



**HOUSE OF COMMONS
CANADA**

GASOLINE PRICES IN CANADA

Report of the Standing Committee on Industry, Science and Technology

**Walt Lastewka, M.P.
Chair**

November 2003



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THE STANDING COMMITTEE ON INDUSTRY, SCIENCE AND TECHNOLOGY

has the honour to present its

FIFTH REPORT

Pursuant to Standing Order 108(2), the Standing Committee on Industry, Science and Technology proceeded to a study on the causes of the recent increase in the price of gasoline, and the significant negative effects that the increase is having on the economy, and recommendations for appropriate corrective measures to the federal government. After hearing evidence, the Committee agreed to report to the House as follows:

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INTRODUCTION

The price of gasoline at the pump has been a source of confusion and concern for Canadians for some time now. The reasons for this concern are many, but most often it has to do with retail prices that fluctuate frequently, often significantly, and in what appears to be an almost too systematic fashion across many retail outlets in many local markets. A competitive explanation is readily available: since prices are posted on large signs at each station in full view of the motoring public, who have shown a willingness to travel great distances to get even the smallest of discounts, price changes are usually rapid and pervasive (for fear of losing not only market share but possibly one's entire market) — a phenomenon that is unique to the retail gasoline marketplace. On the other hand, anticompetitive price-fixing among retailers would also be a potential explanation for the retail pricing patterns witnessed (i.e., almost identical prices at each retail outlet, or identical price differentials among rival outlets due to different levels or types of service, in each local market, and price increases executed at roughly the same time). The primary difference would be the level of those prices, with the competitive prices being much less than those that are fixed by agreement amongst suppliers. Therefore, the distinctive way of advertising retail gasoline prices by signage combined with the next-to-costless shopping behaviour of the motoring public could potentially mask a conspiracy to raise prices. Independent and interdependent decision-making on prices — price being the dominant, and sometimes the only, margin on which rival retail outlets compete — are not easily distinguished.

The forces that drive crude, rack (wholesale) and retail gasoline prices are also complex. One of these forces involves the status of international crude oil inventories, some of which are built and held in politically unstable regions. The recent uncertainty surrounding potential supply disruptions caused by a looming war in Iraq and political and labour unrest in Venezuela and Nigeria highlights the vulnerability of the West's crude oil supply sources and its impact on the price of crude. Another key force that drives prices is abnormal temperature and climatic conditions. A winter that is much colder than forecast (as was the case in Eastern and Central Canada and the Northeast United States in 2002-2003) will lead to the drawdown of crude oil inventories and imbalanced refined petroleum product slates (e.g., heating fuel, gasoline, diesel, kerosene, lubricants, etc.) relative to demand. This situation will result in price increases across the slate of petroleum products, which will cascade from the wholesale to the retail level. Such price increases perform the socially desirable function of equilibrating demand and supply — stimulating both increased conservation by consumers and increased production throughout the energy supply chain — and ensure that shortages or stock-outs do not develop. At the same time, however, rising profitability within the industry due to an impending rather than an actual supply disruption (price increases may have reflected worse-case scenario predictions that did not materialize) or unexpected seasonal demand spikes engenders a suspicious public.

Finally, the reported high corporate concentration within the oil and gas sector, along with the very diverse economic profile of industry participants, is also a major concern of the public. The retail sector is characterized by a wide range of supplier types that include a handful of large vertically integrated oil and gas companies, a number of mid-sized national chains, a half-dozen regional refiner-marketers, a few large mass merchants and many small (one-station) independent retailers. Such a diverse field of players bodes well for competition based on different organizational designs and innovative retail formats. However, competitive prices at each stage in the supply chain may not necessarily follow, given the possibility that vertically integrated suppliers might squeeze retail margins to discipline or eliminate independent retailers in a predatory fashion. In such a case, a high degree of corporate concentration at the refining stage might lead to rack prices above competitive levels so that a disproportionate share of industry profits will be taken at the refining stage and at the expense of the marketing margins of independent retailers.

The Committee has organized this report in the following way. In Chapter 1, the Committee reviews the data on gasoline prices — retail, rack and crude — in Canada over the past 10 months (the critical period when prices soared), as well as over the longer term and in comparison to those in the United States and elsewhere. In Chapter 2, the Committee examines the industry's structure, performance and profitability, focusing on the "downstream" sector. The Committee also studies the competitive aspects of the vertically integrated companies, the regional marketers and the independent retailers. In Chapter 3, the Committee assesses the explanations given for the recent price increases and other related pricing issues. In the Conclusion and Recommendation, the Committee summarizes its findings and offers a single recommendation to government for the creation of an independent agency charged with collecting industry data, disseminating that data to the public and reporting annually to Parliament on the competitive performance of the industry. The Committee believes that such a monitoring agency will help to resolve public confusion and misconceptions on gasoline pricing issues while ensuring public supervision over all aspects of gasoline pricing.

CHAPTER 1: GASOLINE PRICES IN CANADA

This chapter covers the Committee's review of the data on gasoline prices — retail, rack and crude.¹ The focus is on the most recent past, from November 2002 to September 2003, in order to understand the factors that led to the highest gasoline prices ever in Canada.² Longer term and international perspectives are also examined, however. Explanations for these soaring prices, including their timing, are discussed in Chapter 3.

Gasoline and Crude Oil Prices (November 2002–September 2003)

The Committee begins its study of gasoline prices with the price of crude oil, the primary raw material of gasoline. As the best indicator of crude oil prices, the Committee uses the industry's traditional North American benchmark price of West Texas Intermediate (WTI) crude oil as established by the New York Mercantile Exchange (NYMEX). On November 11, 2002, the closing price of WTI crude on the NYMEX was US\$26.42 per barrel — neither a high nor a low for that year (see Figure 1). This price rose steadily to a high of US\$36.96 on February 18, 2003 — a 40% increase in just three months — before falling precipitously to US\$26.91 on March 25, 2003, a drop of more than US\$10 per barrel in just one month. The March 25 price established the low for the year so far, as the price had trended slightly upward to US\$29.18 per barrel by September 9, 2003. Clearly, most of the 40% increase in the first quarter of 2003 had been given back by the end of the third quarter, given that the end-of-period price of US\$29.18 was 10.4% higher than the start-of-period price of US\$26.42.

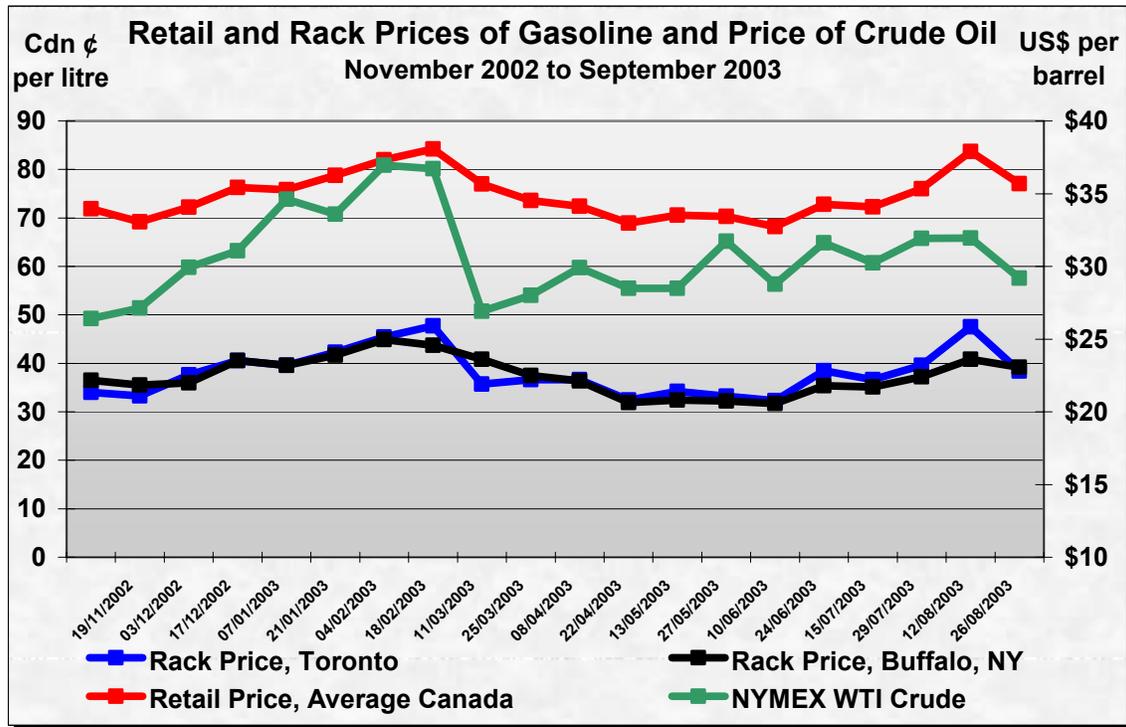
The Committee now moves further down the processing line to consider the wholesale prices of gasoline, using the Toronto rack price as the benchmark price for Canada. Beginning at 33.3¢ per litre on December 3, 2002, the Toronto rack price rose steadily to 47.7¢ on March 11, 2003 — a 43% increase in just three months — before dropping precipitously to 35.7¢ on March 25, 2003, a decrease of more than 12¢ per litre in just two weeks. Unlike the price of crude, this sudden drop in price was not over; further price declines were recorded. The year's low so far was reached at 32.3¢ on June 24, 2003. The trend since then has been upward, finishing at 38.4¢ per litre on September 9, 2003. As with the price of crude, most of the 43% increase in the first quarter of 2003 had been given back by the end of the third quarter, given that the end-of-period price of 38.4¢ per litre stood 12.9% higher than the start-of-period price of 34¢.

