

1. P.1-2 of Transcript

Mr STOWE: A report will be provided next month to the expert panel on the performance of those companies, and the expert panel will analyse the figures that are provided.

The Hon. ERNEST WONG: Will all those reports be publicly available?

Mr STOWE: I am not sure what the practice has been. As I said, we have only just taken responsibility for it. I am more than happy to take advice on that and advise the Committee accordingly.

RESPONSE

Consolidated data for all volume fuel sellers from April 2012 to present is published quarterly on the NSW Fair Trading website.

Once a determination is made by the Minister, the relevant information will be publicly available on the Fair Trading website.

2. P.4 of Transcript

The Hon. ERNEST WONG: Will you be able to elaborate a bit on the exemptions—where the volume of sellers and suppliers will be able to go to apply for it? What ground would that be based on?

Mr VICTOR DOMINELLO: The exemption?

The Hon. ERNEST WONG: Yes.

Mr VICTOR DOMINELLO: That is based on the advice we receive from the expert panel. They will look at that. Then I get advice in relation to whether reasonable steps have been taken to meet the mandate. That will determine whether the exemptions are signed off or not. But it is interesting to note that, even if they do not comply with the exemptions, they still have a general defence available in relation to the Act to say that they may not have met the exemptions but they have still acted reasonably to meet the mandate. That is contained in the Act. I think it is subsection (4) of the Act, from memory. I will come back to you on that in relation to the specific provision of the Act.

RESPONSE

The statutory grounds for claiming an exemption are set out in section 15 of the *Biofuels Act 2007* and clauses 7 and 9 of the Biofuels Regulation 2010.

3. P.4 of Transcript

The Hon. DANIEL MOOKHEY: Minister, following your earlier answer about the assumption by the department of the functions previously discharged by the Office of Biofuels, how many staff are dedicated to compliance monitoring and enforcement of the mandate?

Mr VICTOR DOMINELLO: I will defer to Mr Stowe.

Mr STOWE: The number of staff in our policy unit? I can come back to the Committee and provide that advice, but it would be shared among a number of staff in the unit. As I said before, there is—

The Hon. DANIEL MOOKHEY: Do you have the full-time equivalent number?

Mr STOWE: I am happy to take that on notice and come back to you. As I say, it is a number of staff on our policy team who have taken on that responsibility. As I said to you earlier, I believe there was only one full-time equivalent [FTE] previously undertaking this work in the Office of Biofuels so I suggest there are more staff being applied to this task than would have been the case under the previous agency.

RESPONSE

The Policy & Strategy Division of NSW Fair Trading, which is undertaking the policy administration of the Biofuels Act contains 64 FTE as at 28 September.

The Compliance & Enforcement Division of NSW Fair Trading, which is undertaking necessary compliance and enforcement action under the Biofuels Act contains 66 FTE as at 23 September.

4. P.5 of Transcript

Are you aware of any previous enforcement action undertaken by the Government when the Office of Biofuels did indeed exist?

RESPONSE

Available records from the Office of Biofuels show the former Office conducted a fuel testing program during 2013. The results of this program are published on the Fair Trading website.

All fuel tested in the program was found to be compliant with the Act.

NSW Fair Trading has commenced testing fuel sellers to ensure compliance with the Biofuels Act.

The results of compliance action taken under the Biofuels Act will be made publicly available on the Fair Trading website.

5. P.6-7 of Transcript

The Hon. DANIEL MOOKHEY: What are the terms of reference?

Mr VICTOR DOMINELLO: I am not prepared to disclose that now, but I am happy to take that on notice.

RESPONSE

IPART was asked to prepare a report on the Ethanol Mandate for the Department of Premier and Cabinet under Section 9 of the IPART Act earlier this year. Section 9 allows IPART to enter into arrangements to provide services that are within the Tribunal's field of expertise and relevant to its functions. The requirements referred to relate to investigations undertaken under Part 3 of the IPART Act.

