The Parliament of the Commonwealth of Australia

Advisory Report on the Taxation of Alternative Fuels Bills 2011

House of Representatives Standing Committee on Economics

May 2011
Canberra

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Chair's foreword

This document is the committee's report into four Government bills that affect the tax treatment of alternative fuels. Three of the bills apply an excise on liquid petroleum gas, compressed natural gas and liquid natural gas. The fuels were not previously subject to excise, which will now be applied at 50 per cent of that applied to petrol. The fourth bill continues a grant scheme for the next 10 years where the amount of the grant offsets the amount of excise levied on biofuels such as ethanol and biodiesel.

The committee supports the bills. They implement a similar taxation policy that was announced in 2003 by the previous Treasurer, the Hon Peter Costello MP. They also reduce inconsistencies in the tax treatment of fuels, which are expected to reduce economic distortions in the fuels market and potentially lead to greater economic efficiency. Another important benefit from the bills is increased certainty for the biofuels industry. The committee received evidence that this sector has been deferring investment due to tax uncertainty and the 10 year period in the bills should create a positive climate for investment in this sector. Given that the current grant scheme for biofuels is scheduled to finish on 30 June, the bills should be passed as a matter of urgency.

The report contains two additional recommendations. The first requests Treasury to commence consultations for a method to apply equivalent tax treatment for the power in electric vehicles. This source of energy is outside the scope of the bills, but the technology in this field is moving so quickly that it would be timely to start work now. The second applies to the possibility that grain prices faced by other parts of the economy, such as feedlots, might be affected by greater demand for ethanol, some of which is produced by grain. It is difficult to determine whether this will occur and the report recommends that government agencies monitor this situation going forward.

The committee greatly appreciates the cooperation and advice of the companies and organisations that participated in the inquiry, especially those who travelled to attend the hearing in Sydney. I also thank my colleagues on the committee for their contribution to the report.

Craig Thomson MP
Chair

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Membership of the Committee

Chair	Mr Craig Thomson MP
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	Mr Stephen Jones MP
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	Ms Kelly O'Dwyer MP
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Terms of reference

On 12 May 2011 the Selection Committee asked the Committee to inquire into and report on the:

- Taxation of Alternative Fuels Legislation Amendment Bill 2011;
- Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011;
- Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011; and
- Energy Grants (Cleaner Fuels) Scheme Amendment Bill 2011.

Under Standing Order 222(e), the House is taken to have adopted the Selection Committee's reports when they are presented.

Recommendations

1 Analysis of the bills

Recommendation 1

Treasury and other relevant agencies commence consultations with industry with a view to developing an excise-equivalent tax for the electricity used by electric vehicles in the medium term.

Recommendation 2

The Treasury and other relevant Commonwealth agencies monitor the relationship between fuel and grain prices. Where subsidised domestic ethanol production is beginning to have a significant adverse effect on competitors for grain, these agencies are to conduct consultations with the industries to minimise market distortions.

Recommendation 3

The House of Representatives pass the bills as a matter of urgency.

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Analysis of the bills

Background

1.1 [illegible]

Table 1.1 Financial Impact

Year	2011-12	2012-13	2013-14	2014-15
Revenue	$16.5m	$102m	$166m	$234m

Source *Explanatory Memorandum, Page 4.*

1.4 It is expected that the reform package will:

- increase consistency in the transport fuel taxation regime to ensure that competition between untaxed transport fuels and currently taxed fuels does not harm economic efficiency and create distortions;
- provide certainty to industry; and
- phase in the changes while supporting the alternative fuels industry (in recognition of the potential environmental, fuel security and regional development benefits).

1.5 The reforms will apply generally from 1 December 2011.

Policy history

1.6 Fuel tax policy has been in flux for the better part of a decade, to the criticism of some elements of the industry which claim that the resulting uncertainty hinders investment. In the 2003-04 Budget the then Government announced its intention to tax all fuels (including biodiesel, ethanol, methanol and the gaseous fuels) on an energy content basis, but with a 50 per cent discount for alternative fuels. The timing for the proposal was revised in the following budget. All fuels were to be taxed on an energy content basis consisting of high, medium and low bands, while alternative fuels were to receive a 50 per cent reduction on their energy content fuel tax rates. The Assistant Treasurer the Hon Bill Shorten, MP, in his second reading speech, stated:

> In May 2003 the then Treasurer, Peter Costello, announced the alternative fuels tax arrangements as long-term, important reforms—saying Australia must have a more consistent and sustainable fuel tax regime.
>
> In December 2003 the then Prime Minster, John Howard, said the reforms will result in a more consistent and neutral tax regime for fuels used in vehicles. The then Deputy Prime Minister, John

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phasing in of the regime for domestic ethanol. The Government announced on 7 September 2010 that the phasing in arrangements for domestic ethanol were to be extended further to provide a more gradual transition path.

1.12 Therefore, domestic ethanol producers will receive targeted assistance over a ten year period to manage the phase in of the new arrangements. Imported ethanol will experience a phase down in excise-equivalent customs duty over a five year transition period.

Treasury consultation

1.13 In October 2010 Treasury released a discussion paper, entitled, *Implementation of alternative fuels taxation policy*. Consultation on this paper was conducted between 15 October 2010 and 12 November 2010. Meetings were held in Perth, Melbourne, Brisbane, Sydney, and Canberra with separate sessions for biodiesel, ethanol and methanol; and the gaseous fuels, liquefied petroleum gas (LPG), liquefied natural gas (LNG) and compressed natural gas (CNG).

1.14 The draft legislation was made available for public consultation in early 2011, prior to its introduction into Parliament on 12 May 2011.

Types of alternative fuels and their tax treatment

1.15 Taxes are currently applied to some locally produced fuels and an equivalent rate of customs duty is applied to relevant imported fuels. Such fuels include petrol, diesel, fuel oil, biodiesel, fuel ethanol and several others. Fuel tax is primarily levied on the producer or importer at a general rate of 38.143 cents per litre.

