



**Australian Government**  
**Productivity Commission**

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**PRODUCTIVITY COMMISSION**

**MR P LINDWALL, Commissioner**  
**MR K BAXTER, Commissioner**  
**MR S KING, Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT THE GRACE HOTEL, 77 YORK STREET, SYDNEY**  
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# INDEX

		<u>Page</u>
5	<b>BOARD OF AIRLINE REPRESENTATIVES AUSTRALIA MR B ABRAMS</b>	<b>3-22</b>
	<b>AUSTRALIAN AIRPORTS ASSOCIATION DR W MUNDY</b>	<b>23-36</b>
10	<b>BIOENERGY AUSTRALIA MS S McKENZIE</b>	<b>36-48</b>

**COMMISSIONER LINDWALL:** Good morning, everyone, and I'm glad you've been able to brave the rain to get here because it's an interesting one when you're talking about an airports inquiry and you find that Sydney Airport's operating on one runway today and obviously they're using less jet fuel today perhaps than they normally would.

I'm Paul Lindwall, the Presiding Commissioner on the inquiry and I've got Ken Baxter here and Stephen King here on my right who are my fellow Commissioners. We've got Nick here who's the only person who's able to come up because Katie was coming but the plane was cancelled, the flight was cancelled.

Anyway, we normally introduce a bit about the inquiry. Hello, Warren. The inquiry started with the terms of reference from the government in June 2018 as a 12-month inquiry, and its purpose is to investigate whether the economic regulation of airport services promotes the efficient operation of airports and related industries.

The Commission has been asked specifically to review the competition in the market for jet fuel, and that's why we decided to hold hearings on that topic. Today and in Melbourne on Friday.

We've talked to representatives from the Australian State and Territory governments, airports, airlines, representative bodies, academics, researchers and individuals with an interest in the inquiry. We released our issues paper on 9 July, have received 77 submissions since then, quite detailed submissions in most cases. Of course, as always, we're grateful to all the organisations and individuals that have participated with our inquiry and who put in submissions, appeared at hearings, as they will in the future, and this is our first public hearing for the inquiry. We will have one in Melbourne on Friday about jet fuel.

We aim to produce and release our draft report in February next year, and then we'll have public hearings on the broader issues of the inquiries, probably in March/April next year, and then our final report will go to the government in June 2019.

Participants and those who registered their interest in the inquiry will be advised of the final reports released by the government and that's up to 25 sitting days from the - it has to be tabled 25 sitting days after completion.

The purpose of hearings is to provide participants the opportunity to elaborate on their submissions, discuss issues with the Commissioners, and any organisation or person can participate in the hearings, but those who

have an interest in jet fuel are obviously encouraged to appear. There will be an opportunity to speak afterwards for the registered participants that we've got today such as Barry.

5 We like to, as you can see, conduct our hearings in a reasonably informal manner, but there is a transcript being taken, as always in hearings, and that's why we don't take questions from the floor, but if you want to say something on the record you're welcome to come up and testify like anyone else.

10 You're not required to take an oath but of course under our Productivity Commission Act you're required to be truthful in your remarks.

15 You're welcome to raise comments on other submissions as you see fit, and if there are any media representatives please let yourself be known to Nick here, and of course if there is an emergency such as an evacuation being needed the building will be advised through the normal process and you'll have to use the stairs, I guess. You don't want to use the lifts.

20 So we'll start right now with Barry, and perhaps Barry, if you could just introduce yourself and if you want to say an opening statement that would be most welcome.

25 **MR ABRAMS:** Thank you very much. Barry Abrams, Executive Director. I've got some opening statements.

30 So the Board of Airline Representatives of Australia, or BARA, really appreciates the opportunity to provide further comment to the review of jet fuel supply at Australian airports.

35 Jet fuel represents about a third of global airline operating costs, and many of Australia's international air services have very long distances between airports leading to high fuel burns per passenger. Indeed, international flights now uplift about 5 billion litres of jet fuel annually in Australia costing about \$4 billion. So minimising jet fuel costs is critical to maintaining and increasing the number of commercially viable routes to and from Australia.

40 It's taken BARA a long time to draw attention to, and then hopefully concentrate some attention, on the opportunities and benefits we see of a more competitive supply of jet fuel. BARA wants to promote a set of arrangements that support ongoing competition on its merits between jet fuel suppliers, and we also believe that competition is consistent with supporting more reliability in jet fuel.

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The problems we see today can be traced to issues with the jet fuel infrastructure supply chains. These supply chains transport the jet fuel from the refineries and ports to the aircraft at the airport. We think that modest reforms to providing and pricing for this infrastructure can support a more competitive and reliable supply of jet fuel.

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What problem is BARA seeking to address? Our efforts, our long-standing efforts in this area stem from the sustained concerns raised by member airlines over a lack of effective competition when they tender for jet fuel at Australia's major international airports. Members want to see the same degree of competition and tension oversupply in Australia as occurs at many overseas airports.

Jet fuel rationing at Sydney and Melbourne airports has also been unwelcome and led to high profile events that disrupted industry operations, passengers and freight forwarders. Jet fuel rationing events have also attracted investigation and involvement by both the Australian government and State governments.

So governments today are already being drawn into problems with jet fuel supply, but largely on an ad hoc basis in response to severe jet fuel rationing events. BARA would like to see arrangements that actually minimise the need for this ad hoc involvement by government.

So what are we seeking, and what do we think will improve matters? In developing our policy document, a competitive supply of jet fuel at Australia's major international airports, BARA consulted a range of stakeholders that included the airport operators, infrastructure providers, jet fuel suppliers, and obviously airlines, and we canvassed a wide range of potential options that could improve the quality and the efficiency of the jet fuel infrastructure supply chains.

Given the previous experience we've had and the ongoing developments we've seen, we believe there's really three initiatives that would deliver on the desired outcomes or after. The first is investment in jet fuel supply infrastructure at the airports consistent with facilitating competition between suppliers and supporting the ongoing development of the airport; secondly, workable access arrangements to the on airport jet fuel storage and distribution facilities; and thirdly, periodic studies sponsored by the Australian government and relevant State government into the overall jet fuel supply and demand situation at each of the four major international airports.

BARA would like to emphasise how it's well within the industry's capability to implement these arrangements with a modest level of government support and encouragement. They also offer governments a

more structured and effective involvement, rather than the ad hoc responses to jet fuel rationing events.

5 So just touching on where we are today, I think it is important to note that BARA has identified reforms that do appear to be largely endorsed by most industry participants reading through the submissions, and some implementation has already occurred, especially at Melbourne Airport, and therefore I think it's worth just commenting on the current situation at the two largest jet fuel markets in Australia, namely, Melbourne and Sydney  
10 Airports.

So starting with Melbourne Airport. So in response to widespread jet fuel rationing at Melbourne Airport in 2016, the Victorian Government established an aviation industry round table to help deal with the jet fuel  
15 problems, and BARA's been very supportive of the actions taken by both the Victorian and Australian Governments on these issues as the market participants themselves were unlikely to establish the necessary arrangements to improve matters.

20 So just touching on BARA's three reform initiatives, so when we look at jet fuel investment as stated by Melbourne Airport in a press release in a deal brokered with the assistance of the Victorian State Government fuel suppliers in Melbourne Airport agreed to terms that would ensure both on-site storage and input supply capacity will cope with the forecast growth in  
25 passenger numbers.

As airlines we would like to see and be consulted on more around the actual development as well out of this infrastructure, but it does show how, with assistance from the Victorian Government, some sensible progress could be  
30 made.

On access arrangements, BARA notes in Mobil Oil Australia's submission to the Commission, it stated that the joint venture supports a competitive market, namely, the JUHI arrangements include an open access regime that  
35 allows non-equity participants to access the facilities and services. A number of third parties have commenced the application process for JUHI access by making enquiries with the JUHI.

40 So whilst, as we've detailed in our submissions, we do have concerns about the detail and the lack of transparency around those arrangements, these are obviously positive statements and developments. They do show that just moving from what are effectively internally set arrangements to more open arrangements, it immediately encourages interest from potential fuel  
45 suppliers.

5 The outcome at Melbourne Airport is also consistent with the case studies that we included in our submission where we showed that once an airport or a set of facilities moved to a more open set of access arrangements, there was normally an immediate sort of increase in interest from potential suppliers.

10 So then we look at the demand and supply studies. So through the aviation industry round table the Australian and Victorian Governments also jointly sponsored a jet fuel supply and demand statement for the airport. The study has identified emerging issues in the supply chain and it is understood we need to repeat that study about once every five years.

15 And finally, BARA does appreciate that Melbourne Airport has not used the leased negotiations with Melbourne JUHI as an opportunity to extract economic rent through a fuel throughput levy. Now, by focussing on the issues at hand, it's encouraged the negotiation of outcomes that are far more likely to be aligned with industry needs.

20 So then we turn to Sydney Airport. Unfortunately, it's a rather different, and I might say, sad state of affairs for the jet fuel supply arrangements at Sydney Airport as BARA understands them. BARA remains particularly concerned at Sydney Airport and Sydney JUHI will not agree upon outcomes in the best interests of supporting Australia's international aviation industry. Adding to the uncertainty BARA understands that Sydney Airport can terminate the current lease with Sydney JUHI with three years' notice, and that was put on the public record as part of the access declaration by Sydney JUHI.

30 So again, just touching on the sought after initiatives, on jet fuel investment BARA is unaware of any arrangements that would underpin the orderly investment in jet fuel supply infrastructure at the airport. BARA has highlighted the lack of investment in the bridger facilities for road tankers to support a more reliable and competitive supply of jet fuel, just as one area of concern. It's an investment that's been identified that's of low cost, can generate a lot of benefit and yet we haven't seen it in seven, eight years now.

40 On access arrangements, access to Sydney JUHI remains as per the internally generated equity participation arrangements, and uncertainty over the lease tenure and other terms and conditions could also well contribute to a barrier to entry to new suppliers, and you come into Melbourne JUHI and equity, well, you might be wound up in three years and who knows what you might get at the end of that.

5 Finally, on the demand and supply studies, the supply and demand of jet fuel was last investigated in about 2010, and it's unclear at least to BARA how close the industry may or may not be heading towards problems in jet fuel supplied at Melbourne Airport, given the growth in demand and a conversion of the two refineries.

**COMMISSIONER LINDWALL:** Sorry, Melbourne or Sydney?

10 **MR ABRAMS:** Sydney.

**COMMISSIONER LINDWALL:** I think you said Melbourne a couple of times in there which should have been Sydney.

15 **MR ABRAMS:** Sydney, yes. Sorry. Little information is available to the industry participants. Yes, sorry, all of the previous of those statements are regarding Sydney.

