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Report to the Minister under s 95ZE of the Competition and Consumer Act 2010

Monitoring of prices, costs and profits to assess the general effect of the carbon tax scheme in Australia

July 2014

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# Glossary

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| Abatement measures | Measures an entity has put in place in order to reduce its direct emissions and therefore its direct carbon tax costs, and/or measures an entity has put in place in order to reduce its exposure to indirect carbon tax costs by reducing the amount of electricity and/or gas they consume (and therefore the amount of carbon tax cost pass through from their energy providers). |
| Additional entities | Entities which made public statements about the impact of the carbon tax upon, or during, implementation and are not suppliers of regulated goods or liable entities.  |
| ACCC | Australian Competition and Consumer Commission. |
| the Bill | The Clean Energy Legislation (Carbon Tax Repeal) Bill 2014. |
| Carbon tax | The carbon price mechanism which came into effect on 1 July 2012. It is a cap-and-trade emissions trading scheme, beginning with a three-year fixed price and then transitioning to a full emissions trading scheme in 2015. It applies to entities producing more than 25 000 tonnes per year of CO2–e emissions.  |
| Carbon tax price reduction obligation | Under section 60C of the Bill, an entity must not engage in price exploitation in relation to the carbon tax repeal. An entity engages in price exploitation if and only if:1. it makes a regulated supply; and
2. the price for the supply does not pass through all of the entity’s cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal.
 |
| Carbon tax repeal transition period | Under section 60A of the Bill means the period:* beginning at the start of 1 July 2014; and
* ending at the end of 30 June 2015.
 |
| Carbon Reference Price (CRP) | The Carbon Reference Price (CRP) is set in accordance with a methodology determined by the Australian Financial Markets Association Electricity Committee. The CRP is used to calculate the carbon uplift amount in over-the-counter contracts that incorporate the AFMA addendum.  |
| CCA | Competition and Consumer Act 2010. |
| CER | Clean Energy Regulator. |
| CEA | Clean Energy Act 2011. |
| Clean Technology Food and Foundries Investment Program[[1]](#footnote-1) | An Australian Government funded program providing financial assistance to Australian corporations that manufacture foods or products containing metal. Grants were invested in energy efficient capital equipment and low emission technologies, processes and products. The Clean Technology Food and Foundries Investment Program (CTFFIP) was closed in November 2013. It was administered by AusIndustry, a specialist program delivery division within the former Department of Innovation, Industry, Science, Research and Tertiary Education (now the Department of Industry). Eligible applicants included non-tax exempt corporations undertaking manufacturing activities in Australia. CTFFIP grants were provided for use in specific projects nominated by the applicant. Eligible project activities included activities that generate carbon and energy savings through replacement or modification of existing manufacturing plant, equipment and processes, and/or changes to energy sources for the existing or replacement manufacturing plant or processes. Grant applications were assessed against merit criteria which differed according to the dollar amount of the grant sought. |
| Clean Technology Investment Program | An Australian Government assistance program which provided grants to Australian manufacturers for investments in energy efficient capital equipment and low emissions technologies, processes and products. The program was administered by AusIndustry and was closed in November 2013.[[2]](#footnote-2) |
| Direct carbon tax cost | An entity’s financial liability under the carbon tax arising from emissions produced by that entity. |
| Embodied emissions | Gaseous fuels produce the majority of their greenhouse gas emissions when used by final consumers. Suppliers of gaseous fuels are not direct carbon (or carbon equivalent) emitters but may face direct carbon tax costs for the emissions ‘embodied’ in the fuels they supply to end users. This direct carbon tax liability is based on the amount of greenhouse gas which would be emitted when the gaseous fuels are combusted by an end user. The liability may be passed to the end user or an intermediary. |
| Emissions-intensive trade-exposed (EITE) activity | For the purposes of the Jobs and Competitiveness Program (JCP) means an activity prescribed in Schedule 6 to the Renewable Energy (Electricity) Regulations 2001. EITE activities include production of bulk flat glass, packaging and industrial paper manufacturing, and integrated iron and steel manufacturing. Entities engaging in EITE activities are provided with JCP assistance to maintain competitiveness with international imports which are not subject to the carbon tax. |
| Energy Security Fund | An Australian Government assistance program which provided transitional assistance to help highly emissions-intensive coal-fired electricity generators adjust to a carbon price. Eligible electricity generators received cash payments and were issued with free carbon units. |
| Indirect carbon tax cost | An entity’s cost which arises wholly or in part from the carbon tax, but not as a result of emissions produced by the entity.Indirect carbon tax costs may include:* an input cost of the entity which increases due to a third party passing through its own increased costs under the carbon tax, such as electricity
* costs incurred by the entity and paid to a third party in relation to ensuring the entity’s compliance with the carbon tax, such as an accountant, and
* the entity’s internal administrative costs for ensuring its compliance with the carbon tax.
 |
| IPART rate peg | The Independent Pricing and Regulatory Tribunal (IPART) sets a rate peg each financial year which determines the maximum allowable percentage increase in general income (mainly rates income) for most local councils in New South Wales. |
| Jobs and Competitiveness Program[[3]](#footnote-3) | An Australian Government funded program to provide assistance to emission intensive businesses that are constrained in their capacity to pass through their carbon tax costs in global markets. The purpose is to help Australian businesses maintain competitiveness with international imports which are not subject to the carbon tax. The Jobs and Competitiveness Program (JCP) is administered by the Clean Energy Regulator. Assistance provided under the JCP is in the form of free carbon units, which businesses surrender to discharge their carbon tax costs. To be eligible to apply for assistance under the JCP, an emissions-intensive trade exposed activity must be carried on in Australia during the financial year to which the application relates. Assistance is provided on a defined activity basis, as prescribed by the Clean Energy Regulations 2011. |
| Equivalent carbon price levy (the levy) | Synthetic greenhouse gases (SGGs) listed under the Kyoto Protocol are subject to an equivalent carbon price levy (the levy), applied through the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989. The levy is based on the carbon price tax and the global warming potential of each gas relative to carbon dioxide. |
| Liable entity | An entity listed on the Liable Entities Public Information Database (within the meaning of the Clean Energy Act 2011). |
| Liquid fuel Opt-in Scheme | Under the Clean Energy Act 2011, large users of certain liquid fuels can choose to manage their carbon tax liability through the carbon pricing mechanism rather than through the fuel tax or excise system. Some entities will find this method financially or administratively beneficial. Entities that choose to participate become a ‘designated opt-in person’. |
| London Metal Exchange | The London Metal Exchange is the world centre for industrial metals trading and price-risk management. Prices for metals on the London Metal Exchange’s trading platforms are used as the global benchmark. |
| NEM | The National Electricity Market (NEM) is Australia’s principal electricity grid. The NEM covers southern and eastern Australia. Electricity generators in the NEM sell their electricity through a central pool. The market sets a separate spot price for each of the five NEM regions: Queensland, New South Wales, Victoria, South Australia and Tasmania. |
| NGER | The National Greenhouse and Energy Reporting Scheme. |
| Obligation Transfer Number | A supplier of gaseous fuels is liable to pay a direct carbon tax cost unless the end user it supplies quotes an Obligation Transfer Number (OTN), which transfers the liability from the supplier to the end user. Where an OTN is quoted by the recipient of the gaseous fuel, the OTN holder will be liable for the embodied emissions in the gaseous fuel supplied. End users likely to choose to accept the carbon tax liability may include, for example, entities that use a large amount of gaseous fuel as a feed stock. |
| OTC | Over the counter. |
| Price | Under the Bill, in relation to a supply, includes: * a charge of any description for the supply, and
* any pecuniary or other benefit, whether direct or indirect, received or to be received by a person for or in a connection with the supply.
 |
| Price monitoring | Pursuant to the Direction given to the ACCC under section 95ZE of the CCA, refers to the formal monitoring of prices, costs, and profits relating to the supply of regulated goods by corporations and the supply of goods by liable entities to assess the general effect of the carbon tax scheme in Australia. |
| Regulated goods | Natural gas, electricity, synthetic greenhouse gas and synthetic greenhouse gas equipment (section 60B of the Bill). Other goods may be specified by legislative instrument by the Minister pursuant to subsection 60B(2). Synthetic greenhouse gas equipment is not a regulated for the purpose of the Direction.  |
| Regulated supply | Supply of regulated goods that occurs during the carbon tax repeal transition period. |
| Relevant goods | Regulated goods and other goods of a kind specified in a legislative instrument by the Minister pursuant to subsection 60G(12) of the Bill.  |
| Retrospective application | The proposed carbon tax repeal legislation will affect carbon liabilities dating back to 1 July 2014, despite the fact that the legislation will be passed on a later date. For this reason the carbon tax repeal legislation has been commonly referred to as having a ‘retrospective application’. When the word ‘retrospective’ is used in this report it should be understood in its common usage rather than its technical legal usage. |
| Steel Transformation Plan[[4]](#footnote-4) | An Australian Government funded program providing financial assistance to the Australian steel manufacturing industry. The Steel Transformation Plan (STP) is designed to assist the transition to an economically sustainable industry in a low carbon emission economy. The STP is administered by AusIndustry, a specialist program delivery division within the Department of Industry. Eligibility requirements include corporations that manufacture steel in Australia and produced at least 500,000 tonnes of crude carbon steel in Australia in both the 2009–10 and 2010–11 financial years. |
| Supplier of regulated goods | An entity that supplies regulated goods during the carbon tax repeal transition period. An entity that supplies both regulated goods and other goods or services is not a supplier of regulated goods in relation to those other goods or services. |
| Synthetic greenhouse gas  | Commonly referred to as refrigerant gases, which are used in refrigerators and air conditioning units, means a hydrofluorocarbon (HFC), a perfluorocarbon (PFC) or sulfur hexafluoride (section 7 of the Ozone Protection & Synthetic Greenhouse Gas Management Act 1989).  |
| Synthetic greenhouse gas equipment | Equipment imported into Australia which already contains greenhouse gas. Includes items such as refrigerators, automobiles and air conditioning units which will ordinarily contain refrigerant gases when imported. |
| Trade exposed | Where the economic activity is subject to international competition that constrains the domestic price to be proximate to the world price. Where the activity is also emissions intensive it may be prescribed as an EITE for which JCP assistance was provided to help Australian businesses maintain competitiveness with international imports which are not subject to the carbon tax. |

# Executive summary

* Pursuant to section 95ZE of the Competition and Consumer Act 2010 (CCA), the Minister gave the Australian Competition and Consumer Commission (ACCC) a Direction to undertake formal monitoring of the prices, costs and profits relating to the supply of regulated goods by corporations and the supply of goods by liable entities in order to assess the general effect of the carbon tax scheme in Australia.
* Given the nature of the carbon tax, the key industries of focus in the ACCC’s monitoring role are wholesale and retail electricity, natural gas and synthetic greenhouse gas. The ACCC will use its investigative and enforcement powers in instances where entities in these industries have not passed through all carbon tax cost savings and/or have made false or misleading statements about the effect of the carbon tax repeal or carbon tax scheme on the price for the supply of goods or services.
* The ACCC is also monitoring liable entities and entities which made public statements about the impact of the carbon tax upon, or during, implementation. These entities operate in the manufacturing, transport, waste, energy and domestic passenger air transport services industries. The ACCC will use its investigative and enforcement powers in instances where entities in these industries have made false or misleading statements about the effect of the carbon tax repeal or carbon tax scheme on the price for the supply of goods or services.
* In all other industries where prices increased due to the introduction of the carbon tax, the ACCC expects that all savings from the carbon tax repeal will be passed through to consumers, and in a number of industries the ACCC will seek further information to see if this occurs. The ACCC’s expectations for specific industries are outlined in **table 2, page 12**. The ACCC will also monitor any complaints received.
* In March 2014, the ACCC sent 351 voluntary information requests to suppliers of regulated goods and liable entities. The ACCC also sent 16 voluntary information requests to additional entities that do not fall under the Direction.
* In the second round of monitoring, the ACCC has sent 197 voluntary information requests to suppliers of regulated goods, liable entities and additional entities.
* Key issues arising from responses to the information requests and stakeholders can be found in the **Key issues** section of the report. An overview of the key issues and the ACCC’s expectations as to how these issues will be addressed is in **table 1, page 10**.
* A key issue of particular concern to entities was the possible difficulty in managing the retrospective application of the carbon tax repeal. However entities said they were less concerned if the carbon tax was repealed quickly, as it now has been.
* Industry assessments, based on the responses to the voluntary information requests and other information obtained by the ACCC and the AER, can be found in **Annexure 1: Monitoring activities–—industry assessments** section of this report. An overview of the key points in these industry assessments is in **table 2, page 12**.
* Following analysis of the responses to the voluntary information requests for the June 2014 quarter and other information obtained by the ACCC and the AER, the ACCC has formed expectations as to how the carbon tax repeal will impact different industries and how entities will respond to the carbon tax repeal. These expectations are set out in **table 2, page 12**.
* The ACCC expects that there is an important role for competition to ensure carbon tax cost savings are passed through by suppliers of non-regulated goods. The ACCC will monitor to see that this occurs.

Table Overview of key issues

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| Issue | Description | ACCC’s expectations post repeal |
| Retrospective application of the proposed carbon tax repeal | The retrospective application of the carbon tax repeal legislation may result in windfall gains for entities in the electricity, natural gas, synthetic greenhouse gas and landfill industries. Entities in these industries set prices to account for future carbon tax liabilities, but when the carbon tax is repealed they may have collected money for liabilities which will not eventuate. | Entities will pass through any value from a windfall gain. Entities might pass through this benefit in the form of a direct refund or in the form of generally decreased prices.  |
| Carbon tax price reduction obligation | The Australian Government proposes to amend the CCA by introducing a carbon tax price reduction obligation. This is to ensure that suppliers of regulated goods pass through all direct and indirect cost savings attributable to the carbon tax repeal. | Suppliers of regulated goods will assess any reduction in direct and indirect costs arising from the carbon tax repeal and quickly pass through all cost reductions to their customers. If pass through of cost savings does not occur, the ACCC’s role is to investigate and if necessary exercise its enforcement powers to ensure this occurs.  |
| Quantifying carbon costs  | Entities monitored and quantified the impact of the carbon tax in different ways. All entities tracked their direct carbon tax costs, some tracked their indirect carbon tax costs and some tracked the costs of ensuring compliance with the carbon tax. There was also great variety as to what entities considered to be indirect carbon tax costs versus operating costs. | Entities will track and quantify their direct and indirect carbon tax costs so that, when the carbon tax is repealed, cost savings can be readily identified and passed through to customers.  |
| Pass through of carbon tax costs | Entities in some industries were generally unable to pass through their carbon tax costs due to trade exposure and/or competition from entities that do not incur direct carbon tax costs. Entities were either not able to pass through their carbon tax whatsoever or, where they were able to achieve a limited pass through, it did not necessarily cover all of their carbon tax costs. A significant number of entities in these industries did not pass through all of their carbon costs or only partially passed through costs. | Entities must be able to provide evidence that they absorbed carbon tax costs or only passed through only a small proportion of their net carbon tax liability. |
| Uncertainty of the proposed carbon tax repeal | Many entities emphasised the uncertainty around the timing of the carbon tax repeal and around the exact obligations it would impose on them. Most entities advised that they planned to remove the carbon tax costs component from their prices as soon as they were able when the carbon tax is repealed. A smaller number advised that they had not considered what they would do. | Entities will consider the impact of the proposed carbon tax repeal and, when the carbon tax is repealed, respond in a timely manner, including adjustments where effects on the billing cycle occur at a later point.  |
| Prices contain components independent of the carbon tax | Most entities identified cost drivers separate to the carbon tax, which will affect prices regardless of the carbon tax repeal. Given that there is some uncertainty around when the carbon tax will be repealed, entities were generally unable to predict whether the combined effect of these non-carbon tax cost drivers would be greater than the effect of removing the carbon tax cost components from prices. | Entities will be able to provide evidence of how other cost drivers are impacting pricing.  |
| Australian Government assistance in certain industries | The Australian Government offered several forms of assistance to help reduce the impact of the carbon tax in certain industries. The assistance partially or wholly offset entities’ carbon tax costs. These entities generally did not, or did not except to a limited extent, increase their prices as a result of the carbon tax. When the carbon tax is repealed, a substantial pass through in carbon tax cost savings is not expected from entities which received such assistance, as prices were not increased to cover the carbon tax. | Where an entity’s carbon tax costs were offset wholly by government assistance and prices were not increased on the introduction of the carbon tax, these entities’ prices will not change as a direct result of the repeal.Where an entity’s carbon tax costs were only partially offset by government assistance and there was a partial pass through of the entity’s carbon tax costs, those savings will be passed through to customers. |
| Timing of the pass through of cost savings | Entities have advised that in some circumstances, it may take time to adjust billing systems to reflect price reductions following the repeal of the carbon tax. | The effective date for price changes resulting from the carbon tax repeal should be the date the legislation passes or soon after. The ACCC expects retailers to clearly communicate to their customers how and when price changes will take effect.  |

Table Overview of industry assessments, the ACCC’s expectations and the ACCC’s future monitoring activities.

The shaded Tier 1 industries are covered by the proposed carbon tax price reduction obligation (section 60C of the Bill).

|  |  |  |  |
| --- | --- | --- | --- |
| Industry | Overview | ACCC’s expectation post repeal | ACCC’s monitoring activities |
| **Tier 1—suppliers of regulated goods in industries where there are significant effects of the carbon tax scheme and there is pass through of carbon tax costs.**  |
| Wholesale and retail electricity | Carbon uplift in electricity spot price and derivatives market, resulting in price increases by electricity retailers. | Carbon costs will be removed from the spot price following the passage of the carbon tax repeal legislation. Also, after the carbon tax repeal legislation has passed, OTC contracts with AFMA addendums will have the carbon uplift set to zero and backdated to 1 July 2014 (if the repeal legislation passes on or before 18 July 2014).Electricity retailers will pass through cost savings following the repeal of the carbon tax.The ACCC expects that the effective date for changed prices will be the date of repeal. In addition, the ACCC expects retailers to pass through to consumers any carbon tax cost savings made from 1 July 2014 to the date the carbon tax repeal legislation is passed. However, retail price changes in billing systems may require some time to reach consumers. | ACCC to collect prices every quarter from electricity retailers. |
| Natural Gas | Generally a pass through of carbon tax costs by gas producers and gas transmission/ distribution businesses, resulting in price increases by gas retailers. Pass through of retailers’ direct liability resulting in increased prices. | Natural gas retailers will pass through cost savings following from the repeal of the carbon tax. The ACCC expects that the effective date for changed prices will be backdated to 1 July 2014 as it relates to the retailers’ direct carbon liability, which will be extinguished from 1 July 2014. However, changes to retail prices in billing systems may require some time to reach consumers. | ACCC to collect prices every quarter from natural gas retailers. |
| Synthetic greenhouse gas | Equivalent carbon price levy typically included in importers’ and wholesalers’ cost base. Significant increases in prices, which were generally greater than levy.  | Following the repeal of the carbon tax there will be limited windfall gains in the SGG industry, which the ACCC expects will subsequently be returned to customers. Stock attracting the equivalent carbon price levy is likely to pass through the supply chain very quickly. The price effects of stock imported after the carbon tax repeal legislation is passed should be immediate. The ACCC expects that:* importers will return to their wholesale customers any funds collected to cover the potential levy
* wholesalers pass through any refunds or adjustments to large on-going customers and otherwise pay back any collected levy through lower forward pricing, and
* contractors pass through any collected levy via forward pricing, as facilitated by competition.
 | ACCC to collect quarterly volume and pricing data from importers and wholesalers. |
| ***Tier 2—liable entities and additional entities in industries where the effects of the carbon tax scheme are mixed and there has been some pass through of carbon tax costs.*** |
| Landfill facility operation | Local government or privately operated. Most pass through all carbon tax costs, a small number pass through partial costs, and a small number absorb costs. Not all entities incurred direct carbon tax costs in the first year of the carbon tax. | When the carbon tax is repealed, landfill facility gate fees or associated waste management charges will generally reduce, or will not rise by as much as they otherwise would have (the exception being the fees and charges of the small number of entities that did not pass through carbon tax costs).The ACCC expects* local councils that have collected monies for future carbon tax liabilities that will no longer eventuate to use the money for the benefit of rate payers, and
* private companies to refund customers where possible or to reflect gains in lower future prices.
 | Seek further information as to ongoing impact of the carbon tax and intentions post repeal. Seek confirmation of pricing changes from the small number that advised carbon tax costs component will be removed from 1 July 2014. |
| Paper, glass and plastic | Exposed to international trade and substitutability of products. Some entities pass through full costs, some pass through partial costs and some absorb costs. | When the carbon tax is repealed, entities in the paper, glass and plastic manufacturing industry that currently pass through carbon tax costs will pass through cost savings by removing the carbon charge per tonne or reducing prices. | Seek further information to better understand the ongoing impact of the carbon tax and the impact of the carbon tax repeal transition period. |
| Food—dairy and ingredients | Less perishable products are exposed to international trade. Some entities in this industry do not incur direct carbon tax costs. Some entities pass through partial costs for perishable products such as milk. | Because entities in the dairy and ingredient manufacturing industry were able to achieve some pass through of carbon tax costs, when the carbon tax is repealed any carbon tax cost component of prices will be removed.  | Seek further information to better understand the ongoing impact of the carbon tax and the impact of the carbon tax repeal transition period. |
| Explosives | High volume of gas required as an input. Exposed to international trade. Only partial pass through, if at all. | Explosive manufacturers will remove any carbon tax cost component from prices. | Seek further information to better understand the ongoing impact of the carbon tax and the impact of the carbon tax repeal transition period. |
| Construction materials | Some construction materials are trade exposed, others are not. Some pass through costs, some absorb costs. | A pass through of carbon tax cost savings for some construction material once the carbon tax is repealed. | Seek further information to better understand the ongoing impact of the carbon tax and the impact of the carbon tax repeal transition period. |
| Liquid and gaseous fuels | Exposed to international trade. For non-transport use fuels, some pass through costs, some absorb costs. | Prices for non-transport use of LPG, LNG and CNG will reduce, or will not rise by as much as they otherwise would have.Entities that manufacture fuel for transport use did not have direct carbon tax liabilities so the ACCC does not expect transport-use fuel prices to change. | Seek further information to better understand the ongoing impact of the carbon tax and the impact of the carbon tax repeal transition period. |
| High technology | Internationally trade exposed and domestic competitors, including competitors that are not liable under the carbon tax. Absorb costs. | At this stage, no pass through of carbon tax cost savings when the carbon tax is repealed. | Seek further information to better understand the ongoing impact of the carbon tax and the impact of the carbon tax repeal transition period. |
| Transport | For transport operators, some substitutability and for some transport services, high barriers to entry. For freight forwarders, low barriers to entry and large number of entities providing freight forwarding services. Transport operators pass costs through to freight forwarders, who pass through to customers.  | Transport operators will remove their carbon tax surcharges from their pricing and contracts and freight forwarders will then pass these cost savings on to their customers.  | Seek further information to better understand the ongoing impact of the carbon tax and the impact of the carbon tax repeal transition period. |
| Domestic passenger air transport services | Domestic airlines claim that, regardless of their surcharge mentioned at the introduction of the carbon tax, they were unable to recover carbon tax costs from passengers. They have stated to the ACCC that they do not expect any reductions in passenger air fares directly related to the proposed carbon tax repeal. | The ACCC expects that if domestic airlines fully or partially recovered carbon tax costs from customers, following the carbon tax repeal, carbon tax cost savings will be passed through to customers. | Continue assessment of the representations made by the domestic airlines.  |
| ***Tier 3—liable entities and additional entities in industries where the effects of the carbon tax scheme are mixed. Entities either do not pass through carbon tax costs, or pass through is relatively simple and there are no difficulties with removing carbon tax costs when the carbon tax is repealed.*** |
| Metals | Exposed to international trade. Australian Government assistance offset the impact of the carbon tax. Absorb costs. | No change in prices directly due to the removal of the carbon tax. | No additional information sought at this time. |
| Food—prepared | Exposed to international trade, significant number of domestic competitors including competitors that are not liable under the carbon tax. Absorb costs. | No change in prices directly due to the removal of the carbon tax. | No additional information sought at this time. |
| Meat and meat by-products | Exposed to international trade, significant number of domestic competitors, including competitors that are not liable under the carbon tax. Absorb costs. | No change in prices directly due to the removal of the carbon tax. | No additional information sought at this time. |
| Manufacturing tolling services | The price charged by an entity is independent of the price the contracting company can charge for the finished product. Costs are passed through to manufacturing customers, but these costs are not ultimately passed through to consumers due to competition in the downstream market. | Any carbon tax costs savings will be passed through to manufacturing customers.  | No additional information sought at this time. |
| Fertiliser | Exposed to international trade. Absorb costs. | No change in prices directly due to the removal of the carbon tax. | No additional information sought at this time. |
| Water and sewerage | Entities are generally state government owned or licensed, so do not compete for customers. Prices are set by a regulatory authority. Most pass through full costs.  | Carbon tax costs components will be removed where applicable under relevant regulatory process. | No additional information sought at this time. |
| Vehicle parking services | Entities face higher electricity costs because of the carbon tax and pass these costs through to customers. | Carbon tax cost savings will be passed through. | No additional information sought at this time. The ACCC will continue to monitor for complaints. |
| Retail property | Entities face higher electricity and gas costs because of the carbon tax and pass these costs through to customers. | Carbon tax cost savings will be passed through. | No additional information sought at this time. The ACCC will continue to monitor for complaints. |

