Retail Fuel Market Studies – Email Submissions - September 2019

From: [redacted]
Sent: Friday, 30 August 2019 4:27 AM
To: marketstudies submissions <marketstudies.submissions@comcom.govt.nz>
Subject: Fuel Market Study

To whom it may concern

I have several comments on the issues raised in the Commission's fuel market study, particularly around (i) the application of the Commission's profitability analysis as outlined in the draft report and (ii) learnings from the Commission's role in clearing Z Energy's acquisition of Chevron in 2016. I do not consent to my name being published.

One key metric the Commission used in the draft report to determine the level of competition in the fuel market was the profitability of firms operating in the sector. As the draft report noted, the firms' Internal Rate of Return far exceeded the Commission's estimated WACC range for the industry, amongst other indicators. As the draft report further noted, this tends to indicate that a market is not as competitive as one would be expected to be. The draft report noted at B10-B13 that a profitability analysis is relevant to the Commission's work in regulating under both Parts 3A and 4 of the Act. The draft report was silent on the relevance of profitability analysis in the Commission's work under Parts 3 and 5 of the Act.

Considering the findings in the draft report at attachments D & E, namely that the major industry participants have been routinely profitable for a long period of time (most illustratively at figures D5, D6 and E1) it is notable that these concerns were not addressed in the Commission's clearance of Z Energy's acquisition of Chevron in 2016 (2016-NZCC-10). While it was not the focus of the draft report, and while most of the metrics used focused on the market post-2016 (and therefore missing potential analysis, whether by design or not, on the effect of this merger) there are numerous instances in the draft report which suggest that not only has the market be uncompetitive since 2012, but that it has become <u>more</u> uncompetitive since 2016.

While the degree to which the market has become less competitive was not the focus of the study, and while determining the degree to which it has become less competitive may ultimately be futile due to a lack of data it does underline the points made in the dissenting decision of Dr Jill Walker in the Chevron clearance determination. In particular, the comments made about the risk of coordination by the major participants, and the concerns with Z Energy's increased margins (see paragraph 11 of the dissent) seem pertinent to revisit considering (i) the apparent increase in margins since 2016 and (ii) the Commission's overall findings at attachment E. In addition, the comments at paragraphs 30 and 40 of the clearance determination dissent regarding the difficulty of entry for a new market participant further underlines the points made in the draft report regarding the barriers to entry for new participants due to the logistical advantages the established market participants have. These points were well made in the dissent to the clearance determination and are apparently strengthened by this draft report.

Further, while not a criticism of the draft report, there is a certain irony in the draft report using the same type of diagrams (see figure 2.10 on page 58 of the draft report, compared with figure 4 on page 30 of the clearance determination) to demonstrate in the clearance report that the "borrow and loan" system would not constitute a substantial lessening of competition in downstream markets, only for the system to be criticised three years later on the grounds that the present logistical system is a barrier to new participants.

This all raises the issue of whether the scope of the Commission's role in exercising its authorisation/clearance powers in relation to Parts 3 & 5 of the Act needs to be expanded. That is to say, irrespective of whether or not the Chevron decision was "correct" we should question whether the Commission should be using a profitability analysis (similar to that used in the draft report) to better characterise the markets in which participants operate. This approach could result in a different assessment of risk in the context of a merger in an already uncompetitive market. Judging by the analysis in the draft report it would likely have been apparent to the Commission, if a profitability analysis of the fuel market was undertaken in 2016, that the market was already uncompetitive. This could, in turn, have resulted in a different determination regarding the substantial lessening of competition. In any event, it would have resulted in a better informed determination.

Accordingly, and in relation to the invitation for comment at paragraph 3.42 of the draft report, it would be interesting for the Commission to report on the future role of a profitability analysis in a merger & acquisition context.

Yours faithfully
[redacted]

From: Michael Beckett [redacted]
Sent: Thursday, 5 September 2019 6:32 PM
To: marketstudies <marketstudies@comcom.govt.nz>
Subject: RE: Retail fuel study [CCNZ-iManage.FID257612]

Ok thanks here it is.

Your study purports that there is a regional pricing difference which is due to competition levels at those places. However you fail to take account of the fact that the Auckland Regional Fuel tax is suggested to actually being shared unequally across many other regions of New Zealand, so you can not make this assumption of yours without also inquiring as to how that tax is being added to regional pricing. I understand Tax is out of the of terms this enquiry. That has made it an illogical enquiry because you cant ascertain the facts without knowing this component of regional pricing.
Therefore you cannot make any assumptions about regional competition and pricing and thus must foreclose your enquiry until one that includes the effect of the Auckland tax is enacted. Which should be done with haste.
Regards
Michael Beckett

Sent from Mail for Windows 10

From: Barry Knutson [redacted]
Sent: Wednesday, 4 September 2019 7:53 PM
To: marketstudies submissions <marketstudies.submissions@comcom.govt.nz>
Subject: Fuel prices

In general I believe that the New Zealand economy is being restricted and the growth of our fine country has been hindered and stressful through personal greed and ambition. High fuel prices in association with a low wage economy is seriously impacting on the number of potential start-up small business initiatives. Major Corporation's management and current thinking of business concepts need to change to allow New Zealand to participate in the world economy. It is no longer acceptable to work on the concept "Charge what the market will stand". This approach restricts market size in exchange for substantial short term income. It is not a strategy that will work for New Zealand as we have a small domestic market and an expensive international market due to the inefficient nature freight infrastructure. Generally I view Fuel prices as a direct over-head to the New Zealand economy and it does not offer opportunity for reselling or value added enhancement. In a good business model all over-heads should be kept to a minimum to allow commercial growth. Accordingly I strongly support any and all actions to being taken to limit the impact of greed on the future potential of this country. That includes excessive taxes based on ideology and not the free infrastructure that benefits all to apply individuality.

