

Z ENERGY LIMITED

Response to submissions on Z Energy's application for clearance and Commerce Commission's statement of preliminary issues

Public version

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Overview

- 1 Z Energy Limited (*Z*) refers to submissions made in response to its application to the Commerce Commission (*Commission*) to acquire Chevron New Zealand (*Chevron, proposed transaction*) dated 30 June 2015 (the *Application*) and the Commission's Statement of Preliminary Issues dated 6 August 2015 (*SOPI*):
 - 1.1 Mobil Oil NZ (*Mobil*) submission on the Application dated 31 July 2015;
 - 1.2 New Zealand Transport Agency (*NZTA*) submission on the Application dated 12 August 2015;
 - 1.3 Challenge Dealer Group (*Challenge*) submission on the Application dated 21 August 2015;
 - 1.4 BP Oil New Zealand Limited (*BP*) submission on the Application dated 11 September 2015;
 - 1.5 Motor Trade Association (*MTA*) submission on SOPI dated 19 August 2015;
 - 1.6 Gull submission on SOPI dated 21 August 2015;
 - 1.7 Gull supplementary "market review" submission on SOPI dated 4 September 2015; and
 - 1.8 New Zealand Automobile Association (*AA*) on SOPI dated 9 September 2015, together, the *Submissions*.
- 2 Z welcomes the Submissions and the opportunity to assist the Commission by providing some responses to points raised. These responses are not intended to represent a comprehensive articulation of Z's view of the competition law merits of the proposed transaction.
- 3 The Submissions focus in particular on the operation of and access to the Midstream, as it is defined in the Application. Z appreciates some industry players will have views on these issues and that the proposed transaction presents as an opportunity to table those views. However, Z remains of the view that the proposed transaction does nothing to impact any issues related to the operation of and access to the Midstream. In that regard, Z noted:¹

59 The proposed transaction would neither disrupt the current national refining, distribution and storage arrangements, nor facilitate the exercise of market power by Z. Accordingly, it will not have the effect of lessening competition compared with any realistic counterfactual. In summary:

59.1 Governance arrangements for Midstream assets shared among Z, BP, Chevron and Mobil involve negative control rights allowing each a veto in respect of significant decisions.

59.2 Access to Refinery capacity and key primary infrastructure is calculated by reference to nationwide downstream market share (as outlined below) and

¹ Paragraph [59] of the Application. See also paragraphs [3.1], [59] – [63] and [125].

accordingly the proposed transaction would not result in any increase in power relative to the other Midstream Participants.

59.3 In relation to the separately owned terminal storage infrastructure, even where one Midstream Participant holds an apparently powerful position in respect of one component, the remaining Midstream Participants hold countervailing power in respect of another. These dynamics would continue following the proposed transaction.

- 4 Z's other responses are set out below. A table of responses to points of detail made in the Submissions is set out at **Appendix A**.

Access to New Zealand Refining Company (*Refining NZ*)

- 5 At pages 8 and 10-11 of its submission, Gull notes that competitors and potential entrants have no long term access to terminal facilities or fuel direct from the Marsden Point Refinery (*Refinery*). According to Gull, this imposes cost disadvantages on Gull and eliminates the options for new entrants or existing users to import fuel.

- 6 Gull requests that some independence, or provision for access, should be mandated as part of the Commission's review of the proposed transaction. Z makes the following key points in response:

- 6.1 The existing holders of Processing Agreements with Refining NZ (i.e. the Midstream Participants) together require greater output of product than that available at the Refinery. All of the Midstream Participants "top up" volume requirements for their respective New Zealand business with imports. Doing so is more efficient from a supply chain perspective than either:
- (a) producing surplus product at the Refinery and exporting into markets serviced by more efficient (larger-scale) refineries; or
 - (b) running the Refinery at less than full capacity.

These conditions are expected to prevail for the foreseeable future and effectively dictate that, regardless of whether the proposed transaction proceeds, the Midstream Participants will fully utilise Refinery capacity.

- 6.2 Further, the proposed transaction will not change any of the incentives that exist in the counterfactual in relation to access to the Refinery. In particular, by acquiring Chevron's business, Z inherits not only access to the Refinery (via Chevron's Processing Agreement), but also the commercial imperative to sustain volumes and recover costs across a nationwide distribution footprint and across product markets determined by Refinery output. Accordingly, the commercial outcomes in relation to third party participation in the Refinery (and related infrastructure) will be unaffected by the proposed transaction.
- 6.3 In any event, it is by no means certain that participation by Gull or any third party in the Refinery would increase competition. Trading conditions ebb and flow and the inherent flexibility of an import model can deliver significant advantages.
- 6.4 Gull has added to the overall competitive mix in part because it has a distinctive business model relative to the Midstream Participants. Gull has

bypassed the Midstream in a targeted way and, having done so, is in a position to take a correspondingly distinctive competitive position across its network. The AA has noted the “Gull effect”, where the presence of Gull stations tends to increase discounting and price competition in an area. That point of difference would be undermined by participation in the Midstream and it is by no means clear that enhanced competitive outcomes would result.

- 6.5 At page 5 of its supplementary submission, Gull has reproduced a chart from a Refining NZ investor presentation that confirms this point. The chart shows 2013 and the first half of 2014 as a period where Refinery production was not competitive compared to imports. Despite this, the Midstream Participants were committed to Refinery production for approximately [REDACTED] of the supply needs during the period. Gull’s import-only model was materially advantaged during this period, and Gull was likely the most profitable participant in the industry over this period, on a per-litre basis.