* + - * 1. The ACCC’s role

On 18 February 2014, pursuant to section 95ZE of the CCA, the Minister gave the ACCC a Direction to undertake formal monitoring of the prices, costs and profits relating to the supply of regulated goods by corporations and the supply of goods by liable entities in order to assess the general effect of the carbon tax scheme in Australia. The Direction takes effect for the period 1 March 2014 to 30 June 2015. In accordance with the Direction, the ACCC is required to report to the Minister on its monitoring activities within 28 days of the end of each quarter of each financial year.

This is the second report to the Minister.[[5]](#footnote-5) The second report covers the ACCC’s monitoring activities for the period April to June 2014. This report provides an overview of the key issues that have arisen through the ACCC’s monitoring activities and stakeholder engagement, assessments of the general impact of the carbon tax scheme in a range of industries, and consequently the ACCC’s proposed strategy for future monitoring activities. Later reports to the Minister will not repeat information provided in this second report, rather they will further clarify or expand upon the information already provided.

The arrangements under this Direction largely mirror the proposed price monitoring provisions contained in Schedule 2 of the Bill. On 15 October 2013, the Government released the Bill and associated legislation. On 21 November 2013, the Bill passed in the House of Representatives. The Bill did not pass the Senate in 2013. On 26 June 2014, the Bill passed in the House of Representatives. As of 30 June 2014, the Bill had not passed in the Senate.

In accordance with its monitoring role under the Direction, the ACCC is engaging with relevant entities to understand how the carbon tax impacts their prices, costs and profits and what the impact will be when the carbon tax is repealed. This information will assist to demonstrate the general impact of the carbon tax in particular industries and industry sub-sectors. After the carbon tax repeal legislation is enacted, this information will assist the ACCC in its monitoring, compliance and enforcement work under the proposed new Part V of the CCA.

Under the proposed Part V of the CCA, when the carbon tax is repealed, entities that supply natural gas, electricity, bulk import of synthetic greenhouse gas or synthetic greenhouse gas equipment (regulated goods) must pass through all cost savings directly or indirectly attributable to the carbon tax repeal. (the carbon tax price reduction obligation - section 60C of the Bill).

The Minister can, by legislative instrument, specify additional goods under subsection 60B(2) of the Bill to be included for carbon tax price reduction obligation. The ACCC can recommend additional goods to the Minister where issues are identified through the monitoring role.

The information gathered in its monitoring role will assist the ACCC in assessing whether, when the carbon tax is repealed, suppliers of regulated goods are passing through carbon tax costs savings. The ACCC may exercise its enforcement powers in circumstances in which an entity is potentially failing to pass through carbon tax costs savings.

* + - * 1. Monitoring activities

The ACCC’s role under the Direction is to monitor the prices, costs and profits in relation to the supply of regulated goods and the supply of goods by liable entities.

The supply of regulated goods concerns the following industries:

* retail and wholesale electricity
* natural gas, and
* synthetic greenhouse gas.

The supply of goods by liable entities concerns the following industries:

* transport
* waste
* manufacturing
* energy (water, liquefied natural gas (LNG) and liquefied petroleum gas (LPG))
* mining, and
* domestic passenger air transport services (prior to 20 June 2014, entities in this sector were classified as additional entities).

The ACCC has also gathered information from entities that made public statements about the impact of the carbon tax upon, or during, implementation (additional entities). These additional entities operate in the surface transportation, water and sewerage services and vehicle parking and retail property industries. Entities in the domestic passenger air transport services sector are now liable entities, but before 20 June 2014 were classified as additional entities.

## March 2014 voluntary information requests

In March 2014, the ACCC sent 367 voluntary information requests to suppliers of regulated goods, liable entities and additional entities, seeking information about their prices, costs and profits for the June 2014 quarter to inform this report. The ACCC did not use the compulsory information gathering powers provided under section 95ZK of the CCA.

The ACCC has adopted a focused approach in its monitoring activities, providing a level of detail in the industry assessments which accords with the significance of the effect of the carbon tax scheme in that particular industry and the extent to which entities in that industry pass through carbon tax costs to their customers. This is also intended to limit the burden on the respondents to the extent possible and to ensure efficiency in reporting.

As part of this focused approach, the ACCC has assessed the information received in response to the March 2014 voluntary information requests and prioritised these industry assessments using a tiered approach.

* Tier 1 industries are the primary focus in the ACCC’s monitoring role. These assessments are the most detailed as these are industries which are liable under the proposed carbon tax price reduction obligation provision, the impact of the carbon tax scheme is significant and the treatment of risk is comparatively more sophisticated than other tiers. A significant proportion of entities in Tier 1 industries have received further voluntary information requests. The ACCC will monitor complaints should issues arise.
* Tier 2 industries concern liable entities and additional entities. There is some complexity regarding the impact of the carbon tax scheme. Entities in these industries are not liable under the proposed carbon tax price reduction obligation provision but the ACCC expects that, in effective, competitive markets, carbon tax cost savings will be passed through. Some entities in Tier 2 industries have received further voluntary information requests. The ACCC will monitor complaints should issues arise.
* In Tier 3 industries, either the effect of the carbon tax scheme is not complicated or entities in these industries absorbed their carbon tax costs. At this stage, the ACCC does not propose to request further information from Tier 3 industries however the ACCC will monitor complaints should issues arise.

An analysis of the responses to the information requests is provided in **Annexure 1: Monitoring activities—industry assessments** section of the report.

## June 2014 voluntary information requests

Following analysis of the responses to the March 2014 information requests, the ACCC has identified further information that is required in order to provide a better understanding of the impact of the carbon tax in priority industries.

In June 2014 the ACCC, as part of its ongoing monitoring, sent 197 voluntary information requests to entities in these industries to gather information about their prices, costs and profits for the September 2014 quarter.

An analysis of the information provided in response to the June 2014 information request will be provided in the September 2014 report to the Minister.

* + - * 1. Key issues

Based on responses to the ACCC’s voluntary information requests and through stakeholder engagement, some key issues in relation to the carbon tax scheme and its proposed repeal have arisen that are relevant across industries.

## Retrospective application of the proposed carbon tax repeal

The ACCC is concerned that the retrospective application of the carbon tax repeal legislation may result in a windfall gain for entities in the electricity, natural gas, synthetic greenhouse gas and landfill industries. Entities in these industries anticipate future carbon tax liabilities should the carbon tax repeal legislation not be enacted, and their current prices account for this anticipated future liability. When the carbon tax is repealed, these entities may have collected money to account for a liability which will no longer eventuate and, as a result, these entities may have made a windfall gain.

Landfill operators, for example, anticipated that they would pay a carbon tax liability over a 30 to 100 year period, as waste deposited at their facilities continues to produce emissions for up to 100 years. Many landfill operators increased their gate fees to account for the ongoing direct carbon tax liability for the lifetime of any waste deposited at their facilities. When the carbon tax is repealed, landfill operators will no longer have a liability for future emissions and will obtain a windfall gain from the increased gate fees.

Electricity generators may also anticipate a future carbon tax liability and continue to factor carbon into their bids into the NEM, resulting in pool prices that continue to reflect amounts for carbon tax costs. When the carbon tax repeal legislation is enacted then electricity generators which increased their prices will have made a windfall gain for the period from 1 July 2014 to the date that the repeal legislation passes. For natural gas, retailers may continue to pass through amounts to cover carbon costs from 1 July 2014 until the date the repeal legislation passes, but will have their direct carbon tax liability extinguished as of 1 July 2014.Similarly, entities that import synthetic greenhouse gases after 1 July 2014 but sell the gas before the carbon tax repeal legislation is enacted may charge a higher price to incorporate the carbon liability. However if the carbon tax repeal legislation commences retrospectively, these entities will never be required to pay for this liability and thereby make a windfall gain.

Many entities expressed concerns in their responses to ACCC information requests that retrospective application of the proposed carbon tax repeal would be difficult to manage, however entities said that they were less concerned if the carbon tax was repealed quickly. Entities considered that the administrative costs of determining and tracking what refunds may be due, and to which customers (particularly uncontracted one-off transaction customers), would far outweigh the refund amounts.

The ACCC expects that an entity will pass through any value from a windfall gain. The ACCC considers that a direct refund will be the clearest approach for entities to pass through this benefit if they can identify relevant customers. If not, entities may pass through this benefit in the form of generally decreased prices.

The ACCC continues to engage with entities in each industry to achieve an appropriate solution in each circumstance. With the repeal of the carbon tax on 17 July 2014, noting the subsequent responses by relevant entities to date, this issue has now been significantly addressed (see cover letter to this report).

## The carbon tax price reduction obligation

The Government proposes to amend the CCA to introduce a carbon tax price reduction obligation (section 60C). The carbon tax price reduction obligation prohibits price exploitation by regulated suppliers in relation to the carbon tax repeal .

Under the Bill, a supplier of regulated goods engages in price exploitation if:

* it makes a regulated supply; and
* the price for the supply does not pass through all of the supplier’s cost savings relating to the supply that are directly or indirectly attributable to the carbon tax repeal.

An entity makes a regulated supply if it supplies a regulated good during the carbon tax repeal transition period of 1 July 2014 to 30 June 2015. Regulated goods include electricity, natural gas, synthetic greenhouse gases and synthetic greenhouse gas equipment.

For the purpose of determining whether all direct and indirect carbon tax cost savings have been passed through, the following factors will be considered:

* the supplier’s cost savings that are directly or indirectly attributable to the carbon tax repeal;
* how those cost savings can be reasonably attributed to the different supplies that the entity makes;
* the entity’s costs; and
* any other matter that may reasonably influence price.

 The ACCC anticipates that, when the carbon tax is repealed, suppliers of regulated goods will assess any cost savings arising from the carbon tax repeal and pass through these cost savings in a timely manner, including adjustments where billing occurs at a later point.

The ACCC considers that effective, competitive markets will generally ensure that customers of regulated suppliers will pass through cost savings to consumers following the carbon tax repeal.

If pass through of carbon tax cost savings does not occur, in accordance with the carbon tax price reduction obligation, the ACCC’s role is to investigate and if necessary exercise its enforcement powers.

The ACCC will provide guidance on the proposed carbon tax price reduction obligation provision.

## Quantifying carbon costs

The resources allocated to monitor the impact of the carbon tax varied between entities. All entities tracked their direct carbon costs, some also tracked their indirect carbon costs that arose from their suppliers charging them a carbon tax component, and some tracked the costs of ensuring compliance with the carbon tax. There was also great variety, even within industries, as to what entities considered constituted an indirect carbon cost versus another operating cost; and in what costs entities reported for ensuring compliance with the carbon tax. For example, some entities estimated the cost of their employee’s time in this respect and others did not.

For some entities, the calculation of their direct carbon cost could not be completely precise, given it involved future estimates and predictions—something specifically acknowledged by the NGER (Measurement) Determination.

Many entities stated that their suppliers had provided only limited, or no, information about the carbon component of their prices, which made calculating their indirect carbon costs difficult.

The ACCC expects entities to track and quantify their direct and indirect carbon tax costs so that, when the carbon tax is repealed, cost savings can be readily identified and passed through to their customers.

## Pass through of carbon tax costs

Entities in some industries said that they have been unable to pass through a carbon tax component for a number of reasons.

These reasons include:

* In some industries, entities that are subject to the carbon tax compete with entities that are not subject to the carbon tax as they do not meet the relevant emissions threshold. This constrains entities that are subject to the carbon tax from passing through carbon tax costs.
* In some industries entities faced overseas competitors to the same effect.
* In some industries demand factors may have prevented pass through such as circumstances in which entities faced customers with significant negotiating power that restricted the pass through of the carbon tax.

Entities in these situations said either that they were not able to pass through any carbon tax component whatsoever, or were able to achieve only some pass through that did not cover all carbon tax costs.

The ACCC expects these entities to be able to provide evidence that they absorbed carbon tax costs or only achieved a limited pass through when the carbon tax was introduced. When considering whether all carbon tax cost savings have been passed through when the carbon tax is repealed, the ACCC will examine any factors that might have affected the capacity of a business to pass through a carbon tax cost component, and will also consider what would otherwise have happened to prices without the introduction of a carbon price.

## Uncertainty of the proposed carbon tax repeal

In answering the ACCC’s questions about the impact of the proposed carbon tax repeal on prices, many entities emphasised the uncertainty around the timing of the repeal and around the exact obligations it would impose on them. Most entities advised that they planned to remove the carbon tax costs component from their prices as soon as they were able after the carbon tax is repealed. A smaller number of entities advised that they had not yet considered what they would do should the carbon tax be repealed. Some entities were also uncertain as to how any policy or action aimed at emissions reduction following the proposed repeal of the carbon tax may affect their prices. Many entities stated that their pricing decisions would be affected by those of their suppliers, their need to achieve sustainable profits and the level of competition in the market for their products.

The ACCC expects entities to consider the impact of the proposed carbon tax repeal and, when the carbon tax is repealed, respond in a timely manner, including adjustments where effects on the billing cycle occur at a later point.

## Prices contain components independent of the carbon tax

Most entities identified cost drivers that operate independent of the carbon tax, which will affect prices regardless of whether the carbon tax is repealed. Some cost drivers specified by entities in different industries included:

* forthcoming increases to relevant state government levies which were applicable to that industry
* the projected increasing volume of gas exports that will cause Australian gas prices to increase to match the much higher international gas prices
* cost increases that suppliers may impose on entities when new supply contracts are entered into at the start of the 2014–15 financial year, and
* changes to regulated prices.

Because of these factors, entities advised that they were not able to guarantee in all cases that prices will fall when they remove the carbon tax costs component from their prices upon repeal. Should the repeal of the carbon tax coincide with the above anticipated increases in entities’ operating costs, it is possible that prices may rise, or not fall by as much as they otherwise would have, despite the entities removing the carbon tax costs components from their prices. Given that there is some uncertainty around when the carbon tax will be repealed, entities were generally unable to predict whether the combined effect of these non‑carbon tax cost drivers would be greater than the effect of removing the carbon tax costs components from prices.

The ACCC expects entities to be able to provide evidence of how other cost drivers are impacting pricing.

## Australian Government assistance in certain industries

The Australian Government offered several forms of assistance to help reduce the impact of the carbon tax in certain industries. This assistance was generally focused on industries which were emissions-intensive and/or trade exposed.

Types of assistance included:

* the Jobs and Competitiveness Program, which was provided to emissions-intensive trade-exposed industries
* the Energy Security Fund, which was provided to emissions-intensive coal-fired electricity generators
* the Steel Transformation Plan, which was provided to Australian steel manufacturers
* the Clean Technology Investment Program, which was provided to support manufacturers investing in low emissions technology, and
* the Clean Technology Food and Foundries Investment Program, which was provided to support manufacturers in the food or foundry industries.

The assistance received by an entity partially or wholly offset that entity’s carbon tax costs. As a result, the entities which received assistance generally did not, or did not except to a limited extent, increase their prices as a result of the carbon tax. In the same way, when the proposed carbon tax repeal legislation is enacted then pass through in cost savings is not expected from entities which received such assistance.

The ACCC expects that where entities’ carbon tax costs were offset wholly by government assistance on the introduction of the carbon tax, when the carbon tax is repealed these entities will not make any pass through of carbon tax costs as a result of the repeal. In circumstances where an entity’s carbon tax costs were only partially offset by government assistance and there was a partial pass through of the entity’s carbon tax costs, the ACCC expects those savings to be passed through to customers when the carbon tax is repealed.

## Timing of the pass through of cost savings

Entities have advised that, in some circumstances, it may take time to adjust billing systems to reflect price reductions following the repeal of the carbon tax.

Electricity and natural gas retailers, for example, advised that changes to retail prices in billing systems may require some time to reach consumers.

The ACCC understands that it may take time for entities to adjust their billing systems, especially in relation to mass market customers. However the ACCC expects that the effective date for price changes resulting from the carbon tax repeal will be the date the legislation passes or soon after.

If an entity’s billing cycle is such that it will issue bills to customers before the price change can be executed in the billing system, then the ACCC expects the retailer to provide a refund or adjustment in those customers’ next bills. This will mean that the reduced prices are effectively charged at the date of the carbon tax repeal.

The ACCC also expects entities to clearly communicate to their customers how and when price changes will take effect and to clearly communicate how any refunds or adjustments will operate.

* + - * 1. Monitoring activities—industry assessments

For the purpose of efficiency in reporting, the ACCC has categorised particular industries and industry sub-sectors. It is acknowledged that because there may be multiple markets to contemplate within an industry assessment, the presence and influence of competitive forces identified in each industry assessment may vary.

The industry assessments are divided by tier and contained in **annexure 1.**

* **Tier 1** includes suppliers of regulated goods. These industry assessments concern industries where there are significant effects of the carbon tax scheme and where the treatment of risk is comparatively more sophisticated than other tiers. As such, these industry assessments are the most detailed. Under the Bill, the carbon tax price reduction obligation applies to suppliers of regulated goods.

Tier 1 industries are:

* retail and wholesale electricity
* natural gas, and
* synthetic greenhouse gas (typically refrigerant gases).

Tier 1 industries are the primary focus for the ACCC’s ongoing monitoring activities, although not all entities in Tier 1 received information requests in the second round of monitoring in June 2014.

* **Tier 2** includesliable entities and additional entities**.** These entitiesare not suppliers of regulated goods and are not covered by the carbon tax price reduction obligation provision.These industry assessments concern industries where the effects of the carbon tax scheme are mixed and there has been some pass through of carbon tax costs, but for a variety of reasons some entities in these industries do not pass through carbon tax costs to their customers.