1.16 The bills phase in the new taxation arrangements in relation to liquefied petroleum gas (LPG), liquefied natural gas (LNG) and compressed natural gas (CNG). In addition, the bills also clarify the tax treatment of renewable fuels including ethanol, methanol and biodiesel. The following discussion provides background information on some of the key biofuels and their tax treatment under the new legislation. Table 1.2 compares how relevant alternative fuels are currently taxed against how they will be taxed under the proposed legislation.

Table 1.2 Comparison of key features of new and current law

New law	***Current law***
LPG	
LPG for transport use is subject to fuel tax at the rate of 12.5 cpl. The application of tax is phased in over the period 1 December 2011 to 1 July 2015.	LPG is not subject to fuel tax.
LNG	
LNG for transport use is subject to fuel tax at a rate of 26.13 cents per kilogram. The application of tax is phased in over the period 1 December 2011 to 1 July 2015.	LNG is not subject to fuel tax.
CNG	
CNG for transport use (other than home manufacture for transport use and manufacture for forklift use) is subject to fuel tax at a rate of 26.13 cents per kilogram. The application of tax is phased in over the period 1 December 2011 to 1 July 2015.	CNG is not subject to fuel tax.
Biodiesel	
The *Energy Grants (Cleaner Fuels) Scheme Act 2004* is extended to continue the grant arrangements for biodiesel. Excise or excise-equivalent customs duty for biodiesel continues to be imposed at the point of manufacture or importation.	Fuel tax on biodiesel is imposed at the rate of 38.143 cpl, which also applies to petrol and diesel. Biodiesel producers and importers are eligible for a grant of 38.143 cpl paid under the *Energy Grants (Cleaner Fuels) Scheme Act 2004* where the biodiesel meets the relevant fuel quality standard under the *Fuel Quality Standards Act 2000.*
Renewable diesel	
The *Energy Grants (Cleaner Fuels) Scheme Act 2004* is extended to continue the grant arrangements for renewable diesel. Excise or excise-equivalent customs duty for renewable diesel continues to be imposed at the point of manufacture or importation.	Fuel tax on renewable diesel is imposed at the full rate of 38.143 cpl, which also applies to petrol and diesel. Renewable diesel producers and importers are eligible for a grant of 38.143 cpl paid under the *Energy Grants (Cleaner Fuels) Scheme Act 2004* where the renewable diesel meets the relevant fuel quality standard for diesel under the *Fuel Quality Standards Act 2000.*
Ethanol	
Domestically manufactured ethanol will continue to be subject to excise	Fuel tax on ethanol is imposed at the full rate of 38.143 cpl, which also

New law	*Current law*
duty of 38.143 cpl. The existing contract based Ethanol Production Grants Program will be extended and the rate of the grant maintained. Excise-equivalent customs duty on ethanol will remain at 38.143 cpl. The legislated changes from 1 July 2011 to the *Energy Grants (Cleaner Fuels) Scheme Act 2004* will not apply to ethanol.	applies to petrol and diesel. Before 1 July 2011, qualifying ethanol producers are entitled to a grant of 38.143 cpl under the Ethanol Production Grants Program. From 1 July 2011 qualifying ethanol producers are eligible for a grant paid under the *Energy Grants (Cleaner Fuels) Scheme Act 2004* where the ethanol meets the relevant fuel quality standard under the *Fuel Quality Standards Act 2000*.
Fuel tax credits — end users	
An entitlement to fuel tax credits will apply to LPG, LNG and CNG used in carrying on an enterprise for off-road use. No net fuel tax credits will be payable where the fuel is used on-road in heavy vehicles as the road-user charge will exceed the rate of duty payable.	There is no entitlement to fuel tax credits for LPG, LNG or CNG as no fuel tax is payable.
Fuel tax credits — LPG unlicensed distributors	
Unlicensed distributors of LPG that acquire LPG that is subject to excise will be entitled to fuel tax credits to allow the sale of LPG to be effectively excise-free if: • supplied to businesses in tanks of 210 kilograms or less capacity for non-transport use; or • supplied to residential premises for non-transport use.	No entitlement to fuel tax credits currently exists for distributors.

Source *Explanatory Memorandum, pp. 9-11.*

LPG

1.17 LPG is the generic name for mixtures of light hydrocarbon gas, consisting of mainly propane or propane and butane that have been liquefied through compression. While it is used as a transport fuel, LPG containing propane only is used for a range of domestic and commercial purposes including cooking, drying, heating and water heating.

1.18 Currently, LPG is not subject to excise or excise-equivalent customs duty. Under the new arrangements, fuel excise and excise-equivalent customs duty is imposed on LPG at the point of manufacture or importation.

1.19 Under the legislation, LPG is ‘defined in the legislation to include liquid propane, liquid mixtures of propane and butane; liquid mixtures that are either predominantly propane and butane mixtures or predominantly butane with other light hydrocarbons.'[4] The Explanatory Memorandum notes that 'accordingly, an excisable product does not come into existence until such time as the relevant gases are changed into a liquid form.'[5]

1.20 LPG has a lower energy content relative to petrol or diesel and, therefore, excise and excise-equivalent customs duty is imposed on LPG at a lower rate. The amendments impose excise and excise-equivalent customs on LPG at a final rate of 12.5 cpl, reflecting the 50 per cent discount for the alternative fuels. This final rate of excise will apply from 1 July 2015. Table 1.3 shows the rate of excise applying during the phase in period.