Ownership of terminal facilities

- 7 Gull, Mobil and BP all raise concerns over Z’s ownership of storage terminals following the proposed transaction. Gull discusses “terminal leverage”, arguing that Z will have increased terminal capacity following the proposed transaction and become a key lender, with well over half the terminal assets. Mobil and BP specifically point to Timaru and Nelson as areas where Z will have 100% ownership of terminals following the proposed transaction and so could arguably raise terminal fees.
- 8 The complex nature of terminal ownership is discussed at [59.3], [107] – [117] and [125] of the Application, and Z directly addresses Nelson and Timaru at [113]. Essentially, Z’s ability to exercise market power in relation to any one Midstream asset will be constrained by its ongoing interest in the continuation of the shared industry storage arrangements as a whole. Where one Midstream Participant holds an apparently powerful position in respect of one component, the remaining Midstream Participants hold countervailing power in respect of another.
- 9 It is incorrect that Z will become the key “lender”, as Gull contends. Z notes that the Midstream Participants are generally broadly in balance in terms of their investment in storage infrastructure relative to the product volumes for which they account. Through changes such as shifts in downstream market share, or issues with particular infrastructure (such as the landslide at Lyttelton that left Mobil without tanks at that port), whether any one Midstream Participant is a net borrower or lender for a particular period alters. For example, [REDACTED] the proposed transaction will not deliver to Z a sustained surplus of storage relative to its product volumes. As such it would be as exposed to retaliation risk following the proposed transaction as it would be without it.
- 10 Furthermore, for any Midstream Participant to hold a significantly imbalanced position would undermine the basis of the shared storage system. As set out in the Application (see [112]), each Midstream Participant is able to account for approximately [REDACTED] of its own volume at major ports and uses others’ storage (and makes its own available) to facilitate the management of peak volumes. Shared storage is a system of ensuring the Midstream Participants (which are committed to the Refinery and thus to competing on a national basis) having the necessary geographic coverage, and storage capacity at the margins, that is more

efficient than each Midstream Participant holding such coverage and capacity individually.

- 11 When a Midstream Participant has held a significant and sustained imbalanced position in the past, it has led to demands from those Midstream Participants operating the proportionately more infrastructure that the net borrower find a way to redress the balance, such as by investing in new storage. As noted in the Application at [48] and [49], all parties would be disadvantaged by undermining the economics of unanimous support for the Midstream infrastructure, including the shared storage arrangements, which underlies the Midstream Participants' conduct within the arrangements. This would continue to be the case following the proposed transaction.
- 12 Finally, there is a natural ceiling to fees the Midstream Participants are able to charge. At a certain point fees would be set high enough that other Midstream Participants or third parties would simply invest in their own facilities or access markets from alternative terminals. As noted at [45], [62], [113.2] and [116] of the Application:
 - 12.1 Gull has established an import terminal at Mt Maunganui from which it can service most of the North Island;
 - 12.2 BP and Mobil have also either built new tanks or invested to bring de-commissioned tanks back into service in the last five years;
 - 12.3 there are tanks owned by third parties that could potentially be leased by other players (for example Stolt-Nielsen owns marine fuel oil, bitumen and diesel tanks in Auckland. The bitumen tank is currently leased to Trafigura and the diesel and marine fuel oil tanks are currently leased to BP).
 - 12.4 Z faces continuing constraints from other Midstream Participants or third parties (such as Stolt-Nielsen or Gull) duplicating or otherwise investing to allow bypass of Z's assets.

Definition of retail markets

- 13 At pages 8 and 14-15 of its submission, Gull argues that:
 - 13.1 retail markets should not be defined in terms of a radius of a set number of kilometres and that many other factors are relevant; and
 - 13.2 in making its assessment, the Commission should consider areas where the number of brands within a market will decrease from four to three and three to two (as well as two to one).
- 14 Similarly, BP observes that competition issues may arise in a greater number of geographic areas than those identified by Z.
- 15 Z agrees that consumer behaviour can be complex and that considering competitive dynamics within a defined localised geographic boundary is a "blunt instrument". However, the Commission is tasked with making a practical assessment of the impact of the proposed transaction on consumer choice. In that regard, measuring areas with certain radii provides a useful filter to assist in isolating any areas of specific concern. Certainly it is a technique that the Commission has used in previous cases (e.g. supermarkets).

- 16 Z reiterates that retail fuel customers are mobile and able to exercise choice of supplier each time they refuel, so long as two competitors exist within a reasonable radius. Z has provided frequency data to the Commission that shows that only a minority of customers refuel exclusively at a particular supplier. Those customers that do not refuel exclusively at one supplier do so for a range of price and non-price factors.
- 17 Following the proposed transaction, the market will continue to feature a range of sophisticated, well-resourced and increasingly diverse competitors. Z has observed that, although there is substantial “overlap” between the Z and Chevron networks, the proposed transaction very rarely removes competitive choice – even when considered on a conservative “local markets” basis.
- 18 Gull’s submission raises the question of the level of concentration in any given geographic area with which the Commission should be concerned (i.e. where the number of competitors will reduce from three to two, or two to one and so on) and the AA’s submission claims that where there are few brands, prices are higher. Z has asked Professor Hausman to assist in interrogating the data set provided to him to test the pricing impact of variations in the number of alternative brands present in geographies of a specified area. This report is confidential and is attached as Appendix B. In short, the results indicate that changing the number of brands present by a factor of one (as would often be the effect of the proposed transaction) does not have a statistically significant impact on price. That includes results comparing prices for areas with two other brands against prices for areas with one other brand (effectively tracking the effect of a “three to two”).

Nature of operating models for retail sites

MTA

- 19 At pages 1-2 of its submission, MTA notes that there is diversity in the operating models used across different fuel networks, and further variation within some networks. MTA notes that Z’s “direct control” model is unique, and Chevron’s independent retailer model brings risk and reward. If the Chevron model is changed, MTA argues that the sustainability of independent retailers may be at risk.
- 20 Chevron does not own the Caltex sites and Z will not be acquiring them as part of the proposed transaction. Accordingly, the level of control Z is able to exert over the Caltex network with the proposed transaction is no different than for Chevron without the proposed transaction. Z will inherit (and add to its own) the same incentives that Chevron already has to maintain market share across its network. That will necessitate optimising trading terms with independent retailers in a similar way as would the case for an alternative owner of the Chevron business in the counterfactual.
- 21 As discussed at paragraph 256 of the Application, Z’s current plan is to continue to operate the Z and Caltex sites and brands unchanged initially. [

REDACTED

]

Gull

- 22 Gull has noted that the long-term nature of supply contracts between service station operators and suppliers effectively removes sites from opportunities for competition for a period (see page 16 of the Gull submission).

- 23 Again, Z will inherit the existing contractual position as between Chevron and the retailers in question, and that position reflects the competitive conditions prevailing at the time. Whether a particular Caltex site is contracted to Chevron or Z, the opportunity to “churn” only presents at the end of the contractual term of supply. Similarly, the costs and practical implications of any such churn (e.g. changing livery) are unaffected.