¹ Unless otherwise indicated, all prices are in Canadian dollars.

² This report relied heavily on data collected by MJ Ervin and Associates and published by the Canadian Petroleum Products Institute. Time constraints did not permit the Committee to seek independent sources of petroleum price data.

The performance of the Toronto rack price of gasoline was very comparable to that of the Buffalo, NY, rack price. Excluding four anomalous dates (or weeks) in this period, the Toronto-Buffalo price spread never exceeded 2.5¢. On average, the Toronto rack price of gasoline was 0.8¢ higher than the Buffalo rack price, which was less than the cost of shipping the product cross-border and made further arbitrage by the market through trade unprofitable.

FIGURE 1



Source: Canadian Petroleum Products Institute, *Fuel Facts*, all volumes and issues from November 17, 2002 to September 9, 2003.

Finally, there is the retail price of gasoline. The Committee used the weighted-average price of regular gasoline as surveyed in 10 cities across the country.³ The retail price was 69.2¢ per litre on December 3, 2002, and it rose steadily to its peak of 84.2¢ by March 11, 2003 — a 21.7% increase in just three months. This price then trended down throughout the summer until reaching its bottom for the year so far at 68.2¢ on June 24, 2003, but it had rebounded to 77.1¢ by September 9, 2003. The end-of-period price remained 11.4% higher than at the start-of-period price.

When comparing the prices of crude, wholesale and retail gasoline products, the Committee notes that both rack and retail price increases and their pinnacles lagged crude price increases and its pinnacle by approximately one month. There was only a very short lag between retail and rack prices; rack price increases and decreases were

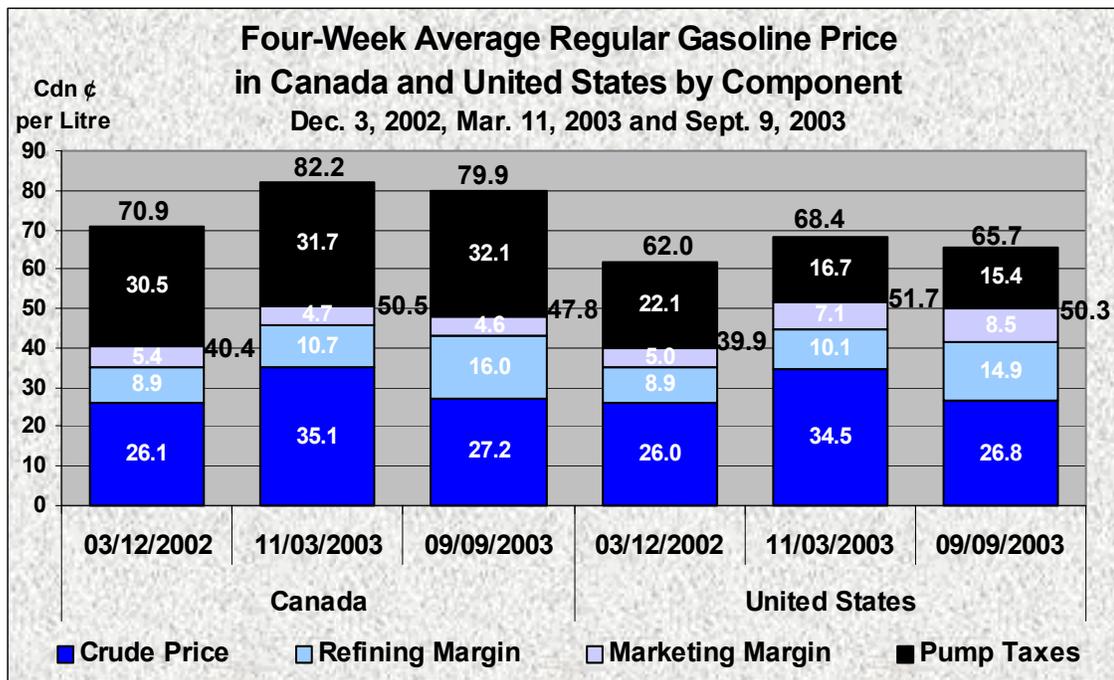
³ MJ Ervin and Associates data: Vancouver, Edmonton, Regina, Winnipeg, Toronto, Montreal, Saint John, Halifax, Charlottetown and St. John's.

completely factored into retail prices within a two-week period. In percentage terms, the rack price increased and decreased in roughly the same measure as the price of crude. The retail price of gasoline, however, increased by only half that of rack and crude prices in percentage terms, and its percentage decline in the year was also more tempered. The end-of-period crude, rack and retail prices were roughly 10% to 13% higher than their start-of-period prices.

Gas Pump Prices and their Components

The Committee now shifts its focus from the individual prices charged at each stage of processing to their combination. Stacking the prices at each stage of processing onto the prices of the previous stage indicates the price margins earned at each stage and provides a rough guide to who gets how much within the industry. With this objective in mind, the Committee used the four-week average crude, rack and retail prices of regular gasoline at key points in the past year, instead of the series of prices at any one time, to reduce the impact of any anomalies found at any processing stage. Anomalies in prices occur quite frequently in this industry due to volatile weekly pricing behaviour. Smoothing out price variances over a four-week period should provide more meaningful results and a better perspective on the operating margins of the different stages of production within the industry (see Figure 2).

FIGURE 2



Source: Canadian Petroleum Products Institute, *Fuel Facts*, Volume 4, Issue 17, September 9, 2003.

Obviously, crude oil prices that rose by 40% between late November 2002 and mid-March 2003 meant greater price margins for oil producers. By March 11, Canadian oil producers earned, on average, about 9¢ more per litre than they had in November 2002. This exceptional performance was short-lived, however, as crude prices returned to their pre-spike levels almost immediately. From late March to early September 2003, Canadian oil producers earned, on average, about 1¢ more per litre than they had in November 2002. American oil producers, on average, shared this experience.

Oil refineries improved their lot during this period as well, but on a different timeline from oil producers. While rack prices rose 43% between November 2002 and mid-March 2003, the average refinery price margin increased by less than 2¢ per litre, or about 20%, in this period.⁴ The significantly better operating performance of refineries was in fact recorded subsequent to March 2003. By September 2003, the average refinery price margin had increased to 16¢ per litre, up about 7¢, or 80%, from that recorded in November 2002. Again, American oil refineries had a similar experience.

Canadian gasoline retailers were not as fortunate as others in the industry. While retail gasoline prices rose by almost 22% between November 2002 and March 2003, the marketing price margin fell, on average, from 5.4¢ to 4.7¢ per litre in this period. By September 2003, the marketing price margin was squeezed another tenth of a cent to 4.6¢. This poor performance by Canadian gasoline retailers contrasts sharply with that of their U.S. counterparts. American gasoline retailers continuously increased their retail price margins from 5¢ in November 2002 to 7.1¢ and 8.5¢ in March and September 2003 respectively.

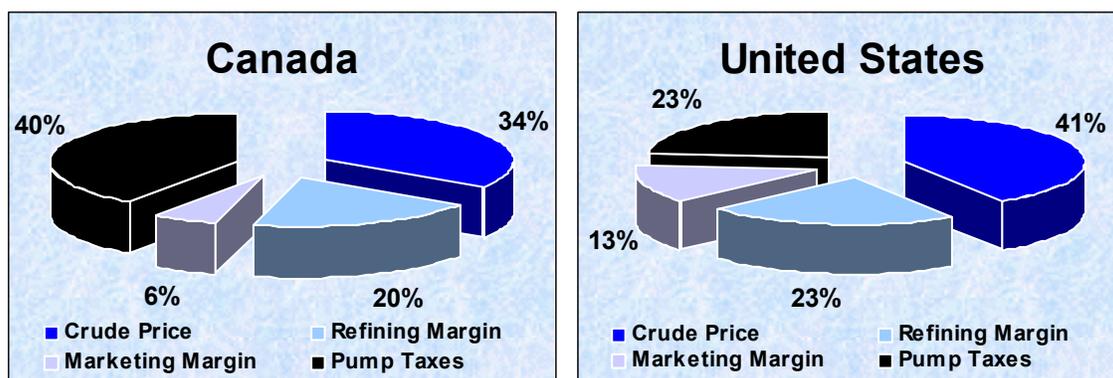
The final component of the retail price of gasoline is government taxes. In Canada, governments raised their tax take throughout this period. On average, taxes increased across the country from 30.5¢ per litre in November 2002 to 31.7¢ in March 2003 and again to 32.1¢ in September 2003. This performance contrasts sharply with developments in the United States. U.S. taxes on gasoline, which averaged 22.1¢ per litre in November 2003, decreased to 16.7¢ in March 2003 and again to 15.4¢ in September 2003. However, a caveat is warranted here. The Canadian dollar appreciated significantly against the U.S. dollar in this period and it is this development, not a reduction in U.S. federal and/or state taxes, which explains most, if not all, of the decline in the U.S. tax component of gasoline in Canadian dollar terms.