Targeted stakeholder discussions were held as part of this work. IPART is currently in the final stages of the work. Once IPART completes the work, it will be subject to the Government's consideration.

6. P.7 of Transcript

The Hon. DANIEL MOOKHEY: Did the industry have the opportunity to make submissions in relation to this IPART report that apparently is looking into the reasons why compliance with the mandate has declined?

RESPONSE

Targeted stakeholder discussions were held as part of this work. IPART is currently in the final stages of the work. Once IPART completes the work, it will be subject to the Government's consideration.

Mr VICTOR DOMINELLO: I will take that on notice.

The Hon. ERNEST WONG: Minister, has the Government actually conducted any research to establish community attitudes to biofuels, apart from the IPART report?

RESPONSE

I am not aware of any recent research undertaken by the Government about this matter.

Mr VICTOR DOMINELLO: As I said, Mr Wong, I have been the Minister in this portfolio since 1 July. What was taking place under the previous Minister, I am not aware of; but I can make some inquiries for you and get back to you.

7. P.8-9 of Transcript

CHAIR: Do you have those records?

Mr STOWE: Yes, we have. Our staff have those.

CHAIR: So you will take that on notice?

Mr STOWE: Yes.

CHAIR: And get back with what has happened over the past five years, and what compliance and exemptions and prosecutions have taken place and report it back to the Committee?

Mr STOWE: I am happy to provide that information on notice.

RESPONSE

Available records from the Office of Biofuels show a fuel testing program was conducted during 2013. The results of this program are published on the Fair Trading website. Further details about exemptions from April 2012 to present are available on the Fair Trading website.

All fuel tested in the program was found to be compliant with the Act.

In September 2015, NSW Fair Trading commenced testing fuel sellers to ensure compliance with the Biofuels Act.

The results of compliance action taken under the Biofuels Act will be made publicly available on the Fair Trading website.

8. P.9 of Transcript

CHAIR: In terms of fuel stations, are you aware that the sticker on the pump says, "Up to 10% ethanol". What do you do in terms of compliance to ensure that there is the right amount of ethanol in the fuel mix that consumers think they are paying for? How do you ensure that the minimum has gone into that fuel?

RESPONSE

Available records from the Office of Biofuels show a fuel testing program was conducted during 2013. The results of this program are published on the Fair Trading website. Further details about exemptions from April 2012 to present are available on the Fair Trading website.

All fuel tested in the program was found to be compliant with the Act.

In September 2015, NSW Fair Trading commenced testing fuel sellers to ensure compliance with the Biofuels Act.

The results of compliance action taken under the Biofuels Act will be made publicly available on the Fair Trading website.

Additionally, the Commonwealth Department of the Environment operates a fuel testing program to ensure the terms of the Commonwealth Fuel Quality Standards legislation are met. As well as conducting its own testing, Fair Trading will be working co-operatively with the Commonwealth Department of the Environment.

Mr VICTOR DOMINELLO: I am happy to take this on notice, but I understand that there is an inspection regime in place to monitor what the percentage of ethanol is in the fuel. Mr Stowe may have more information on that.

CHAIR: You can take it on notice?

Mr VICTOR DOMINELLO: I am happy to take that on notice.

9. P.14 of Transcript

The Hon. DANIEL MOOKHEY: Is Costco one of the service stations that is exempt from the ethanol mandate?

RESPONSE

The Biofuels Act 2007 regulates the activities of volume fuel sellers, defined as primary wholesalers (direct importers and refiners of fuel) and major retailers (who own or control more than 20 service stations).

Costco currently owns and operates only one service station in NSW. Therefore, it does not currently meet the definition of a major retailer and therefore the substantive obligations in the Act do not apply.

10. P.15 of Transcript

The Hon. DANIEL MOOKHEY: Are you aware if the Costco retailer is currently exempt?

Note: Refer to Answer to Question 9.