Relationship with Challenge

- 24 Challenge explains that, under the status quo, the wholesale price methodology between Chevron and Challenge depends on a benchmarking exercise by a third party to ensure competitive rates. At page 2 of its submission, Challenge has raised a concern that Z following the proposed transaction may be able to raise the wholesale price which will reduce Challenge’s ability to be competitive or lower its margins.
- 25 Z understands that supply arrangements for the Challenge retail network are between Challenge retailers and Farmlands, not Chevron. Assuming Challenge’s concern is the wholesale price between Chevron and Farmlands:

25.1 Regardless of the formal contractual position as between Farmlands and Chevron, following the proposed transaction Z would continue to be subject to an imperative to sustain its overall volume of supply, in the same way as Chevron is currently. In general, distributors represent an attractive channel for Midstream Participants in light of the lower capital expenditure required and lower operational risk, and because they involve large volumes, which means they assist Midstream Participants to manage the commercial risk associated with always being committed to substantial minimum output from the Refinery. Given the incentives of the Midstream Participants to secure volume in an environment that features vigorous competition among distributors, and among retail suppliers, Z considers that following the proposed transaction it would face an imperative to supply Farmlands at competitive prices in order to sustain its volume of supply through this channel.

25.2 Farmlands represents critical volume for the Chevron business both now and under Z ownership following the proposed transaction, which provides an overarching incentive to ensure this channel receives supply on competitive terms.

25.3 [In addition, Z understands that, to the extent that the Challenge retailers are unable to secure competitive trading terms via Farmlands, they are in a position to put their volume to competitive tender in due course.

Loyalty schemes and supermarket dockets

- 26 Mobil and BP have raised specific issues in the context of Z participating in both the Fly Buys and AA Smartfuel schemes simultaneously. Ultimately Z will look to optimise its competitive position across both its existing network and the Chevron businesses. That could include a range of solutions around loyalty schemes[

REDACTED

]. Z sees no reason why participation in two or more loyalty schemes could be adverse to the interests of consumers. In addition, while Z obviously retains some influence over the commercial direction of the Fly Buys scheme given its shareholding, that influence

will not apply with respect to AA Smartfuel. That scheme has been successful from a standing start and is a compelling example of the kinds of competitive tools available to Z's competitors with or without the proposed transaction.

- 27 The interactions historically with each of Foodstuffs and Progressives around supermarket docket fuel offers have always been characterised by the effective exercise of countervailing market power. Z anticipates that these negotiations will continue to be robust following the proposed transaction and that each of BP, Mobil and Gull will be well positioned to secure pro-competitive terms to support fuel offers through this channel.
- 28 Further, supermarket docket schemes are primarily controlled by supermarkets in an attempt to win customers from one another. Z is only a redemption partner – the supermarkets typically determine when discounts happen and at what levels they occur.
- 29 Supermarket docket relationships are subject to competitive tender processes and switching does occur. For example, in 2013 following a Request for Proposal process, Mobil secured Foodstuffs' docket programme and wholesale volume from BP. The arrangements need not be exclusive either. Z notes that, while Foodstuffs has an exclusive arrangement with Mobil both for docket and Pak'nSave volumes, Progressive has its docket redeemed at both Z and Gull sites.
- 30 Participation in a loyalty scheme is not necessary to compete effectively, as Mobil's growth in retail market share since 2010 demonstrates. Retailers compete on a range of price and non-price factors and Z observes that Mobil has competed effectively during this period with both "prime-sign" and "point of sale" discounting (e.g. spend \$4 in store and receive 10cpl off) as well as through its docket relationship with Foodstuffs.
- 31 Finally, AA Smartfuel was only established in late 2012 and has quickly established a large active user base. The commercial efficacy of particular loyalty programmes varies over time and retailers are able to innovate to develop new loyalty propositions that appeal to retail customers.

APPENDIX A: Z POINT-BY-POINT RESPONSE TO SUBMISSIONS

#	Submission	Point made by submission	Z response
1	Mobil submission on Z Energy clearance application, 31 July 2015	<p><i>General</i></p> <p>Mobil has raised concern that one company will have approximately 50% share of ground/aviation fuels and 100% share of bitumen supply, a significant increase in midstream supply and distribution asset ownerships.</p>	<p>As discussed at [3.2(a)] of the Application, the only overlap in supply of jet fuel between Z and Chevron is in the supply of Jet A-1 at Auckland Airport.</p> <p>In the Application, Z sets out points regarding the ongoing competitiveness:</p> <ul style="list-style-type: none"> • in Jet A-1 fuel from [128] – [149]; and • in Bitumen from [166] – [176]. <p>Furthermore, as explained in [3.2(c)] of the Application, [REDACTED].</p> <p>Bitumen is discussed in more detail below in response to NZTA (see responses 7 – 11 below).</p>
2	Mobil submission on Z Energy clearance application, 31 July 2015	<p><i>Discount programmes</i></p> <p>Mobil argues that, following the transaction, Z will have agreements with 3/4 discount programmes in the market. Mobil claims Z will be able to exclude other players from existing programmes and optimise its overall offer (e.g. not run promotions simultaneously).</p> <p>Mobil further claims Z will have control over AA Smartfuel, since its network size will put it in a position to negotiate exclusivity and discount sharing rates, and influence timing and the amount and duration of</p>	<p>Z sets out its response from paragraphs 26 to 31 above.</p> <p>Loyalty schemes and discount programs are discussed from [283] – [290] of the Application.</p> <p>In addition, at [286] of the Application Z notes that following the proposed transaction:</p> <ul style="list-style-type: none"> • Z will have no additional control over the terms on which the AA Smartfuel scheme is operated. AA Smartfuel is an independent scheme with Chevron's

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		promotions.	<p>participation being governed by contract;</p> <ul style="list-style-type: none"> • AA Smartfuel will have a strong incentive to optimise its competitive positioning, extending not only to retaining BP as a participant, but also seeking to retain the Caltex-branded sites and/or recruiting additional participants. The same would apply in reverse for Loyalty NZ; and • schemes like AA Smartfuel are able to be created by Z's competitors at any time, and AA Smartfuel is a compelling example of such schemes being successful from a standing start. <p>Z's change in network size will not affect existing loyalty scheme agreements or incentives.</p>
3	Mobil submission on Z Energy clearance application, 31 July 2015	<p><i>Reduction of brand alternatives</i> Mobil notes the transaction will mean fewer brand alternatives, and significant movement would be required to change the competitive structure given the market share of the merged entity.</p> <p>According to Mobil, a new entrant will come to market only if there is sufficient scale available. Therefore the only brand changing that is likely to take place is inter-brand, as opposed to new entrant based changes.</p>	<p>As shown from [228] - [270] of the Application, a large number of brands currently participate and will continue to exist following the proposed transaction.</p> <p>Conditions for entry and expansion are discussed from [295] - [301] of the Application.</p> <p>Furthermore, past evidence does not support Mobil's claims. Gull has recently entered the commercial and retail markets, and there are an increasing number of brands in the market today.</p> <p>Targeted entry on a regional scale has proven particularly</p>