The relative performances of all parties in this period can now be evaluated. Consumers paid roughly 11.3¢ more per litre in March 2003 than in November 2002; of this increase 9¢ went to oil producers, 1.8¢ to refiners and 1.2¢ to governments, while retailers lost 0.7¢. By September 2003, consumers paid 9¢ more per litre than in

⁴ The Committee refers only to the industry's price margins, not to its profit margins. A price margin is the difference between the price of the output and the price of the primary input at each stage of processing or distribution. A profit margin equals its price margin minus other per unit costs.

November 2002, with retailers receiving 0.8¢ less, and refiners and governments receiving 7.1¢ and 1.6¢ more, respectively.

FIGURE 3
Component Shares of Regular Gasoline Price
September 9, 2003



Source: Canadian Petroleum Products Institute, *Fuel Facts*, Volume 4, Issue 17, September 9, 2003.

Finally, when evaluating the different component shares of retail gasoline revenues in Canada in percentage terms rather than on a per-litre basis, the Committee finds that the lion’s share is garnered by governments, whose taxes account for 40% of the average revenues earned for the four-week period ending September 9, 2003. Next are the oil producers with 34%, oil refineries with 20%, and retailers with 6% (see Figure 3). Comparing these shares to those in the United States, only Canadian governments do better; all other industry parties in Canada fare worse than their counterparts in the United States.

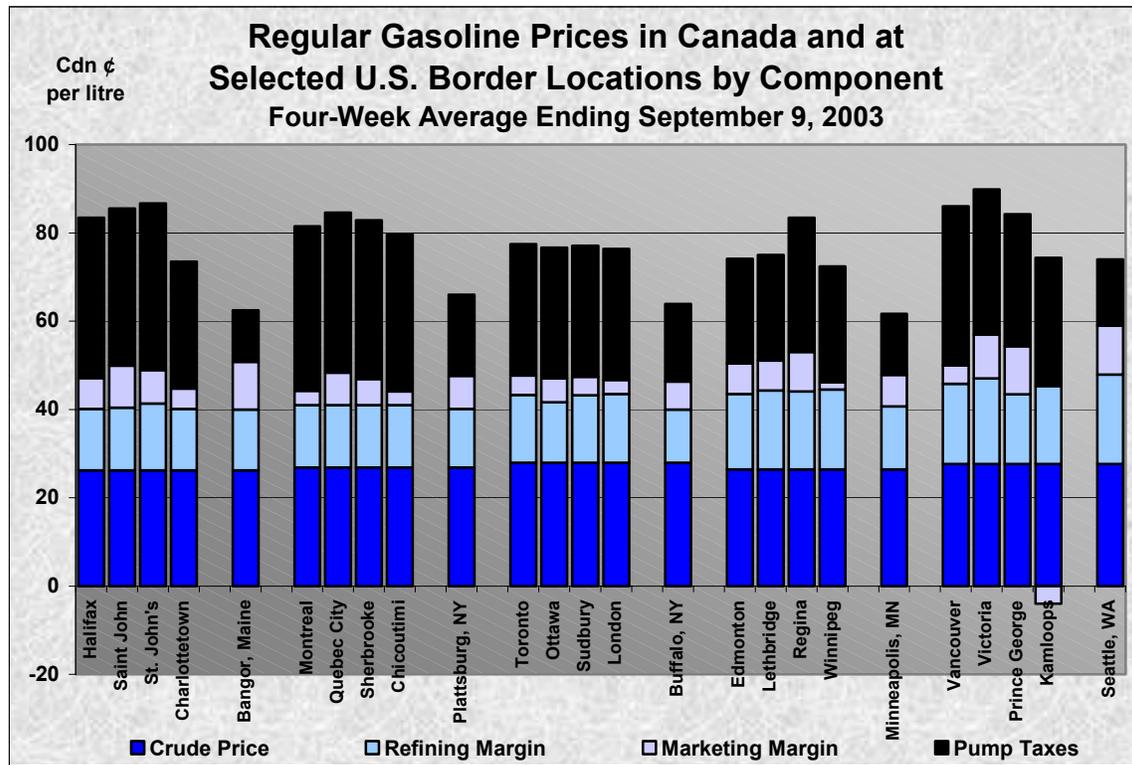
Gas Pump Prices and their Components Across Canada and at Selected Cross-border Locations

The Committee is also interested in the performance of the industry across the country. Accordingly, the Committee wants to be sure that the national averages observed above do not hide more important regional circumstances or differences.

Figure 4 provides the same information as the September 9 data in Figure 2, but broken down by five regions of Canada: Atlantic Canada, Quebec, Ontario, the Prairies and British Columbia. Figure 4 also includes the same price data at specific U.S. border locations that are believed to be good reference or benchmark places for comparison purposes. The Committee’s first observation is that, by and large, the provinces with the highest tax levels host the communities with the highest retail prices — Halifax and Kamloops being two exceptions (the latter likely because of the recent forest fire crisis). Conversely, the provinces with the lowest tax levels host the communities with the lowest

retail prices of gasoline — Winnipeg and Charlottetown being two exceptions (the latter may be due to regulation).

FIGURE 4



Data are displayed in Appendix 1.

Source: Canadian Petroleum Products Institute, *Fuel Facts*, Volume 4, Issue 17, September 9, 2003.

The Committee's second observation is that differences in retail prices across the five regions of Canada can be explained mostly by regional tax differences, more precisely provincial taxes. Exceptions would be in Victoria and Prince George, where marketing margins were disproportionately large relative to elsewhere in Canada (but were comparable to that earned in Seattle, Washington).

The Committee's final observation is that government taxes are higher everywhere in Canada than they are in the United States. Retail prices are, therefore, higher in every region of Canada than at respective reference or benchmark Canada–U.S. border locations, principally for this reason. Refining margins are also larger in every region of Canada than at respective reference Canada–U.S. border locations, except in British Columbia versus Seattle, Washington. Finally, marketing margins are smaller in every region of Canada than at respective reference Canada–U.S. border locations, except in Regina versus Minneapolis, Minnesota.

The Committee is left to conclude that the national averages found in the previous section are very representative of the results and observations found in the five regions of

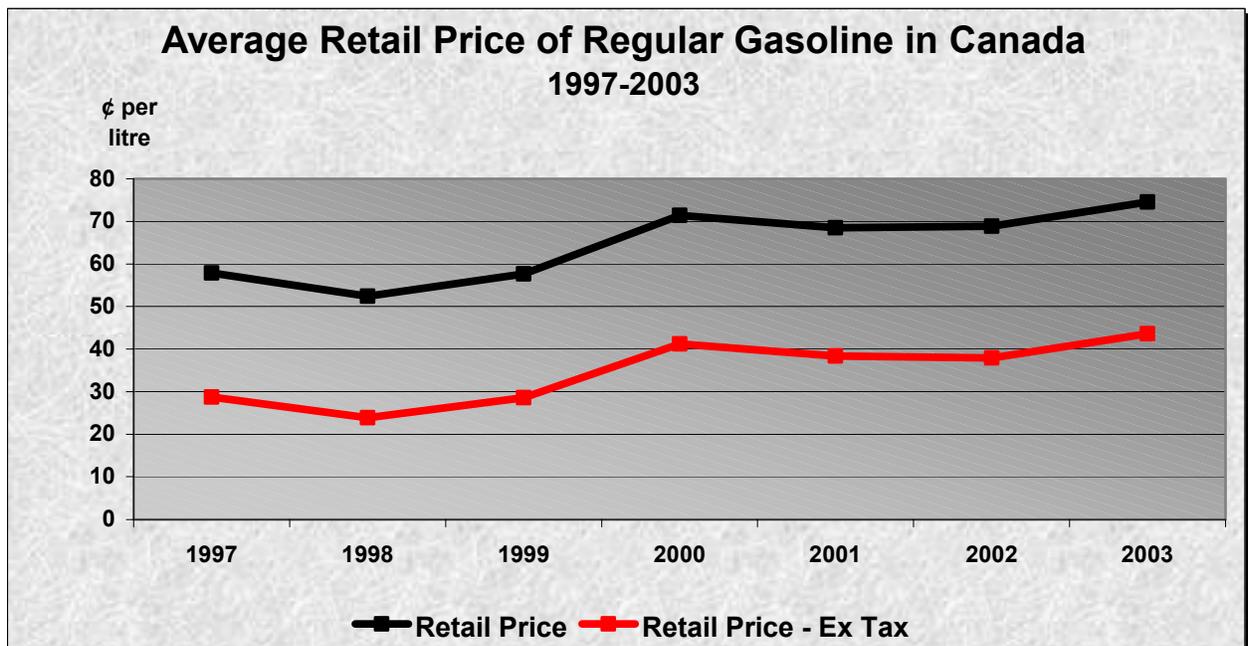
Canada. Regional differences exist but are not significant enough to alter the results obtained using national averages.

Gas Pump Prices Over the Longer Term and Across the G8 Countries

The Committee also looked into the performance of retail gasoline prices over the longer term and across the G8 countries to bring both a time perspective and an international perspective to the issue.