**COMMISSIONER LINDWALL:** Yes, yes.

20 **MR ABRAMS:** And finally, BARA has a long-standing problem with Sydney Airport extracting unjustified economic rent through its fuel throughput levy which we consider to be a fee for no service, and overall BARA sees a clear need for some government oversight and involvement to encourage outcomes at Sydney Airport to fit with improving the provision and pricing of jet fuel services at the airport.

25 So just in summary, BARA does consider that there is a relatively straightforward path to supporting market-driven improvements in the reliability and competitive supply of jet fuel. It does require some government involvement and BARA has outlined how they can support the establishment of improved arrangements, and we've already seen this occur in part at Melbourne Airport. Airlines would like to see this improved upon and progressively implemented at the other major airports, and that's my opening remarks.

35 **COMMISSIONER LINDWALL:** Thank you, Barry. Could you, since you've mentioned Sydney and Melbourne, briefly comment about Brisbane and Perth then perhaps?

40 **MR ABRAMS:** Okay. So as we understand it today at Brisbane Airport, the level of capacity and we believe there are, sort of, three effective suppliers. So as we see it today, the level of issue at Brisbane Airport seems to be considerably less. That said, it obviously then becomes interesting how is the world going to look in, say, five, ten, 15, 20, years with the growth in supply, and are the arrangements suitable for the future.

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5 Perth Airport, as we understand it, there is really just one effective supplier, and one pipeline to the airport, so it clearly has some issues in terms of competition and the potential issues with reliability to supply. So that is an airport of a level of concern to BARA that in turn we would like to see improved upon.

10 **COMMISSIONER LINDWALL:** Okay, and the Victorian Government actually was to set up a round table.

**MR ABRAMS:** Yes.

15 **COMMISSIONER LINDWALL:** Anything else that the Victorian Government did in particular?

20 **MR ABRAMS:** Well, I think the important parts of the round table was to get all the parties in one room to be talking about the issues that needed to be addressed, so that included around, “Okay, what are we doing on the level of tankage at the airport? What’s going on with the rest of the supply chain?”, you know, “Why can’t we see some sensible access arrangements put on”.

25 So what other things the Victorian Government may or may not have done behind the scenes, because Melbourne Airport talk about brokering a deal, so presumably there were some meetings and some discussions to help the parties to come together as well as the round table which was sort of more the formal following and investigating of what was happening.

30 **COMMISSIONER LINDWALL:** Okay. No, that’s good. I your Table 1 of your submissions, you’ve got the number of effective suppliers.

**MR ABRAMS:** Yes.

35 **COMMISSIONER LINDWALL:** So, say, Sydney is two. Well, they’re all two, apart from Brisbane which is three, and Perth, as you mentioned just then, one.

**MR ABRAMS:** Yes.

40 **COMMISSIONER LINDWALL:** How do you reach the numbers?

45 **MR ABRAMS:** Yes, yes, so for Sydney and as part of our access declaration, we went to a number of members to provide information on how the quality of the outcomes when they tendered for jet fuel at the airport. So as we put in more detail in our submission to the competition

5 policy review, so what we found was that for ten contracts there were 46 opportunities put out for fuel suppliers to provide a bid. Of those 46 opportunities, no bid was received 26 times. So the majority of the contracts there was only one potential provider, and in a few cases there was two potential providers to provide 100 per cent of the fuel of an airline's needs.

10 So what we sort of linked it to for Sydney is basically the maximum number of 100 per cent that airlines were achieving. For the other airports, and that also sits with our understanding that there are effectively two suppliers at the airport with a significant presence.

15 So then in the roll-out for the other airports we've simply used the commonly understood and known, you know, suppliers at the airport who are providing a significant amount of fuel for international airlines.

So I don't pretend there's any hard science behind those numbers, because, you know, concepts of competition and the level of competition are always a bit subjective but that would be our best view at the moment.

20 **COMMISSIONER KING:** Just to follow upon that Barry, so if 20 of the tenders, I think you said, got no bids, what does the airline do in that situation?

25 **MR ABRAMS:** So what's happened, so when I say there was no bids, so an airline's put out a contract and it's put it out to, say, four fuel companies, for argument's sake. Maybe one or two come back and say, "I'm prepared to put in a bid". So that's what we've based it on. So it doesn't mean there was 26 times there was no fuel offered. So what it means was, there were, of those ten contracts there was effectively 46 offers put to fuel companies, and of that, I think about in two cases an airline got more than one bid that could meet its fuel needs.

30 **COMMISSIONER BAXTER:** Could I just explore this a little more and tie it up with the Victorian arrangements that are made by the Victorian Government, is there any evidence or do you or some of your members have a suspicion that there is a quid pro quo in the Victorian Government and enabling the facilities that would provide Melbourne Airport? In other words, does the Victorian Government get some benefit out of reaching that arrangement which is not necessarily transparent?

40 **MR ABRAMS:** There's certainly no information that BARA would have that would raise those concerns. I think from a perspective of participating in the round table arrangements, we were very supportive and encouraged by the efforts of the Victorian Government to try to broker some sensible arrangements on both the investment in the tankage at the airport, and also to encourage the bringing in of some initial steps at access arrangements.

5 So in BARA's perspective, no, they weren't concerns that came to mind. At the same time, you know, we're obviously not party to the detail of any of those discussions and negotiations that went on. We're just looking at it in terms of the final outcomes that we saw.

**COMMISSIONER LINDWALL:** Now, obviously, there are two sides to this because we're talking about fuel.

10 **MR ABRAMS:** Yes.

**COMMISSIONER LINDWALL:** And one is about the supply and this forum is a way of approaching that, I guess, to ensure that you have sufficient for the foreseeable future for the foreseeable amount of activity, but the other is the price, right?

**MR ABRAMS:** Yes.

20 **COMMISSIONER LINDWALL:** Do you have any thought about how much price is above what it would be in a more open market, and how much would that - what's the ball park figure there would you say?

25 **MR ABRAMS:** It's a very good question. Unfortunately from BARA's perspective, we specifically don't get any commercially sensitive information from any of our members or suppliers on the level of jet fuel pricing.

30 Obviously as IATA and others have put in, jet fuel costs in Australia are very high globally, and then of course that brings into question how many cents per litre could be achieved through a combination of efficiency benefits. We would like to think through a combination of improvements in competition, improvements in the efficiency of shipping and improvements in the efficiency of the supply chain that we are talking in the order of cents per litre, not, you know, point of a cent per litre or something like that.

**COMMISSIONER LINDWALL:** Yes.

40 **MR ABRAMS:** So we would see those benefits, potential benefits should be material and should flow into the millions of dollars for overall jet fuel costs for individual airlines, but as I said, to actually have that information you'd need that directly either from an airline or a supplier because as I said, BARA strictly doesn't get any commercially sensitive information.

5 **COMMISSIONER KING:** Just to follow up on that, of course, BARA did the application to the NCC for declaration Sydney 2012, I think, around about that time. You gave similar information to the NCC that we've received based on the IATA data and the NCC said, well, it's less than convincing that there's a problem, and in fact obviously some other parties got some consultants to do some work breaking that down in the consultant report, and most of it is public; basically came to a conclusion that any price differentials could be explained by differences in taxes, transport costs and so on.

10 So we haven't received anything different and that puts us in a very difficult situation in that, we're sitting with the same data, but the NCC's already said it didn't show a problem, or wasn't sufficient to show a problem, I think is a better way of putting it. How do we find a problem?

15 **MR ABRAMS:** Yes, I think there's, from BARA's perspective, I suppose there's a couple of aspects to this. One is, obviously that represents a build-up of the costs as per the existing suppliers of jet fuel, so an alternative supplier may, for argument's sake, be able to achieve economies in, say, shipping, and it may be able to achieve economies in the areas of the supply chain itself. So it depends whether or not you think that evidence put forward actually represents the most efficient supply of fuel versus what a new competitor may be able to provide.

25 From BARA's perspective, so in terms of the problem, it's obviously been raised by members on many occasions around the lack of competition and the lack of competitive tension on their bids when they tender for fuel, and I would note the NCC did make the finding, regardless of how we got there, that they did not consider the supply of the market for jet fuel at Sydney Airport to be vigorous or competitive, so that's the important finding too.

30 In turn, I think, and I appreciate the difficulties here because a lot of data in this type, this part of the industry is just locked up, but BARA has also met with many potential fuel suppliers over a number of years who have come to BARA and said, "We really believe we can bring a more efficient product and service to the airlines if we had the opportunity to come into Australia and compete in these markets".

40 So when at the same time I've got members saying there are problems, and I have potential importers saying, "Well, we really think we can come in and bring some real efficiencies here", that's something we continue to sort of push forward on, but I certainly note your point that the lack of - and we mentioned this in our submission - the lack of information and data within the jet fuel supply chains, there's not much about.

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**COMMISSIONER LINDWALL:** Now, under Part 48 or section 48 of the Productivity Commission Act there's a provision which allows us to use powers to obtain information. Would you think that we should do that, and if so who should we ask and what should we ask?

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**MR ABRAMS:** Okay. Obviously being from the Commission, and your background, you'll obviously have a view about what sort of information would give you, if you want to know what is the problem, so then the question then is, what information would you like.

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So two forms of information that I would think would be useful would be to understand that each of the four major airports, what is the volume of supply being supplied by the participants at the airport, so that would at least give you a feel for the level of market concentration, and I think especially for, say, Sydney JUHI, an understanding of if and how many times a potential fuel supplier has come to the JUHI and sought access to those facilities for the purposes of competing and what the outcomes are - were.

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So perhaps there's some quite simple information that could be asked for that would be readily available within, you know, the JUHI's around the country at the four major airports.

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Now, we've obviously heard from in the submission with regards to Melbourne JUHI that as soon as they moved to an open-access arrangement in their view, they've had interest and they're processing applications. So hopefully by the time of the draft report or soon after we'd actually know the outcomes of that. So in terms of trying to look at both parts of the spectrum, so I understand in terms of what would be the benefits.

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Now, if at the end of the day new providers can get access on some reasonable workable terms, then the market will just determine that, you know? If there's still only two providers in the future, that then just suggests, well, that's what the market will bear and that's the go. If we saw an increase in the number of suppliers, then that's not a bad proxy for saying we've had a general increase in the level of competition.

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**COMMISSIONER LINDWALL:** On your declaration that Stephen mentioned, and I think you applied for it in 2011 and of course it was determined in 2012, things that have happened since then, would you ever consider reapplying to the NCC for a declaration?

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**MR ABRAMS:** Unlikely. The reasons, I think, are as follows. One is, in discussions with potential fuel suppliers through a long period of time, one is, we would need to go through the process again. One thing that we learnt

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was that airlines and providers can be reluctant to come forward with information on the public record as you're probably also experiencing here at the moment.

5 **COMMISSIONER LINDWALL:** Yes.