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			effective in recent years.
4	Mobil submission on Z Energy clearance application, 31 July 2015	<p><i>Truckstop network</i></p> <p>Mobil argues that the merged entity will have the largest truck stop network and more bargaining power with commercial fleet customers. It considers that the Commission should closely review the truck stop network to ensure multiple suppliers on key transport routes.</p>	<p>The truckstop network is discussed from [210] – [216] of the Application.</p> <p>Z has provided tools to the Commerce Commission showing that competitive options remain for firms seeking to uplift fuel from truckstops. Few truckstops are required in order to operate a credible truckstop network (see [212] of the Application).</p> <p>Mobil is able to invest in more truckstops if required. Two of Mobil’s distributors – NPD and Allied – are currently investing in extending their existing truckstop networks. Allied has opened or redeveloped truckstops in Invercargill, Greymouth, Taupo and Hamilton in approximately the past year, and states that it intends to continue to develop new truckstops.</p> <p>Mobil has chosen to close sites within its truckstop network over the past year, and is increasingly using its retail sites to service trucks, another way to present a truckstop network.</p> <p>Mobil and BP are also able to exploit the coverage of their distributors. In the case of Mobil, NPD and Allied have truckstop networks and Mobil’s distributor truckstop sites generally accept MobilCard – essentially creating one larger network connected by a single card.</p>

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5	Mobil submission on Z Energy clearance application, 31 July 2015	<p><i>Terminal ownership at Nelson and Timaru</i></p> <p>Mobil notes that, following the transaction, Z will have 100% of terminal assets in Nelson and Timaru. Mobil is concerned about increases to fees at these terminals.</p> <p>Mobil does not advocate for price control but requests that the Commission explore options to ensure open and competitive terminal access.</p> <p>Mobil claims that Z raised fees to Mobil at its terminals when it purchased Shell.</p>	<p>Z's response regarding Nelson and Timaru, and terminal assets in general is set out from paragraphs 7 to 12 above.</p> <p>In 2011 Z introduced a capital recovery fee component into its throughput fees, which applied across all terminals, including at ports where Midstream Participants have their own assets. This move was made to support Z's future investments in shared storage, since at the time throughput fees were based on recovery of operating costs only. The other three Midstream Participants also raised the terminal throughput fees charged to Z in 2011. Z is not aware of the extent to which throughput fees were increased amongst the other three Midstream participants.</p> <p>As a more relevant example, Chevron closed its Timaru assets in 2010, leaving Z as the only owner of terminal assets at Timaru for a time. During this period Z did not increase terminal fees and lobbied for Chevron to return its assets to operation, which Chevron eventually did.²</p> <p>This is typical of how the Midstream works. As discussed at [113.2] of the Application, Chevron recently sold its terminal at Bluff to Mobil. Despite Mobil now being the only owner of petrol and diesel storage capacity at Bluff, its prices are constrained by those at Dunedin and more broadly by a degree of dependence on the shared storage</p>

² See press release, "Z welcomes change of heart on Timaru tanks", 26 April 2012 (<https://z.co.nz/about-z/news/general-news/z-welcomes-change-of-heart-on-timaru-tanks/>).

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			arrangements viewed in the aggregate.
6		<p><i>Collaborative crude import arrangements</i></p> <p>At page 4 Mobil notes the current joint crude purchase arrangement between Z and BP. It claims that, if Chevron were to be consolidated into this arrangement, it would cover 75% of the crude requirements (we assume for the Refinery).</p> <p>A large section of text following this point is redacted.</p>	<p>Mobil and Chevron were invited to join the joint procurement arrangement but declined. There is no reason why in future any joint crude procurement arrangements could not be expanded to include Mobil. Indeed, Z believes there are additional efficiencies to be gained from such an expansion of the arrangements, which will benefit consumers in the long term.</p> <p>Z has not yet determined whether the additional volume from Chevron will be brought into the existing joint procurement arrangements with BP, as that decision is subject to agreeing commercial terms with Refining NZ.</p>
7	<p>NZTA submission (regarding bitumen) on Z Energy clearance application, 12 August 2015</p>	<p><i>Z's share of supply of bitumen</i></p> <p>NZTA argues that the acquisition will substantially lessen competition by creating a monopoly New Zealand bitumen supplier. NZTA claims Z will gain approximately 90% market share, and claims the market has already become less competitive in recent years.</p> <p>There are only two other companies with the possibility of supplying imported bitumen.</p> <p>The market has already become less competitive due to the Delta collapse. It is the responsibility of a company to ensure they are operating with margins and profit that are sustainable.</p> <p>There could be an opportunity for Z as the supplier of</p>	<p>Z explains why the bitumen market will be unaffected by the proposed transaction at [3.2(c)] and [166] – [176] of the Application.</p> <p>In particular, as explained in [3.2(c)] of the Application, [REDACTED].</p> <p>NZTA's estimate that Z will gain 90% of market share is incorrect. Downer independently imports approximately [REDACTED] tonnes of bitumen per year on its own behalf (dependent on whether it imports into its assets at New Plymouth, which are outside industry storage), and Trafigura independently imports approximately [REDACTED] tonnes of bitumen per year. Together, these imports total approximately [REDACTED] of market</p>