Tier 2 industries and industry sub-sectors are:

* landfill
* manufacturing:
* paper, glass and plastic
* food—dairy and ingredients
* explosives
* liquid fuels
* high technology, and
* construction materials
* transport, and
* domestic passenger air transport services.

The ACCC will continue to monitor these industries.

* **Tier 3** includes liable entities and additional entities.Theseindustry assessments concern industries where the effects of the carbon tax scheme are mixed, but for a variety of reasons, most of these entities do not pass through carbon tax costs. Where entities do pass through carbon tax costs, there do not appear to be any difficulties in removing these costs when the carbon tax is repealed.

Tier 3 industries and industry sub-sectors are:

* manufacturing
* metals
* food—prepared
* meat and meat by-products
* manufacturing—tolling services, and
* fertiliser
* water and sewerage services
* vehicle parking services, and
* retail property.

At this stage, the ACCC does not propose to send any further information requests to entities in these industries, but will monitor complaints and market information to ensure that issues do not arise.

* + - * 1. Compliance activities

## Further correspondence

In March 2014, the ACCC sought information voluntarily from entities which made public statements about the impact of the carbon tax upon, or during, its implementation (additional entities).

Information about the pricing approach of these additional entities has enabled the ACCC to assess whether there is any risk of consumers being misled by implication of previous statements of the entity.

The ACCC continues to monitor the additional entities, especially where the ACCC requires further information or clarification to finalise its assessment.

In addition to the voluntary information requests, in March 2014, 110 letters were sent to mining entities and 3 letters were sent to energy generators that do not on-sell, notifying them of the Direction and informing them that the ACCC may request information about their prices, costs and profits in the future.

## Stakeholder engagement

Since February 2014, the ACCC has engaged with businesses, industry associations, small business groups and consumer representative groups to discuss their rights, responsibilities and obligations under the CCA in light of any proposed amendments, and under the Direction. In May 2014, ACCC staff addressed the Energy Supply Association of Australia, the National Generators Forum, the Electricity Retailers Association of Australia and Refrigerants Australia.

Following the Direction, engagement has focused on explaining the ACCC’s role in monitoring prices and the parameters of the Direction, obtaining relevant information and setting the ACCC’s expectations.

The ACCC has met with 44 stakeholders to date, and will have ongoing engagement with the entities subject to the Direction and with additional entities.

Stakeholders have sought guidance regarding the operation and implications of retrospective application of the carbon tax repeal. The ACCC is considering issues relating to the application of the legislation from 1 July 2014, and anticipates that it will provide guidance on its approach to this matter in the September 2014 report to the Minister.

The ACCC will also provide guidance on the proposed carbon tax price reduction obligation (section 60C of the new Part V).

## Publications

The ACCC has provided information on its website for businesses and consumers explaining the proposed amendments to the ACCC and the ACCC’s role in relation to the carbon tax repeal. For further information, visit <http://www.accc.gov.au/business/carbon-tax-repeal>.

## Media and public communications

The ACCC’s media activities are a key tool for assisting consumers and businesses in understanding the Bill and the ACCC’s role under the Direction. For the June 2014 quarter the ACCC has made 9 statements to the media and issued 3 media releases explaining the ACCC’s role under the Direction.

In the lead up to, and during, implementation of the carbon tax, the ACCC issued 12 media releases in relation to compliance and enforcement activities.

## Complaints received

In the June 2014 quarter the ACCC received 14 identified carbon pricing complaints and enquiries. Of these complaints and enquiries, 50 per cent concerned energy.

* + - * 1. Enforcement

At present, there are no enforcement activities to report.

The information gathered to assess the general effect of the carbon tax scheme in Australia will enable the ACCC to understand the components of an entity’s price and the impact on the industry in which it operates. The ACCC is already engaged in gathering this information, on a voluntary basis, as part of its monitoring activities. Such information will also be available to the ACCC after the legislation is enacted to assist in its monitoring, compliance and enforcement work under the proposed new Part V of the CCA.

Under the proposed legislation, suppliers of regulated goods must pass through all direct and indirect cost savings that are attributable to the carbon tax repeal (the carbon tax price reduction obligation, section 60C) and all entities are prohibited from making false or misleading representations in trade or commerce about the effect of the carbon tax repeal or carbon tax scheme on the price for the supply of goods and services (section 60K).

The ACCC will not be setting prices, but in instances where suppliers of regulated goods do not pass through carbon tax cost savings or entities make false or misleading representations in relation to the carbon tax repeal, the ACCC will exercise its enforcement powers. The Bill provides for the ACCC to carry out targeted enforcement and compliance activities associated with the carbon tax repeal.

In addition to the powers included in the Bill, existing powers in the CCA allow the ACCC to investigate and take enforcement action against businesses for engaging in misleading and deceptive conduct in trade or commerce or making false or misleading representations in trade or commerce. The ACCC seeks to ensure that statements made by businesses about the impact of the carbon tax on the prices of a business' goods and services accurately reflect the costs attributed to the carbon tax in the circumstances in which the statements are made.

The ACCC will also have regard to the existing provisions of the CCA relating to restrictive trade practices, and may investigate and take enforcement action against businesses that engage in restrictive trade practices in relation to the carbon tax repeal. The ACCC expects that cost savings obtained by businesses as a consequence of the repeal of the carbon tax will be passed through to consumers by the operation of competitive forces in most circumstances. However there may be certain circumstances where markets do not facilitate an efficient pass through of such a change in the costs of a business. The ACCC will focus on conduct where businesses have the capacity to pass through cost savings arising from the carbon tax repeal to consumers, but fail to do so. This will be bolstered in markets for the supply of regulated goods by the proposed carbon tax price reduction obligation.

# Annexure 1: Industry assessments

## Tier 1 industry assessments

Tier 1 industry assessments are based on responses to the ACCC’s information requests to suppliers of regulated goods and other information obtained by the ACCC and the AER in the course of their work. These industries are significantly affected by the carbon tax scheme and the treatment of risk is comparatively more sophisticated than other tiers. The carbon tax price reduction obligation applies to suppliers of regulated goods (section 60C).

The ACCC expects that entities in these industries will continue to engage with the ACCC in its monitoring role and commit to working through the various complexities to ensure that all cost savings are passed through when the carbon tax is repealed.

### Retail and wholesale electricity

The ACCC expects that carbon costs will be removed from the spot price following the passage of the carbon tax repeal legislation. Also, after the carbon tax repeal legislation has passed, OTC contracts with AFMA addendums will have the carbon uplift set to zero backdated to 1 July 2014 (if the repeal legislation passes on or before 18 July 2014.

Electricity retailers will pass through cost savings following from the repeal of the carbon tax. Retail price changes in billing systems may require some time to reach consumers. However the ACCC expects that the effective date for changed prices will be the date of repeal. In addition, the ACCC expects retailers to pass through to consumers any carbon cost savings made from 1 July 2014 to the date the carbon tax repeal legislation is passed.

#### 1 Industry background

Electricity is generated by power stations. The electricity is then transported through transmission and distribution networks (poles and wires) to customers. The supply chain is completed by retailers, which buy wholesale electricity and package it with transmission and distribution services for sale to end users. Generators emit carbon in the production of electricity and are liable for carbon emissions.

Australia's principal electricity grid—the National Electricity Market (NEM)—covers southern and eastern Australia. Smaller grids operate in Western Australia (the South West and North West Interconnected Systems) and the Northern Territory.

##### Generation and hedge markets

Electricity generators in the NEM sell their electricity through a central pool. Generators make bids (offers) into the market to produce particular quantities of electricity at various prices for each of the five minute dispatch periods in a day. To determine which generators are dispatched, the Australian Energy Market Operator (AEMO) stacks the offer bids of all generators from the lowest to highest price offers for each dispatch period. It dispatches the cheapest generator bids first, then progressively more expensive offers until enough electricity is dispatched to meet demand. The highest priced offer (the marginal offer) needed to meet demand sets the dispatch price. The wholesale spot price paid to generators is the average dispatch price over 30 minutes. All generators are paid at this price, regardless of the price that they bid.

The market sets a separate spot price for each of the five NEM regions (Queensland, New South Wales, Victoria, South Australia and Tasmania). Price separation of a region occurs when only local generation sources can meet an increase in demand—that is, network constraints prevent a neighbouring region from supplying additional electricity across a transmission interconnector. At other times, prices align across regions. Prices may range between a floor of −$1000 per MWh and a cap of $13 100 per MWh.

Volatility in electricity spot prices can pose a significant risk to market participants. Market participants commonly manage their exposure to forward price risk by entering hedge contracts that lock in firm prices for the electricity that they intend to produce or buy. The participants in electricity derivatives markets include generators, retailers, financial intermediaries and speculators such as hedge funds. Brokers facilitate many transactions between contracting participants.

Two distinct financial markets support the NEM:

* over-the-counter (OTC) markets, comprising direct contracting between counterparties, often assisted by a broker, and
* the exchange traded market, in which electricity futures products are traded on the Australian Securities Exchange (ASX).

Electricity businesses may also reduce price risk by participating in the market as both a generator and retailer (vertical integration). A retailer can also enter into a power purchasing agreement (PPA) that gives it effective control of the output of a generator.

Electricity generators in Western Australia’s South West Interconnected System (SWIS) which covers the south west region, including Perth, also sell their electricity through a central pool. However, the price paid/received by market participants is determined differently to the NEM. The SWIS is a capacity market, meaning that generators receive payments for ensuring plant is available to the market, in addition to payments for energy produced. Market customers must purchase ‘capacity credits’ relative to their share of total system capacity requirements.

Energy costs in WA are determined through a number of mechanisms. Market participants enter into confidential bilateral contracts for the supply of electricity. Participants can then trade around their bilateral position in a daily forward market (the Short Term Energy Market, STEM). Offers and bids into the STEM create a clearing price for these trades.

The Independent Market Operator (IMO), which operates the WA wholesale electricity market, produces a trading schedule based on the net contract position for each participant under bilateral contracts and through the STEM. Generators submit offers to supply balancing services. These offers set a price that market participants pay/receive based on deviations from their net contract position.

Other parts of Western Australia not covered by the SWIS are serviced by the North West Interconnected System (NWIS) in the Pilbara and the connected network between Kununurra, Wyndham and Lake Argyle, and 34 stand-alone systems in regional towns and remote communities. There is not a centralised market mechanism for the NWIS.

Given that all electricity in the NWIS and most electricity in the SWIS is traded under bilateral contracts, retailers and generators have little exposure to volatile prices like those in the NEM spot market. There is no derivatives market in Western Australia to manage risk.

The Northern Territory is supplied by three regulated systems that supply the Darwin/Katherine, Alice Springs and Tennant Creek regions, along with a number of stand‑alone systems that supply remote communities.

##### Retail markets

Retailers package wholesale electricity and network services for sale to end consumers. All NEM jurisdictions have introduced full retail contestability in retail markets[[6]](#footnote-6), although some maintain price controls on retail offers to small business and residential customers.

Retail customers are generally separated into two categories–mass market (residential and small business) and commercial and industrial. While many retailers offer services to both categories of customer, some focus only on one category.

As at 1 July 2012, in the NEM jurisdictions retail price regulation was in place in Queensland, the ACT, Tasmania, New South Wales and South Australia. Price regulation was removed in South Australia on 1 February 2013 and will be removed in New South Wales on 1 July 2014. In jurisdictions where price regulation remains, a regulator establishes a price under a ‘standing offer’ that retailers must offer to small customers.[[7]](#footnote-7) Customers can take electricity supply under the standing offer, or can choose to instead take up a ‘market offer’ at a price determined by the retailer.

In regions where there is no price regulation, such as Victoria, retailers are still required to provide a ‘standing offer’ contract that all customers can access. Although the price under these contracts is determined by the retailer, there is typically a restriction on changing prices more than once every six months.

Outside the NEM, price regulation remains in both Western Australia and the Northern Territory. In both jurisdictions the state or territory government sets the regulated price. In Western Australia small customers with annual usage of less than 50 MWh are not contestable and only the standing offer is available, whereas in the Northern Territory small customers can choose to take up a market offer.[[8]](#footnote-8) In both Western Australia and the Northern Territory the regulated price is not cost reflective.[[9]](#footnote-9)

#### 2 Electricity market participants

Across the NEM, three private businesses, AGL Energy, Origin Energy and EnergyAustralia, have significant market share in both generation and retail markets. The three businesses controlled 36 per cent[[10]](#footnote-10) of generation capacity and supplied 77 per cent of mass market customers in the NEM at June 2013.[[11]](#footnote-11)

Vertical integration is common among other market participants too. International Power, Infratil and Alinta are generation businesses with retail arms, trading as Simply Energy, Lumo and Alinta respectively. Government owned generators Snowy Hydro and Hydro Tasmania also operate in the retail market through Red Energy and Momentum Energy respectively. Similarly, outside the NEM jurisdictions, government owned businesses such as Synergy in Western Australia and Power and Water Corporation in the Northern Territory are vertically integrated.

Most jurisdictions have a number of other market participants who largely operate in generation but may have some large commercial and industrial retail customers, and others that only participate in the retail market (mass market as well as commercial and industrial customers). The largest generation focussed businesses are government owned in Queensland and New South Wales.[[12]](#footnote-12)

Even where an energy business is vertically integrated, it is unlikely that its generation capacity will match its retail customer usage. These businesses will therefore also need to engage in hedge markets to balance their exposure.

The table below lists companies that retail to mass market customers and the jurisdictions in which they are active.[[13]](#footnote-13)

Table Active electricity retailers supplying to mass market customers—June 2014

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Retailer | QLD | NSW | VIC | SA | TAS | ACT | WA | NT |
| ActewAGL Retail |  |  |  |  |  |  |  |  |
|
| AGL Energy |  |  |  |  |  |  |  |  |
|
| Alinta Energy |  |  |  |  |   |   |  |  |
|
| Aurora Energy |  |  |  |  |  |  |  |  |
|
| BlueNRG  |   |   |   |   |   |   |   |   |
|
| Click Energy |   |   |   |   |   |   |   |   |
|
| Commander Power & Gas |   |   |   |   |   |   |   |   |
|
| Diamond Energy  |   |   |   |   |   |   |   |   |
|
| Dodo Power & Gas |   |   |   |   |   |   |   |   |
|
| EnergyAustralia |   |   |   |   |   |   |   |   |
|
| Ergon Energy |   |   |   |   |   |   |   |   |
|
| ERM Power Retail |   |   |   |   |   |   |   |   |
|
| Go Energy |   |   |   |   |   |   |   |   |
|
| Horizon |   |   |   |   |   |   |   |   |
|
| Lumo Energy |   |   |   |   |   |   |   |   |
|
| Momentum Energy |  |  |  |  |  |  |  |  |
|
| Neighbourhood Energy |  |  |  |  |  |  |  |  |
|
| Origin Energy |  |  |  |  |  |  |  |  |
|
| People Energy |  |  |  |  |  |  |  |  |
|
| Power and Water Corporation |  |  |  |  |  |  |  |  |
|
| Powerdirect |  |  |  |  |  |  |  |  |
|
| Powershop  |  |  |  |  |  |  |  |  |
|
| Qenergy |  |  |  |  |  |  |  |  |
|
| Red Energy |  |  |  |  |  |  |  |  |
|
| Sanctuary Energy |  |  |  |  |  |  |  |  |
|
| Simply Energy |  |  |  |  |  |  |  |  |
|
| Synergy |   |   |   |   |   |  |  |   |
|

#### 3 Impact of the carbon tax

##### Wholesale

The majority of generators in the NEM are liable entities and therefore incur a liability based on the amount they generate and the carbon intensity of their plant. The liability increases the cost of generating, and the generators try to recover this cost by factoring their liability into their bids into the wholesale spot market and increasing hedge contract prices. These costs are borne by retailers, and then passed through to end consumers.

The spot market price, set for a 30 minute period, is the average of the highest bids required to meet demand in each 5 minute dispatch interval within that period. There is no requirement that generators’ bids reflect their costs, so it is not possible to determine the precise extent to which the spot price reflects carbon costs. Analysis of spot price outcomes by the Australian Energy Regulator (AER) shows that, after some initial volatility around the time the carbon tax was introduced, the volume weighted average spot price in the NEM (filtered for extreme price events) in the months that followed introduction of the carbon tax settled around $21 per MWh above the average price for June 2012.

Further analysis from the AER showed that during 2012–13, the average increase in the spot price required for the marginal generator to recover their carbon costs was broadly consistent in mainland regions ($17.70 per MWh), but significantly lower in Tasmania ($10 per MWh).

Figure Weekly spot electricity prices from January 2012 to June 2014

In Western Australia, there were significant rule changes introduced for the STEM as of 1 July 2012, that make it difficult to compare wholesale prices before and after the introduction of the carbon tax.[[14]](#footnote-14)

It should be noted that nine privately owned emissions intensive generation facilities received a total of $1 billion in cash payments in June 2012 from the Government’s Energy Security Fund and shared in 41 705 million free carbon permits in 2013/14.[[15]](#footnote-15)

##### Hedge Products

The impact on hedge prices varied according to the relevant market. In the exchange traded market, prices are set based on participants’ expectations of future spot market outcomes. This includes, but does not separately identify, a component to cover carbon tax costs passed through the spot price.

In the OTC market, carbon costs were incorporated into contracts in a variety of ways. Many contracts included an addendum developed by the Australian Financial Market Association (AFMA) that calculated a carbon uplift amount to be applied at the time the contract matured, if a carbon tax was in place. The uplift was calculated by multiplying the carbon reference price (CRP) with the average carbon intensity (ACI) published by AEMO. For example, a CRP of $23 per tonne of carbon (the price in the fixed-price period from 1 July 2012 to 30 June 2013) and an ACI of 0.95, the carbon adjustment would be $23 x 0.95 = $21.85 per MWh.[[16]](#footnote-16) While not necessarily reflecting the actual carbon costs passed through in the wholesale market, this addendum allowed for the carbon liability in the contracts to be adjusted in response to changes in the carbon pricing mechanism. Other OTC contracts specified their own method for calculating the carbon cost component, or provided for a carbon-inclusive price similar to that provided through futures contracts.

##### Retail

Retailers’ offers to commercial and industrial customers have also been impacted by the carbon tax. Generally speaking, retailers have offered commercial and industrial customers a choice of two types of fixed term contracts to deal with carbon risk—carbon exclusive or carbon inclusive. A carbon exclusive contract uses a carbon pass through mechanism based on the AFMA addendum methodology or other methodology agreed by the parties. A carbon inclusive or ’clean’ contract is where carbon is not separately identified and customers pay a single price. Prices under these contracts are largely derived from forward wholesale electricity markets and therefore represent the market’s best assessment of future electricity prices, including carbon pricing risk. Some retailers have reported that carbon inclusive contracts have remained popular as the energy charge under these contracts has been cheaper than for carbon exclusive contracts. Customers choosing to enter these contracts are well informed of the nature of their contracts.

Retail prices for mass market customers rose following the introduction of the carbon tax. Regulators in those jurisdictions that maintained price controls were required to estimate the impact of carbon costs in setting standing offer prices. Based on these estimates, increases in standing offer prices due to carbon costs were:

* 4.6 per cent in South Australia
* 5.6 per cent in Tasmania
* 8.9 per cent in New South Wales
* 10.6 per cent in Queensland, and
* 14.2 per cent in the Australian Capital Territory.[[17]](#footnote-17)

Outside the NEM, price increases from carbon costs were estimated to be:

* 9.1 per cent in Western Australia,[[18]](#footnote-18) and
* 6.8 per cent in the Northern Territory.[[19]](#footnote-19)

Nationally, analysis by the Australian Energy Markets Commission (AEMC) suggests that for 2012–13, the cost of carbon represented 9.0 per cent of the national average representative residential electricity price.[[20]](#footnote-20)

Retailers have advised that it is difficult to accurately define the percentage of carbon in overall retail prices. The amount of carbon costs included in an individual customer’s annual bill will vary depending on a number of factors including the customer’s consumption level, jurisdiction, distribution area, contract type and the relevant time period.

The composition of electricity bills varies across jurisdictions in the NEM, and some cost components will be different for individual retailers (particularly wholesale and retail costs). The cost of using transmission and distribution networks to transport electricity is the largest component (41-59per cent) of retail bills. Combined wholesale and retail costs account for around (25-41 per cent) and carbon costs contribute 6-13 per cent of the final electricity bill.[[21]](#footnote-21)

The chart below represents the make-up of electricity bills under the national average representative residential electricity price.[[22]](#footnote-22)

Figure Make-up of electricity bills

Retail electricity prices rose significantly over the past five years. While the carbon tax contributed to price increases across the NEM, network costs were the key price driver. Cost pressures from other climate change policies also had an impact in some years, but have remained fairly stable since 2011−12 in most jurisdictions. Retailers reported that energy efficiency polices have contributed to a softening of demand and that retail costs have risen in recent years.

#### 4 Repeal of the carbon tax

##### Retrospectivity

The ACCC seeks to ensure that consumers receive the benefit of a repeal of the carbon tax in pricing as quickly as possible. A key issue in that regard is the anticipated impact of the possible passage of the repeal legislation after 1 July 2014 eliminating carbon tax liabilities from 1 July 2014.

Upon the legislation passing, the ACCC expects that funds collected by electricity generators from carbon uplift after 1 July 2014 be returned to consumers in some way. The ACCC has been working closely with industry to facilitate an industry led solution in relation to this issue. To the extent that businesses are naturally hedged due to vertical integration, the generation arm of the business should be in a position to pass the uplift back to the retail arm of the business for distribution back to consumers.