The average price of regular gasoline in Canada in 1986 — when the oil and gas industry was deregulated in Canada — was approximately 48¢ per litre including taxes and 30¢ excluding taxes. By 1997, the average price of gasoline including taxes stood at 58¢ and, excluding taxes, at 29¢ (see Figure 5). In 1999, prices began a steady climb to 75¢ per litre including taxes and 45¢ excluding taxes — the averages established so far in 2003. The tax component averaged 18¢ per litre in 1986 and grew to 29¢ by 1997 and to 31¢ by 2003. Over the longer term, then, the price of gasoline excluding taxes increased 50%, while taxes increased 67%. Taxes, therefore, are the fastest-growing component of the final price of gasoline.

FIGURE 5



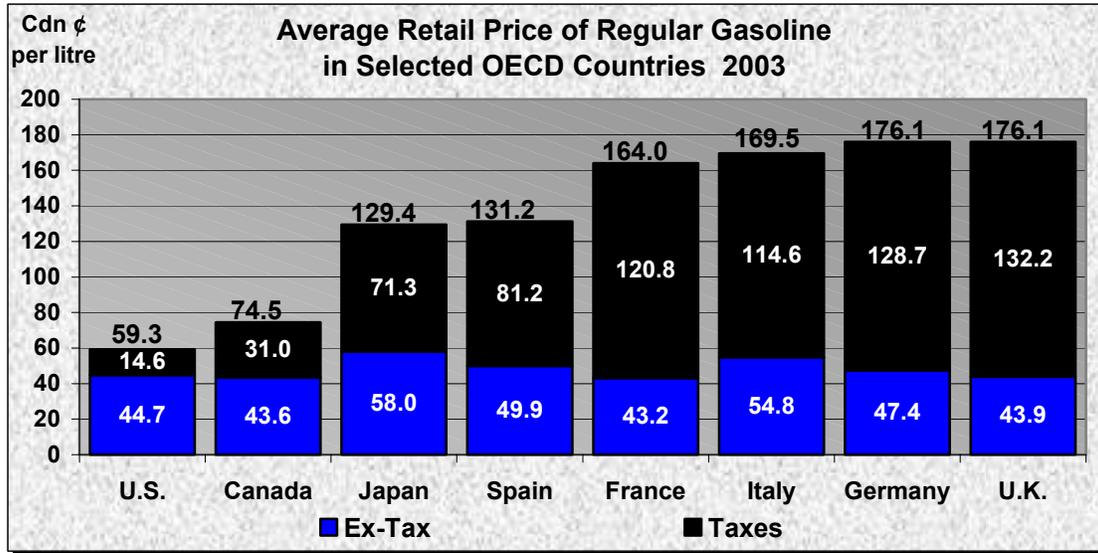
Source: International Energy Agency.

The price of gasoline across the G8 countries varies tremendously.⁵ In 2003 to date, the United States has the lowest average price of 59.3¢ per litre, followed by

⁵ The ex-tax prices are not corrected for differences in product specifications, which can be significant across the G8 countries.

Canada at 74.5¢. The highest price was \$1.76 in both Germany and the United Kingdom (see Figure 6). At 14.6¢ per litre, the United States imposed the lowest taxes on gasoline, followed by Canada at 31¢. The highest taxes were found in the United Kingdom at \$1.32. Canada also placed second in terms of the lowest gasoline price excluding taxes at 43.6¢ per litre, just behind France at 43.2¢; Japan had the highest price of gasoline excluding taxes at 58.0¢.

FIGURE 6



Source: International Energy Agency.

CHAPTER 2: INDUSTRY STRUCTURE, COMPETITION AND PROFITABILITY

Industry Structure and Performance

The oil and gas industry is divided into “upstream” and “downstream” sectors. The main activities of the upstream sector are the exploration and development of crude oil, the raw material from which gasoline is distilled; but they also include drilling, production and transportation of the crude product to the refinery. The downstream sector can further be divided into two: the wholesale/refinery segment and the retail segment. Refineries process the crude oil for the manufacture of a variety of refined petroleum products, including gasoline, diesel, kerosene, heating fuels, jet fuels, lubricants, etc. The mix of these products is called the product slate, and gasoline accounts for approximately 40% of Canada’s slate. There is a clearly identifiable seasonal aspect to the demand for some of these products (e.g., heating fuel in the winter and gasoline in the summer). Retailers, for their part, sell gasoline (and other petroleum and confectionery products and motor vehicle services) to the motoring public, advertising their reference price for regular gasoline on large clearly visible street signs.

In terms of the refining segment of the downstream sector, North America boasts 65 refineries; these include 18 in Canada that are owned by 11 companies (see Table 1). Total Canadian crude refining capacity is 1,796,150 barrels per day,⁶ which is significantly less than it was throughout the 1980s and 1990s. Because of corporate innovation agendas that have focused on boosting productivity, this industry has witnessed the closure of many refineries across North America. For example, Canada boasted 40 refineries in the 1980s and 58 refineries in the 1970s.⁷ Industry productivity has risen sharply as production has become focused in fewer and more efficient plants. Capacity utilization rates have also risen with these closures. For example, capacity utilization rates have risen from about 65% in the early 1990s to 95% in 2002.⁸ Moreover, refiner margins, which were in excess of 10¢ a litre in the early 1990s, stabilized throughout the rest of the decade at about 7¢ a litre — a further indication of the success of the industry’s productivity agenda. There has been an upward trend in the refiner margin to 16¢ in Canada (and 14.9¢ in the United States) since the 1990s.

⁶ Petro-Canada’s Oakville plant is scheduled to close.

⁷ Conference Board of Canada, *The Final Fifteen Feet of Hose — The Canadian Gasoline Industry in the Year 2000*, January 2001, p. 5.

⁸ Petro-Canada, Submission to the House of Commons Standing Committee on Industry, Science and Technology, March 10, 2003.

TABLE 1
Gasoline Refineries in Canada, 2003

Company	Refinery Location	Capacity (barrels of crude per day)
Imperial Oil Limited	Dartmouth, N.S.	84,000
	Nanticoke, Ont.	112,000
	Sarnia, Ont.	122,000
	Edmonton, Alta.	179,600
Petro-Canada	Montreal, Que.	105,000
	Oakville, Ont.	83,000
	Edmonton, Alta.	120,000
Shell Canada	Montreal, Que.	129,900
	Sarnia, Ont.	71,400
	Scotford, Alta.	94,350
Irving Oil	Saint John, N.B.	237,500
Ultramar	St-Romuald, Que.	155,000
North Atlantic Refinery	Come-by-Chance, Nfld.	99,750
Suncor	Sarnia, Ont.	82,400
Federated Co-op	Regina, Sask.	52,000
Chevron	Burnaby, B.C.	52,000
Husky Oil	Prince George, B.C.	10,250
Parkland Industries	Bowden, Alta.	6,000
Total		1,796,150

Source: Natural Resources Canada.

At the same time, the Committee recognizes that the other side of the productivity coin is corporate concentration. Corporate concentration within the refining sector can be measured by the crude oil refining capacity of the largest four companies: Imperial Oil, Petro-Canada, Shell Canada and Irving Oil. These four firms account for 1,338,750 of 1,796,150 barrels of crude per day, or 74.5% of total Canadian refinery capacity. The high corporate concentration of oil refining capacity is most acute in Atlantic Canada and Ontario. When viewed regionally, the top three oil refiners in Atlantic Canada (Irving Oil, Imperial Oil and North Atlantic Refinery) account for 100% of regional capacity. In Ontario, the top three oil refiners (Imperial Oil, Petro-Canada and Shell Canada) account for 82.5% of provincial refinery capacity.

In terms of the retail segment of the downstream sector, there were 13,063 retail outlets in Canada in 2002. Corporate concentration in the retail segment is much lower than in the refining segment: Imperial Oil possesses 2,219 outlets; Petro-Canada, 1,534; and Shell Canada, 1,464. So the three largest vertically integrated producers, two of

which are multinationals, account for about 40% of 13,063 retail gasoline outlets in Canada.

The greater fuel efficiency of motor vehicles and the productivity agenda of the retail segment of the downstream sector have also led to rationalization and innovation in this industry segment. In terms of rationalization, there has been a 40% reduction in the number of retail outlets since 1989, when there were more than 22,000 outlets. There has been a similar decline in the United States, where the number of retail outlets fell from 279,000 in 1972 to 155,000 in 2002, or by about 45%.⁹

The consequence of these two industry trends for gasoline throughput and marketing margins is significant. Between 1989 and 2002, the average Canadian retail gasoline service outlet improved its throughput of gasoline from 1.95 to 3.20 million litres per year, representing an increase of 64%. Current marketing margins are below those experienced in the 1980s, having stabilized in the late 1990s and early 2000s in the range of 4.6¢ to 6¢ per litre. This range remains above the break-even level of approximately 3¢ per litre for the three hypothetical but typical retail gasoline sites and operations as calculated by the Conference Board of Canada.¹⁰

Competition Among the Majors, the Regionals and the Independents

Gasoline retailing is characterized by a growing number of different types of suppliers. The Canadian marketplace, which once comprised just the vertically integrated suppliers (“majors”), regional marketers and one-station independents, is now composed of:

- Two vertically integrated multinationals: Esso and Shell Canada
- One vertically integrated national: Petro-Canada
- At least one vertically integrated regional in each region: Ultramar, Irving, Sunoco, Chevron, Husky, Federated Co-op
- Mass merchants: Flying J, Safeway, Loblaws, Canadian Tire, Real Canadian Superstore, Save-on Foods, Costco, etc.
- Many private branded distributors: Wilson’s Fuels, Pioneer, Domo, etc.
- Thousands of one-station independent retailers.

