

Market Study into the Retail Fuel Sector – Statement of Process

Our intended process and how you can contribute

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CONTENTS

INTRODUCTION1
 MARKET STUDY INTO THE RETAIL FUEL SECTOR..... 1
 PURPOSE OF THIS PAPER..... 1
 RELATED DOCUMENT – DRAFT MARKET STUDIES GUIDELINES ARE AVAILABLE ON OUR
 WEBSITE 1
SCOPE OF THE MARKET STUDY INTO RETAIL FUEL.....2
KEY PROCESS STEPS AND HOW YOU CAN CONTRIBUTE TO THE STUDY2
 SUBSCRIBE TO OUR MAILING LIST TO REMAIN INFORMED ABOUT OUR STUDY 4
GATHERING AND MANAGING INFORMATION4
 TARGETED CONSULTATION AND INFORMATION REQUESTS..... 4
 WHAT WILL WE DO WITH INFORMATION YOU PROVIDE? 5

Introduction

Market study into the retail fuel sector

1. The Minister of Commerce and Consumer Affairs (Minister) has asked us to carry out a market study into retail fuel (retail fuel study) under Part 3A of the Commerce Act 1986 (Act). This study provides an opportunity to consider and evaluate whether competition in the retail fuel market is promoting outcomes that benefit New Zealand consumers over the long-term.
2. In line with the terms of reference issued by the Minister, we will consider factors that may affect competition for the supply of retail petrol and diesel used for land transport throughout New Zealand.
3. We expect this study will help inform the public and Government policy decisions relating to the retail fuel market and encourage public discussion and understanding of how the market operates. We have been asked by the Minister to make our final report from the study publicly available by 5 December 2019. Our final report may include recommendations that identify ways to improve competition outcomes for New Zealand consumers.

Purpose of this paper

4. This paper outlines:
 - 4.1 the process we intend to follow over the course of the retail fuel study; and
 - 4.2 how you can remain informed and contribute to the retail fuel study.
5. This paper does not discuss our proposed approach to responding to the terms of reference or the key issues we intend to consider as part of the retail fuel study. We intend to include this in a Statement of Preliminary Issues paper. We intend to publish that paper by January 2019 and will invite comments on it.

Related document – Draft Market Studies Guidelines are available on our website

6. You may find it useful to read this paper in conjunction with our Draft Market Studies Guidelines.
7. The guidelines describe our intended general processes and approach to market studies under Part 3A of the Act.¹ They may assist you to understand what a market study is and how market studies are initiated, how we run our market studies, how we will work with you, and how we deal with information gathered during a market study.

¹ “Competition studies” is the term used under the Commerce Act 1986 to describe a market study, which is the term we use in this document.

8. Our Draft Market Studies Guidelines can be found at <https://comcom.govt.nz/about-us/our-role/competition-studies>. We welcome submissions on these Draft Guidelines by 31 January 2019, by email to marketstudies.submissions@comcom.govt.nz.

Scope of the market study into retail fuel

9. The terms of reference for the retail fuel study have been issued by the Minister. They set out the matters we must analyse and report on, and our timeframe for doing so.²
10. The terms of reference state that:³

I, Kris Faafoi, Minister of Commerce and Consumer Affairs, pursuant to section 51(1) in Part 3A of the Commerce Act 1986, require the Commerce Commission to carry out a competition study into any factors that may affect competition for the supply of retail petrol and diesel used for land transport throughout New Zealand.

Matters to be considered in the study may include, but are not restricted to:

1. the structure of the industry;
2. the extent of competition at the refinery, wholesale and retail levels, including the role of imports;
3. any factors that may hinder competition between industry participants;
4. the conditions for entry by potential competitors, including independent suppliers, and/or the conditions for expansion;
5. whether wholesale and retail price and service offerings of petrol and diesel are consistent with those expected in workably competitive markets; and
6. features of retail petrol and diesel markets that are not in the long-term interests of consumers.

The Commerce Commission should make its final report for this study publicly available by 5 December 2019.

Key process steps and how you can contribute to the study

11. As noted, we will be carrying out a retail fuel study over the next year, publishing our final report by 5 December 2019.
12. **Table 1** below sets out our intended timetable and indicative dates for our study, including key opportunities for you to contribute to our study.