**MR ABRAMS:** Just that's the way this industry tends to work.

10 Secondly, in some discussions we've had, we've then put it forward to say, "Well, even if we get access, we get it declared, it's still then up to a potential fuel supplier if they can't reach the terms, acceptable terms and conditions, to then go through an arbitration process which could be then through the ACCC and then potentially the Australian Competition Tribunal, and I think a very firm view that we keep getting put forward to us is to say, hang on, we want to cover this country and compete and supply fuel and bring efficiencies. We don't want to have to fight our way through regulatory or legal systems, or through arbitrations to achieve it. Why can't we see the same situations that we see as we've put in our submission at, you know, Hong Kong and at Warsaw and at LAX and, you know, where workable arrangements are in place.

20 So even if BARA was to push forward again, which obviously has no certainty to it, it's not clear if they're actually going to fully deliver the outcome for the pool who want to potentially use it.

25 **COMMISSIONER LINDWALL:** So when you look at reform in this space, obviously we'll start with Western Sydney Airport, the government's deciding to build that. Obviously your position would be that it should be open access from the start.

30 **MR ABRAMS:** Yes.

**COMMISSIONER LINDWALL:** And continue to be open access.

35 **MR ABRAMS:** Yes, I think the most sensible arrangements there would be the on-airport storage and distribution facilities could be owned by the airport itself, the company if it wanted, and it could then just tender out the running of those operations to a specialist fuel provider, or there could be some hybrid where a fuel supplier - sorry, a provider of those infrastructure services, more correctly, also has invested in those facilities as well, but either way, we would see that as a very clean and straightforward opportunity to bring in an open set of access arrangements for Western Sydney Airport.

**COMMISSIONER LINDWALL:** And now the government's also announced that ultimately its intention would be to privatise Western Sydney Airport. What would you want to ensure that when it happens, a long time in the future, presumably, that it remains open access.

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**MR ABRAMS:** Okay. I think we would - you would therefore specify that as part of any lease conditions for the purchaser of the airport, so the part of the lease conditions as I understand now for the major international airports is around, you know, facilitating aviation and investing in infrastructure and the like. So you could imagine or envisage a situation where they've built in a set of lease requirements that, "Here are the standard terms of access for the facilities, and it is part of the lease requirements to be maintained through time".

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15 **COMMISSIONER LINDWALL:** Yes.

**COMMISSIONER KING:** Can I just follow up on that on different forms of access, so when you're talking about access I understand you're talking about as in your submission, non-discriminatory access without requiring an equity buy-in.

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**MR ABRAMS:** Yes.

**COMMISSIONER KING:** Now, if we talk to people from Sydney JUHI I suspect they would say, "Well, we have access. It's an equity-based access". What's wrong with an equity-based access thing where anybody can get access to the JUHI and related facilities as long as it buys into the relevant company.

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**MR ABRAMS:** Certainly. BARA's not opposed to equity access type participation as one option. There's probably a couple of things that come to mind. One is, if a fuel supplier is just seeking to see in the early days whether or not it can actually establish a market, grow its market with airlines, then having a non-equity form of participation can be a lower risk, lower cost type operation where they just pay a fee. They might operate some, you know, trucking services to the airport and basically see how they go. The issue that seems to be at Sydney, and obviously Sydney JUHI and Sydney Airport will know far more about this than BARA, but according to what we've seen with regards to the access declaration is that Sydney Airport can terminate the lease within three years' notice.

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So if you were to buy into these facilities, depending on what the outcomes were when the lease was terminated, it might be you've got a substantial risk and you buy into the facilities. Then there's a notice that says, "Sorry,

you're out in three years' time", and you may or may not know what you're going to get out of that.

5 So it's not that equity participation is streamlined, entered into and applied in a good faith nature with a sufficient tenure could not work, but that's not what we see at the moment, and having the two forms options available to people would seem to be a much preferable situation.

10 **COMMISSIONER LINDWALL:** You've spoken of what the Victorian Government has done to promote a forum and a bit of consultation. What would you like the Federal Government to do at the minimum.?

15 **MR ABRAMS:** Yes, so at a minimum, what we've asked for is what we would like to see, is the Government invite each of the JUHI operators to submit some standard terms for workable access to their facilities for some review and comment by industry members. So this very much still says it's the JUHI's or whoever is the owner/operator of those facilities. They are responsible for the provision of pricing of those services, but we think by simply requiring some transparency and some consultation with industry  
20 that we can actually get some sensible arrangements in place. So that's one part.

The other part is, in effect I think what we're asking for is the Australian Government to effectively implement a form of master planning for jet fuel  
25 supply at the four major airports, whereas, as we've done in Victoria, we have an external party come in and help, and that there's a proper end-to-end review done of the supply and demand of jet fuel at the airport, and then that, as you would expect in an airport master plan, then starts to raise all the issues of where the augmentation may have to happen. Are we in a  
30 pretty comfortable place? Do we have obvious problems coming?

As we would see it, given the various parties on the table, so we've got an airport, we've got various fuel suppliers, infrastructure providers, some form of oversight is necessary to bring us all together to actually conduct  
35 those types of studies, and that was done in, I think, in quite a collaborative and good way for Melbourne Airport.

40 **COMMISSIONER LINDWALL:** And it doesn't require legislative change or new regulations or anything like that?

**MR ABRAMS:** No. No. Nothing BARA has put forward in its submission points to a fundamental need of, say, a legislation change. Our view is, as I suppose I pointed to early, we think the changes necessary are actually pretty modest and well within the capabilities of industry today if  
45 they're just given an appropriate prod, so to speak, to get there. We don't



envisage especially in the first instance there would be any need for any type of new legislation.

5 **COMMISSIONER LINDWALL:** So if it's all so modest, I would ask why hasn't it happened already?

**MR ABRAMS:** Because it's not in the interests of the parties in question to implement.

10 **COMMISSIONER LINDWALL:** There's a mutual gain here between airports and airlines perhaps.

**MR ABRAMS:** Yes.

15 **COMMISSIONER LINDWALL:** Of course there are lots of things that they're not in the same interest.

**MR ABRAMS:** Yes.

20 **COMMISSIONER LINDWALL:** But your interests are pretty well aligned I would have - apart from the fuel, the levy that's at Sydney Airport, but in other things you both have a mutual gain, I would have thought, in reaching this, and if they're so modest it's still quite interesting that it hasn't happened.

25 **MR ABRAMS:** Yes, it's certainly perplexing. As I said, we look at Sydney Airport seven, eight years ago, you know, modest, sensible investments to help the level of competition and reliability and supply through the bridger facilities have all been identified and known, yet we haven't seen anything. We've spoken obviously to Sydney JUHI and Sydney Airport and many others, and we've written to the parties saying, "Please produce a sensible infrastructure plan.

30 **COMMISSIONER LINDWALL:** Yes.

35 **MR ABRAMS:** and produce some workable access arrangements". This isn't that hard, but yet we don't see it. You know, obviously these are decisions and negotiations going on between the parties. We at the moment just sit back kind of in frustration and somewhat shaking our head at the lack of progress when, as you said, these aren't particularly difficult initiatives to employ.

40 **COMMISSIONER BAXTER:** What's the response that you get when you make that approach that you've just described.

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**MR ABRAMS:** I think, in terms of when we've written to Sydney JUHI in the letter we gave to Sydney Airport we didn't receive any official response. I think as I've seen in a submission from Sydney Airport they say they're supportive of trying to improve the level of competition. It may well be that Sydney JUHI is neither adverse to opening and creating some workable access arrangements, but we don't actually just see any progress in practice. So what is actually going on between the parties is something that we don't know because we're not a party to it, but we do hear statements that everyone is not in disagreement with what BARA has put forward and needs to be achieved. It just is, we just don't see it being achieved.

**COMMISSIONER LINDWALL:** Do you think that Qantas being a member of the Sydney JUHI makes a difference with respect to the reforms that have happened in Melbourne?

**MR ABRAMS:** It's difficult for me to comment because that's not something that BARA has information on.

**COMMISSIONER LINDWALL:** Okay. Ken, do you - I've got more questions but I thought I'd give my colleagues a bit of a chance to ask some questions.

**COMMISSIONER KING:** I'm a bit like you, Paul, I scratch my head and say, "Well, why aren't Sydney Airport, their incentive to having airlines paying too much for their fuel", but - - -

**COMMISSIONER LINDWALL:** Barry, you have answered that and you said you don't know either, so.

**MR ABRAMS:** Yes, you'd need to go the parties in question.

**COMMISSIONER BAXTER:** The only query I've got is, are there any more complex and not necessary transparent relationships between some of the oil companies and JUHI owners, and the controllers of the various pipelines that go around Sydney. Having had a little bit to do with them, you know, the roles I've played, they were always very difficult to do, and the relationship that NSW Government didn't have with Shell and Caltex in particular in the run-up to the Olympics, and the requests that certain of the tankerage be removed because of concerns that some of the Olympic participants, including the Israelis and the Americans, and about the proximity of those tanks to some of the grounds. I'm always trying with that to peel out and find out what's the part of the onion that you're really looking at, what is the thing that determines what should be, prima facie, a

straight relationship between a fuel supplier, storer and then on seller and the airlines who use.

5 **MR ABRAMS:** Yes, I think that's exactly right. From BARA's perspective, given how we operate in quite an open and transparent manner, and how we work with our ACCC authorisation, we're obviously not getting down to that level of detail to know exactly what's going on. So we're sort of sitting one level back and saying, "Look, you know, members are raising concerns. Potential providers are telling us that there's  
10 opportunities here". We see between Sydney JUHI and Sydney Airport there seems to be no progress on these matters and maybe there has, but for us there's been - we can't see any new lease arrangements. Perhaps it then is open to the Commission to try to find out more, to write to Sydney JUHI and Sydney Airport to better understand the basis of what is going on.

15 **COMMISSIONER LINDWALL:** Could I ask, Barry, about, have you considered another avenue which is that under the Competition Consumer Act the Minister can instruct the NCC to conduct the - - -

20 **COMMISSIONER KING:** Yes, so the Minister can seek declaration, it doesn't have to be an outside part of - - -

**MR ABRAMS:** We could, but as I said, in the first instance what we've sought to do through this inquiry and first through the competition policy review is, look for almost the smallest and the lightest touch necessary.  
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**COMMISSIONER KING:** Yes.

30 **MR ABRAMS:** But certainly there should be no reason why if, within a reasonable timeframe, we don't see some of these quite sensible and straightforward arrangements in place, then that could well be something then that the Commonwealth says, "Well, look, if you're not prepared to get on and do the things that you need to do, then these are the acts that we'll actually get on with", which is a very nice threat that clearly doesn't  
35 require any new regulation or legislation.

**COMMISSIONER LINDWALL:** Now, what can you tell us about your members in terms of the types of contracts they have with the JUHI and how long they last and what type of circumstances they might want to  
40 change from one provider to another and so forth?