Table 1.3 Rate of excise and excise-equivalent customs duty for LPG during the transitional period (cpl)

1 Dec 2011 to 30 June 2012	*2012-13*	*2013-14*	*2014-15*	*From 1 July 2015 Final rate*
2.5	5.0	7.5	10.0	12.5

Source *Explanatory Memorandum, p. 19.*

1.21 The Explanatory Memorandum notes that distributors of LPG on which excise duty has been paid will be entitled to claim a fuel tax credit in relation to the LPG they supply in the following circumstances:

- the LPG has been acquired to make a supply;
- the LPG is supplied to a tank at residential premises or a tank that supplies two or more residential premises and may include business premises; and
- the tank is not for use in supplying LPG for transport use.[6]

LNG

1.22 LNG is produced from natural gas that is cooled to the point that it condenses to a liquid (approximately -161°C). It is typically exported but is also used as a transport fuel, generally in heavy-duty long range road transport.

4 *Explanatory Memorandum*, p. 14.
5 *Explanatory Memorandum*, p. 14.
6 *Explanatory Memorandum*, p. 16.

1.23 LNG is not currently subject to excise or excise equivalent customs duty. Under the legislative amendments fuel excise and excise-equivalent customs duty is imposed on LNG at the point of manufacture or importation.[7] The Explanatory Memorandum notes that 'excise and excise-equivalent customs duty is imposed on LNG that is used in an internal combustion engine for transport use.'[8] The appropriate unit of measurement for LNG and CNG is cents per kilogram, rather than cpl as with the other alternative fuels. The final rate of 26.13 cents per kilogram that applies from 1 July 2015 reflects the energy content of LNG, with a discount of 50 per cent because it is an alternative fuel. Table 1.4 shows how the phase of excise will occur up to the final rate in 2015.

Table 1.4 Rate of excise and excise-equivalent customs duty for LNG during the transitional period (cents per kilogram)

1 Dec 2011 to 30 June 2012	***2012-13***	***2013-14***	***2014-15***	***From 1 July 2015 Final rate***
5.22	10.45	15.67	20.9	26.13

Source *Explanatory Memorandum, p. 21.*

CNG

1.24 CNG is produced from natural gas, which is compressed. It is used in some bus fleets, street sweepers and garbage collection vehicles. There is no significant use of CNG in cars in Australia at this stage.

1.25 As with LPG and LNG, CNG is not currently subject to excise or excise-equivalent customs duty. The Explanatory Memorandum notes that 'under these amendments fuel excise is imposed on CNG at the point of manufacture, which is when the natural gas is compressed for use in a vehicle, or when it is imported for use in a vehicle.'[9] Excise and excise-equivalent customs duty is imposed on the manufacture or importation of CNG where it is manufactured or imported for use in vehicles. However, excise does not apply:

- where CNG is used or intended for use for something other than as a fuel for a vehicle;

7 *Explanatory Memorandum*, p. 20.

8 *Explanatory Memorandum*, p. 20.

9 *Explanatory Memorandum*, p. 21.

- to the extent the process of manufacture is not part of the activities of the enterprise, for example, excise is not imposed where natural gas is compressed in home refuelling systems for non-business purposes; or
- where CNG is used in a forklift off-road or other vehicles prescribed by regulation.[10]

1.26 Excise will be imposed on CNG at a final rate of 26.13 cpg as from 1 July 2015. Table 1.5 shows the phase in period for excise applying to CNG.

Table 1.5 Rate of excise and excise-equivalent customs duty for CNG during the transitional period (cents per kilogram)

1 Dec 2011 to 30 June 2012	*2012-13*	*2013-14*	*2014-15*	*From 1 July 2015 Final rate*
5.22	10.45	15.67	20.9	26.13

Source *Explanatory Memorandum, p. 23.*

Biodiesel

1.27 Biodiesel is a fuel manufactured by chemically altering vegetable oils or animal fats or oils (or recycled oils from these sources). It can also be produced from various non-food crops such as pongamia, jatropha curcas and algae.

1.28 Biodiesel is generally used as a transport fuel and sold as B5 or B20 (comprising diesel together with up to 5 per cent biodiesel or more than 5 per cent and up to 20 per cent biodiesel respectively). The AIP notes that 'biodiesel has a slightly lower energy content than conventional diesel although this is not significant when operating vehicles on biodiesel blends.'[11]

1.29 The use of biodiesel requires additional engine maintenance. While there are some engine manufacturers with engines capable of using fuels above B5 there are only a 'limited number of such engines in use in Australia.'[12]

10 *Explanatory Memorandum*, p. 22.

11 Australian Institute of Petroleum, *Biofuels factsheet*, p. 5.

12 Australian Institute of Petroleum, *Biofuels factsheet*, p. 5.

1.30 While biodiesel attracts an excise and excise-equivalent customs duty of 38.143 cents per litre, it also attracts a grant payable of 38.143 cents per litre under the Energy Grants (Cleaner Fuels) Scheme for both imported and domestically produced biodiesel, provided the fuel meets standards set by the *Fuel Quality Standards Act 2000*.

Renewable diesel

1.31 Renewable diesel is 'a product derived from tallow that is co-produced with petroleum-derived diesel and is chemically indistinguishable from petroleum-derived diesel.'[13]

1.32 Excise and excise-equivalent customs duty is imposed on renewable diesel at the point of manufacture or importation at a rate of 38.143 cpl. Similar to biodiesel, the *Energy Grants (Cleaner Fuels) Scheme Act 2004* is extended to provide an ongoing grant to eligible manufacturers or importers.

Ethanol

1.33 Ethanol is a liquid alcohol usually produced through fermentation and distillation from crops rich in sugar or starch. Ethanol contains 68 per cent of the energy content of petrol and can be mixed with petrol to produce an ethanol blend motor fuel. [14] In Australia, the most common ethanol blend is E10. The Australian Institute of Petroleum (AIP) notes that 'ethanol up to a 10 per cent blend with petrol can be used satisfactorily in most new and many older vehicles.'[15]

1.34 In relation to greenhouse benefits, the AIP notes that 'most ethanol currently produced in Australia will be able to demonstrate moderate levels of greenhouse gas abatement.'[16]

1.35 Domestically produced ethanol attracts an excise of 38.143 cents per litre plus a grant under the Ethanol Production Grant Program. Imported ethanol attracts an excise-equivalent customs duty of 38.143 cents per litre (and ad valorem duties of customs up to 5 per cent depending on origin) but no grant. The goods and services tax (GST) applies to the excise-inclusive price of petrol and diesel at a single uniform rate of 10 per cent. GST also applies to biofuels and gaseous fuels.