² Under Section 51 of the Act, we may also exercise our discretion in relation to any ancillary matters that are related to, but not explicitly covered by, the terms of reference.

³ The terms of reference have been published in the Gazette and can be found at: <https://gazette.govt.nz/notice/id/2018-go6158>.

Table 1: Key process steps and how you can contribute

Indicative dates	Key process steps	How you can contribute and remain informed
5 December 2018	Terms of reference for the study issued by the Minister and published in the Gazette.	
6 December 2018	Issue initial information requests to main parties.	
Week beginning 10 December 2018	Publish Draft Market Studies Guidelines on our website. Publish Process paper on our website.	You are invited to submit on the guidelines by 31 January 2019 by email to marketstudies.submissions@comcom.govt.nz
By January 2019	Publish Statement of Preliminary Issues on our website. To include our proposed approach to responding to the terms of reference and preliminary issues we intend to consider as part of the study.	You will be invited to comment on our proposed approach and preliminary issues. These submissions will help inform our analysis and draft report.
December 2018 – March 2019	Further information gathering and engagement with parties. Undertaking of analysis.	We will engage directly with parties.
February – July 2019	Testing information and analysis with relevant stakeholders. Publish working paper(s) for stakeholder comment over this period. To include analysis on potential competition issues impacting outcomes in the retail fuel market.	We will provide updates on opportunities to contribute.
July – August 2019	Publish draft report on our website. This will include our findings on the factors affecting competition in the retail fuel market and may include any recommendations about changes to the market.	You will be invited to comment on our draft report. We will provide an update on submission opportunities, including details relating to any hearings.
September – November 2019	Consideration of responses to our draft report. We may hold hearings over this time.	We will provide updates on opportunities to contribute.

By 28 November 2019	Report back to the Minister on our findings.
5 December 2019	Publish final report on our website.
From December 2019 onwards	The Minister responds to our final report.

13. These indicative process steps and dates may change. We anticipate providing further details on specific steps and key opportunities for you to contribute to our study as it progresses.

Subscribe to our mailing list to remain informed about our study

14. We will be providing updates on our study on our website at <https://comcom.govt.nz/about-us/our-role/competition-studies/market-study-into-retail-fuel>.
15. If you would like to be kept informed and receive updates on our study, please subscribe by emailing marketstudies@comcom.govt.nz.

Gathering and managing information

16. **Table 1** notes some of the ways that we will gather and analyse information and the timeframes for doing so.
17. The information you provide will help us better understand how well the retail fuel market is working in New Zealand. This information will inform our analysis, findings, and ultimately our final report. Our final report will set out our findings and any recommendations about changes to the market.

Targeted consultation and information requests

18. Over the course of our study, we will seek to engage directly with, and gather evidence from, a range of stakeholders we identify as having information that is relevant to our study. This includes industry participants involved in the importing, refining, distributing, storing of fuel, and supplying fuel to retail customers through service stations. Stakeholders are also likely to include motoring groups, consumer bodies, government departments, consumers, and other interested parties or market participants.
19. Initiation of a market study triggers our ability to use our statutory investigative powers under section 98 of the Act. We will use our statutory powers where necessary or desirable to collect information that is relevant to our study.
20. We aim to be fair and reasonable with our requests for information and the deadlines we set for parties to respond to our requests. In doing so, we will aim to

adopt a flexible approach and tailor the form of our engagement to individual circumstances.

21. We may obtain information in a variety of different ways, for example meetings, face-to-face interviews, telephone interviews, or correspondence through letters and emails.
22. More information on the Commission's powers is available in our Draft Market Studies Guidelines, available at <https://comcom.govt.nz/about-us/our-role/competition-studies>.

What will we do with information you provide?

23. Much of the information the Commission will need to complete its market study will likely not be public. We expect some information we obtain will be commercially sensitive. There may also be firms or individuals who hold relevant information, but who would be concerned if their assistance to the Commission was made public.
24. We have mechanisms in place to protect information that we are provided, to ensure interested parties are not discouraged from coming forward and providing information to us. If the Commission intends to disclose confidential information to another person, it will endeavour to first discuss this with the party that provided the information.
25. More information about information gathering and how we deal with information can be found in our Market Studies Guidelines and other Commission documents referred to there.