**MR ABRAMS:** Okay. As I would understand it, what members have are contracts with fuel suppliers, not the JUHI.

45 **COMMISSIONER LINDWALL:** Correct.

**MR ABRAMS:** So the JUHI is an input service.

**COMMISSIONER LINDWALL:** Yes.

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**MR ABRAMS:** Who in theory at least are separate from the suppliers of the fuel, so the supplier of the fuel will have a contract with, or an agreement with JUHI. Airlines are then just tendering and purchasing the final product, and I understand that most international airlines look to structure tenders for supply for about one to two years. as a general rule, and then that kind of allows one opportunity for them to perhaps find a different supplier, and two, you know, have there been any sort of changes in the market, but generally, as I would understand from most of my internationals, they're running on, you know, one to two to maybe three years.

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**COMMISSIONER LINDWALL:** Okay.

**COMMISSIONER KING:** Can I just check, so the contracts are essentially for the supply, so that includes the into-plane servicing or services?

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**MR ABRAMS:** That's a good question. I would understand that the supplier of the fuel will also have the contract with the inter-plane service provider and that the airline itself is behind the final product, at least for a sort of standard international operation.

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**COMMISSIONER KING:** Okay, and the contracts are for one to two years. If you know, do they tend to be exclusive or can the airline say, "Ah, well, I can get a better deal on this day at the Sydney Airport so I'll go with that".

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**MR ABRAMS:** Yes, as I would understand it, they tend to be exclusive for the time period, so if you were three suppliers and I was an airline and, say, "Right, you've won the tender and you'll be providing the fuel for the next couple of years until it comes around again to put out". You do have some instances of what we call part supply so that's where an airline might get some of its fuel from one supplier and some from another. At times that can be advantageous to an airline, but for most international airlines in operations into Australia the preference sits with 100 per cent supply from one supplier so you're not trying to dual manage two suppliers over the course of the operations.

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**COMMISSIONER LINDWALL:** I wanted to ask, and I alluded to this at a coffee break earlier, about the IEA's effectively policy that there should

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be 90 days of supply and I think that the average is about 20 days in Australia. What do you think of the 90 days, is that too high or is that a reasonable objective?

5 **MR ABRAMS:** I think there's a few parts to that analysis. So the first is what level of storage should you have appropriately on the airport which is, in effect, your ability to manage supply disruptions up the supply chain.

10 A number of three days' supply is often bandied about. Now, at the end of the day that level of stockholding should be done with regards to an analysis of both how resilient your supply into the airport is, and secondly the ability of airlines to actually manage supply disruptions in terms of tankering and the like.

15 Then when you come to the, sort of, the off-airport storage, I don't have exact figures but my understanding is it's normally perhaps a couple of weeks, so we're not talking three months.

20 **COMMISSIONER LINDWALL:** No.

**MR ABRAMS:** That's an awful lot of storage tanks to have with fuel in them.

25 **COMMISSIONER LINDWALL:** Yes.

**MR ABRAMS:** It would be far better to be using that sort of resourcing and funding to ensure that you've got a very resilient supply chain and a good, diverse set of supply routes to the airport because that's likely where you're to get the most benefits in terms of reliability and supply, rather than just more tanks at the airport or off airport.

**COMMISSIONER LINDWALL:** Well, you did see the disruption that's been caused, say, in Auckland.

35 **MR ABRAMS:** Yes.

**COMMISSIONER LINDWALL:** Or as you alluded to earlier in Melbourne. It can cause significant obviously problems, Auckland being a classic case.

40 **MR ABRAMS:** Yes. So you could have significant storage facilities off airport, but if the pipeline breaks down between those facilities and the airport, well, it doesn't matter how many tanks you've got out there for jet fuel.

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**COMMISSIONER LINDWALL:** We've got a testimony from Bioenergy Australia about biofuel.

**MR ABRAMS:** M'hmm.

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**COMMISSIONER LINDWALL:** Do you have a comment about that, any aspect of that?

**MR ABRAMS:** So biofuels is currently a small part of supply, and I think just reading from some IATA documents, you know, we're potentially looking at, you know, 5 per cent plus in terms of biofuel. We would like to see the opportunities for biofuel simply to be put on the same level playing field as per, you know, standard jet fuel. Obviously with things such as capping the carbon emissions from international flights from 2020 through their CORSIA scheme, through IATA, that may create some opportunities for, you know, carbon offsets and the like through biofuels.

So for each airport as I suppose we would see it with the JUHI you would expect the service standards that you set also have a view as to how they can handle and distribute biofuel out to the aircraft and what facilities are in place. So again it should be part of the mix and part of the potential options put on the table.

At the moment, you know, BARA simply wouldn't know the ability of each JUHI to be able to do that. There's not enough interaction between the parties for BARA to have - to be able to form a view as to whether or not it's capable today, or if there could be capability in the future.

**COMMISSIONER LINDWALL:** Ken?

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**COMMISSIONER BAXTER:** No, I've got no more.

**COMMISSIONER LINDWALL:** I think we've - I can't think of many other questions. I mean, basically you're arguing for obviously a more open arrangement, whether it be through equity or pure open non-equity participation; greater transparency; a bit of a consultation forum or some sort like that where each of the different airports to look at future investment and needs and so forth. That's about it, really, isn't it? I think so.

**MR ABRAMS:** I think so. Yes, we've - I mean, BARA's view is, we want to keep this as commercially and as market driven as possible, so we've just tried to focus on those key aspects of the market that have been brought to us by, generally by potential fuel suppliers to say, "If we can create some improvement in these areas, then we think that will unlock our opportunity to start investigating our ability to move into these markets".

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5 So BARA is certainly not saying that, you know, we need to see a guarantee in the level of competition or the number of suppliers. We're simply saying we'd like to see some, what are relatively straightforward adjustments and improvements that will just simply let the market determine the outcome.

**COMMISSIONER LINDWALL:** Okay.

10 **COMMISSIONER BAXTER:** Perhaps the only query I've got, and it's probably a bit outside this is, how much then is the influence of the oil companies tankering, that is, shipping tankering from Singapore predominantly and part of the Middle East to Australia, dictate the way in which it behaves in terms of access or providing jet fuel?

15 **MR ABRAMS:** I don't pretend to be any expert on shipping, but it is true that there are economies of scale in larger ships, and therefore there may also be economies of benefit if there are - there could be on a particular ship fuel from multiple suppliers.

20 **COMMISSIONER BAXTER:** Yes.

25 **MR ABRAMS:** So effectively that Certainly the economics of the shipping is really important to the market dynamics, and that's why we think having both Sydney and Melbourne open as the two biggest markets is quite critical because that's what's going to give you the biggest volumes with regards to shipping efficiencies, and then if you sort of, if we've got improvements in Sydney or Melbourne, that has more opportunity then to cascade to, say, Brisbane and Perth where the fuel volumes are obviously much lower.

30 **COMMISSIONER BAXTER:** Okay.

**COMMISSIONER LINDWALL:** Well, thank you very much for appearing today, Barry.

35 **MR ABRAMS:** Thank you.

40 **COMMISSIONER LINDWALL:** Now, we've got out there something to eat if you want, so do you want to grab something really quickly and a coffee, and then we can work out whether the AAA or Bioenergy testifies first because it could be either. Can we just grab a quick cup of coffee if you want. You don't have to, but I think it's been paid for so you may as well use it.

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## SHORT ADJOURNMENT

5 **DR MUNDY:** Thanks, Paul, my name's Dr Warren Mundy. I'm the Chief Economist of the Australian Airports Association. As the Commission will be aware, Australian Airports Association is the Australian industry association representing all airports in Australia from our largest member, Sydney Airport, down to regional and remote aerodromes in indigenous communities throughout the country.

10 Commissioners, I'll briefly make some opening statements, of course, and they'll probably be a little bit broader in their scope than Mr Abram's observations because, of course, jet fuel is also required in the domestic aviation market as well as international markets.

15 I think it is fair to say though as we expressed in our submission to the commission that Australian Airports Association broadly endorses BARA's stated objectives with respect to fuel supply. I think we'd make the passing observation that concentration and questions about market efficiency in relation to petroleum products more broadly in this country are nothing new, and obviously issues of concentration and increasing concentration and reduction in refinery capacity are significant questions.

20 I think it's important for us to start thinking about why we're actually concerned about fuel issues. Fuel constitutes a substantial part of airline operating costs. In our submission, the primary submission to the Commission in Figure 2.1 we show IATA data for, I think, 2017 that showed fuel and oil was about 26 and a half per cent of operating costs. Airport charges were 6.2.

25 So we would have thought the policy concern with fuel should be about four times the policy concern with airport charges, but that appears at least not to be the case with respect to domestic airline advocates.

30 In Figure 2.8 in our submission we provide some data which is publicly available data which is a chart that we sourced from Moody's Investors Services that shows when fuel costs fell in Australia - sorry, when fuel costs fell by about 60 per cent in financial year 2015, there was no change in domestic air fares as a result, and indeed, when they fell by 50 per cent, although obviously from a lower base, in financial year '16, there was again no change on domestic air fares. If anything, domestic air fares just continued a gradual drifting trend upwards.

35 Interestingly, late in 2017 there was an increase in domestic air fares associated with an increase in fuel prices, and it will be interesting to see as

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the BITRE data becomes available for the back end of this year whether the recent reductions in fuel prices led to a reduction in domestic air fares.

5 We say this largely to suggest that the primary concern with fuel prices is not about air fares, at least in the short run, maybe in the long run, but that requires a much more detailed econometric analysis which is virtually impossible to undertake for the reasons which Barry outlined before - because it does actually require information about not only internal cost structures of individual carriers which will differ in the market they are  
10 working, obviously fuel becomes a relatively larger proportion of airlines costs when airlines are operating on longer routes.

But as we've indicated in our primary submission, we think the evidence of a relationship between any component of airline cost structures with air  
15 fares is passing, and I think the difficulties in understanding these relationships are well evidenced by the Parliamentary report that came out of the Legislative Assembly in Western Australia, and also the, I think the challenges that the Senate Rural, Regional and Transport Committee is having in its inquiry to regional air fares getting to the bottom of some of  
20 these issues.

It is probably the case also that trying to associate movements in fuel prices with at least short-term trends in air fares is difficult because of the presence of very complex and sophisticated hedging strategies within airlines which  
25 may indicate that there should be, that may indicate that there will be significant lags between fuel price events and hedging.

But that said, we do think fuel prices are important. They're clearly important to airline profitability, and Australia having profitable airlines is  
30 important for the Australian community. I had the experience of many years ago being an airport executive at a point in time when we had a very unprofitable airline in Australia. It was called Ansett. That caused substantial disruption to the Australian economy and probably led to the suicide of 16 people.