#	Submission	Point made by submission	Z response
		<p>domestic bitumen to produce unilateral effects by:</p> <ul style="list-style-type: none"> • Addressing the bitumen supply distribution issues and therefore removing the countervailing power of imported bitumen because RNZ can then supply to the NZ market. • Inflating the domestic price of bitumen when below imported prices to make the imported bitumen unviable. 	<p>share.</p> <p>Z's ability to invest to address bitumen supply distribution issues is unaffected by the proposed transaction. In particular, [</p> <p style="text-align: center;">REDACTED</p> <p style="text-align: right;">]</p> <p>This indicates the state of the market as it will continue following the proposed transaction: customers are able to import on their own behalf or purchase bitumen from the Midstream Participants. In addition, Trafigura has recently entered the Auckland market for supply of bitumen, and imports 100% of its product.</p>
8	<p>NZTA submission (regarding bitumen) on Z Energy clearance application, 12 August 2015</p>	<p><i>Import/local-production parity</i></p> <p>NZTA argues there is unlikely to be market parity between New Zealand-manufactured bitumen and imported bitumen. NZTA argues:</p> <ul style="list-style-type: none"> • Bitumen cannot be imported into the South Island as storage facilities are insufficient for large imports. • Time lags mean that imported bitumen cannot respond to domestic price changes. • Imports have only occurred because the Midstream Participants' transport operation – COLL - couldn't 	<p>As explained at Appendix B, [18.3] of the Application, Z's bitumen prices are set based on an import parity model that is made transparent for Z's customers. Z will continue to set prices in order to remain competitive and retain market share.</p> <p>At present, New Zealand bitumen pricing is well below import parity due to the significant decrease in the fuel oil price marker relative to actual cost of bitumen imports. Market pricing will continue to reflect such differences.</p> <p>NZTA's claim that bitumen cannot be imported into the South Island is factually incorrect. See for example, the</p>

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		<p>distribute enough bitumen.</p> <p>NZTA claims that post-transaction, Z will price bitumen immediately below import price.</p>	<p>following Z and Downer imports:</p> <p>[</p> <p style="text-align: center;">REDACTED</p> <p>]</p> <p>Z understands that Downer has also previously imported bitumen into Bluff. Small imports from Singapore are also an option for importers.</p> <p>NZTA's point about time lags is also factually incorrect. Z purchases its crude oil three to four months before it is refined and distributed, but sells bitumen on a current price basis. It is easier for an importer to fix a price than it is for Z, who pays a market-related price to Refining NZ and must take into account broader variables such as yield risk and risk from carrying inventory for a longer period of time (due to the length of time that crude takes to manufacture).</p> <p>It is incorrect to say that Z has only imported bitumen as a result of shortages of capacity with COLL – Z frequently imports for other reasons. Capacity with COLL is discussed further in the next row of this appendix.</p> <p>Regarding Z pricing bitumen immediately below import</p>

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			price, Z notes that imports have been cheaper and more expensive than local bitumen in the recent past, and the proposed transaction will not affect this trend.
9	NZTA submission (regarding bitumen) on Z Energy clearance application, 12 August 2015	<p><i>Distribution constraints</i> NZTA argues that shipping constraints currently assist a competitive market, since constraints mean that one third of bitumen needs to be imported.</p> <p>NZTA then argues that Z is likely to remove the competitive tension of imported bitumen because it will address and remedy the current distribution constraints through the use of a larger coastal ship.</p>	<p>It is unlikely that bitumen will ever be a substantial enough product to determine the schedule for COLL shipments.</p> <p>Coastal shipping constraints will be partially relieved by the construction of a new coastal vessel to replace the Kakariki in 2017. The new vessel will increase bitumen capacity by over 50% (to 4KT capacity). This was agreed by all four COLL participants following multi-year negotiations and for reasons unrelated to the proposed transaction, as the proposed transaction was unknown to BP and Mobil until June 2015. However, customers have made no commitments to utilise this increased capacity, meaning product supplied by the new ship must remain competitive compared to import alternatives.</p> <p>Based on Z's current supply modelling, there will continue to be a requirement to import bitumen based on current market demand patterns.</p> <p>Z's bitumen supply model shows that [</p> <p style="text-align: center;">REDACTED</p>

#	Submission	Point made by submission	Z response
			<p data-bbox="1832 268 1854 300">].</p> <p data-bbox="1339 339 2056 435">Regardless, a competitive market for bitumen will continue to exist even if shipping constraints are eased, since:</p> <ul data-bbox="1339 483 2078 786" style="list-style-type: none"> <li data-bbox="1339 483 2078 579">• customers own and manage their own tankage and depots, and are able to import when it is economic to do so; and <li data-bbox="1339 619 2078 786">• Mobil and BP can enter the supply of bitumen (see [166] to [176] of the Application), including importing into customer-owned tanks and, over time, accessing the Refinery and the same COLL shipping facilities as Z.
10	<p data-bbox="235 826 544 978">NZTA submission (regarding bitumen) on Z Energy clearance application, 12 August 2015</p>	<p data-bbox="566 826 1317 1034"><i>Access to Refining NZ</i> NZTA argues that roading contractors cannot currently access bitumen directly from the Refinery. This means that following the transaction, Z will be the only organisation manufacturing bitumen through the Refinery.</p> <p data-bbox="566 1074 1317 1201">Therefore, NZTA claims, Z will be the only organisation manufacturing bitumen through RNZ because only those with shares in the company currently have rights to do so.</p>	<p data-bbox="1339 826 2089 1034">As discussed from [166] – [176] of the Application, BP and Mobil can enter the supply of bitumen from the Refinery. Roading contractors can also purchase bitumen from Trafigura in Auckland if they seek it, and Z customers currently purchase some bitumen from Trafigura.</p> <p data-bbox="1339 1074 2089 1305">All capacity at the Refinery is contractually held by the Midstream Participants and so contractors obtain Refinery supply through Midstream Participants (regardless of the proposed transaction). The Refinery processes crude oil and produces a number of products from that crude (including products for which roading contractors have no use) which means direct access to the Refinery would not</p>

#	Submission	Point made by submission	Z response
			<p>be attractive.</p> <p>There is no link between investment in the Refinery and access to product manufactured by the Refinery.</p>
11	<p>NZTA submission (regarding bitumen) on Z Energy clearance application, 12 August 2015</p>	<p><i>Barriers to entry/expansion</i></p> <p>NZTA argues that expansion of bitumen suppliers into the market will be small scale and unlikely to constrain Z. It claims the market is flat and declining, and there are high barriers to entry.</p> <p>NZTA further claims the transaction will discriminate against medium and small contractors because, should they wish they do so, they do not have the financial, technical or storage facilities to import bitumen. There are also concerns over the commercial leverage that medium and small contractors will have in securing bitumen supply with a so-called monopoly provider.</p>	<p>These points are addressed in the Application from [166] – [176].</p> <p>For the three major customers in New Zealand, the barriers to entry as a supplier are low because the customers own the storage facilities and can choose to import themselves.</p> <p>Smaller customers have the benefit of the industry model operated by Z, where all customers can uplift bitumen from their competitors’ tanks. Smaller customers therefore do not have to invest in tankage themselves. This industry model will continue to operate regardless of the proposed transaction.</p> <p>Finally, contractors or a new entrant (such as Trafigura) could contract with a supplier to import bitumen together. Customers are also able to purchase directly from Trafigura.</p> <p>Regardless, the Commission’s task is to assess whether the proposed transaction is likely to substantially lessen competition in a market. [</p> <p style="text-align: right;">REDACTED</p>