On 19 June 2014, the AFMA electricity committee voted to set the CRP at $25.40, but reset it to $0 from 1 July 2014 in the event of a retrospective carbon tax repeal passing both Houses of Parliament by 18 July 2014. If the carbon tax repeal is voted by both Houses of Parliament after 18 July 2014, the CRP will become $0 after the repeal legislation receives royal assent.[[23]](#footnote-23) If the carbon tax repeal legislation is passed by both Houses of Parliament on or before 18 July 2014, retailers with contracts containing the AFMA addendum will see carbon taken out of their wholesale costs from 1 July 2014.

#### 5 Implementing the carbon tax repeal

For commercial and industrial customers, the extent of the pass through of costs saving resulting from the repeal of the carbon tax will depend on the nature of their contract. For customers on carbon exclusive contracts, carbon costs are identified in their bill and the ACCC expects that those costs will be removed shortly after repeal. However, ’clean’ or carbon inclusive contracts have a single all inclusive price which does not identify a carbon component, and the price may not be adjusted until the fixed term of the contract expires. Commercial and industrial customers are well informed and have elected to enter into this type of contract.

With respect to mass-market customers, in some jurisdictions standing offer tariffs are regulated and price changes will depend on determinations by the regulators. The Queensland, ACT and Tasmanian regulators have made pricing determinations that take into account the potential repeal of the carbon tax.

* Queensland customers are likely to see an increase of 13.6 per cent in the bill if the carbon tax continues, or an increase of 5.1 per cent if the carbon tax is repealed.[[24]](#footnote-24)
* In the ACT, regulated retail electricity prices will rise on average by 4.3 per cent if the carbon tax continues, or decrease by 7.3 per cent compared to current levels if the carbon tax is removed.[[25]](#footnote-25)
* In Tasmania the regulated tariff from 1 July 2014 will decrease by 7.8 per cent from the prices applying for the period 1 January 2014 to 30 June 2014.[[26]](#footnote-26)

When the carbon tax is repealed, consumers should expect cost savings from the repeal of the carbon tax will be passed through to them. Market participants such as AGL and Energy Australia have made statements guaranteeing that they will pass through any savings realised as a consequences of the carbon tax repeal.[[27]](#footnote-27) However, a key issue regarding the implementation for the carbon tax repeal is how long it will take for customers to see a change in their bill.

Regulatory impediments to retailers implementing price changes immediately following repeal of the carbon tax have been, or are likely to be, removed. Under the National Energy Retail Law (NERL), which applies in New South Wales, the ACT, South Australia, and Tasmania, retailers are restricted from making more than one change to standing offers every six months or implementing a new price before waiting 10 business days after publishing that new price. However, the AER has decided that it will not take action against a retailer for possible breaches of sections 23(5) and 27 of the NERL in circumstances where retailers are introducing lower prices to reflect savings from the repeal of the carbon tax. This removes an important regulatory impediment to seeing the repeal of the carbon tax reflected in lower electricity and gas prices as soon as possible. This approach only applies to a single lowering of prices at the time of repeal, and does not apply if a retailer attempts to change the price more than once. [[28]](#footnote-28)In Victoria, under the Electricity Industry Act 2000 (Vic), retailers are also restricted from changing standing offers that have been in effect for less than six months, and the variations cannot take effect until one month after publication in the Victorian Government Gazette. The Essential Services Commission (ESC) has released a position paper with options to deal with this issue. The ESC’s preferred option, which is similar to the AER’s approach, is to permit retailers to immediately vary their standing offer tariffs following the removal of the carbon tax and to immediately begin billing customers on the basis of the carbon exclusive price. The ESC expects to release a compliance statement on this issue by the end of July 2014 after considering stakeholder submissions.[[29]](#footnote-29)

Retailers have advised the ACCC that price changes can be expensive and complex exercises for mass market customers. The complexity of introducing a price change varies between retailers, with retailers advising the ACCC that changes to billing systems can take anywhere between 2–4 weeks to 4–6 months. Generally most retailers require around 3 months to introduce a price change. Several factors contribute to this complexity including recalculating and forecasting forward costs, and arriving at a new competitive price.

While the ACCC understands that it may take time for retailers to adjust billing systems, carbon costs will fall on repeal or soon after, and the ACCC’s expectation is that the effective date for price changes from the carbon tax repeal should be the date the legislation passes. For example, the ACCC expects that, for customers who are billed shortly after the carbon tax has been repealed but before price changes have been implemented in the billing system, retailers will offer adjustments on the customers’ subsequent bills so that the reduced prices are effectively charged as at the date of repeal. The ACCC expects retailers to clearly communicate to their customers how and when price changes will take effect.

Competition and market pressure may also provide incentives to retailers to pass through cost savings from the repeal of the carbon tax as consumers are encouraged to shop around for better deals on their electricity bills. This will be bolstered by the proposed carbon tax price reduction obligation.

Customers seeking to switch between retailers in order to take advantage of lower prices after the repeal of the carbon tax may face early termination fees if they are on a fixed term contract with their current provider. Exit and termination fees vary between states and retailers; fees for mass market customers in Victoria are limited to the pro-rata costs of procuring the customer plus $20[[30]](#footnote-30) and exit fees excluded from some market contracts for small customers in South Australia. The ACCC does not regulate these fees.[[31]](#footnote-31)

#### 6 The ACCC’s monitoring activities

The ACCC is collecting retail electricity prices as part of its monitoring role and will continue to do so throughout the monitoring period.

### Natural gas

The ACCC expects that natural gas retailers will pass through cost savings following from the repeal of the carbon tax. Changes to retail prices in billing systems may require some time to reach consumers. However the ACCC expects that the effective date for changed prices will be backdated to 1 July 2014 as it relates to the retailers’ direct carbon liability.

#### 1 Industry background

The natural gas supply chain comprises gas production, transmission and distribution, and retail supply. Gas producers extract gas and process it for use. Gas transmission is the transport of gas from producers to distribution hubs. From these hubs, the gas enters distribution networks to be delivered to customers. Retailers package wholesale gas and pipeline services for sale to residential, commercial and industrial customers.

The liability for carbon emissions in the gas sector falls at all levels of the supply chain, including producers, pipeline operators and retailers. Liability for emissions from gas extraction and processing falls on gas producers. Liability for emissions from gas losses during transportation through pipelines and the combustion of gas in compressor stations falls on the gas network operators. Some of the smaller regulated networks do not meet the minimum emissions threshold for carbon liability. However, the largest liability falls on retailers for the emissions resulting from the end-use of the gas (embodied emissions), except in the case of some large end-users with an Obligation Transfer Number who assume this liability.

The graph below shows the sector break-down of domestic consumption of natural gas for 2011–2012.[[32]](#footnote-32)

Figure 2011–2012 domestic natural gas consumption by sector.

##### Wholesale supply

Gas wholesale supply agreements are predominantly set under confidential long term contracts between the producers and energy retailers, power generators and other large gas users. Some energy retailers also own gas reserves.

Spot markets for gas have progressively emerged. A short term trading market (STTM) operates in Sydney, Adelaide and Brisbane. Victoria has a separate wholesale spot market. More recently, a gas trading exchange located at Queensland’s Wallumbilla hub commenced in 2014.

Gas producers do not widely participate in wholesale gas spot markets. Gas retailers are the main participants, both selling into and buying from the markets. The spot price is applied to participant’s net position (the difference between their gas injections into and withdrawals from the market). Spot markets account for 10−20 per cent of wholesale volume, after accounting for net positions.

Participants primarily use the markets to balance their contractual and physical gas positions. For example, where the gas requirements of a retailer’s customers exceed the retailer’s contracted volumes, the retailer can source additional gas through the spot market.

As most gas is traded through bilateral arrangements, there is no hedge market developed to support gas trading in spot markets.

##### Transmission and distribution

All distribution networks and some transmission pipelines are regulated by the Australian Energy Regulator (AER) in all states and territories other than Western Australia. In Western Australia, pipelines are regulated by the Economic Regulation Authority (ERA). The role of regulation is to make available efficient access prices for use of the transmission / distribution pipelines.

At the beginning of each five year regulatory cycle, the regulator approves an access arrangement for a specific transmission or distribution pipeline. For each access arrangement, the regulator sets a reference tariff for a reference service provided by a pipeline operator. While access to the network is always available to customers at the reference tariff, network operators and customers are free to negotiate different services at different prices. These commercial arrangements likely include prices other than those determined by the AER or the ERA. However, the reference tariff is used as a basis or starting point for prices negotiated between network operators and their customers. It protects customers by guaranteeing a known maximum price for the services offered, in the event that negotiations on different services-price offerings are not resolved.

##### Retail markets

As in the electricity market, retail customers are generally separated into two categories–mass market (residential and small business) and commercial and industrial. While many retailers offer services to both categories of customer, some focus only on one category.

All NEM jurisdictions have introduced full retail contestability in retail markets, although New South Wales maintains price controls on retail offers to small business and residential customers (those consuming less than 1 terajoule per year). South Australia also had price regulation at 1 July 2012, but has subsequently removed it. Price regulation operates in a similar manner to that in the electricity retail market.

In regions where there is no price regulation, retailers are still required to provide a ‘standing offer’ contract that all customers can access (except Tasmania, where there is no retail market control). Although the price under these contracts is determined by the retailer, there is typically a restriction on changing prices more than once every six months.

The Western Australian market is also contestable; however, the Western Australian Government regulates gas prices for small customers in the Mid-West/South-West, Kalgoorlie-Boulder and the Albany supply areas[[33]](#footnote-33). The Energy Coordination (Gas Tariffs) Regulations 2000 provide for a cap on the price that retailers can charge small customers in those supply areas. Retailers may not charge above the regulated price cap but can offer lower prices through non-standard contracts.

##### Market participants

The largest participants in the gas production sector are private Australian and international gas businesses. There is, however, some vertical integration between gas production and energy retailing. For example:

* Origin Energy is a leading energy retailer that has significant equity in coal seam gas production in Queensland and in conventional natural gas production in Victoria’s Otway and Bass basins, and a minority interest in gas production in the Cooper Basin. It accounted for 12.5 per cent of gas production in eastern Australia in 2011–12.
* AGL Energy is a leading energy retailer and has coal seam gas interests in Queensland and New South Wales.
* EnergyAustralia (formerly TRUenergy) is a third major retailer with gas storage facilities in Victoria and gas reserves in the Gunnedah Basin (New South Wales).

##### Gas retailers are also generally electricity retailers.

The gas retailers supplying to mass market customers that are currently active in each state and territory are listed in the table below.[[34]](#footnote-34)

Table Active natural gas retailers supplying to mass market customers—June 2014.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Retailer | QLD | NSW | VIC | SA | TAS | ACT | WA |
| ActewAGL |  |  |  |  |  |  |  |
| AGL Energy |  |  |  |  |  |  |  |
| Alinta Energy |  |  |  |  |  |  |  |
| Dodo Power & Gas |  |  |  |  |  |  |  |
| EnergyAustralia |  |  |  |  |  |  |  |
| Esperance Gas Distribution Company |  |  |  |  |  |  |  |
| Lumo Energy |  |  |  |  |  |  |  |
| Origin Energy |  |  |  |  |  |  |  |
| Red Energy |  |  |  |  |  |  |  |
| Simply Energy |  |  |  |  |  |  |  |
| Synergy\* |  |  |  |  |  |  |  |
| Tas Gas Retail |  |  |  |  |  |  |  |
| Wesfarmers Kleenheat Gas |  |  |  |  |  |  |  |

\* Synergy may only supply to customers who consume more than 180GJ’s per year.

##### Factors affecting prices

Natural gas prices have risen substantially since 2007—a trend industry expects will continue over the next few years. Historically, domestic natural gas prices (particularly in Eastern Australia) have been lower than the international natural gas prices. However natural gas commodity prices are rising due to the linking of domestic natural gas prices to the higher international natural gas price. This is a relatively new phenomenon due to increased LNG exporting infrastructure coming online in Queensland over the next few years with some infrastructure expected to come online as early as late 2014.

Industry has also noted the increased costs associated with extracting natural gas and higher refining costs.

#### 2 Impact of carbon tax

##### Wholesale

Generally, wholesale contracts between producers and retailers or other large gas users have provided for the pass through of carbon costs. Producers have passed along those costs under agreements with their customers that reflect the producer’s direct carbon tax costs. Gas producers have advised that carbon tax costs are typically identified as a separate item on invoices.

Analysis by the Australian Energy Market Operator (AEMO) found that there was no noticeable change in wholesale gas prices in the gas markets operated by AEMO following introduction of the price on carbon.[[35]](#footnote-35)

##### Transmission and distribution

The larger pipelines regulated by the AER easily exceed the minimum threshold for carbon liability. Where carbon liabilities are incurred, the impacts on reference tariffs are equal to 1–2 per cent of the operators’ annual revenues. Some of the smaller pipelines regulated by the AER do not meet the threshold, so do not incur any carbon tax costs. Their tariffs therefore have no carbon price component.

For those pipelines that do incur carbon tax costs, the way these are passed through to customers varies. In part this depends on whether the access arrangements were made after the carbon price mechanism was legislated. As to how carbon tax costs are expressed in pipeline charges, some operators have established separate carbon price elements within their price schedules while others simply merge carbon costs within their standard network charges.

For Western Australian transmission businesses, the treatment of carbon tax costs under access arrangements varies. For one transmission pipeline, carbon tax costs are included in the forecast operational expenditure used to calculate the reference tariff. Alternatively, the operator of a transmission pipeline can apply to the Economic Regulation Authority for a carbon tax pass through, however, no operators have actually made such an application to date. It should be noted that customers are free to negotiate their own prices with the transmission pipeline operators as an alternative to the reference tariff. These bilateral contracts may or may not include carbon tax costs, according to terms the parties have negotiated. The access arrangement for the Western Australian gas distribution network includes a carbon tax pass through in the reference tariff variation mechanism.

##### Retail

Commercial and industrial customers typically acquire gas from retailers under fixed term contracts. In general, these contracts allow for the retailers direct and indirect (upstream) carbon tax costs to be passed through to the customer. However the method of passing through these costs varies. Commonly, contracts with commercial and industrial customers allow for the pass through of the retailers’ direct costs as a separate line item, and the indirect costs as an unidentifiable component of the commodity charge. However, a small number of contracts may have both direct and indirect costs identified as separate line items or, alternatively, have both direct and indirect costs included as unidentifiable components of the commodity charge.

In relation to mass-market customers, regulators in those jurisdictions that maintained price controls were required to estimate the impact of carbon tax costs in setting standing offer prices. At 1 July 2012, only New South Wales and South Australia regulated retail gas prices. Based on these estimates, standing offer prices rose by 4.5 per cent in South Australia[[36]](#footnote-36) and 6 per cent in New South Wales[[37]](#footnote-37) due to the carbon tax. In Western Australia, carbon costs are passed through as a separate charge in addition to the regulated tariff.

Retailers have indicated that the effect of the carbon tax on retail prices has varied significantly, depending on the terms of the contract by which the gas was acquired, the jurisdiction that the gas was sold in as well as which pipelines are used to transport the gas. Retailers estimated that the proportion of carbon tax costs in retail prices has ranged from 3.7 per cent to 9.2 per cent, however retailers also contended that it would be extremely difficult to determine the actual proportion of prices that were attributable to the carbon tax at a particular point in time.

#### 3 Repeal of the carbon tax & the ACCC’s monitoring activities

##### Gas producers

As carbon is generally an itemised pass-through in wholesale contracts, the ACCC expects the pass-through to stop when the repeal legislation is passed. If a customer has already been invoiced for a carbon charge for the period from 1 July 2014 to the date of repeal, the ACCC expects gas producers to provide a refund or adjustment to their customers.

##### Transmission and distribution

The mechanism by which carbon costs may be removed from reference tariffs will vary among pipelines, reflecting the variety of approaches included in the current suite of access arrangements. The AER considers that, generally, it will not be possible to vary reference tariffs within a regulatory year as most access arrangements typically allow for only an annual variation. Reference tariffs for 2014/15 necessarily include carbon costs because they have been approved ahead of 1 July 2014. However, the AER considers that pipeline operators may immediately remove the carbon cost component from the prices they charge. This would mean the operators would choose to recover in prices less than the reference tariffs approved by the AER. When reference tariffs are reset at the beginning of the next regulatory year, the AER will take into account any voluntary under recovery by pipeline operators in respect of carbon costs. The AER is liaising with pipeline operators on these issues, to cooperatively provide for a pragmatic outcome that is consistent with the regulatory framework.

In Western Australia, where the reference tariff for a transmission business is based on forecast operational expenditure that includes carbon tax costs, the operator will be required to apply for a tariff variation if the carbon tax is repealed. However, where the forecast operational expenditure used to calculate the reference tariff does not include carbon tax costs and there has been has been no application for a carbon tax pass through, there will be no change to the reference tariff on repeal.

The Economic Regulation Authority is currently reviewing the access arrangement of the Western Australian gas distribution network. The current reference tariffs will remain in place until the new access arrangement is approved. Any over-recovery of carbon costs in 2014/15 is expected to be taken into account in setting revenue requirements and reference tariffs in subsequent years.

It should be noted that customers may have entered into different commercial arrangements with network operators, potentially involving a different process for the removal of carbon tax costs that are passed through.

##### Retail

Commercial and industrial customers can expect that pass through of retailers’ direct carbon tax costs will cease after the carbon tax is repealed. However, adjustments to the pass through of indirect costs will depend on the terms of the particular contract. In some cases, the commodity charge is based on forward estimates of wholesale gas prices incorporating the likely cost of carbon in the future. In these circumstances there may not be an adjustment to the commodity charge to account for the repeal of the carbon tax.

The Independent Pricing & Regulatory Tribunal (IPART) in New South Wales has recently released its updated multi-year pricing agreements with each standard gas retailer in NSW.[[38]](#footnote-38) Regulated retail gas prices for 2014–2015 will increase between 14.6 per cent and 18.1 per cent, inclusive of carbon. If no carbon component applied from the start of 2014–15, IPART determined that the price increases would range from 8.7 per cent to 12.6 per cent. IPART indicated that the pricing agreements include provisions for adjusting regulated retail prices if the carbon price is repealed before 1 July 2015. In this event, IPART will request proposals from the retailers for removing carbon costs from prices.

As with electricity, regulatory impediments to retailers implementing quickly new standing offer prices post carbon repeal have been or are likely to be removed.[[39]](#footnote-39)

A key issue for retail gas consumers is how quickly they will receive the benefit of the carbon tax repeal once the legislation is passed. Most retailers have advised that changing a customer’s bill is a complex and expensive process that also requires significant testing before bills can be updated. Information from retailers indicates that the time needed to implement a price change ranges from a short period of time for a small retailers to 4 to 6 months, but is generally around 3 months.

However, irrespective of the time taken to effect a price change, the ACCC expects that the effective date for the price change should be when retailers receive a reduction in costs, not when a bill is issued to customers. If a retailer’s billing cycle is such that it will issue bills to customers before the price change can be executed in the billing system, then the ACCC expects the retailer to provide a refund or adjustment in the customer’s next bill. The ACCC also expects retailers to clearly communicate with their customers.

When the repeal legislation is passed, gas retailers will have their own liability immediately extinguished from 1 July 2014 and can pass through to consumers the related cost reduction from 1 July 2014. Upon repeal, gas producers are expected to stop invoicing for carbon tax cost pass through and to refund the amount collected, if any, to cover carbon costs for the retrospective period or otherwise adjust customers’ bills. Once these upstream carbon tax cost savings are passed through to retailers, the ACCC also expects these carbon tax cost savings to be quickly passed through to consumers. As indicated above, removal of carbon pass through costs from transmission and distribution reference tariffs will be effective in the following regulatory period.

One retailer has indicated they intend to handle retrospectivity by not charging a carbon price from 1 July 2014 and that if the carbon tax repeal does not occur, the retailer would charge a higher tariff the following year to recover any outstanding direct carbon liability.

The ACCC is collecting retail gas prices as part of its monitoring role and will continue to do so throughout the monitoring period.

### Synthetic greenhouse gas

The ACCC expects that following the repeal of the carbon tax there will likely be limited windfall gains in the SGG industry, which the ACCC expects will subsequently be returned to customers. Stock attracting the equivalent carbon price levy is likely to pass through the supply chain very quickly. The price effects of stock imported after the carbon tax repeal legislation is passed should be immediate.

The ACCC expects that:

* Importers will return to their wholesale customers, in the form of refunds or adjustments on a pro-rata basis, any funds collected to cover the potential levy in the period between 1 July 2014 and the enactment of the carbon tax repeal legislation.
* Wholesalers pass through any refunds or adjustments received from importers in the form of refund or adjustment to large on-going customers, and to otherwise pay back any collected levy through lower forward pricing.
* Contractors pass through any collected levy via forward pricing, as facilitated by competition.

#### 1 Industry background

Synthetic greenhouse gases (SGGs) listed under the Kyoto Protocol are subject to an equivalent carbon price levy (the levy), applied through the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.[[40]](#footnote-40) The levy is based on the carbon tax and the global warming potential of each gas relative to carbon dioxide.[[41]](#footnote-41) The following table shows the levy per kilogram for the most common gases:

Table Table showing the 2012–13 and 2013–14 equivalent carbon price levy for R134a, R410A and R404A

|  |  |  |  |
| --- | --- | --- | --- |
| **SGG** | **Global Warming Potential** | **Equivalent Carbon Price Levy 2012–13** **(carbon price $23/tonne)** | **Equivalent Carbon Price Levy 2013–14** **(carbon price $24.15/tonne)** |
| **R134a** | 1300 | $29.90/kg | $31.40/kg |
| **R410A** | 1725 | $39.68/kg | $41.66/kg |
| **R404A** | 3260 | $74.98/kg | $78.73/kg |

These gases are primarily used in:

* R134a: vehicle air-conditioning systems and refrigeration systems in supermarkets and homes
* R410A: domestic and commercial air-conditioning systems, and
* R404A: freezers.