35 So profitable airlines are important, and the market thinks they're important. We've seen a report in the Canberra Times only this week that Qantas' share price increased by around about 10 per cent in the last month, largely off the back of improvements in the price of fuel. The report  
40 suggests that Qantas is working off a long-term fuel price of around about \$US130 a barrel and on Monday the price was around \$83 a barrel.

Secondly, and probably in my mind of equal importance is that it is not only the price of fuel, but also the security of supply, and this is, I think, what's  
45 motivating the government including these matters in the terms of

reference, and really there is a short-run issue and a long-run issue. The short-run issue is, as we witnessed in Melbourne recently and in other places from time to time, when fuel goes short for some reason, perhaps because the supply chain lacks resilience, planes get cancelled, people are inconvenienced, airlines have got to undertake tech stops and it's all no good for anyone.

However, in the long-run there are also concerns. The first is, of course, if you have a lot of those sorts of events, individual airports, and potentially over time, our nation becomes seen as an unreliable place for international aircraft to operate, airlines to operate too. That will affect competition, particularly in the international market where we know competition is much more intense than what it is in the domestic market.

Entry is vigorous, it is vibrant, and fuel is an important part of that, and I think the evidence that Mr Abrams has given about the way that airlines contract is, is that without fuel, without certainty of fuel supply from a supplier, entry is going to be challenging, and that's the second point. We need to have a fuel system which is able to expand in accordance with demand from the market.

We do not want circumstances whereby an airline wishes to operate to a major Australian airport, but because of capacity constraints within the fuel supply cannot get certainty around fuel, either be it to offer a seasonal service which may occur, for example, around Chinese New Year, or alternatively to establish services on an RPT sort of basis.

So we are particularly concerned about that because there is, in our mind, and you no doubt have picked this up, a very different competitive environment between domestic airlines and international carriers and their ability to get access to fuel and those sorts of things. So that's what we think are the important community and economic outcomes that we see at the end of the day.

Briefly, the role of Australia's major airports in the supply chain was largely determined in the run up to the privatisation process when the JUHI arrangements were, if not put in place, certainly reinforced. Diligence was undertaken by the Commonwealth to clean some of these contracts up and it basically, the idea was that the JUHI's, which were the major fuel companies, would rent the site from the airport, and the airports and those rents would be ratcheted up from time to time in accordance with the market rates like most FAC leases were, and that there was also provision in those JUHI arrangements with the FAC to impose a fuel throughput levy.

There is no doubt, and the Commission understood this in inquiries in 2001 and 2006/7, that the Commonwealth held out to bidders that fuel throughput levies were an additional source of revenue which they may levy after privatisation.

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Now, the Commonwealth said no more or no less than that. It was a simple statement of contractual right, and indeed, a number of airports imposed those fuel throughput levies, and the imposition of fuel throughput levies was a matter of some contention in the first airports inquiry.

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As Mr Abrams mentioned, Melbourne Airport has had a long tradition of not imposing fuel throughput levies, even though it possessed those rights. Other airports, notably Brisbane and Perth, did, although it has to be said that in relation to Brisbane Airport an independent arbitration conducted by - well, a determination I think it was, to be fair - conducted by senior counsel found that the level of the levy to Brisbane imposed was not unreasonable in the circumstances. I think at the end of the day, the question about throughput levies is about how big they are and what is the mechanism in which they're set.

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Since then, and obviously not all airports where jet fuel is uplifted in Australia will be operated by the FAC. Cairns and Mackay are two obviously in mind, but obviously also increasingly now in airports in the Pilbara where the case is that the fuel's actually shipped into Port Hedland and distributed by road train around the airports in the Pilbara that require uplift.

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What has happened over time, though, is that the models under which, particularly the fuel infrastructure on the airports, have changed, and they've tended to have changed when an airport has undertaken a major reconstruction of its apron infrastructure.

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The reticulation network essentially sits below the apron, and what we've seen when airports have had to rebuild their aprons, as was the case with the terminal redevelopments in Adelaide and Canberra, that the airport has taken more responsibility over the hydrant infrastructure than was the case under the JUHI arrangement. I think simply, because it is an integral part of the apron infrastructure, and over time there is a need to relocate the hydrant points, it just is easier to take one participant in the discussion out.

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The charging models are different. There are some models whereby the hydrant infrastructure really just becomes part of the apron and you never see a price attached to it. There are other examples where it might be funded transparently by some sort of fuel throughput levy. Again, none of that's right or wrong. It's all sort of pretty reasonable. Price signalling in that

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sort of environment is pretty weak, thinking about demand. It's just people come to different arrangements.

5 We, as you'll hear no doubt on Friday, from Ian Kew, Darwin is in the process of acquiring the entirety of the JUHI. BARA's provided examples of Hong Kong where the airport runs the JUHI infrastructure effectively on an open-access basis.

10 There are examples, though, in Europe where the airport itself becomes the primary provider of fuel at that airport, so they attend not only to the infrastructure in its delivery to the aircraft, but they also procure it, effectively retail it to the airlines and also attend to its transport from the refinery or the wharf to the airport site.

15 That's really what the role of airports is and can be. There are obviously other issues. I mentioned concentration in the refining and effectively retailing to airlines part. There are issues about carriage of the fuel to airports. Trucking is common in Australia. Trucking is common to major Australian airports, and there is a real and legitimate question about the safety and environmental issues associated with the trucking of large amounts of fuel through metropolitan areas.

25 Obviously there are issues with the storage safely of what are hazardous materials, and other issues, but they are not really matters that my members, other than as a participant, and perhaps a facilitator have particular control over. Although I think it is fair to say that those who invest in airport infrastructure more broadly have from time to time talked about setting up a wharf and building a pipe, owning the infrastructure from go to whoa, and there are specialists; and I think Mr Abrams alluded to this, there are specialist investors who seek to own and invest in this sort of infrastructure and then typically the business partner provide the operations around that, but we haven't seen that sort of market development in Australia, I think just because of the predominance of the existing legacy arrangements. So that's really all I have to say.

35 **COMMISSIONER LINDWALL:** I appreciate that. Could I start by asking, in your comments you mentioned about the privatisation back from the FACs. Thinking of Western Sydney Airport, what different process should be taken if that gets privatised ultimately?

40 **DR MUNDY:** I just need to be careful because I have advised the Commonwealth on these matters, and I have certain confidentiality obligations to the - - -

45 **COMMISSIONER LINDWALL:** Yes.

**DR MUNDY:** Commonwealth which I suspect are enduring. Obviously Sydney Airport, when opens, Western Sydney Airport, or Badgerys Creek as old people like me call it, when it opens will be a relatively small airport, and by that I mean a few million passengers a year, but it will grow over time.

So there are a few issues. One is, how do we get the fuel to the airport, and as I indicated, and I said this, I think it is difficult to see a sustainable circumstance whereby large amounts of fuel is going to be trucked to Badgerys Creek, so it will either have to be brought from, well, probably have to be piped from Kurnell maybe, maybe Clyde but probably Kurnell. So obviously an easement needs to be acquired and preserved for whenever that's required, and obviously then the pipeline infrastructure is going to have to be financed somehow.

I think it would be an error, and this is not the AAA's view, this is my view personally, but I know a bit about it. I think it would be an error to permit the current market structure that we see at many major airports duplicated at Badgerys Creek.

**COMMISSIONER LINDWALL:** Okay.

**DR MUNDY:** The Commonwealth has an opportunity to fix this. There were many things done in the run up to privatisation for Phase 1 and Phase 2 airports which sensible people acting reasonably at the time did, but 20-odd years on you wouldn't do it again, and those arrangements were there and they were convenient at the time, and you know, our airports 20 years ago were processing half the numbers of passengers they are.

**COMMISSIONER LINDWALL:** Yes, exactly. All right. Now - - -

**COMMISSIONER KING:** Let me just follow up on that because you mentioned trucking in your opening comments. Wouldn't any situation, you know, let's imagine that the JUHI is owned by the airport or some other common access arrangement or whatever's put in for Western Sydney Airport, as you said, the pipeline is most likely to be an extension of an existing pipeline, or that's my understanding. How do you get round the pipeline being a bottleneck, or do you see it being again a separate open-access pipeline? So it would actually be completely a new pipeline?

**DR MUNDY:** Yes, well, I'm not, Commissioner, I, with respect - - -

**COMMISSIONER KING:** No, no, but - - -

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**DR MUNDY:** I'm not sure that substantial new pipeline infrastructure will not be required.

**COMMISSIONER KING:** Okay. And you'd see that being - - -

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**DR MUNDY:** I mean, there is an issue of supply security, would you build one pipeline or two?

**COMMISSIONER KING:** Yes.

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**DR MUNDY:** The answer to that is, you'd probably build one. You'd rely on trucks in emergency and, then at some point when it gets sufficiently large you'd build a second pipeline.

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**COMMISSIONER KING:** But in the easement that you would seek from the government, it would probably be for two pipelines but you might only build one?

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**DR MUNDY:** You'd seek an easement that was sufficiently wide to - the question is would - and it would depend ultimately on how the storage facilities at the port were to develop over time, but you could see two pipes running down an easement to somewhere in Botany Bay. That would be the sort of thing.

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The laying of these pipelines, as you would appreciate, given all that is going on with development, road infrastructure and also rail infrastructure in metropolitan Sydney is quite challenging, and obviously this is a hazardous material that we're transporting here, so it's got to get there somehow, and I suspect a pipe is less hazardous than truck. I just see the corporate affairs impacts of a truck turning over on a road on its way to Badgerys Creek is pretty, you know, pretty horrible.

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**COMMISSIONER LINDWALL:** You heard from BARA about the type of government actions that have happened, say, in Victoria and what they think the Federal Government should do. What do you say to that and what type of actions would you recommend the government take as an AAA representative?

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**DR MUNDY:** I'm not in a position to make any observations about what has occurred in Victoria and you would be better to put those questions to Melbourne Airport.

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**COMMISSIONER LINDWALL:** Yes, we will.

5 **DR MUNDY:** It seems to me that if airlines are particularly exercised about the issue as a provision and planning fuel supply to Australia's major airports which are subject to regulation under the Airports Act 1996, they need only to actively participate in the master planning process which airports by dint of law require them to be consulted and raise these as substantial and serious issues because once they are raised as an issue in that process, the airport, under the Act, is required to respond to those concerns that are raised, and provide that response to the Minister in consideration of the approval of the master plan.

10 So the mechanisms already exist, so I don't think there is any need of legislative action. I think there is, of course, with these sorts of approval process as the Commission is well aware from its own working major project approvals that there is always an element of discretion available to  
15 decision-makers and in setting up these processes it would be - it would not be controversial for the Minister to indicate via his or her department that fuel provision is now one of the things we expect to be covered in the master plan.

20 If you pick up an airport master plan and compare it to the statutory provisions contained in the Act, you will find many, many more things in the master plan than are specified in the statute, and my observation would be, having probably only been involved in about a dozen airport master plans around the country, a lot of that material's incorporated at the behest  
25 of the department.