#	Submission	Point made by submission	Z response
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12	Challenge submission on Z Energy clearance application, 21 August 2015	<i>Challenge brand</i> Challenge has requested that the Commerce Commission make a condition of clearance that ownership of the Challenge brand be given to Challenge retailers.	Z does not believe that the prospects of the Challenge brand being transferred to Challenge retailers would change in the counterfactual.
13	Challenge submission on Z Energy clearance application, 21 August 2015	<i>Price methodology</i> Challenge explains that, under the status quo, the wholesale price methodology between Chevron and Challenge depends on a benchmarking exercise by a third party to ensure competitive rates. At page 2 of its submission, Challenge has raised a concern that Z post-acquisition may be able to raise the wholesale price which will reduce Challenge's ability to be competitive or lower its margins.	Z's response is set out from paragraphs 24 to 25 above.
14	Challenge submission on Z Energy clearance application, 21 August 2015	<i>Discount programs</i> Challenge argues that Z Energy currently offers below cost discount schemes with Countdown and Woolworths [sic] – thereby exerting market power to detriment of other operators.	Challenge's claim is factually incorrect. While the cost of standard discounts on docketts (usually 4cpl) is typically shared between Z and the supermarket, Z's higher discounts are typically at the supermarket's cost (see page 53 of Z's 2013 Investor Statement and Prospectus). Z notes that the Woolworths brand is no longer active in the New Zealand market. Progressive Enterprises determines when discounts happen and at what levels they occur. Z is simply a redemption partner. In any event, Z's arrangements with Progressives will be unaffected by the proposed transaction, and will remain in place in any likely

#	Submission	Point made by submission	Z response
			<p>counterfactual.</p> <p>Loyalty schemes and discount programs are discussed from [283] – [290] of the Application and see also paragraphs 26 to 31 and Z’s response 2 to Mobil above.</p>
15	Challenge submission on Z Energy clearance application, 21 August 2015	<p><i>Contract term</i></p> <p>Challenge has a long term supply agreement with Farmlands. Challenge notes that it needs to ensure Farmlands and Challenge have some rights to go to market on a regular basis, to ensure both entities are able to provide competition in the marketplace.</p>	<p>As discussed throughout this response and in the Application, Z will inherit Chevron’s existing contractual positions. Therefore Z will only be acquiring a supply contract with Farmlands, not Challenge. Z’s refers again to its comments from paragraphs 24 to 25 above.</p>
16	BP submission on Z Energy clearance application, 11 September 2015	<p><i>Impact of Z’s post-transaction scale</i></p> <p>BP argues that, post-transaction, Z will have the size and scale to exercise market power to the detriment of its partners and consumers.</p>	<p>Paragraphs [220] – [294] of the Application explain the likely price impacts of the proposed transaction and identify how retail competition will continue to constrain Z following the proposed transaction.</p> <p>Paragraphs [295] – [301] of the Application explain the conditions for entry and expansion at the retail level, and outlines why entry or expansion is likely to be sufficient to constrain any attempts to exercise market power.</p> <p>Paragraphs [128] – [219] of the Application explain how Z will continue to be constrained in the commercial supply of refined products following the proposed transaction. Of most relevance:</p> <ul style="list-style-type: none"> • the market for commercial supply of petrol and diesel is discussed from [177] – [201];

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			<ul style="list-style-type: none"> • general analysis about commercial supply of petrol and diesel is discussed from [202] – [219]; • direct commercial supply is discussed from [205] – [209]; • commercial supply through truck stops is discussed from [210] – [216]; and • supply to fuel retailers is discussed from [217] – [219]. <p>See response 26, to BP regarding supply to distributors, below.</p>
17	BP submission on Z Energy clearance application, 11 September 2015	<p><i>Truckstop network</i> BP notes a concern that the Z/Chevron merged truckstop network might not be able to be matched by the merged entity's competitors.</p>	See response 4 to Mobil above.
18	BP submission on Z Energy clearance application, 11 September 2015	<p><i>Defining retail markets</i> BP argues that competition issues may arise in a greater number of geographic areas than those identified by Z at Appendix Q of the Application.</p> <p>Text in these paragraphs is redacted.</p>	Gull has also made points about how the Commission defines geographic retail markets. See response 28 to Gull below.
19	BP submission on Z Energy clearance application, 11 September 2015	<p><i>Brand switching</i> BP argues that the transaction will make switching brands harder to achieve, given a major switching option is</p>	See response 3 to Mobil above.

#	Submission	Point made by submission	Z response
		removed. A substantial portion of the text in [10] is redacted.	
20	BP submission on Z Energy clearance application, 11 September 2015	<i>Supply to distributors</i> BP claims that it may be difficult for Z and Chevron's current distributors to switch suppliers post-acquisition because of the existence of presumably fixed term and evergreen contracts and other ties.	The current means of upstream supply for distributors is included in Table 1 of the Application. In Z's experience, supply agreements with distributors are typically agreed on a [REDACTED] basis. The underlying contractual position will be unaffected by the proposed transaction. The impact of the reduction of supply alternatives is addressed in the Application at paragraphs [203] to [204].
21	BP submission on Z Energy clearance application, 11 September 2015	<i>Bitumen</i> BP notes that Z will have access to 100% of the local manufacturing capacity for bitumen in NZ, as well as a high market share. BP also claims that bitumen customers will not be able to counterbalance Z's market power by importing bitumen, due to prohibitive costs.	See responses 7 to 11, to NZTA regarding bitumen, above.
22	BP submission on Z Energy clearance application, 11 September 2015	<i>Terminal ownership at Nelson and Timaru</i> BP notes that Z will control Nelson and Timaru oil infrastructure post-acquisition. BP is concerned that Z could raise supply costs. BP notes that trucking alternatives exist for the Timaru	Z's response regarding Nelson and Timaru, and terminal assets in general is set out from paragraphs 7 to 12 above. See also response 5, to Mobil regarding Z's previous fee

