



Catholic Religious Australia Submission to the Inquiry into Price Gouging and Unfair Pricing Practices

15 September 2023

Dear Professor Fels,

Re. The Inquiry into Price Gouging and Unfair Pricing Practices

Thank you for your invitation to prepare a submission for the Australian Council of Trade Union's Inquiry into Price Gouging and Unfair Pricing Practices, investigating the root causes of price gouging, identifying the sectors most impacted and the mechanisms by which it affects consumers, as well as the connection between dwindling living standards and increasing corporate profits.

Catholic Religious Australia (CRA) is the peak body that represents more than 150 Catholic Leaders of Religious Institutes and Societies of Apostolic Life who are resident in Australia. Our religious congregations comprise of 4,800 Catholic religious women and men. Our members and their lay colleagues work in education, health care and social services and work with many vulnerable groups and individuals in Australian society.

CRA understands price gouging to be: "the practice of sellers pricing goods or services at a level significantly higher than what is objectively considered *acceptable, reasonable* or *fair*," normally occurring in response to sudden increases in demand or decreases in supply.¹ In our submission to the Senate Select Committee on the Cost of Living in May 2023,² CRA identified that supply shortages of goods and services have been occurring because of a perfect storm of conditions, including the impacts of the COVID-19 pandemic, severe weather and natural disaster events in Australia and globally, and the war in Ukraine, all of which have greatly inflated the associated price of goods and services both internationally and nationally.³ However, CRA also pointed out that this inflation is not only a natural result of supply shortages caused by temporary global events, but that it is also being driven by profiteering corporations and businesses.⁴

Profit-Price Inflation

Several economists globally⁵, including Fabio Panetta, member of the Executive Board of the European Central Bank,⁶ have stated that inflation would not have been driven so high if major corporations and businesses were not turning enormous profits during this period of a cost of living crisis. Indeed, research from the Australia Institute's Centre for Future Work has stated that 69% of excess inflation (above the RBA's 2.5% target) since the end of 2019 has arisen from higher unit corporate profit margins.⁷ This was predominantly seen in the mining sector, whereby gross corporate operating profits

¹ Mark Giancaspro, "Perilous Fires, Pandemics and Price Gouging: The Need to Protect Consumers from Unfair Pricing Practices During Times of Crisis," *University of New South Wales law journal* 44, no. 4 (2021): 1458.

² Catholic Religious Australia, *Submission to the Select Committee on the Cost of Living*, https://static1.squarespace.com/static/5acea6725417fc059ddcc33f/t/648a89377d5d3526920856a2/1686800696121/20230511_CRA+Submission+to+the+Select+Committee+on+the+Cost+of+Living.pdf

³ Water Frick, "What Causes Inflation," *Harvard Business Review*, <https://hbr.org/2022/12/what-causes-inflation>

⁴ Catholic Religious Australia, *Submission to the Select Committee on the Cost of Living*, https://static1.squarespace.com/static/5acea6725417fc059ddcc33f/t/648a89377d5d3526920856a2/1686800696121/20230511_CRA+Submission+to+the+Select+Committee+on+the+Cost+of+Living.pdf

⁵ Isabella M. Weber and Evan Wasner, "Sellers' Inflation, Profits and Conflict: Why can Large Firms Hike Prices in an Emergency?" (2023). *Economics Department Working Paper Series*. 343. Retrieved from https://scholarworks.umass.edu/econ_workingpaper/343

⁶ European Central Bank, "Interview with The New York Times," <https://www.ecb.europa.eu/press/inter/date/2023/html/ecb.in230401~ec65174af7.en.html>

⁷ Greg Jericho and Jim Stanford, "Profits and Inflation in Mining and Non-Mining Sectors," *The Australia Institute Centre for Future Work*, <https://futurework.org.au/report/profits-and-inflation-in-mining-and-non-mining-sectors/>

rose by 89% between end-2019 and end-2022 as a result of vast increases in prices charged to purchasers for fossil fuels, pushing Australian inflation beyond the RBA's target range following COVID lockdowns. Subsequently, over half of all corporate profits in the Australian economy now belong to the mining sector.⁸