13 Australian Institute of Petroleum, *Biofuels factsheet*, p. 1.

14 Australian Institute of Petroleum, *Biofuels factsheet*, p. 2.

15 Australian Institute of Petroleum, *Biofuels factsheet*, p. 2.

16 Australian Institute of Petroleum, *Biofuels factsheet*, p. 3.

1.36 The existing Ethanol Production Grants Program operates on an administrative basis and is entered into contractually by producers. The program was to expire on 30 June 2011, and the *Energy Grants (Cleaner Fuels) Scheme Act 2004* was legislated to apply to the manufacture of ethanol from 1 July 2011. The Ethanol Production Grants Program will be extended and the rate of grant will continue to be 38.143 cpl.[17]

1.37 The 2010-11 Budget made targeted assistance available to domestic ethanol producers, and phased down over the transition period. In addition, imported ethanol would also experience a more gradual reduction in excise-equivalent customs duty over the transition period than previously announced. Subsequently, the Government announced on 7 September 2010 that there will be a more gradual phase down of the transitional arrangements for domestically produced ethanol over a 10 year period.

1.38 Domestic producers of ethanol produced entirely in Australia from biomass feedstock which is to be used in, or as, transport fuel in Australia will be eligible for the targeted assistance.

Committee objectives and scope

1.39 Last year, the Government held public consultations on a discussion paper on taxing alternative fuels and released draft legislation in January this year, which has also been subject to comment. Therefore, the committee is examining a package of bills that have already been refined to take into account many of the views of industry.

1.40 At the same time, the committee notes that the Bills fulfil policy objectives first proposed by the then Howard Government in the 2003-04 Budget. The objective of the inquiry has therefore been to test the technical adequacy of the proposed legislation and ensure that there are no unintended consequences.

Conduct of the Inquiry

1.41 Information about the inquiry was advertised in *The Australian* on 15 December 2010. Details of the inquiry and the Bill were placed on the

17 *Explanatory Memorandum*, p. 12.

committee’s website. A media release announcing the inquiry and seeking submissions was issued on 10 December 2010.

1.42 Submissions received as part of this inquiry are listed at Appendix A. Those persons and organisations appearing at public hearings are listed at Appendix B. Exhibits are listed at Appendix C.

1.43 Public hearing was held in Canberra on 23 May 2011 and in Sydney on 27 May 2011. The submissions and transcript of evidence are available from the committee’s website at http://www.aph.gov.au/house/committee/economics/index.htm.

Analysis of the bills

Electric vehicles

1.44 During the inquiry, the Energy Networks Association, the Australian Automotive Association and the NRMA noted that electric vehicles had been excluded from the bills.[18] Although the number of electric vehicles is very small now, this is an important observation for the future, given that one of the key motivators behind the legislation is to reduce distortions in the fuels sector.

1.45 The committee does not have significant comment to make on an excise-equivalent tax on the electricity used by electric vehicles, except to note the observation of the Australian Automotive Association that, ‘It is very much an emerging one that is going to emerge a lot quicker than everybody thinks’.[19] Because this matter has the potential to quickly become a major issue, the committee would prefer that Treasury commence consultations on policy now, so that it can be developed in a timely way and give industry adequate time to adjust.

18 Mr Dale Weber, *Committee Hansard*, Canberra, 23 May 2011, p. 22, Mr James Cameron, *Committee Hansard*, Canberra, 23 May 2011, p. 16, Mr Alan Evans, *Committee Hansard*, Sydney, 27 May 2011, p. 12.

19 Mr Greg Goodman, *Committee Hansard*, Canberra, 23 May 2011, p. 20.

Recommendation 1

1.46 **Treasury and other relevant agencies commence consultations with industry with a view to developing an excise-equivalent tax for the electricity used by electric vehicles in the medium term.**

Food for fuel

1.47 The Australian Lot Feeders' Association raised the question of whether increased demand for grain, such as wheat and sorghum, by ethanol producers might push up grain prices to the detriment of other parts of the economy.

1.48 The Association was presenting this argument as the peak body representing the $2.7 billion industry that produces beef through feedlots, including beef that is finished in feedlots. In all, the feedlot industry contributes 40 per cent of Australia's total beef supply.[20] The Association's membership could be adversely affected if increased demand for ethanol through the grants system in the bills increased grain prices.

1.49 Currently, 52 per cent of Australia's ethanol capacity depends on grain.[21] The Association argued in evidence that, if the New South Wales mandate that 10% of passenger vehicle fuels be ethanol is applied during a drought year, then the fuel industry would consume 22 per cent of the State's grain production. The Association also noted that, while cattle can eat the byproduct of grain ethanol production, it is an inferior product to grain due to its high water content and short shelf life.[22]

1.50 The ethanol industry rejected these claims. For example, Dalby Biorefinery stated that grain prices are largely determined by world prices and that only 3 per cent to 5 per cent of world grain production is used to produce ethanol. Dalby Biorefinery noted that its local grain prices had increased by up to $10 a tonne, which is not substantial when prices exceed $200 a tonne. Finally, it stated that it sells all its byproduct as feed to reputable, large scale producers.[23]

20 *Submission 2a*, p. 3.

21 *Submission 2a*, p. 4.