#	Submission	Point made by submission	Z response
		supply envelope from Lyttelton and Dunedin.	increases, above.
23	MTA submission on SOPI, 19 August 2015	<p><i>Non-price factors</i></p> <p>MTA notes that, although price is important, convenience and location, the range of offers, services and facilities available and additional benefits such as loyalty and discount schemes all add to the complex downstream market. This array of factors should be kept in mind.</p>	Z agrees with MTA's points on non-price factors. Non-price aspects of retail competition are discussed from [283] – [294] of the Application.
24	MTA submission on SOPI, 19 August 2015	<p><i>Diversity</i></p> <p>MTA notes that there is diversity in the operating models used across different fuel networks, and further variation within some networks.</p> <p>According to MTA, Z's "direct control" model is unique and Chevron's independent retailer model brings risk and reward. MTA argues that if the Chevron model changed, the sustainability of the independent retailers may be at risk.</p>	<p>Z's response is set out from paragraphs 19 to 21 above.</p> <p>Different ownership models used by existing competitors are discussed from [233] – [270] of the Application.</p>
25	MTA submission on SOPI, 19 August 2015	<p><i>General</i></p> <p>MTA identifies that it's been known for a long time that oil companies have been looking to exit from NZ. According to MTA, Z's entry into the market after acquiring Shell's assets was positive, and the MTA believes the transaction would be a good move for NZ Inc.</p>	Z agrees with these points.
26	Gull submission on SOPI, 21 August 2015	<p><i>Access to the Midstream</i></p> <p>Gull notes that there is no long term access to terminal facilities or fuel direct from the Refinery, other than through the Midstream Participants. Gull claims this</p>	<p>Z's response is set out from paragraphs 5 to 6 above.</p> <p>The Midstream Participants' commitment to the Midstream is addressed from [47] – [58] of the Application, and the</p>

#	Submission	Point made by submission	Z response
		<p>imposes significant cost disadvantages on Gull and effectively eliminates the options for new entrants or for existing large users to import their own fuel.</p> <p>Gull argues that some independence, or provision for access to the Midstream, should be mandated as a part of the Commission's review of the proposed transaction.</p>	<p>impact of the proposed transaction on the Midstream arrangements is discussed from [59] – [63]. Throughout the Midstream section from [64] – [125] of the application, Z has set out the effect of the proposed transaction on change of control in the Midstream.</p> <p>In short, the competitive outcomes will be unaffected by the proposed transaction. In other words, the same scenario will present in the counterfactual.</p> <p>In addition, as a relatively new entrant, Gull has a differentiated supply model that has both periodic and structural advantages. That point of difference would be undermined by participation in the Midstream and it is by no means clear that enhanced competitive outcomes would result.</p>
27	Gull submission on SOPI, 21 August 2015	<p><i>Existing competition</i></p> <p>Gull argues that market participants supplied by the Midstream Participants do not constrain pricing because they are "price takers" from the Midstream Participants.</p>	<p>Z agrees that because the Midstream Participants and Gull are each represented further through the supply chain, they have greater scope than other retail brands to exert competitive influence. However, those other retail brands still perform a critical role in the market. This role is described in the Application at [263].</p> <p>Further, several independent retail brands are now large enough in scale that they represent critical volume to their Midstream Participant suppliers. As discussed at [231] of the Application, in Z's experience these retailers are able to achieve competitive terms for wholesale supply that approach or sometimes even match margins</p>

#	Submission	Point made by submission	Z response
			available to Midstream Participants.
28	Gull submission on SOPI, 21 August 2015	<p><i>Defining retail markets</i> Gull argues that retail markets should not be defined in terms of a radius of a set number of kilometres. Rather, there are many factors and markets can be larger or smaller than 2km or 5km radii.</p> <p>Gull argues that the Commission should consider areas where the number of brands within a market will decrease from four to three and three to two (as well as two to one).</p> <p>Gull identifies 32 areas where it considers there would be a possible decrease in competition and 10 where there would be a potential significant decrease in competition.</p>	<p>Z's response is set out from paragraphs 13 to 18 above.</p> <p>Z discusses price effects in local markets at [271] – [282] and Appendices P and Q of the Application.</p> <p>Further constraints on highly concentrated areas provided by potential entry and expansion are discussed from [295] – [301] of the Application.</p> <p>Z is unable to glean the nature of the concerns underlying any of the areas identified by Gull. Z is happy to engage with the Commission on any substantive concerns in relation to competition in retail markets, to the extent that such concerns are reflected in the list compiled by Gull or otherwise.</p>
29	Gull submission on SOPI, 21 August 2015	<p><i>Effect of long-term supply contracts</i> Gull has noted that the long-term nature of supply contracts between service station operators and suppliers effectively removes sites from opportunities for competition for a period.</p>	<p>Z's response is set out from paragraphs 22 to 23 above. The underlying contractual position will be unaffected by the proposed transaction.</p> <p>Typical contract lengths for distributors, retailers and large bulk diesel and petrol customers are set out at [180], Table 1, Table 2 and [242] of the Application.</p> <p>The lengths of Z's other commercial contracts for various customer types are set out throughout the Application.</p>
30	Gull supplementary submission on SOPI, 4	<p><i>Access to the Refinery</i> Gull claims that Z will gain additional access to the</p>	Z's response regarding pricing for refined product is set out at paragraph 6.5 above. In particular, note that the

#	Submission	Point made by submission	Z response
	September 2015	<p>Refinery, which is able to refine product at below import parity prices.</p> <p>According to Gull, Z's share of the processing agreement will increase to 52% "further leveraging their position".</p>	<p>Refinery does not necessarily refine product at below import parity prices.</p> <p>Imported supply of refined product is an effective alternative to the Refinery, and therefore counter to any "leverage", as discussed from [78] – [85] of the Application. See also paragraph 6.4 above and point 37 below, where Z and the AA point out that Gull's distinctive, import model has given it a different and often successful competitive position.</p>
31	Gull supplementary submission on SOPI, 4 September 2015	<p><i>Access to terminals and other Midstream assets</i> Gull makes statements about "terminal leverage", including:</p> <ul style="list-style-type: none"> • Z will be able to use its increased terminal capacity to provide significant leverage over other Midstream players and Z will become the key "lender" and have the footprint to "go it alone". Z will own "well over half the terminal assets". • The Z/BP NZOSL terminal operational deal will be enhanced with Chevron volume. Although the acquisition will take the market from four to three players, Z and BP are close enough such that effective "control" of the key assets will be consolidated into two players. <p>At page 7 Gull claims that "Mobil has 4 other terminals, BP 6 operating, Z 8 and CX 7".</p>	<p>Z's response regarding Nelson and Timaru, and terminal assets in general is set out from paragraphs 7 to 12 above. Paragraph 12 specifically addresses Gull's claim that setting up terminals to compete with the Midstream Participants is unrealistic.</p> <p>See also response 5, to Mobil regarding Z's previous fee increases.</p> <p>At [47] – [58] of the Application, Z explains the Midstream Participants' commitment to the Midstream, and why that will be unlikely to change following the proposed transaction. At [48], Z describes why it would be unlikely to "go it alone" following the proposed transaction. Further, as discussed at paragraph 9 above, Z will not become a national "net lender" in any sustained way following the proposed transaction.</p> <p>In relation to NZOSL, Z notes there are no material scale advantages. [</p>