The supply chain in Australia is relatively concentrated upstream and includes a small number of importers (some of whom are also wholesale distributors) and wholesalers. In the downstream supply chain, there are thousands of contractors who use the gases to provide various services.[[42]](#footnote-42) Refrigeration services are also necessary in a vast number of different industries; primarily the agriculture and transport industries, where refrigerated vehicles are necessary to transport food such as seafood, dairy, meat and poultry, frozen foods, from manufacturers to retailers and consumers. Refrigerant gases are necessary in hospitals and pharmaceutical supply lines.[[43]](#footnote-43)

The ACCC notes that synthetic greenhouse gas equipment is not covered by the Direction; however the following observations will be relevant during the period following the repeal. Synthetic greenhouse gas equipment is imported into Australia already containing synthetic greenhouse gas and includes products such as refrigerators, automobiles and air conditioning units. Since these products are generally manufactured overseas the suppliers of the contained synthetic greenhouse gasses are not subject to the carbon tax. Entities that import these products will be liable to pay the levy, but this will ordinarily be a small amount because each product is only pre-charged with a minimal amount of synthetic greenhouse gas.

According to the Department of Environment in 2012, the levy caused only a small increase in the prices of end-products for ordinary consumers; for example, a typical price increase for an average domestic refrigerator would have been $4 due to the higher cost of the refrigerant gas it contained.[[44]](#footnote-44)

The levy applies to both manufacturers and importers of refrigerant gases; however, as there are no Australian manufacturers of SGGs, the levy is applied at import and paid by the importer. The levy is required to be paid within 60 days of the end of the quarter in which the import occurred.[[45]](#footnote-45)

The levy does not apply to refrigerant gases which are not SGGs, such as R22.

The Government intends to remove the levy from 1 July 2014 as part of the carbon tax repeal package.

#### 2 Impact of the carbon tax

After the carbon tax was introduced on 1 July 2012, the refrigerants industry stood out as an industry attracting a large number of consumer complaints reported to the ACCC. The complaints showed significant increases in the prices of gases, with the increases being much greater than the applicable levies.

From the complaints received, the ACCC was concerned that some SGG suppliers were not accurately representing the effect of the levy on their prices. Specifically, the ACCC wanted to ensure that industry participants did not mislead consumers about prices by attributing entire price increases to the levy where this was not the case.

Enforcement activities in this area resulted in the ACCC:

* accepting a court-enforceable undertaking from a South Australian refrigeration contractor, for making misleading representations attributing the entire amount of an increase in the price of a refrigerant gas to the levy when that was not the case
* resolving a number of investigations administratively, with contractors subject to investigations agreeing to send notices to their customers correcting the misleading representations they had made about the impact of the levy
* instituting proceedings against Actrol Parts Pty Ltd, alleging false or misleading representations and misleading or deceptive conduct about the reasons for significant increases in the price of certain gases. The ACCC alleges that Actrol made false or misleading representations concerning the reasons for significant increases in the price of certain hydrofluorocarbon refrigerant gases, including a false or misleading representation that the increases in price were due to the introduction of the carbon tax scheme. This matter is still in court at the time of publishing this report.

In response to the ACCC’s voluntary information requests, importers and wholesalers have generally stated that they set prices for gases according to market conditions. Industry participants have claimed that apart from the levy, they have incurred the following costs as a result of the carbon tax scheme, due to the higher price of the gases:

* increased insurance and finance costs
* increased security costs (due to the increase in value of the gases)
* increased administrative and compliance costs.

Generally, the levy is not identified as a separate item in the overall price of refrigerant gases**.** Most importers and wholesalers have indicated that they do not just pass through the value of the applicable levy; instead, the levy is included in their cost base along with other input costs.

It appears from the information provided to the ACCC that importers and wholesalers generally stockpiled gases prior to the introduction of the levy on 1 July 2012. This is consistent with a study prepared for the Department of Environment which found that the announcements in mid–2011 of the impending introduction of the levy resulted in a significant increase in bulk imports in 2012, and strong growth in stocks held by businesses throughout the supply chain.[[46]](#footnote-46) According to import figures, over 2.7 years’ worth of average supply of SGGs were imported in the 12 months before the introduction of the carbon tax.[[47]](#footnote-47)

Import data indicates that following the introduction of the carbon tax the vast majority of importers did not import any SGGs in 2012–13 and those that did either imported small quantities of gases or less common gases. One importer has not imported since the introduction of the carbon tax and another has stated that most products it supplied were imported before July 2012. Further information is required for the 2013–14 period.

Industry participants also submitted that the levy generally led to changes in consumer behaviour, including reduced consumption and recycling of refrigerants,[[48]](#footnote-48) and vertical integration of market suppliers. Customers who entered supply contracts with importers and wholesalers may also have sought to enter into contracts with shorter supply terms, to ensure price adjustments could be made when necessary. SGG suppliers have also changed their gas container fleet to smaller containers to accommodate customers’ changing preference for keeping less stock on hand.

#### 3. Repeal of the levy

A key issue in relation to the SGG sector with regard to the carbon tax repeal relates to the level and type of stock at the time of the repeal and the time it will take for stock attracting the levy to filter through the supply chain.

Following the enactment of the proposed carbon tax repeal legislation, industry participants may have up to three types of stock on hand:

1. Stock imported before 1 July 2014 which attracts the levy.
2. Stock imported after 1 July 2014 but before the carbon tax repeal legislation is enacted, on which the levy may be charged but may not need to be remitted, and subsequently sold.
3. Stock imported after the carbon tax is repealed, which will not attract the levy. The time period for stock to filter through the supply chain varies but is considered to be generally three to six months for common SGGs, and can be longer for less common gases. However, based on information provided, the ACCC considers that the length of time for higher priced stock to filter through the supply chain following the carbon tax repeal will be shorter than three to six months.

In response to the ACCC’s information requests, SGG importers and wholesalers have indicated that they are seeking to mitigate financial risks associated with the repeal by managing stock levels closely in the lead-up to the repeal. Some importers and wholesalers are reducing the volume of stock they have on hand before 1 July 2014 or only purchase on customers’ requests. Some industry participants have indicated that they will not have any stock which attracts the levy after 1 July 2014. Industry associations have indicated that, as suppliers seek to deplete their stock prior to the repeal, some types of SGGs may be difficult to source around 1 July 2014. Some contractors do not stock SGGs and source them directly from wholesalers. Due to their preference for smaller-sized cylinders, contractors will likely hold less stock. Industry participants have also indicated that end users seem to be using up their stock and delaying servicing their air conditioners until after 1 July.

Importers could make windfall gains if they import gases after 1 July and onsell them before the carbon tax repeal. During this period, the levy would still apply and importers would have collected funds from customers to cover the potential levy. However, following the enactment of the carbon tax repeal legislation, the levy will no longer be required to be remitted 60 days after the end of an import quarter. The size of any windfall gains will depend on the volume of refrigerants imported and onsold in the period from 1 July to the repeal.

The ACCC expects that:

* Importers will return to their wholesale customers, in the form of refunds or adjustments on a pro-rata basis, any funds collected to cover the potential levy (collected levy). The relevant wholesale customers are those who have purchased SGGs in the period between 1 July 2014 and the enactment of the carbon tax repeal legislation. However, the ACCC does not expect importers to track whether particular cylinders sold to customers incurred a carbon tax.
* Wholesalers pass through any refunds or adjustments received from importers in the form of refund or adjustment to large on-going customers, and to otherwise pay back any collected levy through lower forward pricing. Again, the ACCC does not expect wholesalers to track whether particular cylinders sold to customers incurred a carbon tax.
* Contractors pass through any collected levy via forward pricing, as facilitated by competition. This will be monitored by the ACCC.

#### 4 The ACCC’s monitoring activities

The ACCC will continue to seek quarterly volume and pricing data from SGG importers and wholesalers throughout the monitoring period.

## Tier 2 industry assessments

Tier 2 industry assessments are based on the responses to the ACCC’s information requests to some liable entities and some additional entities and further information gathered by the ACCC. Information provided by entities in these industries suggests that the effect of the carbon tax scheme is mixed and the degree and extent to which carbon tax costs are passed through varies. The ACCC has sent further voluntary information requests to some entities in these industries to clarify aspects of the responses received to the March 2014 voluntary information requests.

Entities in these industries are not liable under the proposed carbon tax price reduction obligation provision but the ACCC expects that, in effective, competitive markets, carbon tax cost savings will be passed through. The ACCC expects that entities in these industries will engage with the ACCC in its monitoring role and commit to working through the complexities they encounter with the carbon tax scheme to ensure that when the carbon tax is repealed, cost savings are passed through to consumers. The ACCC will monitor complaints should issues arise.

### Landfill facility operation

The ACCC expects that when the carbon tax is repealed, landfill facility gate fees or associated waste management charges will generally reduce, or will not rise by as much as they otherwise would have (the exception being the fees and charges of the small number of entities that did not pass through carbon tax costs).

The ACCC expects that when the carbon tax is repealed, any liable entities that have collected monies for future carbon tax liabilities that will no longer eventuate will deal with that revenue appropriately. For the landfill industry specifically:

* Local councils which are not subject to variation clauses in long term contracts should use the money for the benefit of rate-payers, whether this is by expending the money on projects or infrastructure benefiting their communities or by accounting for this additional money by setting their future fees and charges lower than they otherwise would have been.
* Private companies should refund the money to their customers where possible. Where this is not possible (for example, where customers cannot be identified), they should account for this additional money by setting their future prices lower than they otherwise would have been.

The ACCC has communicated these expectations to landfill industry representatives.

#### 1 Industry background

Landfill facilities are operated by private companies or local councils. Common ongoing cost drivers in the industry include equipment (e.g. chemicals, linings, filters), labour, depreciation (vehicles, equipment), electricity, fuel and landfill licence costs.

Entities in the landfill operation industry cited state government imposed landfill levies as the most significant cost driver.[[49]](#footnote-49) Levies are generally passed through to landfill facilities’ customers on a dollar per tonne basis as part of the gate fees for using the landfill facility. Levy amounts vary between states, but all have a scheduled increase in the 2014–15 financial year of between $3.70 and $32.00 per tonne (depending on the regulated area and type of waste).[[50]](#footnote-50)

Other cost drivers cited by some entities in the industry include: maintenance costs of closed landfill facilities, construction costs for new landfill facilities, compliance costs associated with state government best practice environmental guidelines and standards, and the costs of installation and operation of landfill gas capture systems.

##### How carbon tax liability arises in this industry

Landfill facilities are generally liable for the purposes of the carbon tax due to emissions from solid waste deposited into landfill, emissions from the biological treatment of solid waste, and/or emissions from fuel combustion (petroleum based oils and greases).

Landfill facilities’ liability from solid waste arises if they emit more than 25,000 tonnes of carbon dioxide equivalent (CO2–e) per year. Emissions are CO2 ‘equivalent’ because the majority of gas emitted by a landfill is methane. Methane has a global warming potential that is 21 times that of CO2. As such, a landfill only needs to emit just over 1,000 tonnes of methane to be liable under the carbon tax. Decomposition, and therefore emission rates, of solid waste are affected by the composition of the waste. For example, the emissions profile of construction and demolition waste is minimal, whereas the emissions profile of municipal solid waste or mixed domestic waste is high. Therefore landfills with differing waste compositions will have differing CO2–e liabilities.

Solid waste at landfill does not begin emitting CO2–e immediately. Emissions will gradually rise until reaching a peak decades later, after which they begin to drop until they fall below the 25,000 tonne CO2–e threshold. Modelling used in the National Greenhouse and Energy Reporting (NGER) Scheme solid waste calculator takes these timeframes into account. As waste deposited into landfill in the first year of the carbon tax scheme is assumed to emit no CO2–e, there were no direct carbon tax costs in the 2012–13 financial year for emissions from solid waste deposited in that period. However for the 2013–14 financial year, these direct carbon tax costs will significantly increase as the waste deposited in the previous financial year will be considered to have begun to produce CO2–e emissions.

There is assumed to be no similar delay in the production of emissions from the biological treatment of solid waste (for example, composting) for landfill facilities that undertake such treatment.

Landfill facilities that use gas capture and combustion systems are able to reduce their emissions below the relevant threshold by either flaring the captured methane to turn it into CO2, or combusting the methane to generate electricity which can then be used by the landfill facility or sold back into the grid.

The Carbon Credits (Carbon Farming Initiative) Act 2011 allows the CER to issue carbon credits for certain emissions abatement measures, such as gas capture and combustion systems. Each carbon credit represents one tonne of CO2–e net abatement (through either emissions reductions or carbon sequestration) achieved by eligible activities. Liable entities are then able to sell their carbon credits or, in certain circumstances, surrender them to the CER to extinguish their carbon tax liability in whole or in part. [[51]](#footnote-51)

Figure Future Emissions Chart 2012–2014[[52]](#footnote-52)



#### 2 Impact of the carbon tax

##### Industry approaches to pricing after the introduction of the carbon tax

Landfill operators’ carbon tax liability for the waste deposited by a customer/rate-payer will continue for as long as that waste continues to produce liable emissions. This could be decades into the future. However, in most cases, landfill operators will not have an ongoing relationship with that customer/rate-payer covering the same period of time. Given this, liable entities in this industry generally took the approach that they needed to recover the costs of both the current and future carbon tax liability of the waste deposited by a customer/rate-payer, at the time of deposit.

A very small number of liable entities took a different approach. They calculated the carbon tax costs component of their prices on a year-by-year basis. They set a carbon tax cost component that would allow them to collect enough to pay the amount of direct carbon tax costs they estimated they would have to pay for that year alone. In other words, they did not factor in their carbon tax liability for future emissions.

Around 70 per cent of liable entities in this industry included a carbon tax cost component in their landfill facilities’ gate fees (also known as landfill disposal charges) from the commencement of the 2012–13 financial year.[[53]](#footnote-53) Around 54 per cent of liable entities in this industry advised the specific amount of the carbon tax cost component in their landfill facilities’ gate fees. For some liable entities, the carbon tax cost component is static. For others, it varies according to the type of waste. Using the figures provided for municipal solid waste / mixed domestic waste, the carbon tax cost component of the gate fees for the 2012–13 financial year ranged between $5.00 and $35.00 per tonne for those liable entities that advised a specific amount. The average carbon tax cost component charged was $15.45 per tonne. Total gate fees for municipal solid waste / mixed domestic waste for the same period (where this information was available), ranged between $57.00 and $325.00 per tonne, with an average of $150.09 per tonne.

The average carbon tax cost component of the 2013–14 financial year gate fees for those liable entities that advised a specific amount was $14.19 per tonne, however the range remained the same as for the 2012–13 financial year (i.e. between $5.00 and $35.00 per tonne). Total gate fees for municipal solid waste / mixed domestic waste for the same period (where this information was available), ranged between $63.00 and $322.00 per tonne, with an average of $193.36 per tonne.

Some liable entities with multiple landfill facilities reported not being able to pass through carbon tax costs in all instances due to specific contracted customers refusing to accept a carbon tax costs pass through and/or local competitive pressure from smaller landfill facilities that were not liable entities under the carbon tax scheme.

Of the liable entities that are local councils, around 65 per cent included a carbon tax cost component in their rates or domestic waste management charges for the 2012–13 financial year. This increased to 67 per cent in the 2013–14 financial year. Some local councils only included a carbon tax cost component in their rates or domestic waste management charges, some only included a carbon tax cost component in their landfill facilities’ gate fees, and some did both.

Around 13 per cent of the entities that provided information to the ACCC reported that they have not passed through their carbon tax costs in their prices at all. These entities either did not explain why they chose not to pass through their carbon tax costs, or advised that their internal modelling had predicted that the carbon credits generated from their landfill gas capture activities would be sufficient to negate their carbon tax liabilities.

##### How liable entities’ carbon pass through amounts were calculated

Liable entities generally took the following factors into account when calculating the costs of the carbon tax on their business, and when calculating the dollar per tonne carbon tax cost component they included in their pricing:

* annual or monthly data of waste tonnages received by the landfill facility, and the composition of the waste, as recorded at the landfill facility’s weighbridge
* the use of waste tonnage and waste composition data, as well as information regarding the landfill facility’s size and climate zone[[54]](#footnote-54), to project that waste’s future emissions over its life within the landfill facility
* if applicable, the current and projected reduction in those future emissions due to the operation of landfill gas capture systems
* the price of carbon units. Some liable entities used the carbon unit price applicable at the time and others used estimated future carbon unit prices (from the Commonwealth Treasury’s Carbon Price Modelling) when considering the waste’s future emissions[[55]](#footnote-55)
* if applicable (i.e. for liable entities that are local councils), distributing the carbon costs across the number of residential and commercial customers covered by their waste management services
* if applicable, the liable entities’ consideration of the level of cost increase their customers would be likely to accept and/or the level of cost increase the entities observed at competing landfills
* the liable entities’ indirect carbon tax costs (all liable entities reported facing indirect carbon tax costs, although only around one quarter of the liable entities reported that they factored these costs into their carbon tax cost component calculations).

In estimating the future emissions of a tonne of waste over its ‘life’ in a landfill facility, the periods of time the liable entities reported that they used ranged from 30 years to 100 plus years.

In determining and estimating the above factors, most liable entities utilised the NGER Scheme solid waste calculator, the NGER (Measurement) Determination for estimating an emissions profile at a landfill facility, and/or guidance from the Australian Landfill Owners Association.

#### 3 Anticipated industry pricing changes

##### How prices may change in the 2014–15 financial year

Around 48 per cent of liable entities reported utilising landfill gas capture systems. The operation of these systems could reduce their landfill facilities’ emissions and therefore the liable entities’ overall carbon tax costs.

The direct carbon tax costs for liable entities in this industry is determined in a way that involves an assumption that waste deposited into landfill in the first year of the carbon tax scheme will emit no CO2–e in that year, but will begin emitting CO2–e from the following year. Accordingly, the direct carbon tax costs that will be imposed on liable entities in this industry for the 2013–14 financial year is likely to be significantly higher than what their direct carbon tax costs were at the end of the 2012–13 financial year.

Further, the carbon unit price increased to $25.40 a tonne on 1 July 2014 and many states’ landfill levies increased on the same date.

Where applicable, entities may take these changes to their costs into account when setting their prices for the 2014–15 financial year. This could mean that as of 1 July 2014, some entities may have changed the amount of the carbon tax cost component in their prices, decided to remove a carbon tax cost component altogether or decided to begin including a carbon tax cost component in their prices where previously none existed to cover their carbon tax liability from that time until the carbon tax is repealed.

##### Effect of proposed carbon tax repeal

A repeal of the carbon tax will have no effect on the pricing of the 13 per cent of entities that reported to the ACCC that they did not pass through any carbon tax costs in their prices.

Around half of the entities that provided information to the ACCC reported that they intend to remove the carbon tax cost component from their landfill facilities’ gate fees, rates or domestic waste management charges (as applicable) upon repeal. Around a quarter of entities that provided information to the ACCC either did not state their intentions or advised that they had not yet considered what they would do with their prices upon the repeal of the carbon tax.

Around 10 per cent of entities that provided information to the ACCC advised that they intended to remove, or were considering removing, the carbon tax cost component from their landfill facilities’ gate fees from the start of the 2014–15 financial year. Generally, this was because of the possibility that the carbon tax repeal will have retrospective application from 1 July 2014. One entity, Veolia Environmental Services (Australia) Pty Ltd has publically stated it will remove the carbon tax element completely from 1 July 2014.[[56]](#footnote-56)

Around 33 per cent of entities that provided information to the ACCC considered that, regardless of the repeal of the carbon tax, their prices may increase, or not fall by as much as they would have, given anticipated increases in state landfill levies (as explained above), the CPI, and/or normal operating costs.

As explained above, the carbon costs component that the vast majority of monitored entities charge to a customer or rate-payer takes into account the entity’s liability for the waste deposited by that customer / rate-payer for as long as that waste will continue to produce liable emissions. Accordingly, upon the repeal of the carbon tax these entities will have collected monies for future carbon tax liabilities that will no longer eventuate.

#### 4 The ACCC’s expectations and monitoring activities

In its monitoring role, the ACCC will continue to seek information from entities within this industry. Subsequent information gathering will include consideration of any adjustments to prices for the 2014–15 financial year in light of the changes in the industry discussed above, any adjustments to prices upon repeal of the carbon tax, and entities’ intentions regarding any revenue collected for future carbon tax liabilities that will no longer eventuate after the repeal of the carbon tax.

### Paper, glass and plastic

The ACCC expects that when the carbon tax is repealed, entities in the paper, glass and plastic manufacturing industry that currently pass through carbon tax costs will pass through cost savings. This may be by removing the carbon charge per tonne or reducing prices.

The ACCC expects that entities in the paper, glass and plastic manufacturing industry will respond to the carbon tax repeal in a timely manner to ensure that cost savings are passed through to consumers as soon as practicable.

#### 1 Industry background

This industry assessment covers liable entities that undertake a broad range of paper, glass and plastic manufacturing. It includes manufacturing of polyethylene and other plastics, blown and pressed glass, recycled paper, paper stationery, cardboard, packaging and hygienic paper. As such, this industry assessment is an aggregation of a number of different markets.

#### 2 Market observations

While this industry assessment comprises several distinct markets, some general comments regarding market conditions in the paper, glass and plastic industry can be made.