22 Mr Dale Gordon, *Committee Hansard*, Sydney, 27 May 2011, p. 20.

23 Mr Kevin Endres, *Committee Hansard*, Sydney, 27 May 2011, p. 29.

1.51 The Biofuels Association of Australia also commented. Its argument was that a number of recent reports have been published that find that the effect of biofuels on food prices is much less than originally thought. The organisations behind these reports include the World Bank, which was one of the first organisations to originally raise this matter.[24]

1.52 The food for fuel debate within Australia is difficult to resolve at this point. Both sides to the debate have plausible arguments, which revolve around the question of whether the ethanol industry will get to sufficient size to affect grain prices, taking into account the quality of their byproduct as feed. It is a matter of time as to who might be proved correct. The committee is of the view that it is important to monitor the relationship between grain and fuel prices within Australia into the future.

Recommendation 2

1.53 **The Treasury and other relevant Commonwealth agencies monitor the relationship between fuel and grain prices. Where subsidised domestic ethanol production is beginning to have a significant adverse effect on competitors for grain, these agencies are to conduct consultations with the industries to minimise market distortions.**

Increased consistency and reductions in distortions

1.54 In the view of Smorgon Fuels, the bills will increase the degree of consistency in the taxation of fuels for transport purposes. In their submission, Smorgon Fuels noted the changes between earlier versions of the legislation and the latest ones, stating that:

> In the Early Exposure Draft of the legislative package, a marked difference in treatment between ethanol and biodiesel was proposed. This would have introduced an unnecessary and unhelpful distortion. The biofuels industry worked hard to explain that the two fuels do not compete with one another and

24 Ms Heather Brodie, *Committee Hansard*, Sydney, 27 May 2011, p. 38. For example, see Donald Mitchell, 'A Note on Rising Food Prices,' World Bank, Policy Research Working Paper 4682, <http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2008/07/28/000020439_20080728103002/Rendered/PDF/WP4682.pdf> and John Baffes and Tassos Haniotis, 'Placing the 2006/08 Commodity Price Boom into Perspective,' World Bank, Policy Research Working Paper 5371, < http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2010/07/21/000158349_20100721110120/Rendered/PDF/WPS5371.pdf>, both viewed 30 May 2011.

> are in fact complimentary and therefore warrant equal support....We are pleased this message was heard and the legislation now before the House proposes to retain the...grant which fully offsets excise for both ethanol and biodiesel until 30 June 2021.[25]

1.55 Treasury also made this argument, noting that the bills will lead to improved economic efficiency:

> One of the principal objectives of the arrangements proposed for alternative fuels is essentially to introduce greater certainty in the taxation of fuels used for transport purposes to ensure that competition between transport fuels that are currently untaxed and transport fuels that are currently taxed does not harm economic efficiency and create distortions. That is essentially the objective of bringing alternative fuels into the fuel tax net.[26]

1.56 The committee notes the importance of the efficiency argument. A similar point was made by the previous Treasurer, Mr Peter Costello MP, when he announced a similar policy in 2003.[27]

Certainty for industry

1.57 The proposed bills were highly valued because of the important role that they would play in assisting investors make decisions. In their submission, Smorgon Fuels noted that the biofuels industry urgently requires strong investments signals in order 'to underpin investment decision making and to realise commercial success with second and third generation feedstocks and technologies.'[28]

1.58 A number of witnesses from the biodiesel industry emphasised the fact the industry was essentially an infant industry, one in the very early stages of development. For this reason, many suggested that the certainty that the bills provided would be invaluable for the further development and eventual maturation of the industry.

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25 Smorgon Fuels Pty Ltd, *Submission 1*, p. 4.

26 Mrs Brenda Berkeley, General Manager, Indirect Tax Division, Revenue Group, Department of the Treasury, *Committee Hansard*, Canberra, 23 May, 2011, p. 7.

27 The Hon Peter Costello, MP, Treasurer, 'Fuel Tax Reform for the Future,' *Media Release*, 13 May 2003.

28 Smorgon Fuels Pty Ltd, *Submission 1*, p. 5.

1.59 In evidence, Biodiesel Industries Australia stated that it had only spent funds on repairs and maintenance for the past two years due to policy uncertainty.[29]

1.60 Similar points were made by other witnesses before the committee. The Department of the Treasury, for example, were explicit in their acknowledgement of this issue, advising the committee as follows:

> It provides certainty to industry. At the moment there is no final legislation in place. The policy was announced in the 2003-04 budget. So there has been a period of seven or eight years of uncertainty about what the final legislative product will be. The passage of the bills will finally provide that certainty for industry, so they will know exactly how the law applies rather than having a policy statement with no enacted law. A number of times in consultation we did hear from industry that they would prefer to have the final certainty rather than simply having the government announce policy that is not implemented.[30]

1.61 The improved certainty for industry is a key positive about the bills. Many of these technologies are undergoing sustained research and development.[31] The bills will assist in creating a positive investment climate, which will assist in generating a more efficient industry in the long run.

Industry assistance

1.62 A common argument in industry policy is whether the general public would be better off if firms did not receive assistance and had to make profits on their own. The Australian Lot Feeders' Association made such an argument during the inquiry:

> The bills will also continue the misallocation of resources towards inefficient and unviable ethanol production and away from the commercialisation of superior advanced and second generation ethanol technologies. ... Governments should not provide such assistance for industries that are unable to be commercially viable without it. The answer for Government is not to increase industry

29 Mr Andrew Hill, *Committee Hansard*, Sydney, 27 May 2011, p. 39.

30 Mr Phil Bignell, Senior Adviser, Indirect Tax Division, Revenue Group, Department of the Treasury, *Committee Transcript*, Canberra 23 May, 2011, p. 9.