⁹ Conference Board of Canada, op. cit., 2001, p. 11.

¹⁰ Conference Board of Canada, op. cit., 2001, p. 15.

Evidence provided to the Committee shows that the majors were the first to begin (and more aggressive in) the move to withdraw retail sites from operation and rationalize their retail networks since 1990 (their outlets are down 36%). The regional vertically integrated companies (down 25%) and independents (down 10%) followed. Since 1998, the regional vertically integrated marketers and independents/mass merchants have in fact increased the number of their retail outlets. Market shares of gasoline sales by volume show a similar trend. Data collected by Kent Marketing indicate that independents/mass merchants' market share of sales by volume declined from 23% in 1990 to a low of 21.7% in 1998 before rebounding to 23.5% in the third quarter of 2002. The regional marketers' market share of 19.1% in 1990 had steadily improved to 21% in the third quarter of 2002. The majors' market share of 57.2% in 1990 had declined to 55.4% in the third quarter of 2002.

As a final note, the Committee realizes that the market share performance of independents over the last decade reflects both the growing presence of new types of entrants (mass merchants, branded grocery chains and others) and the resilience and adaptability of traditional one-station independents. However, there is concern about the possibility that the vertically integrated companies may be able to cross-subsidize their different activities (between upstream and downstream sectors or between refining and retail segments of the downstream sector) to the detriment of independents. On this score, the Committee is aware of only one study that has empirically tested this possibility. According to the Conference Board of Canada, there is some indirect evidence of cross-subsidization between the two segments of the downstream sector, though it was statistically insignificant. The Conference Board of Canada also found indirect evidence of cross-subsidization between upstream and downstream sectors, but that the cross-subsidy flowing from the downstream sector to the upstream sector was miniscule — too miniscule to be predatory in intent.

Profitability

The Committee also examined the profitability of the downstream sector, focusing on the majors. Although after-tax profits are clearly cyclical, the downstream sector has been profitable throughout the past decade and especially in the past three years (see Table 2) — well before the positive impact the war in Iraq will provide (see Table 3). Put in price terms, downstream profits represent about 1.2¢ per litre of product sold, or about 2% of the pump price. Higher prices, increased productivity, gains in efficiency and diversification of retail activities have all contributed to the industry's improved "bottom line."

In terms of return on capital, the downstream sector has also fared well, with all three majors averaging between 9.3% and 11.2% over the past decade. However, some would argue that, after discounting for the risk taken, the returns on capital of the majors' downstream sector are low when compared to the returns offered by other investment opportunities in the period.

TABLE 2
Petro-Canada, Shell Canada and Imperial Oil
Downstream Profitability and Return on Capital — 1993-2002

Year	Petro-Canada		Shell Canada		Imperial Oil	
	After-tax Profit (\$ millions)	Return on Capital (%)	After-tax Profit (\$ millions)	Return on Capital (%)	After-tax Profit (\$ millions)	Return on Capital (%)
1993	114	7.1	41	1.7	238	9.0
1994	138	8.1	126	5.6	212	8.5
1995	161	9.0	175	9.4	186	7.8
1996	130	6.8	75	4.3	146	6.4
1997	219	11.1	252	14.7	297	12.4
1998	169	8.5	275	15.7	274	11.3
1999	106	5.2	141	8.2	54	2.2
2000	272	13.0	340	19.6	313	14.0
2001	301	13.3	401	22.2	353	16.1
2002	254	10.8	198	10.7	127	5.2
Average		9.3		11.2		9.3

Source: Petro-Canada, op. cit., 2003, p. 37-38.

TABLE 3
Petro-Canada, Shell Canada and Imperial Oil Downstream Profitability
After-tax Profit: Quarterly, 2000 QI to 2003 QIII (in \$ millions)

Period	Petro-Canada	Shell Canada	Imperial Oil
2000 I	n.a.	79	51
II	n.a.	75	63
III	n.a.	88	49
IV	66	98	150
2001 I	91	115	120
II	111	122	116
III	51	79	42
IV	48	85	75
2002 I	45	21	(37)
II	73	10	15
III	59	59	21
IV	80	108	128
2003 I	130	117	139
II	129	54	102
III	(42)	105	n.a.

Source: Petro-Canada, Shell Canada and Imperial Oil Web sites.

CHAPTER 3: RECENT PRICE INCREASES EXPLAINED

Crude Oil Price Increases

Petroleum company executives offered five reasons for rising crude oil prices in the past year: (1) speculation in oil due to a looming war in Iraq; (2) labour unrest in Venezuela; (3) the political crisis in Nigeria; (4) unusually cold weather in northeast North America; and (5) low inventory levels in North America. An industry analyst (MJ Ervin) corroborated these five causal factors and, to a limited extent, quantified their impact. From the supply side, he claimed that the Venezuelan and Nigerian crises led global crude oil production to decline 6% in the first quarter of 2003, the equivalent of 5 million barrels per day. He also commented on two demand-side factors at work. First, speculation over a potential war between the United States and Iraq resulted in an estimated war premium on crude oil of between US\$6.00 and US\$8.00 per barrel. Second, an unusually cold winter throughout most of northeast North America increased the demand for crude oil on an already strained production system, driving U.S. inventory levels to their lowest in recent history.

The Commissioner of Competition confirmed these claims, explaining that the Competition Bureau's research indicates that the most recent increases in the prices of crude oil and gasoline occurred because of the following:

In early February, gasoline prices started to increase across North America and peaked during the second week of March 2003. Since that time prices have retreated to their December 2002 level. All information available to date confirms that these increases in the price of gasoline were the direct result of the increase [in price] of crude oil caused by four factors: (1) a political crisis in Venezuela, which affects that country's oil production; (2) it was a time of impending war in Iraq; (3) unusually cold weather in the north-east of North America; and (4) low inventory levels in North America. [Konrad von Finkenstein, Commissioner of Competition, Competition Bureau, Industry Canada; 40:15:30]

Witnesses appearing before the Committee who alleged collusion and price-fixing in the downstream sector did not dispute these five causes as a source of recent price increases. Those witnesses recognized that crude oil prices are determined in global markets that are, more than anything else, influenced by OPEC (Organization of the Petroleum Exporting Countries) production decisions. They also recognized that speculators will move tanker loads of crude oil across the world to arbitrage geographical price differences that are greater than the cost of transportation, thereby frustrating localized price-fixing attempts in the upstream sector. However, they maintained that these recent supply disruptions provide a convenient backdrop for decisions by Canada's highly concentrated and vertically integrated oil producers to raise rack and pump prices above competitive levels. The Committee now turns to this issue.

Rack Price Increases and Supplier Margins

The Committee heard conflicting testimony on rack prices and refiner and/or marketing margins. Industry officials claim that rack prices are competitively set and comparable to those of the United States. Furthermore, supplier margins in Canada are smaller than those in the United States and have been so throughout most of the past decade. On the other hand, representatives from the *Association québécoise des indépendants du pétrole* (AQUIP) maintain that the petroleum industry is too concentrated and that this allows the large vertically integrated companies to increasingly control both rack and pump prices without resorting to price-fixing *per se*. Representatives from the *Coalition pour la défense des consommateurs de carburant du Saguenay-Lac-St-Jean* and from *Essence à juste prix* went further, claiming that the majors do fix prices to boost their profit margins. In either case, according to these representatives, excessive refining and marketing margins explain the recent run-up in gasoline prices made possible behind the veil of recent supply disruptions.