Sincerely

Barry Knutson
[redacted]

From: [redacted]
Sent: Friday, 13 September 2019 4:09 PM
To: marketstudies submissions <marketstudies.submissions@comcom.govt.nz>
Subject: Submission towards the market study under taken by COMCOM into to the retail fuel industry

Dear Sir, I would like to submit retailer feedback into the current market study that is being under taken by the commerce commission into the retail fuel industry in new Zealand, on 29th April 2016 the commerce commission cleared Z energy's acquisition of Caltex New Zealand which was then owned by Chevron, this decision has further reduced competition on the market, A publicly listed company investing $900m in acquiring a new business, z energy will always try to increase the return on investment to its shareholders, this would hold true of every company operating a business however this is now being undertaken at a significant cost to its existing Caltex retailers, retailer fuel margins and volumes are now under huge pressure, please take not of under mentioned practices by Z energy which is directly or indirectly is geared towards reducing competition and maximization of their own profits.

The point of sale system: the current point of sale system "tiquestra" was rolled by Z energy into the Caltex network in November- December 2018. The new POS system now gives Z energy 24/7 access to retailer sales of not only fuel but also shop sales, furthermore We have lost the ability to offer instant discounts and run and any independent fuel promotions at our site. Discounting fuel on the pump cannot be undertaken even if a retailer so wishes as the POS functionality is completely controlled now by Z energy, under the old POS System we could discount fuel as we wished.

Pumped fuel discount program: This program was recently introduced by Z energy into Caltex sites under this program again we cannot offer further pumped fuel discounts to our customers, with the previous fuel discounting program called AA Smart fuel we could get in contact with the AASF and load additional discounts on the program if a customer where to buy qualifying products from the shop or car wash or if we wanted to run and extra day of bigger discounts, as the new pumped program is very tightly controlled by Z itself we have no option or opportunity to offer additional discounts to customers even if we were to fund this from our own pockets Pumped pylon signage: Z energy has strategically rolled out pumped led price points showing the discounted fuel price on the pylon, these were rolled out to Caltex sites that are not in direct competition with Z energy sites, with the sites that are in proximity to Z energy sites these led price signs were not rolled out citing budget constraints. However this is more to do with reducing for making competition nonexistent between Caltex and Z energy sites.

Fuel delivery pricing: Recently with significant loss in volume, Z energy has started playing dirty tricks in the way they price the fuel that is delivered to us, this has started becoming a major concern amongst the Caltex dealer network, while several request for price corrections and credits have been made the company generally responds saying that "although the market has not moved upwards they will currently hold price up and review it tomorrow" Z are market leaders in pushing prices up, given their presence in the market BP will follow them up most of the times, however if in event Mobil & gull do not move upwards in the next few days Z And BP will drop down to match the current market. To break it down into simpler context I will cite a recent fuel delivery/ pricing scenario with you

30th October 2019 Z send an email and a text message citing increase in wholesale price at Caltex X to 91 2.079, 95 2.199 D 1.409

The same day we send the Z Business Manager a text saying there has been no change in competitor pricing and can we revert back to old pricing? The response from Z was that the pricing will be reassessed tomorrow but we were free to price as we please.

In response to this we advised them that we have a fuel delivery coming in and if the competitor pricing does not change we will be 3c out of pocket on a load of 40,000 liters this would equate to $1200, the fuel load was delivered at the new pricing on Monday morning.

On Monday morning 2nd September we get a whole price notification bringing the price back to $204.9 as the fuel was delivered during this period at the higher price we ended up losing $1200 from our pocket. These pricing games are now being played far too often in an effort to reduce our operating margin of 11cpl to at times 6cpl thus shifting the load of loss to the retailer by way of manipulating wholesale pricing to reduce retailer operating margins.

The way the margin has been structured for the retailers and the process of passing on price increases and reductions given our paltry margin of 11c which is almost never achieved in a competitive environment makes it almost impossible for the retailer to discount fuel, and compete effectively and pass on savings to the customers as pricing and margins is heavily controlled by Z energy.

In my 17 years of being a fuel retailer I have never seen corporate greed at this level where the big oil company would put its retailers into such a position of disadvantage rendering them helpless to run their own businesses competitively with flexibility of being able to offer products and services at a fair price in a competitive landscape. To improve the competitive landscape it is important to give independent retailers and opportunity to compete effectively in the market place, the supplier and retailer relationships need more structure around wholesale fuel pricing by giving the retailer greater flexibility in terms of procurement and fair wholesale fuel pricing to price increases and reductions, and lesser controls of bigger fuel companies on Point of sales and Loyalty fuel discounting programs to give retailer real flexibility to be able to compete effectively with any brand in the market place and pass on the savings to our customers making them the real beneficiaries of true competition in the marketplace.

I can offer complete documented evidence of all correspondence with Z energy on the matter of fuel delivery pricing, pumped pylon signage, as for the points concerning Point of sale and the pumped fuel discount program an official explanation can be sought from Z energy.

I believe the commerce commissions investigation is a move in the right direction and with certain reforms and legislations the bigger oil companies can be further pushed towards making the fuel retail market more competitive and fair not only for the consumers but also for the retailers involved.

[redacted]