Centre for Future Work has stated that we are also witnessing substantial gains in corporate profits in wholesale trade, manufacturing, transportation, and other strategic sectors, whereby businesses have been able to use supply chain disruptions and resultant consumer demand, coupled with oligopolistic market power, to raise prices above production costs.⁹ Data from Deakin University has shown that the average cost of food items in Australia has increased across the board, including staple items such as breads, cereals and fruits, in the 12 months to July 2023, with some products up by 40 per cent.¹⁰ This has occurred while Coles has reported a 4.8% increase to its full-year profit, to \$1.09 billion, and Woolworths' net profit increased 4.6% to \$1.62bn for the full financial year, with close to a 20% rise in earnings flowing from its Australian supermarkets - double the margins of overseas equivalents, such as UK chain Sainsbury's.¹¹ Qantas has reported a \$2.4bn profit (before tax) for the last financial year, compared to an \$860mil loss the previous year,¹² while Australia's largest lender, Commonwealth Bank, have reported a \$10.2 billion profit, representing a 5% increase over the last financial year.¹³

This report from the Australia Institute's economists, Greg Jericho and Jim Stanford, was rubbished at the time of publishing,¹⁴ but the RBA board in the minutes of its June meeting subsequently conceded that in fact, "some firms were indexing their prices, either implicitly or directly, to past inflation. These developments created an increased risk that high inflation would be persistent, which would make it more difficult to keep the economy on the narrow path."¹⁵ The Organization for Economic Cooperation and Development (OECD) also reported in June, after an analysis of 8 countries (including Australia) and the Euro Zone, that higher unit profits have been the principle driver of recent inflation in several of those countries (including Australia).¹⁶

⁸ Greg Jericho and Jim Stanford, "Profits and Inflation in Mining and Non-Mining Sectors," *The Australia Institute Centre for Future Work*, <https://futurework.org.au/report/profits-and-inflation-in-mining-and-non-mining-sectors/>

⁹ Greg Jericho and Jim Stanford, "Profits and Inflation in Mining and Non-Mining Sectors," *The Australia Institute Centre for Future Work*, <https://futurework.org.au/report/profits-and-inflation-in-mining-and-non-mining-sectors/>

¹⁰ Iskhandar Razak, "Dairy, frozen and tinned food costs rise as Coles announces full-year profit," *ABC News*, <https://www.abc.net.au/news/2023-08-22/food-price-groceries-rise-dairy-frozen-tinned-coles-woolworths/102755276>

¹¹ Jonathan Barrett, "Woolworths posts \$1.62bn profit with dramatic lift in margins despite cost-of-living crisis," *The Guardian*, https://www.theguardian.com/business/2023/aug/23/woolworths-posts-162bn-profit-with-dramatic-lift-in-margins-despite-cost-of-living-crisis?CMP=share_btn_tw

¹² Qantas, "Qantas Group Posts First Full Year Profit Since Covid," <https://www.qantasnewsroom.com.au/media-releases/qantas-group-posts-first-full-year-profit-since-covid/>

¹³ SBS News, "How are big banks making profits in a cost-of-living crisis?," <https://www.sbs.com.au/news/article/how-are-big-banks-making-profits-in-a-cost-of-living-crisis/2kdw48sml>

¹⁴ Ronald Mizen, "Australia Institute urged to retract 'flawed' profit-inflation report," *Australian Financial Review*, <https://www.afr.com/policy/economy/australia-institute-urged-to-retract-flawed-profit-inflation-report-20230513-p5d84j>

¹⁵ The Australia Institute, "RBA finally admits role of corporate price hikes in inflation," <https://australiainstitute.org.au/post/rba-finally-admits-role-of-corporate-price-hikes-in-inflation/>

¹⁶ The Australia Institute, "OECD report shows corporate profits contributed far more to inflation in Australia than wages," <https://australiainstitute.org.au/post/oecd-report-shows-corporate-profits-contributed-far-more-to-inflation-in-australia-than-wages/>

In question therefore is whether or not these profiteering businesses are unethically abusing the pandemic and inflationary period to drastically increase the profit from sales, beyond what is reasonable or fair for the Australian consumer.

Is Price Gouging Unethical?