31 Smorgon Fuels, *Submission 1*, pp. 3 and 5.

> assistance as proposed but to remove it so that market forces can prevail and companies are forced to be competitive and efficient.[32]

1.63 The Association was not alone in expressing anxieties or concerns with government assistance. The Australian Institute of Petroleum recommended that all such assistance should:

- be transparent;
- be regularly reviewed to ensure that the objectives of the assistance are still relevant; and
- should allow for a clear transition period prior to an appropriate expiry date.[33]

1.64 The arrangements on these bills apply to a ten year limit to assistance to be followed by a review. In evidence, the industry has argued that it has not had consistent government policy,[34] even though the first ethanol assistance was provided 20 years ago.[35] The biofuels industry also stated that the ten year period in the legislation would provide it with sufficient certainty into the future.[36] Given this extended period, it would be possible to incorporate some of the ideas of the Institute into the bills, such as phasing in a level of excise over five years at the conclusion of the ten year exemption period. This might provide a more suitable background to the proposed review in 10 years time.

Conclusions about the bills

1.65 A number of witnesses who appeared before the committee at its public hearings to support the bills emphasised the urgency of passing the bills. Smorgon Fuels, for example, a biodiesel producers with a 100-million-litre capacity plant at Laverton North in Victoria, were concerned that any failure to pass the bills would have a negative effect on the very viability of the biodiesel industry itself. Asked by the committee what would happen if the bills were not passed by 1 July 2011, Smorgon Fuels advised: 'That is pretty simple; we would stop.'[37]

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32 Australian Lot Feeders' Association, *Submission 2a*, p. 2.

33 Australian Institute of Petroleum, *Submission 3*, p. 3.

34 Mr Kevin Endres, Dalby Biorefinery, *Committee Hansard*, Sydney, 27 May 2011, p. 28, Mr Matthew Ingersoll, Manildra Group, *Committee Hansard*, Sydney, 27 May 2011, p. 39.

35 Mr Alan Evans, NRMA, *Committee Hansard*, Sydney, 27 May 2011, p. 14.

36 Mr Matthew Ingersoll, Manildra Group, *Committee Hansard*, Sydney, 27 May 2011, p. 39.

37 Mr Peter Edwards, Managing Director, Smorgon Fuels, Pty Ltd, *Committee Hansard*, Canberra, 23 May, 2011, p. 2.

1.66 This urgency was broadly supported by expert testimony from outside the industry. For example, Treasury stated in evidence:

> As I mentioned earlier, the reality is that longstanding legislation does impact on the availability of production grants from 1 July. So there would be a significant impact from 1 July in the absence of alternative legislation of this sort to rectify the situation from 1 July for both biodiesel and the ethanol industry.[38]

1.67 The bills are an important reform to fuel excise in Australia. They will help remove distortions in the pricing of fuels leading to improved economic efficiency. They will also provide certainty to industry and create a positive climate for investment. Indeed, the *Australian Financial Review* has referred to these bills as 'rational fuel taxation'.[39]

1.68 The committee also notes that the then Treasurer, the Hon Peter Costello MP, originally announced similar measures in 2003. Mr Costello stated:

> The reforms will establish a fairer and more transparent fuel excise system with improved competitive neutrality between fuels. They will provide the opportunity for currently untaxed fuels to establish their commercial credentials in the market place.[40]

1.69 Therefore, the committee recommends that the bills be passed as a matter of urgency in order to meet the 1 July deadline for extending the grants program supporting biofuels.

Recommendation 3

1.70 **The House of Representatives pass the bills as a matter of urgency.**

Mr Craig Thomson MP
Chair
31 May 2011

38 Mrs Brenda Berkeley, General Manager, Indirect Tax Division, Revenue Group, Department of the Treasury, *Committee Hansard*, Canberra 23 May, 2011, p. 10.

39 'Liberals need policy focus,' *Australian Financial Review*, 30 May 2011, p. 54.

40 The Hon Peter Costello, MP, Treasurer, 'Fuel Tax Reform for the Future,' *Media Release*, 13 May 2003.

Dissenting report

Introduction

As Opposition Members, we oppose the three bills that increase excise on the gaseous fuels: liquid petroleum gas (LPG); compressed natural gas; and liquid natural gas. These are the:

- Taxation of Alternative Fuels Legislation Amendment Bill 2011;
- Excise Tariff Amendment (Taxation of Alternative Fuels) Bill 2011; and
- Customs Tariff Amendment (Taxation of Alternative Fuels) Bill 2011.

In our view, the taxes in these bills have been developed in haste in order to collect revenue, rather than being supported by coherent policy. Rather, past policy has encouraged consumers to take up LPG through conversion subsidies. Further, the bills will negative side effects such as adding to motorists' cost of living and increasing costs for the taxi industry and other forms of public transport such as busses. Taxi and bus customers will face higher charges as operators seek to recover increased costs flowing directly from these excise increases.

Additionally, we note that at a time when the Government is seeking to introduce a price on carbon which will increase the cost of living, these bills remove the incentive to choose fuels with a smaller environmental footprint such as LPG and alternative fuels.

We support the Energy Grants (Cleaner Fuels) Scheme Amendment Bill 2011 due to the potential for ethanol, biodiesel and renewable diesel to lead to improved environmental outcomes, greater regional development and fuel security.

