Desmond: There you go. Maybe we are not allowed.

MR PARTON: The Coles Express is at \$142.9 for E10, and Metro is at \$138.9 for E10.

THE CHAIR: Yet Petrol Spy has a different price for Coles Express.

MR PARTON: Do they?

THE CHAIR: Yes, \$143.9.

MR PARTON: Yes.

THE CHAIR: I know you have only been operating for a little period but have you ever encountered any bullying behaviour or threatening behaviour like anonymous phone calls or things like that?

Mr Desmond: No, no-one has ever done that. The most bullying thing I think we ever encountered—it was not us personally, it was our shop clerk—was a woman waved a newspaper at him because we were gouging. That was probably it. The newspaper said, “Petrol product companies are gouging us and ripping us off.” She was very upset by that. That is what kicked it all off. That happened and then I saw the draft report and I wrote to the *Canberra Times* and said, “This is our side of the story.” I feel like the story was written and nobody asked me.

MR PARTON: That is a fair call.

Mr Desmond: Yes.

MR PARTON: And it has been difficult for us because franchisees do not want to talk to us.

Mr Desmond: Yes.

MR PARTON: As you can imagine.

Mr Desmond: Yes. We had that discussion: “Do we want to stick our head out? Maybe if we just stay under the radar everyone will ignore us. What if? What if I do kick off a fuel war because I spoke today? I really do not think it will happen. But what if?” It was a discussion.

At the same time we are an independent, we are being competitive. It is nothing more than just the Australian tradition of operating a small business—a small business that

happens to sell fuel—and we are going to do it at a margin that hopefully allows us to trade on but at the same time keeps us competitive and everyone else can mind their own business or do what they like. But no-one has actually ever directly contacted me or anything.

MR WALL: What would the proposal in the draft report to put a cap on retail margins for fuel—and I think it was part of the basis of your writing to the *Canberra Times*—mean for a business like yours?

Mr Desmond: Similar to the speaker before me, I do not really know how you would do it—I am starting to sound like her—where that number really would come from or how you would pick it. I have read that some people feel that, if you set a margin, people with little negotiating power get affected most. People with lots of negotiating power, or offset ability, just offset it and therefore they keep on trading. It does not really have much effect.

I think that just about any time significant government intervention occurs it usually does not have the effect that is desired. The discussion has always been that independents—I read every inquiry back to 1992 before I came here; I wanted to be well informed; and there was a recurring theme—encourage competition, increase the number of service stations and lower the prices. The number of service stations has increased. I do not know the numbers on independents. I am sure they have increased. In fact I am sure they have from 1992, when there were only five or something.

The price of petrol has gone up. But I think a lot of that is because the Australian dollar has gone down from where it was. The supply of fuel has gone up. There is not really much we can do about that if OPEC and all those guys decide to reduce supply or increase supply. It changes the game entirely, far more than if I have a 5c discount.

MR PARTON: It is interesting that you talk about the number of independents increasing. From the perspective of just about everybody who is watching this space, you are not an independent just because you are branded Caltex.

Mr Desmond: I know. It is the prime example. The journalist from the *Canberra Times* responded, “Yes, we would love to talk to you.” The first question was, “I do not understand. It says “Caltex. You say you are an independent.” I have just spent lots of money on lots of signs to say “independent” across the site.

I got into the game not to revolutionise it. I definitely do not have any network connections with the ports to get my fuel delivered here. I cannot brand it “Desmond Petrol Supplies”. That would be kind of cool but I cannot do that. Independents do the best they can because they are their own individual. I think that is what I am getting across here. There is no-one above me telling me, “We are going to do this today,” or, “We are looking at a futures market and we are predicting this, and we will act like that.” I am definitely not at that level, yet.

THE CHAIR: Have you read our interim report?

Mr Desmond: I think so.

THE CHAIR: The one that had our proposed recommendations, where we put everything on the table. There are nine different things, ranging from do nothing to subsidies for people. I know how you feel about retail margins. What about things like mandatory reporting of fuel? It sounds to me, based on what we have just talked about with Petrol Spy and the inaccuracy of that, that it is potentially something that you are in favour of?