The Australian Competition and Consumer Commission (ACCC) state that businesses are generally able to set their own prices, and that prices that people think are too high, known as price gouging, or a sudden increase in price are not illegal.¹⁷ The ACCC therefore has no statutory power to regulate pricing, and no general laws prohibiting price gouging of essential goods have been introduced in Australia.¹⁸

Indeed, a seller might significantly increase their prices for a multitude of legitimate reasons, including in response to a crisis whereby they may be offsetting increased supply costs. On the other hand, businesses may practice price gouging with the sole aim of maximising profit. Some economists argue that this is acceptable, as having unrestrained shifts in prices in response to market demand guarantees the most responsible allocation of resources - those who most value a good or service will always pay the stipulated price. Further, they propose that it also enables the formation of meaningful prices and indicates need.¹⁹ Economist Jim Stanford has spoken of an ideological bias in Australia that profit is assumed to be a legitimate “reward” to businesses that efficiently supply the market with something valuable.²⁰

While CRA believes that free markets have the potential to serve as an outlet for human creativity and promote the efficient provision of goods and services, unless economic structures and policies are oriented towards the common good, equitable access to fundamental goods and opportunities can be denied and the dynamism of the economy quashed. When capital is concentrated in the hands of private banks, investors/owners, or managerial elites, who practice anti-competitive behaviour, the market is no longer supporting the responsible allocation of resources or providing space for creativity and innovation.

The Hon Dr Andrew Leigh MP, Assistant Minister for Competition, Charities and Treasury, using 2016 data drawn from IBIS World Industry reports 2016, referred to market concentration in Australia as a “cradle-to-grave affair, running from baby food to funeral services.” The problem with oligopolies, or market concentration, according to Leigh, is that they lack incentive to carry out research and development; produce new products; or pay their employees fairly.²¹ He says that while increased market power leads to more producer surplus, however this surplus is not shared with shop floor employees, instead benefiting only shareholders and top executives at the expense of consumers,

¹⁷ Australian Competition and Consumer Commission, “Setting prices: what's allowed,” <https://www.accc.gov.au/business/pricing/setting-prices-whats-allowed>

¹⁸ Mark Giancaspro, “Perilous Fires, Pandemics and Price Gouging: The Need to Protect Consumers from Unfair Pricing Practices During Times of Crisis,” *University of New South Wales law journal* 44, no. 4 (2021): 1469 - 1474

¹⁹ Mark Giancaspro, “Perilous Fires, Pandemics and Price Gouging: The Need to Protect Consumers from Unfair Pricing Practices During Times of Crisis,” *University of New South Wales law journal* 44, no. 4 (2021): 1469 - 1474

²⁰ Jim Stanford, “Profits push up prices too, so why is the RBA governor only talking about wages?,” *The Conversation*, <https://theconversation.com/profits-push-up-prices-too-so-why-is-the-rba-governor-only-talking-about-wages-185688>

²¹ Andrew Leigh, “Address to the Sydney Institute, Sydney,” <https://ministers.treasury.gov.au/ministers/andrew-leigh-2022/speeches/address-sydney-institute-sydney>

increasing inequality.²² A recent report by the Australia Institute, *Inequality on Steroids: The Distribution of Economic Growth in Australia*,²³ has found this to be the current reality of the Australian market. Between 2009-2019, 93% of the gains from Australia's economic expansion went to the top tenth of income recipients, largely represented by oligopolies of Australian businesses and corporations. This means that a mere 7% of the benefits was received by the bottom 90%, highlighting an entrenched inequality in the Australian economy. The profits gained by Australian businesses and corporations through price gouging are not "trickling down" to the everyday Australian, who is having to pay exorbitant costs for basic goods, or forgo these goods altogether. Professor Ross Garnaut goes so far as to say that economic systems in which incomes, wealth and economic power are highly concentrated erode democracy.²⁴

Further, Kumar and Stauvermann have highlighted that in addition to economic barriers to market entry, barriers to would-be competitors can include political corruption or lobbying, whereby major producers have the political power to establish significant barriers.²⁵ This may well have been the case recently whereby Qantas lobbied the government against allowing Qatar Airways, who it sees as a competitor, to expand its flights into Australia, a move that former Qantas chief executive Alan Joyce, claimed would "distort" the local aviation market. The government's subsequent decision to reject Qatar's application is now being examined in a Senate Inquiry.²⁶ Qantas is also under question for charging persistently high prices for its tickets, with Mr Joyce having been summonsed to appear before a Senate Inquiry into the cost-of-living crisis in late August.²⁷

Who is suffering from Price Gouging and Unfair Pricing Practices?