So it may well be appropriate for the permission in regard to this planning issue, which I think is a fair and legitimate proposition to make a recommendation that perhaps the Minister could indicate that in future fuel  
30 should be one of those matters which is relevant to the primary development of civil aviation at the airport, which is one of the objectives of the master plan that is set out in section 70-something there.

35 **COMMISSIONER LINDWALL:** What about the non-transparency of the contracts and the arrangements of the JUHI's in the airports, do you see any need or mechanism, or should the PC, for example, use its powers to try and obtain some information about some of these matters?

40 **DR MUNDY:** I'm just thinking carefully as I have actually read a few of these contracts. The Commission should always use its powers in pursuit of its statutory purposes and that's a matter for the Commissioners, and I know it is a difficult and weighty matter, and I know that the Commission only ever does so with a heavy heart, it prefers people to be open and transparent.  
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5 I don't think you're going to learn very much that you don't already know. There's a lease, there's a bit of land that the tanks sit on. There's a licence to operate a hydrant network. There's a right to impose a fuel throughput levy. There's a truckload of boilerplate clauses that go to things like GST and stuff like that. That's what was broadly in the contracts which were in place when the airports were privatised.

10 The Commonwealth can give you those contracts, Commissioner, because it's a party to them. They're pretty much all the same.

**COMMISSIONER LINDWALL:** Yes.

15 **DR MUNDY:** Now, obviously as time's gone on there are new arrangements with Melbourne Airport which we, the AAA, are not privy to. I know that various of your members have taken the Commission on good faith and provided them with contractual material on a confidential basis, and I know that's the way the Commission always prefers to proceed.

20 **COMMISSIONER LINDWALL:** Yes.

**DR MUNDY:** I would hope that our members would be generally disposed to being of assistance to the Commission, but ultimately that's a matter for them, and the undertakings they've given to others.

25 **COMMISSIONER LINDWALL:** Okay. No, that's fair, so it's a very circuitous type of response, though, but that's good. Stephen.

30 **COMMISSIONER KING:** I want to come back to Sydney and the fuel throughput levy and Sydney's incentives, so you may end up responding to these by you have to ask Sydney. Two elements. Let's start off on the throughput levy, and yes, airports are allowed to put in place throughput levies, and I think Brisbane was the first one to do it, off the top of my head.

35 **DR MUNDY:** Brisbane imposed a levy, I think, of .4 cents a litre across the board and Perth imposed a levy of .5 cents for internationals only, and they did so somewhere around 1998, 1999.

40 **COMMISSIONER KING:** Yes, I think on day one of the privatisation of Brisbane Airport or - - -

**DR MUNDY:** I'm not sure of the dates, Commissioner. They certainly did - - -

**COMMISSIONER KING:** It was very rapid.



**DR MUNDY:** They certainly did it in the period indeed where their return on assets at Brisbane Airport was negative.

**COMMISSIONER KING:** Yes.

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**DR MUNDY:** And that was revealed in the ACCC monitoring reports.

**COMMISSIONER KING:** So understand that there may be some post justifications for throughput levies because things have changed over the last 20 years since they were initially imposed but if parties put to us that these throughput levies are really just a back door way of raising the fees, the charges to the airlines, but in a sense, you know, it's a way of raising those charges that is perhaps a bit hidden, a bit less transparent to the public, a bit less, you know, not in the headline rate that gets quoted and that it would be better if those throughput levies were eliminated and that may lead to an increase in the headline airport landing and departure charges. So what would be your response to that?

**DR MUNDY:** Well, my first response would be, I very much doubt that the travelling public has any idea what constitutes the airport taxes and charges box that is on the - that is - used to be on the ticket. It's now somewhere down the right-hand side on the screen. We know that they don't represent what is charged by an airport to an airline for any of (indistinct) and I get that. That's - so let's put this transparency to the public to one side because it's just another component of a blanc mange of this.

Fuel throughput, and I think I may have argued this in a submission to the Commission many, many years ago, that they can be seen as a payment in the form of rent. It is effectively a payment for access to run the hydrant network across the airport. I'm not necessarily - so the question then is, what's the efficient level rent extraction, and certainly in a determination, as I said earlier, at Brisbane Airport, senior counsel looking at the relevant agreements found that the levy at Brisbane Airport was not unreasonable.

There are cases where, and I think this may well be the case in Canberra Airport, that the hydrant, the setting of the levy was in the context of new infrastructure being built for the terminal involved. So the question then becomes - I think that's a different question. I think if it's associated with the development of infrastructure, I think that's the question and that then really becomes, well, is that the best way to charge for that infrastructure in the context of that development? That's a matter for - I think that's different. That's a how to price, not whether to price.

There are, you know, I think if it goes to the question of fuel throughput levies I think the question then becomes, well, why not provide the sites

that the tanks sit on for free. It's a rent, it's just rent for access to land, and as I say, and I said in my introductory comments, I think the real issue is not whether those levies are there or not, it's how are they set and what are the mechanisms around their resetting, that is, I think the relevant question that goes to an exercise of market power, rather than the existence of, for exactly the same reasons, for example, that the ACCC, when Melbourne Airport made an application to it to impose taxi charges in 2001 found the imposition of taxi charges was fair and reasonable.

The only issue that Melbourne Airport had with the ACCC was how much. They're a payment for a - they are charges relating to access to the airport's land, or to run over it and or to run under it. That's what they are.

**COMMISSIONER BAXTER:** But do they take any responsibility for the maintenance of those pipelines the moment they hit the boundary of the airport?

**DR MUNDY:** In respect to those arrangements that were in place at the time of privatisation my recollection is no.

**COMMISSIONER BAXTER:** Who does carry the responsibility?

**DR MUNDY:** JUHI.

**COMMISSIONER BAXTER:** JUHI. So if there's a break in the pipeline the moment it comes in through, say, the Melbourne Airport boundary then it's up to the JUHI to fix it.

**DR MUNDY:** And my recollection is that the airport is indemnified for relevant environmental harm.

**COMMISSIONER BAXTER:** Okay.

**DR MUNDY:** That's my recollection, Commissioner. It's a long time since I've looked at those. That would be my expectation. You could put that question to our members. They would probably have a better idea, but that would be my expectation.

**COMMISSIONER KING:** Just a simple follow-up, if you give a levy as a rent, a land rent, any argument why it wouldn't be more efficient just to have a fixed land rent rather than a throughput levy which pushes up the marginal cost of fuel?

**DR MUNDY:** I think you can argue it both ways, Commissioner. I think at the end of the day we know that - well, as I indicated, the marginal cost

of fuel doesn't seem to be having very many efficiency impacts around the place. I think it's the aggregate cost of lifting fuel to the aeroplane that's relevant, particularly for long-haul aircraft because they're probably going to fill up anyway.

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And the other observation I would make about fuel throughput levies is that the FAC didn't dream this up all by itself. This was common international aviation practice which the fuel companies were happy to enter. There wasn't an exercise of market power here, even by the FAC. This was common practice which the fuel companies were happy to have, but as I say, the world, we weren't talking about competition in fuel supply in the mid-90's. It wasn't something, partly because, and I think this is an important issue, not necessarily for the Commission to solve, but to keep in mind is that part of the impetus for this debate, I think from government, is the closure and the reduction in refinery capacity - - -

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**COMMISSIONER KING:** That's right.

**DR MUNDY:** In Australia rather than anything else.

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**COMMISSIONER LINDWALL:** So other things being equal, and I know you have to leave soon - - -

**DR MUNDY:** No, I'm fine.

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**COMMISSIONER LINDWALL:** on the open access and in your submission you said that solutions had to be tailored to individual airports, it that because of the nature of all of the different pipelines and the use of trucking and other things that vary quite markedly from the different airports?

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**DR MUNDY:** No, I don't think so, not in principle, because the real issue here is, the storage of the fuel and its carriage to the plane. How it gets into the tank at the airport is a - you know, obviously if there is a pipeline network then we need to contemplate an access arrangement to the pipeline. I know that certainly the former chairman of the Commission was very keen on access arrangements for general urban road infrastructure and waxed lyrical on these matters in a public infrastructure report, Commissioner, but I think the real issue is, there's two. If you've got a pipeline coming to the airport, and let's face it, you're not going to have a lot of them- - -

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**COMMISSIONER LINDWALL:** No.

**DR MUNDY:** You know, it's not one or two. The real issue is from the tank to the aircraft. You know, BARA has suggested that that is something

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airports could do. I think it's fair to say that the membership of the AAA is in some places interested in doing it, and other places not, and that's just about diversity of business and shareholder preferences, perhaps the issues that they have with fuel in their locale.

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**COMMISSIONER LINDWALL:** Okay. Did you have any more questions?

10 **COMMISSIONER KING:** Just the one that I never got to ask. Sydney which you - - -

**DR MUNDY:** You can have a go.

15 **COMMISSIONER KING:** You were in the room when the issue of the three-year lease came up at Sydney.

**DR MUNDY:** Yes.

20 **COMMISSIONER KING:** And that is a disincentive for investment by the JUHI joint venture and by all - in fact by potential interest. A number of us up here have commented on, you would expect the airport to want an efficient fuel system operating as competitively as possible because it presumably has no desire to make the oil companies rich. It would prefer to be running an efficient airport, and if there were profits to be made to  
25 keep it for themselves.

Any thoughts about why - you know, is Sydney Airport's behaviour then with regards to the JUHI, not taking control of it, not moving down the Melbourne route and keeping on a three-year lease that seems to create  
30 uncertainty. What are we meant to read into that as a Commissioner?

**DR MUNDY:** Far be it from me to tell the Commission what it should read into things. I am not aware of the content of the commercial arrangements that Sydney Airport has with its JUHI tenant. I accept on face what Mr  
35 Abrams says about the term, but I am not aware of what else is in that agreement which may provide more colour or more detail around whatever that arrangement is, and for me to comment on it, Commissioner, quite frankly would put me in a position where I could be misleading the Commission and that is something I am not prepared to do.

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**COMMISSIONER BAXTER:** Okay. Following that question, and you may not want to answer this, but do you have any knowledge as to whether there is discussion between the oil companies as to whether fuel is shipped out of the tanks that are at or close to the airport itself in Sydney, or shipped  
45 out of the tankerage that is at the end of the harbour here which then

transfers currently, I think the pipeline is still there, from that storage tank to the Shell refinery or was the Shell refinery.

5 **DR MUNDY:** Commissioner, I have no such knowledge and nor have I ever had such knowledge since I started working in this industry in 1999.

**COMMISSIONER BAXTER:** Yes, okay.

10 **COMMISSIONER KING:** Well, I think we've probably kept you long enough, Warren, so thank you, Dr Mundy, for turning up today and testifying to us.