Motoring costs for families

Fuel prices are important to working families because, as the NRMA advised the committee, 'because the motor vehicle occupies such a significant cost to the average family weekly budget'.[1] The NRMA confirmed that it receives a great deal of feedback from its membership about fuel prices:

> We get asked a lot of questions like: 'Why has it gone up X cents?' The dollar has gone up and so has the price of crude. When crude comes down, they say, 'Well, we should see a four or five cent reduction at the bowser.' They say, 'Why aren't we seeing it?'[2]
>
> On a daily basis we would get SMSs, emails and letters about the price of fuel. When it came down to the $1.20s and we saw less than $1.20 there for a little period it was relatively quiet. The moment it starts to climb back up again and when it reached the $1.40-odd that it did recently, there is an exponential increase in the communication with us as to the cost of fuel. [3]

The NRMA also stated in evidence that lower income earners are more sensitive to fuel costs because they live in outer suburbs and tend to drive longer.[4]

The liquid petroleum gas industry, represented by LPG Australia, confirmed that motoring costs are an important issue for families who have installed LPG units on their vehicles:

> But for LPG ... it is an absolutely fundamental around the kitchen table with mum and dad and the family budget, asking: 'Can we afford to convert the vehicle? How long's it going to take us to get our money back? What is it going to save us each week driving from Campbelltown to the city?' It is that type of analysis ... that the folks out there will do. They will make that decision, but again it is having some confidence that having made that decision—the first words that come out at the town hall meetings that we run are: 'We're being duped. The government has encouraged us over the past four to five years to convert our vehicle across to LPG and now they're taxing the thing, they're capping the program and we don't know what they're going to do to alternate fuels and carbon tax. We've been duped.'[5]

1 Mr Alan Evans, *Committee Hansard*, 27 May 2011, Sydney, p. 11.
2 Mr Wal Setkiewicz, *Committee Hansard*, 27 May 2011, Sydney, p. 11.
3 Mr Alan Evans, *Committee Hansard*, Sydney, 27 May 2011, p. 16.
4 Mr Alan Evans, *Committee Hansard*, Sydney, 27 May 2011, p. 16.
5 Mr Mike Carmody, *Committee Hansard*, Sydney, 27 May 2011, p. 8.

We cannot support a tax that places a large burden on families, especially when they have been encouraged to covert to LPG. We believe that better underlying policy will produce a more equitable result for motorists, especially those that have recently converted to LPG.

The taxi industry and its customers

The taxi industry is heavily reliant on LPG. The Australian Taxi Industry Association stated that 90 per cent of cabs in Australia are converted to this fuel. The remaining 10 per cent that does not use LPG is in the Northern Territory and Northern Queensland, where it is not cheap. In these markets, hybrid vehicles are becoming popular and now comprise up to 40 per cent of the taxi fleet in some areas.[6]

The Association advised the committee that, if passed, the bills will increase taxi fares by three to five per cent. Therefore, for the average taxi fare of $21, fares would increase by $1. Taxi fares are set by state and territory governments and they would pass increased fuel costs through to fares as a matter of routine.[7] This would then impose a significant burden on an important part of its clientele, namely people for whom taxis are the only form of available transport:

> For the average business traveller, taxi fares are very cheap in Australia. They must be cheap if they are affordable by pensioners and people with a disability, who are paying at the same rate as people who are running multi-million-dollar, transnational businesses and have just jumped off a plane, from first class, and hopped into a cab. They must be incredibly cheap because the taxi fare is exactly the same for Mrs Smith, who is on a disability pension, to get from her Housing Commission home down to the shops and back.
>
> From our point of view, we are not worried about the impact on taxi fares for our business customers. We are concerned that this is going to add to the cost of taxi fares for people who cannot easily afford them. A good proportion of our taxi customers budget down to the last 10c. For many of them, catching a cab is not a discretionary activity, it is a non-discretionary activity. They need to get down to the shops because if they do not then they do not eat or their family does not eat. If they do not get down to the shopping centre they cannot get to the doctors and seek early medical treatment, as opposed to late medical treatment. This is

6 Mr Blair Davies, *Committee Hansard*, Sydney, 27 May 2011, pp. 43-44.

7 Mr Blair Davies, *Committee Hansard*, Sydney, 27 May 2011, pp. 43, 45.

> what we are talking about here, and our issue is that it seems completely unnecessary.[8]

The Association stressed that the industry itself would not be greatly affected by the increases because the price elasticity of demand for taxi travel is close to zero for fare increases up to five per cent.[9]

We cannot support a tax that places an additional burden on the taxi industry, especially when it would be passed on to a section of the community that is least able to afford it.

A search for revenue unsupported by policy

A common statement to the committee during the inquiry was that there has been no underlying policy to support these tax increases. Organisations who provided this feedback included Smorgon Fuels, the Energy Networks Association, LPG Australia, and the NRMA.[10] Developing a coherent policy for a tax is important because it provides a rationale for designing the tax that everyone has the chance to relate to.

LPG Australia described the development of the tax in detail:

> The only time this thing raised its head was in May last year in the Henry tax review, when we picked up that there was an inkling that there would be something with respect to excise on alternative fuels. There it was on page 400, subparagraph (b) and subparagraph (d). There it was standing. Then, of course, in the ongoing dialogue all the way up to October, before Treasury actually released their draft view of the excise, there was no consultation with industry whatsoever—nothing. On the release of that document from Treasury, industry had nine working days to provide a submission. It was an incredibly difficult exercise. Treasury made no secret of the fact that they had one single remit: get the money.
>
> Of course, the first observation we made was that there is no policy. How do we debate in a policy vacuum? What do we go forward with? So we were forced, in a sense, to work with Treasury to try and sort out what was then, as I explained, an unworkable tax compliance model to get something that would

8 Mr Blair Davies, *Committee Hansard*, Sydney, 27 May 2011, p. 44.

9 Mr Blair Davies, *Committee Hansard*, Sydney, 27 May 2011, p. 47.

10 Ms Melissa Cheesman, *Committee Hansard*, Canberra, 23 May 2011, p. 4, Mr Dale Weber, Committee Hansard, Canberra, 23 May 2011, p. 22, Mr Mike Carmody, *Committee Hansard*, 27 May 2011, p. 4, Mr Alan Evans, Committee Hansard, Sydney, 23 May 2011, p. 11.