11. P.15 of Transcript

The Hon. DANIEL MOOKHEY: Minister, are you aware of the regulation that is part of the Biofuels Act that specifies the number of service stations a company can own before becoming subject to the mandate?

RESPONSE

Section 4A of the Biofuels Act 2007 defines a major retailer as the operator or controller of more than 20 service stations.

12. P.15 of Transcript

Mr VICTOR DOMINELLO: In response to a previous question, I have been informed that Costco at present is not a volume seller under the current definition.

The Hon. DANIEL MOOKHEY: Wonderful. As a result of that information, is Costco therefore exempt from the mandate?

Note: Refer to Answer to Question 9.

13. P.16 of Transcript

Not Taken on Notice – Minister's response referred to the Government's response to the IPART Report.

14. P.17 of Transcript

The Hon. DANIEL MOOKHEY: How many applications for partial exemptions from the mandate have been refused?

RESPONSE

Exemptions are provided on a quarterly basis. Information about exemptions granted from April 2012 to present is publicly available on the Fair Trading website.

15. P.18 of Transcript

The Hon. DANIEL MOOKHEY: On the basis of that section is it possible for a retailer like Costco to be included?

Note: Refer to Answer to Question 9.

16. P.19 of Transcript

The Hon. DANIEL MOOKHEY: No, I am just asking. It is a different question. Are you aware of any sampling this calendar year under the previous agency?

Mr STOWE: I would have to check the records. What I can tell you is—and I answered this before—I understand the previous responsible agency has taken samples in the past. I am very happy again to make the necessary inquiries to provide the Committee with that information.

The Hon. ERNEST WONG: So not since the Department of Fair Trading has taken over that function?

Mr STOWE: I understand that there has not been regular testing in this area.

The Hon. DANIEL MOOKHEY: So there has not been regular testing?

Mr STOWE: In the past there has not been testing every week of every year. I understand there probably has been dip testing at various stages, but I have said to you that I am happy to provide information based upon the records that the agency now has available to it.

Shorter: 'Has any sampling of E10 been undertaken in this calendar year? Was there a program of regular testing of E10 fuel in this calendar year?'

RESPONSE

In September 2015, NSW Fair Trading commenced testing fuel sellers to ensure compliance with the Biofuels Act.

The results of compliance action taken under the Biofuels Act will be made publicly available on the Fair Trading website.

17. P.21-22 of Transcript

Dr JOHN KAYE: Of course, there was that tragic event to which you referred. Since then, how many items have been taken out of the marketplace?

Mr STOWE: I will take that question on notice.

RESPONSE

During June and July 2014, NSW Fair Trading conducted a large-scale compliance campaign across NSW with officers from both metro and regional areas inspecting shops for non-compliant USB chargers. A total of 2,124 articles were inspected at the premises of 1,166 individual traders with 160 non-compliant USB chargers identified. All 160 non-compliant USB chargers were removed from sale.

Fair Trading returned to the premises of those traders and suppliers in September 2014 to ensure they were no longer selling non-compliant items. Fair Trading did not identify any non-compliant items listed for sale during those follow-up inspections.

In addition, Fair Trading conducted high-level media campaigns to further promote electrical safety, and continues to perform routine shop inspections targeting USB and other electrical articles.

Dr JOHN KAYE: Have there been any prosecutions?

Mr STOWE: I believe compliance action is underway. Those matters are still being litigated. Again, I am happy to take that question on notice.

RESPONSE

NSW Fair Trading is currently prosecuting two defendants (a company and its director) in the NSW Supreme Court regarding three non-compliant USB-style phone chargers and a travel adapter. The matter is ongoing.

Dr JOHN KAYE: Have any penalty infringement notices been issued?

Mr STOWE: I will take that question on notice.

RESPONSE

As a result of the compliance campaign, Fair Trading issued a total of 19 penalty infringement notices for the sale of unapproved USB chargers.