Mr Desmond: Yes.

THE CHAIR: And what about locking in prices again? You say you only really decide your price once a day.

Mr Desmond: It is another thing for me to do, add to my list of administration, to log onto a website or whatever else. In that sense, cool, it is not the end of the world. But will it change much? I am not sure. We do not change our prices enough for lock-in for a 24-hour period to really help. I think that is very much a Sydney-esque kind of thing where they change their prices every hour, I heard. I definitely do not do that. I do not need to.

If there were a central site that showed the service stations' petrol price, sure that would probably help in that I do not have to check all these other apps all the time and update those prices. As to whether a consumer uses it or not—

MR PARTON: Who knows!

Mr Desmond: Ask them.

THE CHAIR: You only set your price once a day, but you want to be competitive against what the other prices are. What happens if, within the Fyshwick market, the other retailers are participating in intraday trading and by midday they have all lowered their prices to below you? You would not know that, would you?

Mr Desmond: Well, yes. I do drive around. It has become second nature to me now that whenever I go to the shops I look at petrol prices. My partner is getting really sick of me repeating the price whenever I go somewhere. In my experience, I have not noticed significant intraday trading. It just has not really occurred. Maybe it does in other areas of Canberra, but around Fyshwick it really does not. If it does change in the middle of the day, it is because it has not changed in two or three days, in which case that is my price check and I go "Okay. Hang on. Let's have a look at what I am at. Let's see if I can match it or beat it, keeping in mind that we do not have a great deal of wiggle room." We try our best to stay competitive.

THE CHAIR: Is there anything that you have not mentioned today that you would like to tell us?

Mr Desmond: One thing I have to mention is that in terms of actions that could be made, a big one that is at the back of our mind is that it is a declining market. We have 10 or 15 years, maybe 20 if we are lucky, to play the game, and in that time it will decline. At the end of that, we have a contaminated site no matter what. We do our absolute best. None of our tanks leaks; we do independent tank analysis and

things like that every month. But people filling up their car dribble a little bit out; it falls on the ground, falls into the expansion joints and settles in the soil, and you have a contaminated site. When that occurs, I think you have about three years for decontaminating that site. In that time, you have rent and you have rates on that land.

That is a factor that comes into play for anyone who owns the site. Once the game is over, or they want to move over, if electric cars become a big player, we cannot have an electric charger near an explosive fuel tank. It is just not allowed. So we would have to level the site, wait three years, and then redevelop the site.

I am sure that in the back of every service station's mind is that this is going to eventually end. In that time you will have three years worth of expenses—rates, rent or whatever else—or loss of potential, like Mr Fluffy, with all the asbestos and things like that. A fact that should be considered is any kind of assistance when it comes to the decontamination of those sites, because that is a huge factor. If we do not have enough money between now and 15 years, we are going to have big problems then. That is a legislative thing. You cannot go around it: we cannot avoid it; we cannot fast-track the decontamination; we cannot move the soil somewhere else. You have to let it do its thing, which is just to evaporate in the sun.

That is probably the only thing that no-one has really discussed, I suppose because it is 10 or 15 years but—

MR PARTON: But we are getting close to that point where it has to be a consideration.

Mr Desmond: Yes. It has to be, yes. Electric cars are becoming a significant factor. They were always a novelty, but now they are a legitimate option. If we move to hydrogen, probably not so: we could just swap tanks out and keep trading. But if fuel disappears and saves the environment, it will require three years for 59 or however many sites in Canberra. That is 59 sites with three years of sitting there as a slowly decontaminating site. That is definitely something that should be considered.

THE CHAIR: Thank you very much for appearing. I do not think that you took any questions on notice, so you are off the hook unless we walk out of here and think of things we did not ask. A proof transcript will be forwarded to you, for you to check whether there are any inaccuracies, typos or things that you want corrected. That will come to you in the coming days via the secretary. Other than that, thank you very much for appearing today; it was very enlightening and it is great to hear another perspective. I appreciate your taking time out of a busy day.

The committee adjourned at 12.34 pm.