**DR MUNDY:** Thank you, Commissioners.

15 **COMMISSIONER KING:** Thank you

**COMMISSIONER LINDWALL:** We might now ask our next, is the Bioenergy Australia. If you'd just like to tell us your name and organisation, and maybe make a little of an introductory statement that would be great.

20 **MS McKENZIE:** Sure. So Shahana McKenzie. I'm the chief executive of Bioenergy Australia. I'm also Australia's representative on the International Energy Agency for bioenergy. We are - Bioenergy Australia is the industry association for the bioenergy sector, so ranging across the whole, sort of, area from liquid transport fuels through to potentially products and chemicals, gas, electricity, heat, et cetera.

25 Our members are made up of a very diverse mix, so all of Australia's biofuel producers. We also have some international producer as well. We have state governments; we have Qantas and Virgin; we have both airlines. We have trucking companies, really a whole range that I'm sure you could imagine that have an interest or an association with bioenergy now or into the future.

30 I suppose in terms of moving on to the topic sort of here today, and giving a bit of scene-setting, I suppose, which was included in the submission, but bio-jet has in 2017, it achieved over 100,000 flights globally. There is currently six approved pathways for the production of bio jet, and with those being able to be blended up to a 50 per cent capacity, so as you can imagine that is a substantial amount of fuel potentially for the future that will be consumed through bio-jet.

35 40 45 I suppose then also just talking about that sort of global scene-setting, one of the key drivers in terms of the development of the industry internationally

but also in Australia in the significant interest in terms of investment interest in Australia is due to the decarbonisation efforts of the aviation sector, and also the marine sector, so the IMO as well as the CORSIA agreement.

5 So effectively a 50 per cent reduction in emissions by 2050. The only real substantial way that the airlines are going to be able to achieve that is through a shift to biofuels, and really we're talking about the percentage of around 30 to 40 per cent of the fuel consumed in flights in order to achieve that target by 2050 will need to be, you know, renewable, low emission fuel.

10 I suppose then moving on from that point, one of the - a number of our members participated in a pilot project out of Brisbane Airport, so Virgin and the Queensland Government as well as some others that identify for us some key concerns around the ability for biofuels to be able to make their way to market.

15 And I suppose the really concerning part for us regarding that was when you have a pilot project such as this that has and was in planning for quite a number of years that has the full support of the Queensland Government, including the Premier, that has the full support, well, actually initiated by one of the major airlines, that that project was very difficult to succeed. It sort of presents in our mind, if you've got that much backing from such key partners, then how on earth is the industry going to make a pathway to be able to access the fuel being able to make its way to market.

25 So I suppose from that perspective, and I'm sure you'll probably ask some questions specifically around that project so I won't go into it in too much detail, at high sort of level from our perspective what was identified through that process was a lack of transparency around decision-making by the JUHI so there wasn't the ability to understand why decisions were made, when they were made, when they would be made.

30 There was no appeal process to be able to understand if decisions were made, where do we now go, what is the process for then appealing that process, and I think as was mentioned earlier on today, that there does seem - there's no transparency around the terms of access. So if we're - as a country if we're looking to potentially create a new industry in Australia which would potentially have a whole raft of different knock-on positive effects in the country around international investment through the development of local biofuels from way streams and a whole raft of other things, that will only be successful if there is an opportunity for that fuel to make its way to market. So from our perspective hat very much was, you know, identified as key issues.

I think one of the other key things from our perspective was to make a recommendation that there is a process or a person who is appointed as an independent person that participates in those decision-making processes around fuel being able to make its way through the JUHI.

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Now, this trial, I suppose, is unique in a sense because it wasn't biofuels being delivered on its own to an airport and pumped straight in. It was done through a contract of an existing member of the JUHI who had a contract to supply that fuel.

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So in one respect it was an even easier process, I suppose, than you know, a truck pulling up with biofuels and requesting that access. So yes, so I think that that sort of in terms of the summary of where we're at and what our recommendations are, that's really

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**COMMISSIONER LINDWALL:** Thank you. Could I ask a few more technical questions.

**MS McKENZIE:** Sure.

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**COMMISSIONER LINDWALL:** I mean, to start with, to put the scene on this, when you said there were six methods, you're talking about using algae or fatty acid methyl esters and things like that. Now, do you have a view on which one is most propitious on that?

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**MS McKENZIE:** I think, I mean, look, at the moment there are six approved pathways that come from a range of different feedstocks, but also a range of different technology types in terms of how that fuel is actually created, and my understanding is that there's another 17 pathways that are currently in the process of either going through the approval process or, you know, finalising the technology, and I think, I mean, what we certainly have seen at Bioenergy Australia is that there has been a substantial increase in the amount of energy, activity and the like which is going into the development of biofuels, particularly bio-jet, and I think that what ultimately will happen will be a - it will be a game of, you know, the market really deciding whichever is going to deliver the lowest cost fuel, and that will range on so many different factors.

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I mean, you can imagine that a project which is currently in development at the moment over in the US which is taking municipal solid waste and converting that into jet fuel. That becomes very favourable depending on whatever the landfill levy is that's then diverting that waste.

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So I can imagine that there's going to be a process where we currently have six, there's 17 in waiting and I think that we will end up at a place when

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we're sitting here, well, not here hopefully, in 30 years' time with a number of different pathways that have risen to the top as being the most economically viable, but also achieve the highest level of emissions reduction and the like.

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**COMMISSIONER LINDWALL:** Are all the compounds, chemical compounds of the six pathways identical or are they identical to Jet A-1, for example, which is kerosene, so can you distinguish them?

10 **MS McKENZIE:** So they're either - so each of those pathways are approved, so the six pathways are approved by ASTN, and now with the upgrading of DEF STAN that basically that is now also, you know, approving those as well.

15 There is some work that's being done at the moment to develop a 100 per cent drop in bio-jet as well synthetic, so that isn't yet at, you know, at any sort of place where that is even close to being commercially viable, but the synthetic creation of aromatics potentially could then take bio-jet to a very different space in terms of not requiring that blending at all, and that's  
20 certainly where the path is in terms of renewable diesel, so it is 100 per cent drop in fuel rather than requiring that blending.

**COMMISSIONER LINDWALL:** Do you feel that some of the reluctance or the pushback, if you like, from the JUHI's is because they say that it's a  
25 different fuel and therefore should be treated separately or do they assert things about safety or security or anything like that?

**MS McKENZIE:** Well, I think that that's one of the key issues in terms of the process is that actually receiving any feedback from the JUHI on  
30 decision-making is vacant, so I think that that, you know, from our perspective we - you know, there's been certainly no official notice to us in terms of any concerns that they have regarding bio-jet in Australia and how that is running through the system, and I mean, the fuel that was utilised for this pilot was probably the most highly tested fuel that has ever existed in  
35 this country to the number of times that it was tested, and so it - I mean, you can draw your own conclusions in terms of that process, but yes, from our perspective we haven't been notified that there's any official concerns. The fuel absolutely met spec; in fact, you know, exceeded spec, and as I said, this is tried and tested for over 100,000 flights. If you've flown out of LAX  
40 you've flown on a plane that has bio-jet running through it, so you know, it is safe.

**COMMISSIONER KING:** Can I just follow up on that point.

45 **MS McKENZIE:** Of course.



**COMMISSIONER KING:** In your submission you went a little bit further that you just went.

5 **MS McKENZIE:** Okay.

**COMMISSIONER KING:** And you mentioned unreasonable levels of testing. Are you able to expand a bit more on why you thought - so you said there was very thorough testing.

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**MS McKENZIE:** Sure.

**COMMISSIONER KING:** Why unreasonable? Why do you think it went further than could possibly - well, do you think it went further than could possibly justified? Do you see or do you have any views on why that may have occurred?

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**MS McKENZIE:** So I suppose in terms of hypothetically, if a fuel was to be tested by a JUHI and it was tested by one of the JUHI members and the results were provided to the remainder of the JUHI members, then I would wonder why that then required multiple other tests being required of that particular fuel.

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**COMMISSIONER KING:** By other JUHI members or - - -

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**MS McKENZIE:** Perhaps, yes.

**Ms McKENZIE:** Okay. So I'm probably not privy to or being able to share exactly what took place, but I think that there should be, and this sort of comes back to our recommendation, if there is a transparent approach to the process that you need to go to in order to supply particularly bio-jet because it is a different fuel in this market, then that process should be clearly articulated so that you understand exactly what is required along each of those steps of the way in order to then understand the decisions that are made.

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So whereas that is certainly not currently the case, the fuel goes into a vacuum and it sits there with really no expectation on when you will understand if it will be approved, when it will be approved, if it won't be approved, what's actually happening to it so presumably if an open-access regime exists at an airport - - -

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**COMMISSIONER KING:** do you think that sort of - I mean, obviously open access can involve things like physical how you deliver the fuel to the

relevant facility, the pricing. These other matters that you've just been discussing, how important are they for an open access regime?

5 **MS McKENZIE:** I mean, incredibly important from our perspective and I think creating an opportunity that is a transparent process for the purchase of fuel from airlines, I mean, we - we have, both of our airlines, both Virgin and Qantas, both have their own agendas at the moment in terms of seeking to support the development of biofuels in Australia, and from our perspective anything that is going to be a barrier to them being able to purchase that fuel and for that fuel to be able to run through the system is negative from our perspective.

15 So creating an open access system that was transparent and fair and had a, you know, a good governance structure would be supporting it and had a process that was able to be appealed through, you know, some vehicle, we would support.

**COMMISSIONER LINDWALL:** The 100,000 flights you mentioned - -

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**MS McKENZIE:** Yes.

**COMMISSIONER LINDWALL:** what percentage of biofuel to total fuel was consumed during those flights?

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**MS McKENZIE:** Oh, I think we're like 1 to 2 per cent by the time it is diluted through that - - -

**COMMISSIONER LINDWALL:** Yes, but is there any limit in terms of individual flight to which could be used where you wouldn't want to go beyond or could you use 100 per cent, for example, theoretically?

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**MS McKENZIE:** So at this stage it is approved up to - of those six pathways, up to 50 per cent blend. In saying that, it has been tested particularly with the American forces in terms of their defence forces. They have flown flights on 100 per cent biofuels. It certainly is - my anticipation in our submission that that is where we will move to, and the rate at which the technology is improving because of drivers such as the CORSIA agreement, that we will see a significant, you know, change in that. I mean, there is billions of dollars of investment happening in the US at the moment just in this space. It is, you know, a new industry really.

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**COMMISSIONER LINDWALL:** Obviously if you look at it logically from a perspective, here's some pipelines coming into an airport.

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**MS McKENZIE:** Yes.

**COMMISSIONER LINDWALL:** You wouldn't want to be trucking in your - - -

5 **MS McKENZIE:** No.

10 **COMMISSIONER LINDWALL:** Want there to be a pipeline coming in. It's got to come beginning of the pipeline, so where's the source of all the biofuel in Australia, for example, and the distribution network of it and how do you see that growing over time?