The markets in this industry tend to be heavily exposed to global prices. Many of the paper, glass and plastic manufacturing entities are price takers in global markets.

The number of entities operating in the markets within these industry sub-sectors varies from two or three key entities to numerous entities with no clear major players. Some of those markets with few major entities also contain many smaller players that are not exposed to a direct carbon tax liability and specialise in niche aspects of the market, such as recycled products.

The cost structures of entities in the industry are broadly similar. The main cost drivers are raw materials, energy and gas. Electricity and gas prices in particular have risen sharply in recent years, and most entities expect increasing gas exports to cause Australian prices to rise to international levels. Property, labour and transport were also identified as significant input costs.

#### 3 General assessment of information provided by entities: prices, costs, profits

Due to the nature of the manufacturing process, most liable entities within the paper, glass and plastic industry are relatively emissions-intensive. Entities were subject to direct and indirect carbon tax costs as well as the associated costs of compliance with the scheme. The types of indirect carbon tax costs reported varied somewhat, but commonly included increasing costs of electricity and raw materials. Most entities were able to identify their indirect carbon tax costs, albeit often as an estimate, but some entities encountered difficulties in doing so because their suppliers had not advised what portion of their prices were attributable to the carbon tax. Compliance costs were reported by all entities and most commonly involved the engagement of professional auditors to assist with applications for assistance under the Jobs and Competitiveness Program (JCP).

Every entity in the paper, glass and plastic industry that provided information to the ACCC received assistance through the JCP in the form of free carbon units. The proportion of total carbon tax costs offset by JCP assistance varied. However the majority of these entities performed emissions-intensive trade-exposed activities and, as a result, received JCP assistance of 94.5 per cent of industry average carbon tax costs in the first year after the introduction of the carbon tax.

The degree of sophistication in tracking the impact of the carbon tax varied depending on the internal and external resources devoted to the task by the entity. A number of entities engaged external consultants to assist with predicting and allocating their costs, often utilising NGER audits for years prior to the introduction of the carbon tax.

Of the glass and paper manufacturing entities that provided information to the ACCC, two entities pass through carbon tax costs across all their products, two entities make a partial pass through of carbon tax costs by increasing the cost of particular products only and four paper manufacturing entities do not pass through any carbon tax costs.

The four entities that do not pass through any carbon tax costs operate in global markets and advised that their prices are determined by global conditions. As a result of receiving JCP assistance some of these entities do not have a net carbon tax cost to pass through. Similarly, the entities that make a partial pass through of carbon tax costs do so for products that are not exposed to global prices. These entities were forced to absorb their carbon tax costs in relation to products that are exposed to global prices. Two of these entities stated that even in relation to those products that were not exposed to global prices, they could only pass through carbon tax costs to customers that individually agreed to a price change or where contracts permitted a change in pricing.

The four entities that pass through carbon tax costs did so either as a net carbon charge per tonne, as a percentage of price (ranging from 1–2 per cent), or a mix of the two approaches. Some of these entities manufacture similar products to those entities that do not pass through their carbon tax costs.

Some entities that pass through carbon tax costs do so transparently, identifying to customers the specific amounts or percentages in their prices which are attributable to the carbon tax, while others do not specifically identify carbon tax components on invoices.

#### 4 Issues arising from entities’ responses

One entity that passes through a net carbon tax cost to all customers stated in its response that some of its customers had a delayed (30 or 60 days) imposition of this charge due to contractual restrictions on price adjustments. The entity also stated that when the carbon tax is repealed, the timing of the removal of the carbon charge from these customers will be delayed accordingly.

Another entity suggested the process of removal of the carbon component in its prices upon repeal would be a potentially long and complex task. It identified a lag between its JCP assistance and its incurred direct carbon tax costs as well as the time required to renegotiate raw material supply contracts as the causes.

The ACCC is seeking further information from these entities to better understand the circumstances around these issues. That information will be summarised in the next report.

#### 5 The ACCC’s monitoring activities

Following repeal, the ACCC expects once the carbon tax cost component is removed that pass through of carbon tax cost savings will occur for certain plastic, glass and some paper products. The ACCC will continue to monitor those entities within the paper, glass and plastic industry that pass through a carbon tax cost to their customers to better understand the circumstances in which some entities could pass through carbon tax costs and others could not.

### Food—dairy and ingredients

The ACCC expects that because entities in the dairy and ingredient manufacturing industry were able to achieve a small pass through of carbon tax costs, when the carbon tax is repealed, any carbon tax cost component of prices will be removed.

#### 1 Industry background

This sector of the food manufacturing industry covers liable entities that manufacture sugar, flour and milk, as well as many of their derivatives or by-products, such as molasses, starch, malt, cheese and specialised dairy proteins. Some of these products can be consumed without further processing, but most are used to make other food or drink products.

#### 2 Market observations

The markets in this industry are generally concentrated. Most manufacturers directly purchase inputs from the primary producers rather than growing or harvesting the raw materials themselves, although some entities are owned by producers in a cooperative structure. Entities in this industry specialise in processing one sort of raw material (sugar cane, wheat or unpasteurised milk) to create a wide variety of dairy and ingredient outputs.

There are low levels of imports of this industry’s raw materials except in times of shortage due to crop failure, while exports of the raw materials are high and set to increase. This exposes the entities to global prices in what they pay for raw materials.

Some outputs are also subject to competition from imports and therefore exposure to global prices.

The industry’s customers are mainly large manufacturers of finished food and drink products, such as supermarket chains producing their own house brands, chain restaurants and sellers of specialty nutritional products (such as infant formula or protein shakes). These large customers have significant bargaining power. Some entities also make finished products on behalf of brand owners; however they do not sell them direct to consumers.

For the staple products such as milk, consumer demand is relatively stable and price inelastic, but value added products like gourmet cheeses are subject to shifts in consumer purchasing behaviour. Consumer demand has also declined for ingredients such as flour, as consumers buy more pre-packaged foods. Increasing diversity in consumer tastes, as well as growing awareness of nutritional issues, has led entities to diversify their product range so that consumers have access to sugar, flour or milk with product options of less processing, higher fibre or lower fat.

Industrial customers also have differing demand patterns dictated by consumer demand for their finished products, which is static for staples such as bread but volatile for discretionary items like restaurant meals. Increasing health consciousness has also moderated the growth in fast food consumption, prompting similar diversification of products sold by fast food operators which has affected their demand for ingredients.

The main cost driver for food ingredient manufacturing is the cost of raw materials from primary producers. In many cases, the volume available can fluctuate significantly from year to year, causing significant rises or falls in the prices manufacturers must pay. The production process also involves significant energy use, as inputs are pasteurised, milled, cooked or dried, which has become more expensive as electricity and gas prices have risen.

#### 3 General assessment of information provided by entities: prices, costs, profits

Dairy and ingredient manufacturing entities generally incur direct carbon tax liabilities from gas usage, which ranged from $0.9 million to $7 million per financial year, depending on the scale of production. Some entities found that indirect carbon tax costs from gas and electricity supply were difficult to quantify because of the limited information provided by suppliers as to the carbon tax component of their prices. The entities that did quantify their indirect carbon tax costs listed figures between $2 million and $9 million per financial year. Entities also identified compliance costs of between $20 000 and $650 000 per financial year.

Most entities received no JCP assistance, but some received grants to fund abatement measures.

All dairy and ingredient manufacturing entities pass through some carbon tax costs, however the degree and extent of pass through varies, sometimes even by product within an entity.

Based on information received in the response to the ACCC’s request, it appears the degree of pass through of carbon tax costs is dictated by the bargaining power of the entity’s customers and the availability of imported substitutes for each product. In addition, some entities were only able to pass through carbon tax costs to certain customers because of clauses in their contracts, while others increased prices of only some of their products because the remainder were subject to greater national or international competition. Some customers rejected specific attribution of carbon tax components in the price, preferring to have the carbon tax costs built into a single selling price, while other customers refused to accept any price increase. Most entities in the dairy and ingredient manufacturing sector were not able to recover the full extent of their net carbon tax costs.

Of the dairy and ingredient manufacturing entities that provided figures to the ACCC, price rises were up to 3 per cent at the wholesale level.

Most dairy and ingredient manufacturing entities had significant engagement with their Australian customers about the impact of the carbon tax. Some entities raised their prices without attributing rises to the carbon tax. Where discussions occurred, they often involved detailed explanations of the entity’s cost structure and how each product was affected by the carbon tax, with statements often being based on audits by external professionals.

#### 4 Issues arising from entities’ responses

This sector faced significant challenges in passing through its net carbon tax costs, but all entities were able to achieve some pass through of their carbon tax costs. This depended on the exposure of each product to international trade, and the ability of their downstream customers to resist price rises.

#### 5 The ACCC’s monitoring activities

Following repeal the ACCC expects that the carbon tax cost component of prices will be removed. The ACCC will continue to monitor this sector of the food manufacturing industry to obtain a better understanding of the impact of the carbon tax and the differences in carbon tax costs pass through for different products.

### Explosives

The ACCC generally expects that explosive manufacturers will remove any carbon tax cost component from prices.

#### 1 Industry background

This industry assessment covers ammonium nitrate based explosives used in the mining and construction industries to remove obstacles or break up raw materials for harvesting and processing. There are a variety of commercial explosives, but ammonium nitrate derivatives appear to be the most popular class in Australia.

The industry is dominated by a small number of vertically integrated entities. For example one entity’s output is entirely consumed in mining one type of mineral in a single state. Entities in the industry also increasingly offer consulting services to help customers ensure their purchases are being used effectively and in compliance with legal requirements.

#### 2 Market observations

Demand for explosives is driven by the mining and construction industries and most entities within these industries are very large businesses.

Ammonium nitrate production depends on natural gas as a feedstock. This means the explosives industry is exposed to changes in gas prices, which are set to rise sharply due to increasing exports. In order to manage the risk of rising prices of gas, some explosive manufacturing entities have their own exclusive supply of gas and use long-term contracts. Explosive manufacturing entities also identified wages, rent and other overheads as significant input costs.

#### 3 General assessment of information provided by entities: prices, costs and profits

Explosive manufacturing entities incurred direct carbon tax costs due to embodied emissions through the use of natural gas in the manufacturing process along with indirect carbon tax costs due to increasing electricity prices passed through by suppliers. The impact of the carbon tax is partially (and in one case, fully) offset by assistance provided under the JCP, as well as by abatement measures. Other entities that did not receive JCP assistance made minor price increases in line with contractual arrangements that allowed them to cover costs, imposing minor charges related to the administrative costs of carbon tax compliance.

While the direct carbon tax costs incurred by these entities were clear, the responses provided to the ACCC’s information requests suggest there was difficulty in quantifying the indirect carbon tax costs and compliance costs of the carbon tax. Some suppliers did not provide information about the impact of the carbon tax on their prices, internal staffing costs were not monitored and some entities also experienced efficiency losses after implementing abatement measures, but those losses were not quantified.

Entities generally communicated openly with their customers about these issues, forecasting the potential impact early and then continuing to communicate as the actual impact became clear.

#### 4 Issues arising from entities’ responses

Entities described the effects of the carbon tax on their prices as minimal, but did not provide specific details to support this.

#### 5 The ACCC’s monitoring activities

The ACCC expects that generally, prices will not change due to the repeal of the carbon tax alone, but there will be a pass through of carbon tax cost savings in circumstances where there is a contractual pass through of carbon tax costs. The ACCC will seek further information from entities in the explosives industry to obtain a better understanding of the impact of the carbon tax.

### Construction materials

The ACCC generally expects a limited pass through, if any, of carbon tax cost savings for some construction materials once the carbon tax is repealed.

#### 1 Industry background

Construction materials covers non-metallic materials used in the construction industry such as cement, concrete, bricks, insulation, glass and timber. These materials are used to add mass to structures and are generally bulky, homogenous and simple to handle safely.

Several of the major entities in this industry are vertically integrated. They harvest and process raw materials themselves and then distribute finished products to end users. Most entities produce a range of construction materials within their particular speciality.

#### 2 Market observations

The demand for construction materials is driven by the construction industry and thus reflects growth in the economy as a whole.

Bricks are generally considered too bulky and low value to import or export in significant quantities. Australia generally does not export large volumes of construction materials as countries in the region are able to meet their own needs and have lower costs. Other construction materials, such as cement, face strong competition from imports and also import a significant proportion of their inputs.

The cost structures of entities in the industry are broadly similar. The main cost drivers are raw materials, energy and water. The costs of electricity and gas in particular have risen sharply in recent years, and most entities expect increasing gas exports to cause Australian prices to rise to international levels. Some entities raised concerns that this process, which is independent of the carbon tax, could have a significant impact on the viability of operations which cannot switch to alternative fuels. Property, labour, transport, regulation and research costs were also identified as being significant cost drivers.

Manufacturers are in the process of restructuring and reducing their productive capacity in response to widespread oversupply. A number of entities reported difficulty in passing through general increases in input costs, with some prices actually having fallen over the last few years despite such input cost increases. Entities also identified the widespread industry practice of actual prices paid being different from list prices.

There is a degree of substitutability between construction materials within the industry. Bricks, for example, can to some extent be used instead of concrete or timber. However almost all construction projects will use at least one of these construction materials and most projects will use a combination. Other materials, such as metal or plastic, will generally be used for part of any construction project but in bulk they may not be cost effective substitutes for traditional construction materials.

#### 3 General assessment of information provided by entities: prices, costs and profits

While more efficient equipment or processes can reduce carbon emissions from construction material manufacturing, emissions are to some extent unavoidable. This is especially true in the manufacture of cement and glass. CO2-e emissions result from chemical reactions used to create construction materials, as well as indirectly from using gas or electricity to heat reactants or dry the results. Direct carbon tax costs incurred by construction material manufacturing entities are relative to the scale of production, with the value of carbon units surrendered for 2012-13 ranging from around $500 000 to $60 million in dollar terms.

Most construction material manufacturing entities were able to identify their indirect carbon tax costs and reported figures ranging from under $1 million to almost $20 million. However some entities encountered difficulties because their suppliers had not advised what component of their prices were attributable to the carbon tax.

Entities also reported costs associated with managing their compliance with the carbon tax and in dealing with negative customer responses to any price rises. Several entities did not track internal compliance costs. Those that did reported total compliance costs of under $1 million per annum.

The degree of sophistication in tracking the impact of the carbon tax varied depending on the internal and external resources devoted to the task. A number of entities engaged external consultants to assist with predicting and allocating their costs. These entities often provided the external consultants with information from NGER audits carried out in years prior to the introduction of the carbon tax.

Manufacturers of cement and glass received JCP assistance to offset direct and indirect carbon tax costs. Some entities were able to secure grants for specific abatement measures, enabling them to reduce their emissions through more efficient operations.

Some entities were able to raise their prices to pass through their carbon tax costs, while others were unsuccessful or did not attempt to do so. Intense price competition and countervailing customer bargaining power were the main reasons identified for not passing through carbon tax costs. It remains unclear why some manufacturers are able to pass through their carbon tax costs while other manufacturers of the same construction materials are not. A number of the entities that do pass through carbon tax costs began to do so sometime after 1 July 2012, to reflect stock on hand which had not been affected by the carbon tax.

The entities that provided information to the ACCC that did pass through carbon tax costs did not provide records of actual prices, but stated that price rises were generally in the range of around 0.4 per cent to 3 per cent.

Those entities that do pass through carbon tax costs do so transparently, identifying to customers specific amounts or percentages in their prices which were attributable to the carbon tax. They attached these increases to the list prices for construction materials, which are not always the actual prices paid.

Those entities which did not attempt to pass through carbon tax costs generally made no representations about the impact of the carbon tax.

#### 4 Issues arising from entities’ responses

In analysing price rises in this industry, it is important to be aware that the list prices to which such price rises apply are often different to the actual prices paid by customers because of price negotiations at the point of sale.

One entity stated that it had raised prices as a result of the carbon tax, but it then reduced prices. There was no communication with customers to advise that the price rise had been withdrawn, but the entity argued that, in effect, its prices after that point had no carbon tax component.

#### 5 The ACCC’s monitoring activities

The ACCC generally expects some pass through for some construction materials once the carbon tax is repealed. The ACCC will continue to monitor the construction materials industry to obtain greater understanding of the impact of the carbon tax and why different entities achieved different price outcomes.

### Liquid and gaseous fuels

The ACCC expects prices for non-transport use of LPG, LNG and CNG to reduce, or not rise by as much as they otherwise would have, after the repeal of the carbon tax. Entities that manufacture fuel for transport use did not have direct carbon tax liabilities so the ACCC does not expect transport-use fuel prices to change.

#### 1 Industry background

The liquid fuels sector contains entities which extract, produce or manufacture combustible fluids or compressed gases such as petrol, diesel, liquid petroleum gas (LPG), liquefied natural gas (LNG), compressed natural gas (CNG) and methanol. Most liquid fuels in widespread use are derived from fossil fuels.

Liquid fuels are unusual with respect to the application of the carbon tax because they generate the majority of their total emissions when used by final consumers. A gaseous fuel supplier will be liable for potential greenhouse gas emissions embodied (embodied emissions) in the gaseous fuel it supplies to another person (recipient) unless an Obligation Transfer Number is quoted by the recipient of the gaseous fuel. Though suppliers of liquid fuels are not direct carbon (or carbon equivalent) emitters, they face direct carbon tax costs for the embodied emissions in the fuels they supply to end users.

The carbon tax cost paid in relation to gaseous fuels varies for different fuel types depending on their carbon emissions rate when combusted (the carbon tax rate). Fuel tax credit rates are reduced in relation to these fuels by the relevant direct carbon tax cost.

From 1 July 2013, the carbon tax rate increased and this reduced the fuel tax credit rates for liquid and transport gaseous fuels.

The carbon tax rate increases annually, reducing fuel tax credit rates until 30 June 2015. The carbon tax rate is then adjusted every six months from 1 July 2015.

Hence, liquid fuels used for non-transport use were subject to an effective carbon tax on embodied emissions via the excise system during 2012–13. The rate was determined by calculating the expected emissions from end usage at $23.00 per tonne and applying it as an excise credit reduction in cents per litre.

During 2013–14, manufacturers of liquid fuels for non-transport use became subject to the standard form of the carbon tax for embodied emissions at the same rate as the effective charge in the previous year after applying a pro rata increase to reflect the increase from $23.00 per tonne to $24.15 per tonne.

The fuel tax credit rates for the following fuels were not affected by an increased carbon tax rate:

* liquid and transport gaseous fuels used in:
* vehicles with a gross vehicle mass greater than 4.5 tonne travelling on a public road
* specified agriculture, fishing or forestry activities
* activities that do not involve combustion of the fuel—for example, fuel used to clean machinery or as a mould release agent
* liquid fuels used by entities that are a designated opt-in person under the Liquid fuel Opt-in scheme
* renewable fuels, such as biodiesel or fuel ethanol.

Entities that use non-transport gaseous fuel used in specified agriculture, fishing or forestry activities can claim fuel tax credits at a rate equal to the direct carbon tax cost.

#### 2 Market observations

Entities in these markets are trade exposed to international and domestic competition. Most fuel pricing is based on international benchmark rates, such as Singapore Mogas for petrol and Saudi Aramco for LPG. However LNG and LPG appear to have scope to add localised premiums, including pass through of direct carbon tax costs as an additional line item. Contracts with larger customers usually have a change of government policy clause that allows this pass through.

The main carbon liability cost drivers for industry participants relate to embodied emissions. Other drivers affecting costs and prices within the industries include labour, commodity prices, foreign exchange and material inputs.

In the long term, liquid fuels are subject to competition from each other and from other forms of energy. In the short term, various machines require specific forms of fuel which limits substitutability between fuels. For a specific fuel type, different brands are interchangeable.

#### 3 General assessment of information provided by entities: prices, costs and profits

Entities reported incurring both direct and indirect carbon tax costs.

Entities that manufacture fuels for use in transport, which attract no direct carbon tax liability, have all reported that they have not changed prices due to the carbon tax. This is consistent with information obtained by the ACCC through its fuel price monitoring role.

Entities that manufacture non-transport use fuels have reported varying ability to pass through carbon tax costs, depending on the fuel type:

* Methanol—No pass through
* LNG—Contractual pass through of direct carbon tax costs to large customers, but no pass through of indirect carbon tax costs
* CNG—Prices are regulated. CNG is generally used by buses and the relevant operators charge prices regulated by state government authorities. The prices set/approved by those state government authorities generally included pass through of carbon tax costs.
* LPG—Contractual pass through of all direct and indirect carbon tax costs to large customers and pass through of all direct and indirect carbon tax costs to retail customers.

Information provided by the liquid fuel manufacturing entities regarding pass through of direct carbon tax costs for LPG suppliers matches the direct rate published by the ATO and the CER (3.68c per litre in 2012–13 and 3.864c per litre in 2013–14).

Entities that are able to pass through carbon tax costs as line items (LNG and LPG suppliers) have not indicated that they intend to cease charging these items before the carbon tax is repealed. If the repeal applies retrospectively, refunding any carbon tax costs passed through to contracted high volume LPG customers appears to be manageable on a contractual basis. However, refunding any carbon tax costs passed through to uncontracted end user LPG customers due to retrospective application of the repeal appears to be administratively burdensome because retail customers are numerous, transactions are relatively small and not all retail sales track customer contact details.

#### 4 Issues arising from entities’ responses

Some entities signalled that, for products like aviation fuel and non-transport gas, retrospective application of the repeal would impose a significant administrative burden (due to the number of customers involved) as well as potential costs in providing refunds prior to the ATO passing on refunds of the excise paid.