The two organizations alleging a conspiracy could not offer any formal evidence in support of their position, but the Committee also recognizes that their opinion is widely shared amongst the public. However, the Commissioner of Competition, who is armed with sufficient search and seizure powers to investigate such allegations and has done so many times in the past, believes otherwise. The Commissioner stated that:

Since 1990 the Bureau has conducted four major investigations related to the gasoline industry and found no evidence to suggest that periodic price increases resulted from a national or regional conspiracy to limit competition of the gasoline supply or from abusive behaviour by the dominant firms in the market. Indeed, it should be noted that following each period in which prices had increased market forces caused prices to return to historic levels. This is consistent with the result of numerous investigations conducted by our counterparts throughout the world who have generally arrived at the same conclusion. [Konrad von Finkenstein, Commissioner of Competition, Competition Bureau, Industry Canada; 40:15:30]

AQUIP, for its part, offered the corporate concentration data presented in the previous chapter as evidence of its claim. The Committee, however, believes that these data alone are insufficient evidence of high and supra-competitive supplier margins. Since the late 1990s, product specification regulations have been harmonized between Canada and some northern border states of the United States, thereby removing these barriers to trade. Gasoline imports by many large independents have been, and continue to be, a major source of competition that keeps Canadian rack prices in some locations in check with those at selected U.S. border locations. For example, the Committee was advised to consider the competitiveness of the Toronto marketplace:

In the Toronto market, for example, they have options to buy from one of five local domestic refiners and marketers. They also have the option to import product either by marine when the seaway is open, or by truck from Buffalo and Detroit. In many respects, on the wholesale price for gasoline in Toronto, we are a price taker. If our prices are not competitive versus Buffalo or Detroit, or the marine option up the St. Lawrence, trucks and ships will move. As a result, we need to ensure that we're competitive against that

very large international market. [Simon Smith, Vice President, Fuels Marketing, Imperial Oil Limited; 43:15:35]

[I]f I look at data published by the Government of Ontario that tracks Buffalo rack versus Toronto rack, they move fairly closely in tandem. If you don't believe Buffalo is a liquid market, our experience has been that when prices in Toronto are out of sync with Buffalo, product moves in both directions. There are refiners and marketers in Buffalo that can make Canadian-spec gasoline quite easily, meet the benzene, meet all the sulphur specs. There are other markets like Detroit, which is a very large market and also will be an important factor in southern Ontario. [Simon Smith, Vice President, Fuels Marketing, Imperial Oil Limited; 43:16:20]

The Committee notes that Figure 1 of this report showed that Toronto and Buffalo rack prices did track each other very closely in the past year — a fact that tends to corroborate the claim of competitive rack prices.

The Committee was also told that U.S. refineries have about a 30% to 40% advantage in terms of economies of scale over Canadian refineries. Despite this fact, the total margins (refiner and marketing) in Canada were lower than in the United States, suggesting a more competitive and efficient market in Canada. The Committee was provided with data stretching back more than a decade that support this claim. The data on which Figure 2 of this report is based, however, point to somewhat higher refiner margins in Canada than in the United States, but to lower marketing margins in Canada. There is, therefore, some discrepancy in the data depending on the period under study. The Committee would have preferred that the refineries justified their margins. In any event, if AQUIP's contention that corporate concentration has led to higher supplier margins in Canada is true, it must be true for the United States as well. The high concentration of ownership within the gasoline industry must be a continental, and not solely a Canadian, problem.

Figure 2 data point to slightly higher refiner margins and lower marketing margins in Canada than in the United States. Once again, this finding brings up the possibility of cross-subsidization amongst downstream activities. In this regard, the Committee reviewed the Conference Board of Canada's report that found some indirect evidence of cross-subsidization but that it was statistically insignificant. In support of that conclusion, one industry official stated that:

[T]here is a great degree of autonomy within the marketing and the refining divisions [at Shell Canada]. Both ... have the opportunity and exercise it to establish our respective prices based on market forces. From the standpoint of the way we operate the retail or the commercial brand businesses, we too are looking at the market forces establishing the ultimate selling price to consumers, and there is no attempt to cross-subsidize or subsidize by virtue of integration one business versus another. They are intended to stand alone. Our decisions on how we operate the business and what kind of investment it can generate for the future are determined on the standpoint of individual businesses. So in that context our retail business looks very similar in terms of a model to what an independent could do. [Terry Blaney, Vice-President of Marketing, Shell Canada Limited; 42:17:10]

The smaller marketing margin in Canada may, therefore, be the result of more aggressive shopping on behalf of Canadian consumers in response to higher prices (due to higher taxes) than in the United States. However, without cost data — specifically, avoidable cost data — the allegation of cross-subsidization cannot be proven or refuted. For this reason, the Committee believes that more investigation and study of this issue are warranted.

The Committee was also aware that seasonal aspects of demand affect not only the slate of products produced by the petroleum companies, but also rack prices and the amount of inventory carried. Winter months require the production of more heating fuel and less gasoline. Summer months require the opposite. According to one industry official, this contrast became more striking in the summer 2002–winter 2003 period:

We had cold weather ... and all of a sudden demand was strong and everyone was struggling to find products to bring to the market. ... [A]s the price went up, we decided to buy a bit less crude, maintain a bit less inventory because at some point it's very expensive if you carry a lot of inventory in this business and you end up with \$3 million or \$4 million capital tied up ... So you want to maintain inventory at a slightly lower level as price goes up if you think it's going to be a short-term situation, especially if it's unexpected disruption ... [François Trudelle, Directeur principal, Approvisionnement en produits et Optimisation de l'exploitation, Ultramar Limited; 42:16:35]

These strategic decisions have an impact on the refiner's margin:

These higher margins were a reflection of extremely low gasoline inventories in the United States. For the most part, gasoline inventories in the U.S. during the latter part of 2002 and the first three months of 2003 were at their lowest levels of the past several years. ... [R]efiners also tend to minimize inventories when prices are high in an attempt to protect their exposure to a sudden drop in price. The low inventory position put further upward pressure on wholesale prices, which in turn influenced refining margins. [Michael Ervin, MJ Ervin and Associates; 43:16:00]

These explanations suggest that low inventory levels of crude oil were in fact a strategic response by refiners to keep inventory and production costs down, which is consistent with pro-competitive conduct.

Finally, there is the issue of rural versus urban marketing margins. Higher transportation costs to northern rural communities are obviously one factor, but they are not the only factor. Rural retail gas stations are, in general, much smaller than their urban counterparts, which can exploit significant economies of scale and scope that are not available to rural gasoline stations. One industry official explained:

[T]he entire difference [in retail prices between rural and urban centres] is not explained by transportation. If you take a large retail facility in Montreal, Toronto, Vancouver, they could well sell 12 million litres of gasoline a year. They also would typically have a 1,500- or 2,000-square-foot store behind that facility; they might have a car wash behind that facility, all of which provides revenue to the retailer. ... The revenue available off that particular facility helps determine what the price is.

In many of the urban centres ... the retail facilities are much smaller. They may sell 1 million litres, or 1.5 million litres, or 2 million litres a year. ... So for those people to make a living, ... they ask for a higher profit margin on the gasoline, because they need a larger margin on 1.5 million litres than the operation does in the major city who is selling 12 million litres, or 20 million litres, for that matter, which there are facilities in Toronto that do that. [Ford Ralph, Vice-President, Wholesale and Retail, Petro-Canada Limited; 42:16:05]

The Committee understands this to be the case with most retail goods, not just gasoline, and refers the reader to the Conference Board of Canada's study, which deals with the issue in more detail.

Gas Pump Price Increases and Pricing Uniformity and Volatility

The trend in gasoline prices in Canada since the mid-1980s has been modestly upwards if taxes are included. If taxes are excluded, the trend is significantly downward. An industry official quantified these price trends as follows:

It's the tax impact that has made a material change in the value and prices of gasoline to Canadian consumers. ... [From 1983 to 2002, Canadian consumers have seen] an increase of roughly ... 40%. ... Since 1983 ... the real price of gasoline to Canadian consumers has declined ... it's a decline of roughly 30% ex-tax. [Simon Smith, Vice-President, Fuels Marketing, Imperial Oil Limited; 43:15:35]

The data suggest that relief from high and increasing gasoline prices would best be achieved by lowering government taxes. Cutting the price margins at the different stages of supply would likely be injurious to suppliers' financial performance and would threaten the economic viability of the less efficient suppliers. Furthermore, the downward trend in gasoline prices ex-tax since the mid-1980s — a period in which corporate concentration increased significantly — tends to contradict the claim that increased industry concentration has led to higher retail prices (ex-tax).

Price uniformity and volatility are also a concern. The public often notices and complains about retail gas stations in the same local market — those within a couple of street blocks of each other — charging prices that are identical, or only a fraction of a cent different. When one of these retail outlets changes its price — whether raising or lowering it — competitors in the immediate vicinity follow in lockstep within minutes. The public has always been suspicious of this price uniformity and volatility, which appears too systematic to be anything other than price-fixing. Indeed, the Committee heard complaints from two witnesses who alleged that only a conspiracy to fix prices could explain these pricing patterns. They could offer no evidence, however, in support of their allegation.

Industry officials beg to differ. They explain price uniformity within a local market as the consequence of the unique way in which retail gasoline prices are posted — on large signs outside each retail outlet that can be read by motorists travelling as fast as 60 kilometres an hour. Consumers have proven to be very price-conscious, travelling

great distances to save a fraction of a cent per litre, even though this may amount to a saving of only 10¢ or 20¢ on an average fill-up. Retailers are aware of this extreme shopping behaviour by motorists, and must therefore keep an eye on their immediate rivals' prices for fear of losing sales. In their own words:

So let's take a corner, here's a Petro-Canada facility and here's another service station right across the corner, whatever brand. That facility decides to drop its price one-half cent per litre. Let's just take 70¢, 69.5¢ per litre. Somebody is driving down the street at the speed limit in the city. They can see right away the price difference. Many people, many, many people will change their purchasing behaviour for half a cent a litre, interesting, because a fill is about 40 litres, that's about 20¢. People will drive a mile for a half a cent a litre.