> relieve the pressure on the traditional users of LPG so that they were not filling out a BAS form every month but, in the next breath, then to try to work with Minister Ferguson and Minister Carr and say, 'For heaven's sake, we need policy in this space.' Neither camp, of course, would connect those dots.[11]

We cannot support a tax that has been developed under such circumstances. Although an announcement was made about fuel taxation in 2003, the limited action taken on it meant that its status was largely historical. In particular, the government of the day shortly thereafter encouraged the take up of environmentally friendlier fuels with a smaller carbon footprint by introducing a subsidy for LPG conversions. LPG Australia advised the committee:

> When you say that this has crept up on us, certainly back in 2003 we had these arguments. But Gill noticed that not long after all that debate occurred, the Howard government then moved forward to put in place the LPG vehicle scheme to encourage the take-up of LPG. It understood that the original concept of taxing LPG was probably the wrong way to go. The whole situation for that—and when you look at the idea of policy eight years ago and to transfer that across into today in 2011—you have to ask yourself are we still have some world, and the answer is no, we are not. It is a totally different world.[12]

The tax in the three bills we oppose need to be dealt with as a component of a comprehensive energy tax framework. All parties would be better off if further action in this area was delayed until appropriate policy was developed.

Conclusion

We oppose the three bills that impose tax on LPG, compressed natural gas and liquid natural gas. LPG is already contributing to Australia's fuel security with six per cent of the transport fuels market[13] and the remaining two fuels have considerable potential to do so in future. Further, the proposed taxes will increase the cost of living and have an adverse, unnecessary effect on the taxi industry and its customers. Finally, there is no adequate policy to support these taxes and consumers have in the past been encouraged to take up LPG through conversion subsidies.

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11 Mr Mike Carmody, *Committee Hansard*, Sydney, 27 May 2011, p. 9.

12 Mr Warring Neilsen, *Committee Hansard*, Sydney, 27 May 2011, p. 8.

13 Mr Phil Bignell, Treasury, *Committee Hansard*, Canberra, 23 May 2011, p. 12.

However, we acknowledge the arguments for the energy grants bill because the fuels involved have the potential to lead to improved environmental outcomes, greater regional development and fuel security. This approach was supported by a large number of witnesses in evidence.[14]

Recommendation One

There be development of a comprehensive energy tax framework.

Recommendation Two

The House of Representatives pass the Energy Grants (Cleaner Fuels) Scheme Amendment Bill 2011 in as a matter of urgency and oppose the remaining bills to the extent that they do not support the passage of the energy grants bill.

Mr Steven Ciobo MP
Deputy Chair

Ms Kelly O'Dwyer MP

Mr Scott Buchholz MP

14 For example, Mr Colin Isaac, BOC, *Committee Hansard*, Sydney, 27 May 2011, p. 32, Mr Nic Moulis, Australian Convenience and Petroleum Marketers Association, *Committee Hansard*, Sydney, 27 May 2011, p. 49, Mr Mike Carmody, LPG Australia, *Committee Hansard*, Sydney, 27 May 2011, p. 5.

A

Appendix A – Submissions

No.	Provided by
1.	Smorgon Fuels
2.	Australian Lot Feeders Association
2a.	Australian Lot Feeders Association (supplementary submission)
3.	Australian Institute of Petroleum
4.	LPG Australia
5.	BOC
6.	Australasian Convenience and Petroleum Marketers Association

B

Appendix B – Witnesses

Monday, 23 May 2011 – Canberra

Smorgon Fuels Pty Ltd

Mr Peter Edwards, Managing Director

Ms Melissa Joanna Cheesman, Advisor

Department of the Treasury

Mrs Brenda Berkeley, General Manager, Indirect Tax Division, Revenue Group

Mr Phil Bignell, Senior Advisor, Indirect Tax Division, Revenue Group

Department of Resources, Energy and Tourism

Mr Richard Niven, Manager, Transport Fuels

Australian Customs and Border Protection Service

Ms Judith Cotterill, Manager

Australian Automobile Association

Mr Gregory Goodman, Acting Chief Executive Officer

Mr James Cameron Research and Policy Officer

Energy Networks Association of Australia

Mr Dale Patrick Weber, Director, Gas and Energy Markets

Friday, 27 May 2011 – Sydney

LPG Australia

Mr Michael Carmody, Chief Executive Officer

Mr Warring Nielsen, Government Relations

NRMA Motoring and Services

Mr Alan Evans, Alternative Fuels Ambassador and Director

Mr Wal Setkiewicz, Senior Economic Adviser

Australian Lot Feeders Association

Mr Dougal Ruaridh Gordon, CEO

New South Wales Farmers Association

Mr Benjamin Mason, Policy Manager, Cropping and Business Economics and Trade

Dalby Bio-Refinery Ltd

Mr Kevin Endres, CEO

Mr David Szymczak, General Manager

BOC Ltd

Mr Alex Dronoff, General Manager LNG

Mr Colin Isaac, Managing Director

Biofuels Association of Australia

Mr Andrew Hill, Chairman of the Board

Mr Matthew Ingersoll, Board Member

Australian Taxi Industry Association

Mr Blair Davies, CEO

Australasian Convenience and Petroleum Marketers Association (ACAPMA)

Mr Nic Moulis, General Manager

C

Appendix C – Exhibits

No.

1. Australian Automobile Association*, Alternative Transport Fuels 2010,* (provided by the Australian Automobile Association)

2. Australian Automobile Association*, AAA Submission in response to Implementation of alternative fuels taxation policy discussion paper,* November 2010 (provided by the Australian Automobile Association)

3. Australian Lot Feeders Association*, Response to the discussion paper into the implementation of alternative fuels taxation policy*, November 2010 (provided by the Australian Lot Feeders Association)

4. Jamison Group*, A Roadmap for Alternative Fuels in Australia: Ending our Dependence on Oil*, July 2008 (provided by the NRMA)

5. Jamison Group*, Fuelling Future Passenger Vehicle Use in Australia: An Alternative Fuel and Technology Mix for Passenger Vehicles in Australia – The Electric Vehicles Revolution*, February 2010 (provided by the NRMA)