#### 5 The ACCC’s monitoring activities

Entities were generally not able to pass through all carbon tax costs due to trade exposure. However, in circumstances where carbon tax costs were passed through, it appears to have occurred in a transparent manner that is consistent with other information available to the ACCC. The ACCC expects prices for non-transport use of LPG, LNG and CNG to reduce, or not to increase as much as they otherwise would, after the repeal of the carbon tax. The ACCC will continue to monitor entities in this sector with a view to obtaining a better understanding of the ongoing impact of the carbon tax on prices.

### High technology

At this stage, the ACCC does not expect any pass through of carbon tax cost savings in this industry when the carbon tax is repealed.

#### 1 Industry background

The high technology (high tech) industry is characterised by products that involve leading edge technology. The high tech industry is diverse in terms of outputs and, for the purpose of this industry assessment, generally covers the manufacture of motor vehicles, motor vehicle parts and accessories, and various engineering, aeronautical, and defence related products. The outputs are manufactured for use in civil, security and military environments.

#### 2 Market observations

Entities in this industry are exposed to international trade and domestic competition, notably from other entities which are not liable entities and therefore do not incur direct carbon tax costs. There also appears to be a relatively high degree of substitutability for products manufactured in this industry.

The main carbon tax liability costs for entities in this industry relate to fuel /energy consumption and emissions from industrial processes. Other drivers affecting costs and prices within this industry include labour, commodity prices, foreign exchange, material inputs and insurance.

#### 3 General assessment of information provided by entities: prices, costs and profits

High tech manufacturing entities reported both direct and indirect carbon tax costs. These costs were generally related to direct carbon tax costs associated with the transfer of liability for embodied emissions from consumption of gas for industry processes, increased energy costs and increased costs for refrigerants.

Entities did not report receiving Australian Government assistance (including JCP) following the introduction of the carbon tax.

One entity reported that it was not able to pass through its carbon tax costs to its customers because of trade exposure and the level of competition.

During the 2012–13 financial year, another entity notified its major Australian customer of its direct and indirect carbon tax costs and offered that amount as a saving to the customer, representing that the entity had chosen to absorb the costs rather than passing them through. However that entity advised the ACCC that it was yet to decide if its carbon tax costs for the 2013–14 financial year would be passed through to the customer.

Given the nature of the industry in which this entity operates, it remains unclear how successful any attempt to pass through carbon tax costs would be.

#### 4 Issues arising from entities’ responses

No specific issues arising from entities’ responses.

#### 5 The ACCC’s monitoring activities

For the 2012-13 financial year, the carbon tax does not appear to have had any impact on prices in this industry. The ACCC does not generally expect any pass through of carbon tax cost savings in this industry when the carbon tax is repealed. However, given that one entity advised that it intends to review its internal policies of absorbing the carbon tax cost, the ACCC will continue monitoring prices in the industry.

### Transport

The ACCC expects that transport operators will remove their carbon tax surcharges from their pricing and contracts when the carbon tax is repealed and that freight forwarders will then pass these cost savings on to their customers.

#### 1 Industry background

For the purposes of this assessment, the transport industry is taken to include transport operators and freight forwarders.

Transport operators include entities that operate vehicles and utilise infrastructure to move goods and/or passengers.

Freight forwarders are entities that arrange the movement of consignments of freight for their customers utilising the services of transport operators.[[57]](#footnote-57) Freight forwarders offer services that may include door-to-door delivery involving the use of several modes of transport, multiple transport operators and/or warehouse storage.

#### 2 Market observations

##### Transport operators

There is a degree of substitutability among the services provided by air, sea and rail freight transport but this varies according to distance, type and time sensitivity of goods transported. For example, competitive tensions between road and rail diminish with distance, while there is a trade-off between time-sensitivity and size that affects the relative competitiveness of sea and air freight transport.

The level of contestability for each of these services also varies, depending on the barriers to entry. The freight transport services industry is generally characterised by high barriers to entry. This has contributed to a high level of concentration in air, sea and rail freight and passenger transport services. Barriers to entry are substantially lower for road transport services than for air, sea and rail transport services. Heavy road vehicles do not incur carbon tax costs and are outside the scope of the ACCC’s monitoring role.

The level of competition in air, sea and rail transport is dependent also on the geographic scope. For example, while there may be a single operator providing bulk-haulage freight services for a specific mining centre, it will usually do so after competing against a number of entities to win term contracts. Major routes, such as the north-south rail route on the east coast of Australia, are typically characterised by a higher level of intermodal competition. This is particularly the case with respect to road transport.

Overall, the supply and demand characteristics in the transport services industry suggest some degree of competitive intermodal tension between and among providers of different transport services.

##### Freight forwarders

The freight forwarding industry consists of entities that use the services of freight transport operators to provide collection and delivery services for sellers and purchasers of goods. The freight forwarding industry in Australia has comparatively low barriers to entry and exit and there are a large number of entities providing freight forwarding services in most major population centres.

#### 3 General assessment of information provided by entities: prices, costs and profits

The carbon tax is applicable to transport fuel in the off-road vehicle, air, sea and rail transport industry sub-sectors.

The CEA provides for two approaches for the application of the carbon tax in the transport industry. Most business users of fuel products (excluding heavy road vehicle operators) can claim a fuel tax credit or rebate on fuel excise tax. The carbon tax is applied to these fuel users through a carbon tax equivalent reduction in the rate of the fuel tax credit/rebate that would otherwise be available. Off-road, sea and rail freight transport service operators that provided information to the ACCC were impacted by the carbon tax through a reduction in the fuel tax credits on diesel and fuel oil at a carbon cost‑equivalent rate.

Users of aviation fuel are not in the fuel tax credit system and are impacted by the carbon tax through a carbon tax-equivalent increase in the rate of the fuel excise (set at 6.279 cents per litre for the 2013–14 financial year). However, users of aviation fuel can choose under the Liquid fuel Opt-in Scheme to become liable fuel users and pay the carbon tax through the carbon pricing mechanism of $24.15/tonne (for the 2013–14 financial year) rather than the fuel tax system.

Freight forwarders do not incur direct carbon tax costs, but do incur an indirect carbon tax cost because transport operators generally pass through their carbon costs to freight forwarders.

Entities in the transport industry that provided information to the ACCC have included a carbon surcharge in the pricing for their transport services since the introduction of the carbon tax in 2012.

##### Transport operators

Entities involved in the provision of air, sea and rail transport services incur carbon tax costs on transport fuel, including aviation fuel (air), diesel (rail) and fuel oil (shipping). From 1 July 2012 the redeemable excise fuel tax credits were reduced to reflect the carbon price—by 6.21 cents per litre in 2012–13 and by 6.521 cents per litre in 2013–14.[[58]](#footnote-58)

All sea and rail transport service operators that provided information to the ACCC have advised that they followed a specific methodology to calculate their carbon tax surcharges, and that these methodologies were reviewed by an external independent expert.

These entities calculated their carbon tax liability by estimating their fuel consumption. Carbon tax costs were then passed through by each entity to its customers in different ways, depending on the customer and the type of service that the transport operator provided:

* For rail passenger movements, a fixed cost is typically applied per passenger. One entity reported that, while a carbon surcharge is added to the ticket price, the actual price paid by passengers is driven by demand for the service.
* For line-haul services using a single mode of transport, the carbon surcharge is calculated based on a number of parameters such as distance travelled and the number of vehicles required.
* For logistics (door-to-door) services the carbon surcharge is calculated in the same way as for line-haul services. However, the surcharge is generally lower than for line-haul services because road freight and other services (such as warehousing) do not attract carbon costs.

One air freight transport operator advised the ACCC that it estimated the increase in fuel costs for its dedicated domestic air freight services (specific to the type of aircraft) due to the introduction of the carbon tax. For freight carried in the belly-space of its domestic passenger aircraft, the operator instead allocated a proportion of its total carbon tax liability to the freight services provided in that aircraft. In order to recover its carbon tax costs, the operator negotiated commercial agreements with major freight customers for the payment of these (and other) costs. For its other customers, a fuel surcharge for the carbon component was applied as a percentage of total freight charges and was separately identified in customers’ bills.

In response to the ACCC’s information request, transport operators have expressed their commitment to removing carbon tax surcharges from their pricing and contracts when the carbon tax is repealed. One entity stated that it is prepared to offer refunds to its contracted customers for any relevant retrospective period, but no other entity has canvassed the issue of retrospectivity in its response to the ACCC or in its public statements.

##### Freight forwarders

The introduction of a carbon tax has led to higher costs for entities in this sub-sector due to the pass through of carbon tax costs incurred by transport operators. These costs in turn are generally passed through by freight forwarders to their customers. Information provided to the ACCC indicates that some entities have had difficulty in determining the carbon cost for each customer. This was for a number of reasons, such as:

* the carbon charge pass through varies between transport operators
* goods may be moved by several modes of transport, and the carbon charge is not applicable to all modes of transport
* many customers are offered full logistics services by freight forwarders and the costs associated with the carbon charge can be difficult to determine across the breadth of the logistics chain.

Freight forwarders have dealt with these issues in different ways. Some advised the ACCC that they have estimated the total cost of the carbon tax to the business, and apportioned this evenly across each of the relevant services provided irrespective of the mode of transport used to move freight. Other entities apply a surcharge to a limited number of services only, such as express and priority services.

Entities operating in a range of areas in the transport industry have applied different pricing formulae for each of their business units. For those entities offering tailored freight and logistics solutions, the carbon tax surcharge is generally negotiated per contract.

Some freight forwarders have contracts with transport operators explicitly stating that the carbon tax surcharge will be removed in the event that the carbon tax is repealed. Freight forwarders have not canvassed the issue of retrospectivity in their responses to the ACCC or in their public statements.

#### 4 Issues arising from entities’ responses

No specific issues arising from entities responses.

#### 5 The ACCC’s monitoring activities

The ACCC expects that transport operators will remove their carbon tax surcharges from their pricing and contracts when the carbon tax is repealed and that freight forwarders will then pass these cost savings on to their customers. The ACCC will continue to monitor entities in the transport industry.

### Domestic passenger air transport services

Domestic airlines claim that, regardless of their surcharge mentioned at the introduction of the carbon tax, they were unable to recover carbon tax costs from passengers. They have stated to the ACCC that they do not expect any reductions in passenger air fares directly related to the proposed carbon tax repeal. The ACCC expects that if domestic airlines fully or partially recovered carbon tax costs from customers, following the carbon tax repeal, carbon tax cost savings will be passed through to customers.

#### 1 Industry background

Entities in this industry provide air transport services for passengers within Australia.

#### 2 Market observations

The domestic passenger air services industry is highly concentrated with moderate to high barriers to entry. It is likely that the nature and extent of competition varies across different market segments. For example, the leisure segment is likely to be price sensitive and characterised by relatively strong price competition among airlines, particularly low cost carriers (LCC) such as Jetstar Airways Pty Ltd (Jetstar) and Tiger Airways Australia (Tiger). In the business and premium leisure segments there is likely to be less emphasis on price-based competition and greater emphasis on non-price aspects of service provision, including on‑time performance, scheduling, number of destinations, aircraft type and value‑added services (for example, higher levels on-board service, lounge access and enhanced baggage services). Qantas Airways Limited (Qantas) has a substantial share of the business and premium leisure segment.

#### 3 General assessment of information provided by entities: prices, costs and profits

Users of aviation fuel are not in the fuel tax credit system and are impacted by the carbon tax through the application of a carbon tax-equivalent increase in the rate of the fuel excise (set at 6.279 cents per litre for the 2013-14 financial year [[59]](#footnote-59)). Users of aviation fuel can also choose under the Liquid fuel Opt-in Scheme to be liable fuel users and pay the carbon tax through the carbon pricing mechanism of $24.15/tonne (for the 2013-14 financial year) rather than the fuel tax system.[[60]](#footnote-60) Two airlines monitored by the ACCC, Qantas and Virgin Australia Airlines Pty Ltd (Virgin), have advised that they have chosen to be liable fuel users under the Liquid fuel Opt-in Scheme. As the carbon tax only applies to domestic businesses, airlines’ international air transport services are not impacted by the carbon tax.

##### Representations made by airlines about the carbon tax

Some domestic airlines made public statements prior to the implementation of the carbon tax that costs related to the carbon tax would be passed onto consumers through surcharges on air fares.[[61]](#footnote-61) In particular, prior to the implementation of the carbon tax, Qantas and Virgin estimated the costs of the carbon tax on their passenger airline services on a per passenger basis. Qantas and Virgin publicly stated that recoupment of the carbon tax costs would mean that domestic air fares per flight sector would have to increase by an amount that varied depending on sector length, but on average was approximately $3.00‑$3.50 per passenger in FY 2013.[[62]](#footnote-62)

In the lead up to the introduction of the carbon tax, Qantas introduced a carbon tax surcharge on lead-in domestic fares. Qantas has announced that it will remove this surcharge from lead in fares on repeal of the carbon tax. However, Qantas claims that this is an administrative task and will not impact (final) fares paid by consumers.

##### Impact of the carbon tax on airlines

In their responses to the ACCC information requests, domestic airlines have claimed that due to strong competition in the domestic passenger travel industry since 1 July 2012, they have not been able to recover carbon tax costs.

Airlines have said to the ACCC and in public statements that, notwithstanding their previous statements and (in the case of Qantas) building in of surcharges in lead in fares, they have had to absorb all costs related to the carbon tax:[[63]](#footnote-63)

In February 2014, Virgin stated that:

‘the Australian aviation market continues to be impacted by the significant capacity growth which occurred during the 2013 Financial Year, compounded by weak economic conditions and the inability to recover the cost of the carbon tax’.[[64]](#footnote-64)

In March 2014, Qantas stated that:

‘the price on carbon is a cost on our business that we have not been able to recover through fare increases, because of the intensely competitive market we operate in’.[[65]](#footnote-65)

In their financial statements for 2012-13 and 2013-14, a number of domestic airlines attribute carbon tax costs as one of the key factors contributing to lower profits from domestic operations since the carbon tax was introduced. In particular:

* Qantas reported total carbon tax costs of $106 million for 2012-13 across its Qantas Domestic ($77 million) and Jetstar Domestic ($29 million) operations.[[66]](#footnote-66)
* Qantas Domestic’s Underlying Earnings Before Interest and Taxes (EBIT) declined by $98 million from $463 million in 2011‑12 to $365 million in 2012‑13.[[67]](#footnote-67) Qantas stated that this reduction “was driven by the introduction of the carbon tax and capacity growth in the Australian domestic market of eight per cent, exceeding market demand. This challenging competitive environment resulted in reduced loads and weaker yields.”[[68]](#footnote-68)
* Qantas does not report Underlying EBIT for Jetstar Domestic. It reports that the $65 million decline in Jetstar Group[[69]](#footnote-69) EBIT between 2011‑12 and 2012‑13 was primarily driven by “domestic competitive pressures, $29 million of carbon tax and $50 million in associate start-up losses to position Jetstar for success in Asia through its Jetstar-branded airlines in Jetstar Japan, Jetstar Hongkong and Jetstar Pacific.”[[70]](#footnote-70)
* Virgin has stated that it was unable to recover $47.9 million in costs related to the carbon tax during 2012‑13.[[71]](#footnote-71)
* Virgin’s domestic segment EBIT declined by $137.6 million from $93.2 million in 2011‑12 to a loss of $44.4 million in 2012‑13.[[72]](#footnote-72)
* Virgin stated that its operations were affected by a “difficult economic and competitive environment, significant one‑off pre‑tax restructuring and transformation costs, and carbon tax”.[[73]](#footnote-73)
* Regional Express Holdings Limited (Rex) has reported that its regular public transport segment EBIT declined from $37.1 million in 2011‑12 to $20.6 million in 2012‑13.[[74]](#footnote-74)
* Rex’s Chief Operating Officer said that the carbon tax would add $2 to the price of each ticket and cost the company $2 million in the first year.[[75]](#footnote-75)
* Rex stated that it “saw sales plunge almost immediately after 1 July 2012 after the Federal Government’s carbon tax was implemented, together with a whole host of policies hostile to regional aviation”.[[76]](#footnote-76)

Airlines claim that in addition to the carbon tax, profits and prices have also been affected by changes in aircraft costs, fuel costs, labour costs, and other operating costs and fixed overheads as well as changes in customer behaviours and preferences and competitors’ capacity, price and service decisions.

#### 4 Issues arising from entities’ responses

As airlines claim that they were unable to recover any carbon tax costs from passengers while the carbon tax was in place, they have stated to the ACCC that they do not expect any reduction in passenger air fares related to the proposed carbon tax repeal.

The ACCC is making enquiries to determine whether the airlines statements in relation to their recovery of carbon tax costs may be misleading.

#### 5 The ACCC’s monitoring activities

The ACCC is continuing its assessment of the representations made by the domestic airlines about the effects on airfares of the carbon tax and its repeal.

On 20 June 2014, entities in the domestic passenger air transport industry became liable entities.

Before this, the entities had been classified as additional entities. The ACCC previously sought information from the airlines as additional entities, but any further ACCC information requests will be on the basis of these entities being liable entities.

## Tier 3 Industry assessments

Tier 3 industry assessments are based on responses to the ACCC’s information requests to some liable entities and some additional entities. Entities in these industries either do not pass through carbon tax costs to their customers, or, where these entities do pass through carbon tax costs, they do not appear to face any impediments in removing carbon tax costs upon repeal. At this stage, the ACCC does not propose to send further information requests to entities in these industries but will monitor complaints should issues arise.

For entities that have advised there will be no difficulties in passing through carbon tax cost savings, the ACCC expects that when the carbon tax is repealed, this will in fact occur. The ACCC will monitor for complaints and further information should issues arise. For entities that absorb carbon tax costs, the ACCC does not expect prices to change due to the repeal of the carbon tax alone.

### Metals

The metal manufacturing industry produces non-differentiable commodity products including steel, aluminium, nickel, iron ore and various alloys. Metals are typically traded on a global basis using benchmark prices, determined at the London Metal Exchange meaning the industry is trade exposed. In Australia, the industry exhibits a high degree of vertical integration with mining companies. The majority of the metal manufacturing entities which provided information to the ACCC are wholly owned subsidiaries of, or in joint ventures with, large national or multinational companies.

All metal manufacturing entities which provided information to the ACCC received Australian Government assistance under the Jobs and Competitiveness Program (JCP) following the introduction of the carbon tax. The assistance was provided at an initial rate of 94.5 per cent of industry baseline emissions. In addition, steel manufacturers received further assistance under the Steel Transformation Plan (STP).

Carbon tax costs incurred by entities in the metal manufacturing sector have been offset by JCP and STP assistance, and, in any event, entities in this sector do not appear able to pass through any costs due to trade exposure.

### Food—prepared

These food manufacturing entities are in the processed or ready-made food industry. Products within this food manufacturing sector include smallgoods, baked goods, grain products and frozen foods. Food manufacturing entities supply these products through retail and wholesale distribution channels: directly to consumers through retail supermarkets; and wholesale to food service or hospitality customers. The markets in which these entities operate are import exposed, and they compete against other domestic entities that are not exposed to a direct carbon tax liability. For these reasons, entities within this sector absorb rather than pass through their carbon tax costs.

### Meat and meat by-products

Meat and meat by-product entities produce finished edible products such as beef, sheep, lamb and poultry, as well as a range of rendered meat by-products including meat and bone meal, tallow and hides. Meat and meat by‑product manufacturing entities are also exposed to international meat prices. These entities compete against one another in all facets of production and sale in the Australian domestic market. While some entities in this industry incur carbon tax costs, they compete against hundreds of other entities that are too small to incur any direct carbon tax costs. For these reasons, entities within this manufacturing sub-sector chose to absorb, rather than pass through their carbon tax costs.

### Manufacturing tolling services

Some owners of manufacturing facilities who have excess capacity utilise their facilities to manufacture goods for other companies. This process, commonly known as ‘tolling’, occurs where the raw materials are provided by the contracting company, which also retains ownership of the finished product. The manufacturing facility operator does not control the price of the finished product, only the price of the service provided to the contracting company. As such, the price the manufacturing facility charges for the service is independent of the price of the finished product the contracting company charges. This arrangement allows a number of facility operators to successfully pass through carbon tax costs to their contracting companies. These contracting companies operate in other industries discussed in this report in which entities are not able to pass through their carbon tax costs to their customers.

### Fertiliser

Entities in the fertiliser industry manufacture substances used to boost plant growth. Demand for fertiliser depends on the demand for agricultural outputs as well as on climatic conditions. The majority of fertilisers used in Australia are manufactured from natural gas, with a small percentage being made from plant or animal matter. Fertiliser manufacturing entities compete with large volumes of imported fertiliser products, which mean that Australian prices must be comparable to overseas prices. As a result, entities in this industry absorb the carbon tax cost in order to remain competitive.

### Water and sewerage services

Entities within this sector generally provide some combination of water supply (both drinkable and non-drinkable), sewerage and wastewater treatment, irrigation, drainage, waterway management, desalination and/or water recycling services.

Entities within this sector are generally state government owned businesses, or entities licensed by state governments, and are responsible for providing relevant water and sewerage services within geographically defined boundaries. As such, these entities generally do not compete with each other for customers.

Providers of water and sewerage services may be liable to pay direct carbon tax costs due to the CO2–e emissions of methane and nitrous oxide from their sewerage and wastewater treatment plants.

Many processes carried out by providers of water and sewerage services are energy intensive—they use a large amount of electricity. Consequently, they face high indirect carbon tax costs passed through by their retail energy suppliers.

Other factors affecting this sector’s costs and prices include labour costs, construction costs, materials and equipment costs, energy costs more generally, and consumption patterns.