So what happens? If our station does not react to that station's half a cent a litre below by dropping our price a half a cent a litre, we can lose a third of our business in a flash. People and our operators look across the road. If they see the price drop — we have a pricing centre — they phone us and we can authorize them in a matter of minutes to drop their price, because if we don't, we're going to lose business to them, just like that. That is why you see the same prices. [Ford Ralph, Vice President, Wholesale and Retail, Petro-Canada Limited; 42:16:05]

Competitive pricing under these conditions leads to price volatility, which was both quantified and explained to the Committee in this way:

On every street corner where we have sites, last year we had more than 200,000 price changes at our retail sites, up from 70,000 just three years ago. Why? Because of intense competition in our retail markets. We are continually seeing new and aggressive competitors coming into this market, including grocers and mass merchants. The irony is that gasoline pricing is probably the best example of competitive markets at work. [Ford Ralph, Vice President, Wholesale and Retail, Petro-Canada Limited; 42:15:30]

It is clear that industry participants believe both the uniformity and volatility of retail gasoline prices are the direct result of very fierce competition, particularly from the newest entrants. However, the Committee is less confident that this is the case.

Long Weekend Gas Pricing

The issue of long weekend or vacation pricing was raised by a couple of witnesses. These industry watchers claim that retail gas stations raise their prices in concert — suggesting a conspiracy to raise prices — just before a long weekend. Apparently, the same is true of the price of heating fuel in unusually cold winters:

The price of gasoline has regularly shot up in the last five years. Curiously enough, prices at the pump always go up right before the long summer vacation or before Christmas and you never see the price of heating oil go up in the summer but only during the coldest months of winter. [Claude Girard, Coalition pour la défense des consommateurs de carburant du Saguenay-Lac-St-Jean; 43:15:45]

Industry representatives did not dispute these price increases. They simply offered an efficiency or pro-competitive explanation for them.

In terms of winter pricing of heating fuel, the demand for heating fuels may (as noted above) outstrip supply when the weather is colder than expected. To avoid potential shortages or stock-outs, prices rise to stimulate both increased conservation by consumers and increased production by suppliers. The same applies to gasoline pricing before a long weekend. The Commissioner of Competition rationalized this pricing behaviour as competitive by way of a well-understood example:

[T]his is a question of demand and supply. Roses go up on Valentine's Day, automatically, every florist in the city will raise the price of roses just before Valentine's Day. Does that mean there's a conspiracy? Not necessarily ... at that time of the year, you raise the price of roses. The same way with gasoline; people go on long weekends, on drives, etc. so taking advantage of it does not necessarily amount to conspiracy. [Konrad von Finkenstein, Commissioner of Competition, Competition Bureau, Industry Canada; 40:16:30]

The Committee also notes that further investigation of the issue reveals that there is somewhat more to it than meets the eye. The statistical findings of the Conference Board of Canada are informative:

While it is true that prices do sometimes shoot up before long weekends, they are just as likely to increase prior to any other weekend throughout the year. The fact is that dealers attempt to increase prices, normally in the middle of the week, in order to restore margins that have been reduced because of street level competition. If they do not succeed, prices tend to drift down on Friday and on the weekend. Increases before long weekends may more likely be accepted by competitors in anticipation of the higher holiday demand, but this cannot be proven statistically.¹¹

This conclusion suggests that gasoline prices rise just prior to long weekends, but also just before a number of other regular weekends throughout the year—a situation that to some extent validates opposing claims. Such pricing behaviour may not be the result of collusion, but could be the consequence of individual retailers simultaneously and independently recognizing a situation of increased demand; they have plenty of history to prepare them for such opportunities. It would seem, then, that consumers are more aware of price increases before a long weekend than before other weekends.

¹¹ Conference Board of Canada, op. cit., 2001, p. iv.

CONCLUSION AND RECOMMENDATION

The Committee set out to investigate the causes of the recent increase in the price of gasoline and its impact on the Canadian economy. Witnesses advanced both competitive and anticompetitive explanations, and provided evidence in support of their positions whenever possible. The Committee further reviewed both the price data, particularly focusing on the past year, and the petroleum industry's structure and performance over the past decade. The Committee has weighed this evidence and concludes that the recent increase in the price of gasoline was the result of industry participants' competitive reactions to a series of international crises and the abnormally cold weather that gripped northeast North America last winter. No evidence was presented to the Committee of a conspiracy to raise and fix prices, nor was there evidence presented of abusive behaviour on the part of vertically integrated suppliers in the form of squeezing retail margins to eliminate or discipline independent retailers.

Although the Committee did not find any evidence of collusion by retailers, the distinctive way in which the retail sector advertises gasoline prices by signage, combined with the next-to-costless shopping behaviour of the motoring public, could potentially mask a conspiracy to raise prices. Independent and interdependent decision-making on prices — when price is sometimes the only strategic weapon a retailer possesses — is not easily distinguished. The public is right to be suspicious.

The Committee has some suggestions and a recommendation to the government that should help to alleviate the public's concern. First, the Committee suggests that the petroleum industry put more effort into educating the public about the competitive nature of the industry, focusing on price-setting issues and conventions adopted by retailers. The industry should also post larger and more visible breakdowns of the component costs of the final retail price of regular gasoline.

In terms of federal government action, the Committee is satisfied that the Competition Bureau has sufficient powers, personnel and resources devoted to overseeing competitive aspects of the petroleum industry. Those powers should soon be bolstered when proposed changes are implemented to the *Competition Act* and the *Competition Tribunal Act*, as recommended by the Committee in its 2001 report on Canada's competition regime. If there is fault in the oversight provided by government, it lies with the collection and dissemination of price data and with the timely review of the industry's structure and performance. The Committee appreciates the price data collected by MJ Ervin and Associates and presented to the public by the Canadian Petroleum Producers Institute. The Committee would prefer, however, that the federal government undertake these activities, as it believes that the collection and dissemination of price data on gasoline by an agency that is independent of the petroleum industry would have more credibility with the public. The Committee, therefore, recommends:

RECOMMENDATION 1

That the Government of Canada create and fund a Petroleum Monitoring Agency with a three-year mandate to collect and disseminate, on a timely basis, price data on crude oil, refined petroleum products, and retail gasoline for all relevant North American markets. That the Government of Canada, in consultation with stakeholders from the petroleum sector (the “majors,” the “independents,” and consumer groups), appoint a director who would head this agency. That the agency report, on an annual basis, to Parliament on the competitive aspects of the petroleum sector in Canada and that, upon tabling the agency’s third report to Parliament, the House of Commons Standing Committee on Industry, Science and Technology review the agency’s performance and the need for an extension of its mandate.

APPENDIX 1

Regular Gasoline Pump Prices and Component Pricing in Selected Cities Four-Week Average Ending September 9, 2003 (in cents per litre)

Location	Crude Price	Refining Margin	Marketing Margin	Pump Taxes	Pump Prices
Halifax	26.2	13.9	7.0	36.4	83.5
Saint John	26.2	14.2	9.5	35.7	85.6
St. John's	26.2	15.1	7.6	37.8	86.7
Charlottetown	26.2	13.9	4.6	28.8	73.5
Bangor, Maine	26.2	13.8	10.8	11.7	62.4
Montreal	26.8	14.2	3.2	37.3	81.5
Quebec City	26.8	14.2	7.3	36.3	84.6
Sherbrooke	26.8	14.2	5.9	36.0	82.9
Chicoutimi	26.8	14.2	3.1	35.6	79.7
Plattsburg, NY	26.8	13.3	7.5	18.4	66.0
Toronto	27.9	15.4	4.4	29.8	77.5
Ottawa	27.9	13.7	5.4	29.7	76.7
Sudbury	27.9	15.3	4.2	29.7	77.1
London	27.9	15.6	3.2	29.7	76.4
Buffalo, NY	27.9	12.1	6.3	18.5	63.9
Edmonton	26.4	17.1	6.9	23.8	74.2
Lethbridge	26.4	17.9	6.8	23.9	75.0
Regina	26.4	17.7	8.9	30.5	83.5
Winnipeg	26.4	18.1	1.7	26.2	72.4
Minneapolis, MN	26.4	14.3	7.1	13.9	61.7
Vancouver	27.6	18.2	4.2	36.1	86.1
Victoria	27.6	19.4	10.0	32.9	89.9
Prince George	27.6	15.8	10.9	30.0	84.3
Kamloops	27.6	17.7	-4.0	29.1	70.4
Seattle, WA	27.6	20.3	11.1	15.0	74.0

Source: Canadian Petroleum Products Institute, *Fuel Facts*, Volume 4, Issue 17, September 9, 2003.

APPENDIX 2 LIST OF WITNESSES

Associations and Individuals	Date	Meeting
Department of Industry	05/05/2003	40
Konrad von Finckenstein, Commissioner of Competition		
Peter Sagar, Acting Deputy Commissioner of Competition		
Richard Taylor, Acting Deputy Commissioner of Competition		
Petro-Canada	07/05/2003	42
Tom Lawson, National Pricing Manager		
Ford Ralph, Vice-President		
Shell Canada Limited		
Terry Blaney, Vice-President, Marketing		
Lesley Taylor, Manager		
Ultramar Ltd.		
Jean Drolet, General Manager		
François Trudelle, Director		
“Association québécoise des indépendants du pétrole”	12/05/2003	43
René Blouin, President-Executive Director		
Pierre Crevier, President of “Les Pétroles Crevier” and Member of the AQUIP’s Economic Affairs Committee		
Sonia Marcotte, Economist, Director of the AQUIP’s Economic and Legal Affairs Committee		
“Coalition pour la défense des consommateurs de carburant du Saguenay-Lac-St-Jean”		
Jean-Pierre Benoît, Director		
Claude Girard, President		
Imperial Oil Limited		
Simon Smith, Vice-President		
As Individual		
Michael Ervin, President of MJ Ervin and Associates		
“Association professionnelle des chauffeurs de taxi du Québec”	13/05/2003	44
Roland Boulé, President		
“L’essence à juste prix”		
Frédéric Quintal, Spokesperson		

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this report within one hundred and fifty (150) days.