15 **MS McKENZIE:** Yes, well, I think that this is really the opportunity in terms of for a new industry in Australia that is, you know, generally a regional industry in terms of the production of fuels, but we have a number of international investors and domestic groups that are currently looking at, you know, scoping projects in this country in order to develop bio-jet as well as whether it's renewable diesel and the like.

20 So I think that being able to deliver, it is a blended fuel at that time, so it requires a relationship for that fuel to be able to access. It doesn't need to go through a, you know, an oil company necessarily in order for that blend to happen, but it does require the support of the infrastructure system and the JUHI for the fuel to make its way into the market for it to be able to make its way in place.

25 **COMMISSIONER LINDWALL:** And it can be imported by ships, for example.

30 **MS McKENZIE:** Absolutely. Absolutely, and I think, I mean, if we look at the Brisbane example, that was imported bio jet that came from the US.

**COMMISSIONER LINDWALL:** Yes.

35 **COMMISSIONER KING:** So does that mean then for - when you're talking about access, it's really access to the entire supply chain potentially back to storage facilities - - -

**MS McKENZIE:** Yes.

40 **COMMISSIONER KING:** that would otherwise be used for imported fuel?

**MS McKENZIE:** Yes.

45 **COMMISSIONER KING:** So storage pipeline.

**MS McKENZIE:** Absolutely.

**COMMISSIONER KING:** Storage at airport, JUHI interplaying as well?

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**MS McKENZIE:** Well, I mean, access - well, potentially, yes.

**COMMISSIONER KING:** Yes.

10 **MS McKENZIE:** I guess the concern that we have is, if the requirement for biofuels to make their way to, you know, to airlines in order for the distribution, if the only path that they can go through is trucking, then it makes it basically financially unviable for that to happen. So it, you know, from our perspective it is about providing access to the JUHI.

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**COMMISSIONER LINDWALL:** So the trial in Brisbane, was that principally promoted by the Queensland Government obviously?

**MS McKENZIE:** Yes.

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**COMMISSIONER LINDWALL:** So what about in Victoria which, of course is, Melbourne Airport has changed its arrangements somewhat. Is that something that you might be considering the Victorian Government promoting?

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**MS McKENZIE:** I'm - to be honest, we are engaged with the Victorian Government regarding what's taking place with the airports down there. Our first - and the development, I suppose, in terms of bio-jet in Australia has been a relatively new thing in terms of particularly around this public pilot demonstration that took place. So this is a sort of new venture for us in terms of making our way across the country and engaging with governments around how they could be looking at this in the potential of a whole of government approach around, you know, new industry development and attraction, and you know, and then that associated in terms of what's required in order for that fuel to actually make its way to market.

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**COMMISSIONER LINDWALL:** So there was thought about applying through a Part 3A declaration to the NCC?

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**MS McKENZIE:** Not at this stage. Not at this stage, I mean - - -

**COMMISSIONER LINDWALL:** Is that because it's too early and it's too complicated or - - -

5 **MS McKENZIE:** Well, I mean, I suppose from our perspective, and it probably follows off what was said earlier on this morning, I think if there were some processes around having some transparency of decision-making that there was an ability for an appeal process, you know, that we have seen that fail already.

**COMMISSIONER LINDWALL:** Yes.

10 **MS McKENZIE:** And I'm not sure that there is, as was said earlier, that there is much new evidence to support that that would be a different approach of a different decision. So, you know, we would really just like to see that there is a different approach to, you know, to how, I suppose, government seeks to provide guidance to the governance structures of the JUHI and the transparency that is provided there around decision-making.

15 **COMMISSIONER KING:** Purely a mechanical question, in the Brisbane pilot, where was the biofuel, where did it enter the supply chain?

20 **MS McKENZIE:** To be perfectly honest, I can't answer that question.

**COMMISSIONER KING:** Okay. All right.

**COMMISSIONER BAXTER:** Can I just ask what is - - -

25 **MS McKENZIE:** I can check. So it came into the port of Brisbane and was then taken to Caltex's refinery.

**COMMISSIONER KING:** Okay.

30 **COMMISSIONER BAXTER:** Did you want to follow up?

**COMMISSIONER KING:** No, no, it was purely understanding that you needed the entire supply chain for that pilot.

35 **MS McKENZIE:** Yes.

**COMMISSIONER BAXTER:** What's the attitude of the oil companies to biofuels? I mean, is it neutral? Is it regarded as a serious competitor? Is it regarding it as - - -

40 **COMMISSIONER KING:** Opportunity.

**COMMISSIONER BAXTER:** Parts of it regarding it as - - -

45 **COMMISSIONER KING:** Opportunity or threat, yes.

5 **MS McKENZIE:** Look, without doubt it's a threat, and I think - I think if you look at, I mean, what's interesting from our perspective is that you can look at it - there's probably two answers. One is the domestic market and one is the global market. If you look globally and you look at the 50 year sort of strategies for BP and the like, biofuels are a large component of their transition strategy and what they're seeking to do.

10 In the Australian market, from our perspective, the biofuels industry struggles at every hurdle really in terms of being able to access market. It is, from my perspective, I would say that biofuels are viewed as a threat and a challenge that they would prefer to see pushed down the path as long as possible.

15 **COMMISSIONER BAXTER:** I see, yes. I mean, this is in -sorry, but sort of critical reaction, this is in spite of the fact that quite a number of the media in both the US and Europe and UK have been positive towards the involvement of biofuels. Why this negativity in terms of the Australian suppliers? Just because it's too difficult for them and it's just something they don't want? Because most of their owners presumably are going to be either US or UK.

25 **MS McKENZIE:** Look, I mean, I can't answer on behalf of the fuel companies in terms of why they are resisting biofuels in Australia. I think that in every market across the globe there is a resistance against biofuels from the oil incumbents, and I think it's just, you know, similar to the coal fire, you know, generation of electricity and renewables. I think, you know, there has been a very long and secure market that they have operated and held, and that that is now under threat and in an increasing and significant way, and that you know, that this year's potentially going to be an area that they are going to lose substantial amounts of money.

35 So for - globally, I mean if you look at BP for example, BP are one of the investors in the Fulcrum Project which is the municipal waste to bio-jet project in California. They're also one of the funders of, you know, one of the biggest sort of ethanol production facilities in Brazil as well, so I think that it depends on the market climate and the preparedness for them to embrace this change, and even potentially to be able to capitalise on it, and I just don't think the Australian - that there's a level of interest there.

40 **COMMISSIONER BAXTER:** Except that they're an investor in a waste fill regeneration project in Perth at the moment.

45 **MS McKENZIE:** Well, yes, potentially.

**COMMISSIONER BAXTER:** Yes. Well, no, they actually are. They've actually forked out quite a significant amount of money.

**COMMISSIONER LINDWALL:** Who's they?

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**COMMISSIONER BAXTER:** BP, and they've got eh support of the Western Australian Government.

**MS McKENZIE:** Yes.

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**COMMISSIONER LINDWALL:** I've got one final question about your adjudication role that you just spoke of. Is that something you thought the ACCC should be doing?

**MS McKENZIE:** Look, I suppose from - short answer, yes. Yes, I think to be able to have a clear appeals process that you can go through that was clearly understood, and that was able to, you know, for you to be able to provide evidence and then to be given a reason as to why yes, or no, that fuel is going to be permitted, and in what timeframe. You know, I think the ACCC is the natural organisation that would, you know, that would do that.

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**COMMISSIONER LINDWALL:** And have you engaged with the ACCC, and if so, are you able to tell us the type of discussions that you've had?

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**MS McKENZIE:** Yes, we haven't engaged with the - I sit on the ACCC fuel consultative committee. We have not engaged with the ACCC on this specific pilot that took place, and I think it's probably, we didn't understand the way that the JUHI operated until going through this process, and I think that that was one of the reasons why the pilot was initiated was to, you know, to say, "Okay, how are we actually going to go about getting this fuel into the system", and this isn't just a one-off pilot. So Virgin are planning on bringing this fuel round on multiple occasions. In order to, you know, almost sort of smooth the pathway a bit, and as each time hopefully it will become easier and those issues will be identified in order to make it easier for that to happen.

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But, I mean, we can't afford for that to happen at every airport across the country in order for us to be able to, you know, to supply this fuel which has such significant benefits in terms of what it does around emissions reduction, particular matter efficiencies and the like.

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**COMMISSIONER LINDWALL:** Does this require a legislative change or new regulations or merely government's action and requesting the ACCC to do something?

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**MS McKENZIE:** Yes, I think so. I think it - - -

**COMMISSIONER LINDWALL:** It doesn't require- - -

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**MS McKENZIE:** No, I don't think so, and to be honest, I haven't really been able to spend the time to look into what that would look like.

**COMMISSIONER LINDWALL:** Yes.

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**MS McKENZIE:** But I think to, you know, the key for us is really around providing that level of transparency. In an idea world, and I don't think if, you know, what would be required, but to have a level of independence in the decision-making around the JUHI from our perspective would be ideal. It's probably incredibly difficult for anything like that to happen but it doesn't, you know, as an outsider looking in, common sense sort of says to me that, does it make sense that decisions are made about new fuel access by those that have a vested interest in it staying as it is, and I think you know, would we - which it once did happen, but would we allow Virgin and Qantas to decide the slots at Sydney Airport.

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**COMMISSIONER LINDWALL:** Yes.

**MS McKENZIE:** Or would we allow the taxi industry to decide who is provided Uber certificates. I mean, it's sort of from a common sense sort of approach it doesn't sort of rub well with me.

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**COMMISSIONER LINDWALL:** Well, if you could perhaps reflect on that and maybe come back to us - - -

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**MS McKENZIE:** Sure.

**COMMISSIONER LINDWALL:** - - - at some stage about the actual mechanism - - - -

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**MS McKENZIE:** Specifics.

**COMMISSIONER LINDWALL:** Yes.

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**MS McKENZIE:** Happy to.

**COMMISSIONER LINDWALL:** Stephen, did you have any more?

**COMMISSIONER KING:** No.

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**COMMISSIONER LINDWALL:** I think that's fine.

**MS McKENZIE:** Thank you.

5       **COMMISSIONER LINDWALL:** Thank you very much, Shahana. Well,  
that's officially all we have registered, but does anyone else want to either  
comment on or make any statement in relation to our previous hearing  
participants or anything else for that matter? You're most welcome to come  
forward. No one? Barry doesn't want to say something again to - okay,  
10       well, in that case thank you very much everyone for coming to our hearings  
today. I'll adjourn them and we'll resume on Friday in Melbourne, and  
thank you all for being here, and thanks to our transcript gentleman.

15       **MATTER ADJOURNED AT 12.03 PM UNTIL  
FRIDAY, 30 NOVEMBER 2018**