Prices in this sector are regulated and in setting prices, regulatory authorities take into account any operating cost increases faced by the entities. These include both direct and indirect carbon tax costs.

None of the water and sewerage entities received monetary assistance under government programs associated with the carbon tax.

The pricing oversight of entities in this sector by relevant state governments and independent regulatory bodies should ensure that any reduction in the entities’ operating costs brought about by a repeal of the carbon tax is reflected in the prices the entities charge their customers.

### Vehicle parking services

Entities in the vehicle parking services industry provide parking spaces for motor vehicles on various time‑based charges. The two largest entities in this sector account for approximately 50 per cent of the market. Vehicle parking service operators compete against each other in major population centres and in shopping precincts. They also compete against service alternatives, especially in CBD areas, such as public transport and cycling. The majority of operators do not own the sites and operate under either:

* a ‘Lease Agreement’, where the vehicle parking services operator pays rent to the site owner and operates the site, or
* a ‘Management Agreement’, where the site owner charges the vehicle park services operator a fee to operate the site on its behalf.

The introduction of the carbon tax impacted on vehicle parking service operators through higher electricity bills, as a carbon tax component is included in electricity prices after 1 July 2012. Some vehicle parking service operators are only responsible for electricity at leased and owned sites, as the electricity costs in managed sites are the responsibility of the site owner.

One entity has informed the ACCC that it imposes a carbon charge for all permanent parkers in its leased and owned sites across Australia. The figure was calculated based on permanent parkers’ usage as a percentage of the sites’ entire usage and was applied to actual carbon costs incurred by the entity after the introduction of the carbon tax. The entity stated that this carbon charge is included on monthly invoices as a separate and highlighted charge, along with a description and explanation of the charge.

This entity also stated to the ACCC that it will remove the carbon charge as soon as practicable once it no longer incurs any carbon‑related costs following the carbon tax repeal.

The ACCC is not aware of any public statements made by entities in this industry about how they would deal with the effects of the carbon tax or its repeal.

At this stage, the ACCC will not send further information requests to entities in this industry but the ACCC will continue to monitor to ensure that when the carbon tax is repealed, cost savings are passed through.

### Retail property

Entities in this industry are engaged in the leasing of retail property, including retail space within shopping centres. The industry is comprised of entities that develop and own retail premises as well as those who manage sites only. The largest shopping centre operator in Australia, Westfield Holdings, accounts for around 10 per cent of the total revenue in this industry.[[77]](#footnote-77) The competitive constraints in this industry sector are likely to be weaker on major shopping centres than on smaller retail precinct owner/operators. The industry has moderately high barriers to entry, with the highest barriers being start‑up costs, including the costs associated with acquiring and developing sites.

One operator informed the ACCC that it could not measure the impact of the carbon tax on its costs as none of its suppliers separately identified the carbon tax component in their own charges. To the extent that it experienced increased operating expenses due to the implementation of the carbon tax (mainly through higher electricity and gas charges) it would have subsequently passed these higher costs through to its lessees.

The operator has stated to the ACCC that it will continue to pass through the impact of the carbon tax. Similarly, it has stated that it will pass through any savings to lessees when the carbon tax is repealed because these will be reflected in the invoices it receives from its electricity and gas suppliers.

At this stage, the ACCC will not send further information requests to entities in this industry but the ACCC will continue to monitor to ensure that when the carbon tax is repealed, cost savings are passed through.

1. See <http://www.ausindustry.gov.au/programs/CleanTechnology/CTFFIP/Documents/CTFFIP-ProgramOverviewFactSheet.pdf> and <http://www.ausindustry.gov.au/programs/cleantechnology/ctffip/Pages/default.aspx> [↑](#footnote-ref-1)
2. [http://www.ausindustry.gov.au/programs/CleanTechnology/CleanTechnologyInvestment/
CTIPProgramInformation/Pages/FactSheet.aspx](http://www.ausindustry.gov.au/programs/CleanTechnology/CleanTechnologyInvestment/CTIPProgramInformation/Pages/FactSheet.aspx) [↑](#footnote-ref-2)
3. See <http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Fact-sheets-FAQs-and-guidelines/Guidelines/Documents/Guidance%20for%20Applicants.pdf> and <http://www.climatechange.gov.au/reducing-carbon/jcp> [↑](#footnote-ref-3)
4. See <http://www.ausindustry.gov.au/programs/manufacturing/stp/Pages/default.aspx> and <http://business.grantguru.com.au/MyGrantSpace/?Section=Search&itemDetails=6799> [↑](#footnote-ref-4)
5. The first report to the Minister is available at <http://www.accc.gov.au/publications/monitoring-of-prices-costs-profits-to-assess-the-general-effect-of-the-carbon-tax-scheme-in-australia> [↑](#footnote-ref-5)
6. In Tasmania, contestability for customers using less than 50 megawatt hours of electricity per year will be introduced on 1 July 2014. [↑](#footnote-ref-6)
7. Note that the definition of small customer varies between jurisdictions and in some cases, only a subset of small customers is subject to price regulation. [↑](#footnote-ref-7)
8. In the Northern Territory full retail contestability was introduced in 2010. [↑](#footnote-ref-8)
9. AEMC, 2013 Residential Electricity Price Trends, 13 December 2013, pages 114 and 121 [↑](#footnote-ref-9)
10. 47 per cent following AGL’s acquisition of Macquarie Generation [↑](#footnote-ref-10)
11. AER, State of the energy market 2013, pp 29 and 120. [↑](#footnote-ref-11)
12. Macquarie Generation and Delta Electricity in NSW; Stanwell and CS Energy in Queensland. [↑](#footnote-ref-12)
13. Created by the ACCC based on information provided by the AER and in response to the ACCC’s voluntary information requests. [↑](#footnote-ref-13)
14. See Economic Regulation Authority Western Australia, 2013 Wholesale Electricity Market Report to the Minister for Energy, December 2013 [↑](#footnote-ref-14)
15. Generation facilities include [Alcoa Anglesea Power Station](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Alcoa%20Aglesea%20Power%20Station.pdf), [Augusta Power Stations](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Augusta%20Power%20Stations.pdf), [Collinsville Power Station](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Collinsville%20Power%20Station.pdf), [Energy Brix Australia Corporation Pty Ltd (EBAC)](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Energy%20Brix%20Australia%20Corporation%20Pty%20Ltd.pdf), [Hazelwood Power Station](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Hazelwood%20Power%20Station.pdf), [Loy Yang A Power Station](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Loy%20Yan%20A%20Power%20Station.pdf), [Loy Yang B Power Station](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Loy%20Yang%20B%20Power%20Station.pdf), [Redbank Power Station](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Redbank%20Power%20Station.pdf), [Yallourn W Power Station](http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Documents/Yallourn%20W%20Power%20Station.pdf). See http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Industry-Assistance/coal-fired-generators/Pages/default.aspx [↑](#footnote-ref-15)
16. <http://www.afma.com.au/afmawr/_assets/main/lib90047/ca%20website%20note%20v4.pdf> [↑](#footnote-ref-16)
17. Office of the Tasmanian Economic Regulator, Approval of 2012-13 Electricity prices, 22June 2012; Independent Competition and Regulatory Commission, Retail Prices for franchise electricity customers 2012-14, Final report, June 2012; Independent Pricing and Regulatory Tribunal, Changes in regulated electricity retail prices from 1 July 2012, Final Report, June 2012; Brian Parmenter, Chairperson, Queensland Competition Authority letter to the Minister for Energy and Water Supply, 5 June 2012; Essential Services Commission of South Australia, 1 July 2012 electricity standing contract price adjustment. [↑](#footnote-ref-17)
18. Synergy Media Release, Andrew Gaspar, 9 June 2012. [↑](#footnote-ref-18)
19. Northern Territory Government Media Release, Delia Lawrie, Treasurer, 17 May 2012. [↑](#footnote-ref-19)
20. AEMC, 2013 Residential Electricity Price Trends, 13 December 2013, page 12. The national representative price consists of the representative market offer price for New South Wales, Victoria, South Australia and Queensland and the representative standing offer price for the ACT, Tasmania, Western Australia and the Northern Territory, weighted by the number of residential connections in each jurisdiction. [↑](#footnote-ref-20)
21. Based on average costs by jurisdiction as estimated in AEMC, 2013 Residential Electricity Price Trends, 13 December 2013. Note that price components will vary across distribution zones in each jurisdiction. [↑](#footnote-ref-21)
22. Based on national averages estimated in AEMC 2013 Residential Electricity Price Trends, 13 December 2013, page 12. [↑](#footnote-ref-22)
23. See AFMA Market Notice, 24 June 2014 [↑](#footnote-ref-23)
24. For a typical residential customer, consuming about 4,100 kWh per annum. Introduction of the lower price is dependent on a new delegation from the Queensland Minister for Energy and Water. Historically, the tariff for residential customers has not been cost-reflective has not been cost-reflective and increases reflect the QCA’s transitional path to make the tariff cost reflective. [<http://www.qca.org.au/getattachment/25696fbc-b4ed-42c4-8d16-fd3efddb563e/Final-Determination.aspx>] [↑](#footnote-ref-24)
25. For a typical, medium sized, residential customer [<http://www.icrc.act.gov.au/wp-content/uploads/2013/10/1-MediaRelease_FinalReport.pdf>] [↑](#footnote-ref-25)
26. The regulated tariff is a single tariff based on the Tasmanian regulator’s forward estimate s of wholesale electricity prices [http://www.economicregulator.tas.gov.au/domino/otter.nsf/LookupFiles/14-1790\_Media\_Release\_Approval\_%20of\_Standing\_Offer\_Electricity\_Prices\_to\_Apply\_from\_1\_July\_2014\_FINAL\_(public\_issue)\_140619.pdf/$file/14-1790\_Media\_Release\_Approval\_%20of\_Standing\_Offer\_Electricity\_Prices\_to\_Apply\_from\_1\_July\_2014\_FINAL\_(public\_issue)\_140619.pdf](http://www.economicregulator.tas.gov.au/domino/otter.nsf/LookupFiles/14-1790_Media_Release_Approval_%20of_Standing_Offer_Electricity_Prices_to_Apply_from_1_July_2014_FINAL_%28public_issue%29_140619.pdf/%24file/14-1790_Media_Release_Approval_%20of_Standing_Offer_Electricity_Prices_to_Apply_from_1_July_2014_FINAL_%28public_issue%29_140619.pdf) [↑](#footnote-ref-26)
27. [http://www.agl.com.au/about-agl/media-centre/article-list/2014/june/agl-confirms-households-will-receive-price-reductions-following-carbon-repeal; http://www.energyaustralia.com.au/about-us/media-centre/current-news/removal-of-carbon-price](http://www.agl.com.au/about-agl/media-centre/article-list/2014/june/agl-confirms-households-will-receive-price-reductions-following-carbon-repeal%3B%20http%3A/www.energyaustralia.com.au/about-us/media-centre/current-news/removal-of-carbon-price) [↑](#footnote-ref-27)
28. <http://www.aer.gov.au/node/24412> [↑](#footnote-ref-28)
29. Essential Services Commission, Variation to standing offer tariffs following the removal of the carbon price, 18 June 2014. [↑](#footnote-ref-29)
30. *Electricity Retail Code* (Victoria), May 2012, clause 31(c). [↑](#footnote-ref-30)
31. Section 44C *Electricity (General) Regulations 2012* (South Australia). [↑](#footnote-ref-31)
32. Bureau of Resources and Energy Economics – Gas Market Report – October 2013 – Page 26 [↑](#footnote-ref-32)
33. Synergy is not allowed to supply to customers who consume less than 180GJ per year [↑](#footnote-ref-33)
34. Created by the ACCC based on information provided by the AER and in response to the ACCC’s voluntary information requests. [↑](#footnote-ref-34)
35. AEMO, *Carbon price – market review report*, November 2012. [↑](#footnote-ref-35)
36. Essential Services Commission of South Australia – 1 July 2012 Gas Standing Contract Price Adjustment, 15 June 2012 [↑](#footnote-ref-36)
37. Independent Pricing and Regulatory Tribunal – Changes in regulated retail gas prices in NSW from 1 July 2012, June 2012 [↑](#footnote-ref-37)
38. IPART, Changes in regulated retail gas prices from 1 July 2014, Final Report, June 2014. [↑](#footnote-ref-38)
39. See page [32] electricity market section. [↑](#footnote-ref-39)
40. <http://www.environment.gov.au/topics/environment-protection/ozone/equivalent-carbon-price> [↑](#footnote-ref-40)
41. Ibid. [↑](#footnote-ref-41)
42. Expert Group with Thinkwell Australia, ‘Cold Hard Facts II: A study of the refrigeration and air conditioning industry in Australia’, (industry study, Department of Sustainability, Environment, Water, Population and Communities, July 2013), 53 [↑](#footnote-ref-42)
43. Ibid, 15-16 [↑](#footnote-ref-43)
44. *Applying an Equivalent Carbon Price to Synthetic Greenhouse Gases*, Fact Sheet, Department of Sustainability, Environment, Water, Population and Communities, August 2012 [↑](#footnote-ref-44)
45. <http://www.environment.gov.au/node/13626> [↑](#footnote-ref-45)
46. Ibid, 49 [↑](#footnote-ref-46)
47. Ibid, 44 [↑](#footnote-ref-47)
48. Ibid, 17 [↑](#footnote-ref-48)
49. Tasmania, Queensland, the Northern Territory and the Australian Capital Territory governments do not impose a landfill levy on licensed landfill facilities. All other state governments do. [↑](#footnote-ref-49)
50. See <http://www.epa.nsw.gov.au/wr/h_wcmr.htm>; <http://www.epa.vic.gov.au/your-environment/waste/landfills/landfill-and-prescribed-waste-levies>; <http://www.epa.sa.gov.au/xstd_files/Waste/Guideline/guide_levy.pdf>; and <http://www.der.wa.gov.au/about-us/media-statements/112-landfill-levy-rates-to-rise-from-january-2015>. Note – Western Australia’s current levies remain in place until 31 December 2014. The new levies will apply from 1 January 2015 to 30 June 2016. [↑](#footnote-ref-50)
51. <http://www.cleanenergyregulator.gov.au/ANREU/Concise-description-of-units/Australian-carbon-credit-units/Pages/default.aspx> [↑](#footnote-ref-51)
52. Provided by ALOA as part if it’s response to the ACCC’s voluntary information request. [↑](#footnote-ref-52)
53. Where a landfill facility is operated as a joint venture and its carbon tax liability has been proportionately allocated between the joint venture participants, these entities have been counted as one for the purposes of this figure. [↑](#footnote-ref-53)
54. As decomposition, and therefore emission rates, are affected by different weather conditions. [↑](#footnote-ref-54)
55. Given that the carbon unit price is intended to move to a market based price from 1 July 2015, these entities stated that attempting to project future carbon unit prices now meant that they would bear the risk of any movements in the market based carbon unit price in the future. [↑](#footnote-ref-55)
56. <http://www.news.com.au/finance/money/will-the-carbon-tax-repeal-really-mean-we-get-back-550-a-year/story-e6frfmci-1226967556477> [↑](#footnote-ref-56)
57. IBISWorld Industry Report I5292b, *Rail, Air and Sea Freight Forwarding in Australia*, March 2014. [↑](#footnote-ref-57)
58. For fuel tax credit rates see:

From 1 July 2011–30 June 2012:

<https://www.ato.gov.au/Business/Fuel-schemes/In-detail/Fuel-tax-credits---for-GST-registered-businesses/Calculating-and-record-keeping/Fuel-tax-credit-rates-and-eligible-fuels/?page=4#Liquid_fuels>

From 1 July 2012–30 June 2013:

<https://www.ato.gov.au/Business/Fuel-schemes/In-detail/Fuel-tax-credits---for-GST-registered-businesses/Calculating-and-record-keeping/Fuel-tax-credit-rates-and-eligible-fuels/?page=2#Rates__1_July_2012___30_June_2013>

From 1 July 2013:

<https://www.ato.gov.au/Business/Fuel-schemes/In-detail/Fuel-tax-credits---for-GST-registered-businesses/Calculating-and-record-keeping/Fuel-tax-credit-rates-and-eligible-fuels/?page=1#Rates_from_1_July_2013> [↑](#footnote-ref-58)
59. Australian Taxation Office (2013), *Fuel tax credit rates and eligible fuels*, [https://www.ato.gov.au/Business/Fuel-schemes/In-detail/Fuel-tax-credits---for-GST-registered-businesses/Calculating-and-record-keeping/Fuel-tax-credit-rates-and-eligible-fuels/?page=1#Rates\_from\_1\_July\_2013](https://www.ato.gov.au/Business/Fuel-schemes/In-detail/Fuel-tax-credits---for-GST-registered-businesses/Calculating-and-record-keeping/Fuel-tax-credit-rates-and-eligible-fuels/?page=1%23Rates_from_1_July_2013) [↑](#footnote-ref-59)
60. Clean Energy Regulator (2013), *Carbon Pricing Mechanism—Liquid fuel Opt-in Scheme*, March 2013, <http://www.cleanenergyregulator.gov.au/Carbon-Pricing-Mechanism/Fact-sheets-FAQs-and-guidelines/Guidelines/Documents/Guideline%20-%20Liquid%20fuel%20Opt-in%20Scheme.pdf>. [↑](#footnote-ref-60)
61. See; Qantas Group (2011), *Qantas Statement – impact of carbon price*, Media release, 11 July 2011, accessed on 22 May 2014 at; <http://www.qantas.com.au/travel/airlines/media-releases/jul-2011/5150/global/en>.and; Virgin Australia (2011), *Carbon price impact*, ASX Release, 11 July 2011, accessed on 22 May 2014 at; <http://www.asx.com.au/asxpdf/20110711/pdf/41zq2zwxk5s874.pdf>. [↑](#footnote-ref-61)
62. ibid [↑](#footnote-ref-62)
63. For example, see; Qantas Group (2014), *Statement from Qantas – 5 March 2014*, Media release, 5 March 2014, accessed on 22 May 2014 at; <http://www.qantasnewsroom.com.au/media-releases/statement-from-qantas-5-march-2014>. Virgin Australia (2013), *Virgin Australia Holdings limited (ASX: VAH) reports Financial Results for Half Year Ended 31 December 2012*, Media release, 26 February 2013, accessed on 22 May 2014 at; <http://www.virginaustralia.com/au/en/about-us/media/2013/VAH_HY_RESULTS_DEC_2012/>. Regional Express (2013), *Federal Government policies decimating regional aviation*, Media release, 27 February 2013, accessed on 22 May 2014 at; <http://www.rex.com.au/MediaRelease/Files/342_MR20120227%20-%20Federal%20Government%20Policies%20Decimating%20Regional%20Aviation.pdf>. [↑](#footnote-ref-63)
64. Virgin Australia (2014), *Virgin Australia Holdings limited (ASX: VAH) reports Financial Results for Half Year Ended 31 December 2013*, Media release, 28 February 2014, accessed on 22 May 2014 at; <http://www.virginaustralia.com/au/en/about-us/media/2014/VA_FINANCIAL_HALF_YEAR_31DEC13/> [↑](#footnote-ref-64)
65. Qantas Group (2014), *Statement from Qantas – 5 March 2014*, Media release, 5 March 2014, accessed on 22 May 2014 at; <http://www.qantasnewsroom.com.au/media-releases/statement-from-qantas-5-march-2014>. [↑](#footnote-ref-65)
66. Qantas Group (2013), *Preliminary final report for the financial year ended 30 June 2013*, pp. 3-4, accessed on 21 May 2014 at; <http://www.qantas.com.au/infodetail/about/investors/preliminaryFinalReport13.pdf>. [↑](#footnote-ref-66)
67. Qantas Group (2013), *Preliminary final report for the financial year ended 30 June 2013*, pp. 3-4, accessed on 21 May 2014 at; <http://www.qantas.com.au/infodetail/about/investors/preliminaryFinalReport13.pdf>. [↑](#footnote-ref-67)
68. Qantas Group (2013), *Preliminary final report for the financial year ended 30 June 2013*, p. 8, accessed on 21 May 2014 at; <http://www.qantas.com.au/infodetail/about/investors/preliminaryFinalReport13.pdf>. [↑](#footnote-ref-68)
69. Jetstar Group includes Jetstar Airways Pty Ltd (which has domestic and international operations as well as Jetstar branded airlines established across Asia. [↑](#footnote-ref-69)
70. Qantas Group (2013), *Preliminary final report for the financial year ended 30 June 2013*, p. 4 and 10, accessed on 21 May 2014 at; <http://www.qantas.com.au/infodetail/about/investors/preliminaryFinalReport13.pdf>. [↑](#footnote-ref-70)
71. Virgin Australia (2013), *Virgin Australia—annual report 2013*, p. 9, accessed on 22 May 2014 at; [http://www.virginaustralia.com/cs/groups/internetcontent/@wc/documents/webcontent/~edisp/annual-rpt-2013.pdf](http://www.virginaustralia.com/cs/groups/internetcontent/%40wc/documents/webcontent/~edisp/annual-rpt-2013.pdf). [↑](#footnote-ref-71)
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75. <http://www.theaustralian.com.au/travel/news/regional-airline-rex-warns-about-carbon-tax-and-its-effect-on-ticket-pricing/story-e6frg8ro-1226123869219?nk=dfa553cf0d11e8ba5db5cb84610b54a4> [↑](#footnote-ref-75)
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77. IBISWorld (2014), Retail Property Operators in Australia, IBISWorld Industry Report L6712b, March 2014, p 22. [↑](#footnote-ref-77)