#	Submission	Point made by submission	Z response
		Gull also argues that setting up terminals to import product to compete with the Midstream Participants is unrealistic.	<p style="text-align: center;">REDACTED</p> <p style="text-align: center;">]</p> <p>Gull's claim that Mobil has four other terminals, BP six, Z eight and Caltex seven is factually incorrect. Z is aware of seven terminals Mobil owns (Mt Maunganui, Seaview, Kaiwharawhara, Burnham, Woolston, Lyttelton and Bluff) and 7 owned by BP.</p>
32	Gull supplementary submission on SOPI, 4 September 2015	<p><i>Procurement</i></p> <p>Gull claims that Z will add additional volume into the BP/Z crude procurement arrangement, enabling even lower crude costs. This agreement means lower procurement costs, better quality, greater quantity procured and more refined product produced.</p> <p>According to Gull, the joint procurement agreement will keep processing costs low and this Z/BP "leverage" will become stronger. Mobil will be left out of the arrangements.</p>	<p>The joint procurement agreement, and Mobil's involvement in it, is discussed in response 6 to Mobil above.</p> <p>See also response 30 to Gull above.</p>
33	Gull supplementary submission on SOPI, 4 September 2015	<p><i>Loyalty schemes and supermarket dockets</i></p> <p>Gull notes that, post-transaction, Z will have three of four loyalty programmes (Countdown, FlyBuys and AA Smartfuel).</p>	See paragraphs 26 to 31, and Z's responses 2 to Mobil and 14 to Challenge above.
34	AA submission on SOPI, 9 September 2015	<p><i>Quality</i></p> <p>The AA notes that the acquisition will not have a detrimental impact on fuel quality.</p>	Z agrees.

#	Submission	Point made by submission	Z response
35	AA submission on SOPI, 9 September 2015	<p><i>Terminals</i></p> <p>The AA claims there is insufficient competition in the Midstream. This will lead to Z having greater control of terminal storage, especially at ports where only the merged entity owns storage.</p>	Z's response is set out at paragraphs 7 to 12 above. See also Z's responses 5 to Mobil and 31 to Gull above.
36	AA submission on SOPI, 9 September 2015	<p><i>Retail competition</i></p> <p>According to the AA there is no substantial lack of retail competition in cities and large towns.</p> <p>The AA notes that once the Caltex stations pay the same wholesale price as the Z network, 50% of the market wholesale prices will be set by Z.</p> <p>The AA claims there is limited competition in rural areas and, where there are few brands, prices are notably higher. The AA argues that where there are only Z and Caltex stations, the merger may need to be conditional on Caltex stations being run independently of Z.</p> <p>The AA argues that almost all price adjustments are led by BP or Z and fuel margins are trending upwards.</p>	<p>See in particular:</p> <ul style="list-style-type: none"> paragraph 18 above where Professor Hausman analysis is summarised as showing that changing the number of brands present in an area by one does not have a statistically significant impact on price; and response 27, to Gull regarding its argument that brands outside the Midstream are "price takers", above. <p>See also paragraphs 16 to 17 and responses 3 to Mobil, 16 to BP, 23 to MTA and 28 to Gull above, and the NZIER report referred to at footnote 62 of the Application.³</p>
37	AA submission on SOPI, 9 September 2015	<p><i>Discounting</i></p> <p>The AA notes that price discounting occurs where there is a Gull station – the "Gull effect". There is limited discounting and price competition where Gull doesn't</p>	Z agrees that Gull is an effective competitor. This emphasises the ability for third parties to constrain the Midstream Participants, including through importing refined product rather than utilising the Refinery (see

³ New Zealand Institute of Economic Research "Petrol prices [still] rise and fall at the same speed", 20 April 2015, (http://nzier.org.nz/static/media/filer_public/4c/37/4c378936-ecee-45e9-81ca-49b19c7469cb/nzier_update_on_petrol_price_dynamics.pdf).

#	Submission	Point made by submission	Z response
		<p>operate (such as the South Island).</p> <p>The AA also notes that bigger discounts will make drivers more inclined to travel long distances. For example, if purchasing 50 litres of petrol, a driver might drive 20km to access to 10cpl discount.</p> <p>The AA argues that diesel discounting is likely higher than petrol discounting, meaning that private motorists are cross-subsidising commercial customers.</p>	<p>paragraphs 6.3 to 6.5 above).</p> <p>Z also agrees that drivers may be inclined to travel long distances for bigger discounts. As discussed from paragraphs 13 to 16 above, consumer behaviour can be complex and considering competitive dynamics within a defined localised geographic boundary is a “blunt instrument”. See also [224] of the Application.</p>
38	AA submission on SOPI, 9 September 2015	<p><i>Premium petrol</i></p> <p>The AA argues that regular and premium petrol are only substitutable insofar as engines allow. The AA suggests there are negligible benefits to using higher octane fuel than required and premium-configured vehicles may risk engine damage if using regular fuel.</p> <p>The AA claims the transaction may lead to some areas where only Z and Caltex offer 95 octane (for example in North Island cities).</p> <p>The AA also notes that there is currently a distinct lack of price competition for premium fuels.</p>	<p>Z discusses why regular and premium petrol ought to be considered within one product market from [195] – [220] and [223] of the Application.</p> <p>Z does not agree with the assertion that there is no price competition for premium fuels. “Point of sale” and loyalty discounts such as AA Smartfuel are widely available for all retail grades and price competition is present. The proposed transaction would not have a detrimental effect on competition.</p>

**APPENDIX B: PROFESSOR HAUSMAN REPORT ON THE PRICING IMPACT OF
VARIATIONS IN THE NUMBER OF BRANDS IN AN AREA**

[REDACTED]