A copy of the relevant Minutes of Proceedings of the Standing Committee on Industry, Science and Technology (*Meetings Nos. 40, 42, 43, 44, 54, 58, 63, 64 and 66*) is tabled.

Respectfully submitted,

Walt Lastewka, M.P.
St. Catharines
Chair

Dissenting Opinion Gasoline Prices in Canada Submitted by James Rajotte, Dave Chatters and Brian Fitzpatrick

In February 2003, the Standing Committee on Industry Science and Technology agreed to summon representatives of the oil and gas companies and other experts so that it could explore the possible causes of the increase in the price of gasoline and the significant negative effects the increase was having on the economy, in order to recommend appropriate corrective measures to the federal government.¹

While the body of the report does a good job in presenting reasons as to why gasoline prices fluctuated in early 2003, the Canadian Alliance members of the standing committee do not agree with the main recommendation of the report.

1. No collusion

The Canadian Alliance members of the committee listened to witnesses from all sides. The evidence was clear — collusion was not the cause of the increase in the price of gasoline in early 2003.

Despite investigating this issue 19 times, the Competition Commissioner stated:

...we have never found any evidence of any kind of collusion except at a very local level, usually a bunch of stations getting together and trying to maintain the price at a certain level. Those we have prosecuted with some success.
[Konrad von Finckenstein, Commissioner of Competition, Competition Bureau, Industry Canada, 40: 15:50]

Even those who testified they believe collusion is possible in gas pricing offered no concrete evidence. The Quebec consumer coalition was unable to offer any proof except their belief there was a “ ...strong possibility of a price-fixing arrangement.”
[Claude Girard, President, Coalition pour la défense des consommateurs de carburant du Saguenay-Lac-St-Jean, 43 : 15:45]

¹ The motion was debated by SCOIST on February 17th, 2003.

2. Accuracy of MJ Ervin data

It has been suggested that the government again begin to collect data concerning gas pricing in Canada. The data collection role is being successfully filled by the private sector through MJ Ervin & Associates.

I have no reason to believe that the information provided by MJ Ervin & Associates is not accurate or as reliable as what Natural Resources Canada used to collect. The only thing that matters to us is that the data are accurate and are collected in an objective way. Nothing indicates that MJ Ervin & Associates information is inaccurate or biased. [Konrad von Finckenstein, Commissioner of Competition, Competition Bureau, Industry Canada, 40: 16:00]

As Michael Ervin, President of MJ Ervin & Associates, pointed out in his opening statement, the oil and gas sector is one of his clients. If the government moved back into the data collection field, it could be seen as subsidizing the oil and gas industry — the main clients for such data.

The Canadian Alliance does not believe there was any evidence to support the government re-engaging in data collection when the private sector, through MJ Ervin & Associates, is successfully fulfilling that role.

3. The Oil and Gas Industry should provide more information

The Canadian Alliance recognizes that there is a problem of perception in Canada — consumers believe there is price fixing, no matter how many investigations are conducted. Both oil executives and the Competition Commissioner noted that, time and again, they hear accusations of collusion without proof. “This is an industry that has the highest price visibility you can imagine.” [Konrad von Finckenstein, Commissioner of Competition, Competition Bureau, Industry Canada, 40: 15:50]

Nevertheless, we believe the industry could do more to explain price setting and price fluctuations. This is a complicated matter, and we believe the oil and gas industry is in the best position to reach out to consumers.

The Canadian Alliance recommends that the Minister of Industry write to the oil and gas industry in Canada to encourage them to immediately appoint a Petroleum Information Commissioner to provide information to Canadians and help address consumer concerns.

4. The Competition Commissioner's ability to investigate specific allegations.

Some have suggested the Competition Bureau does not investigate the issue of collusion and price fixing with enough rigour. The Canadian Alliance believes this is simply not the case.

Since 1972, there have been 13 trials concerning retail price maintenance cases related to gasoline or heating oil prices resulting from inquiries initiated by the bureau. Eight of these resulted in convictions. These cases, however, are concerned with local market and isolated incidents. This clearly shows that the Competition Bureau has always been prepared to investigate complaints and take enforcement action under the criminal provisions with respect to the petroleum industry whenever evidence has been presented to us ...The Bureau has blocked potential transactions which could substantially lessen or prevent competition; it has required parties to divest significant assets such as refineries, terminal and service stations; and it has required refiners to supply products to independent retailers. I would also reiterate that should the Competition Bureau obtain any evidence of conduct contrary to the evidence to the Competition Act, we will not hesitate to take the appropriate measures." [Konrad von Finckenstein, Commissioner of Competition, Competition Bureau, Industry Canada, 40: 15:30-35]

However, it has become clear that the volume of complaints the Bureau entertains and investigates on the issue of gas prices has become a burden.

"The provisions of the *Competition Act* give us the mandate we need to do our work. If you are talking about our budget, our resources, no, I do not have the resources that I need to carry out the investigations that I would like to do. [Konrad von Finckenstein, Commissioner of Competition, Competition Bureau, Industry Canada, 40: 15:55]

The Canadian Alliance continues to support the recommendation of the Standing Committee's report entitled: "A Plan to Modernize Canada's Competition Regime". The committee recommended, " ...the Government of Canada provide the Competition Bureau with the resources necessary to ensure the effective enforcement of the *Competition Act*."² This recommendation should become a priority for the Minister of Industry.

5. Taxes

As the main text of the report points out, over the long term, the price of gasoline excluding taxes increased 50%, while taxes increased 67%. Taxes, therefore, are the fastest growing component of the final price of gasoline.

² Recommendation 5, April 2002.

The tax burden at the pump has been raised as one of the reasons why prices are higher in Canada than in the United States. “Once you strip out the taxes and do the exchange rate, the price of gasoline is very similar around the world.” [Mr. Richard Taylor, Acting Deputy Commissioner of Competition, Competition Bureau, Criminal Matters Branch, Industry Canada, 40:15:45]

A month ago — October 7th, 2003 — Liberal members of the House of Commons agreed to start sharing the federal gasoline tax dollars with Canada’s cities. Little has been done since that time to make that promise a reality.

The Canadian Alliance believes government has a role to play in funding Canada’s infrastructure. At the same time, we believe that responsibility for infrastructure lies primarily with provinces and municipalities. We will therefore reduce federal gasoline taxes conditional on an agreement with the provinces that they will use this tax room to fund infrastructure in provincial and municipal jurisdictions. We will also continue and expand upon investments in border infrastructure and other areas of primary federal responsibility.

MINUTES OF PROCEEDINGS

Wednesday, November 5, 2003
(Meeting No. 66)

The Standing Committee on Industry, Science and Technology met in camera at 3:37 p.m. this day, in Room 209 West Block, the Chair, Walt Lastewka, presiding.

Members of the Committee present: Larry Bagnell, Paul Crête, Cheryl Gallant, Walt Lastewka, Serge Marcil, Brian Masse, James Rajotte, Andy Savoy, Brent St. Denis and Joseph Volpe.

Acting Members present: Gerald Keddy for André Bachand, Carolyn Parrish for Paddy Torsney and Judy Sgro for Dan McTeague.

In attendance: Library of Parliament: Lalita Acharya, Analyst; Robin MacKay, Analyst; Dan Shaw, Analyst.

Pursuant to Standing Order 108(2), consideration of the possible causes of the recent increase in the price of gasoline, and the significant negative effects that the increase is having on the economy, and recommendations for appropriate corrective measures to the federal government.

The Committee resumed consideration of a draft report.

It was agreed, — That the draft report (as amended) be concurred in.

Ordered, — That the Chair or a designate present the Fifth Report (as amended) to the House at the earliest possible opportunity.

It was agreed, — That pursuant to Standing Order 109, the Committee request that the Government table a comprehensive response to this report within one hundred fifty (150) days.

It was agreed, — That the Chair be authorized to make such typographical and editorial changes as may be necessary without changing the substance of the draft report to the House.

It was agreed, — That 550 copies of the report be printed in both English and French in tumble format.

It was agreed, — That, pursuant to Standing Order 108(1)(a), the Committee authorize the printing of dissenting and/or supplementary opinions as appendices to this report, immediately following the signature of the Chair.

It was agreed, — That any dissenting and/or supplementary opinions be limited to not more than three (3) pages.

It was agreed, — That any dissenting and/or supplementary opinions be received by the Clerk by electronic mail in both official languages as soon as possible.

Pursuant to Standing Order 108(2), the Committee commenced consideration of future business relating to the Automatic Injunction *Provisions in the Patented Medicine (Notice of Compliance) Regulations of the Patent Act*.

At 5:28 p.m., the Committee adjourned to the call of the Chair.

Louise M. Thibault
Clerk of the Committee