Recent research from the Salvation Army shows that tens of thousands of Australians are experiencing extreme poverty, struggling to afford basic living necessities, with half of respondents surveyed (50%) unable to afford essential healthcare, 52% skipping meals to save money, and 75% experiencing housing stress.²⁸

Hardest hit by the current cost of living crisis, according to the RBA's April 2023 Financial Stability Review, are those on lower incomes, including many renters, and relatively recent borrowers who have

²² Andrew Leigh, "Markets, Monopolies & Moguls – Speech,"

https://www.andrewleigh.com/markets_monopolies_moguls_speech

²³ David Richardson & Matt Grudnoff, "Inequality on Steroids: The Distribution of Economic Growth in Australia," *The Australia Institute*,

<https://australiainstitute.org.au/wp-content/uploads/2023/04/Inequality-on-Steroids-Who-Benefits-From-Economic-Growth-in-Australia-WEB511-copy.pdf>

²⁴ Ross Garnaut, "2023 Annual Bannerman Competition Lecture," <https://lawcouncil.au/business-law/bls-news/2023-annual-bannerman-competition-lecture>

²⁵ Ronald R. Kumar and Peter J. Stauvermann. "Economic and Social Sustainability: The Influence of Oligopolies on Inequality and Growth," *Sustainability (Basel, Switzerland)* 12, no. 22 (2020): 9378.

²⁶ ABC News, "The government is facing an investigation over not letting Qatar Airways run more flights into Australia. This is how it unfolded," <https://www.abc.net.au/news/2023-09-08/qatar-airways-flight-decision-unfolded-qantas-government/102825330>

²⁷ Parliament of Australia, "Qantas chief summoned to front cost-of-living inquiry,"

<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F9335557%22;src1=sm1>

²⁸ The Salvation Army, "Surge in Australians sinking into extreme poverty amid cost-of-living crisis, Salvation Army research reveals," <https://www.salvationarmy.org.au/about-us/news-and-stories/media-newsroom/surge-in-australians-sinking-into-extreme-poverty-amid-cost-of-living-crisis-salvation-army-research-reveals/>

larger debts (relative to income); smaller businesses; and some building construction firms.²⁹ Young People (Millennials and Gen Z) are financially struggling,³⁰ with the recent 'Community Attitudes Survey' by the Smith Family finding that 1 in 6 young people are currently experiencing poverty, with an expectation that the cost of living crisis will cause this figure to worsen over the next year.³¹ Other demographics disproportionately impacted include women, especially single women who are elderly or with children,³² and those on government concessions, including people living on JobSeeker, Youth Allowance, the Aged Pension and Parenting Payment, who are reporting malnutrition, inability to afford essential medication and the imminent threat of homelessness.^{33 34}

Suggested Reforms

Assistant Minister for Competition, Charities and Treasury, The Hon Dr Leigh MP, has called for competition reform to shape a more dynamic economy, announcing in August that the Albanese Government is undertaking a review of competition policy settings to help build a more dynamic and productive economy.³⁵ He has outlined issues to be considered, including merger reform proposed by the ACCC, and providing advice on competition issues raised by new technologies.

Professor Ross Garnaut, in his 2023 Bannerman Competition Lecture, acknowledged that while greater competition can reduce prices of a product and therefore contribute to lower inflation and greater equity in income distribution, he cautioned that sometimes greater competition is not always possible or that removal of an oligopoly through application of competition policy would impose costs that exceed the benefits. In such a case, he has suggested that the achievement of the common good can then be met through restructuring of taxation to increase its incidence on rents and reduce its incidence on competitive activity.³⁶ This, he feels, would create a more equitable distribution of the tax burden and would eliminate a number of innate distortions in the current system of corporate income taxation.³⁷

Dr. Mark Giancaspro has cautioned against the introduction of anti-price gouging laws in Australia that go to the extreme of price freezes or capped price increases, as these would prevent prices from indicating need, and if set too low, could encourage bulk buying or hoarding that results in shortages. Instead, he suggests that anti-price gouging law should be based on an 'unconscionability' standard,

²⁹ Reserve Bank of Australia, "Financial Stability Review: April 2023,"

<https://www.rba.gov.au/publications/fsr/2023/apr/pdf/financial-stability-review-2023-04.pdf>

³⁰ Natascha Kwiet-Evans, "56% of gen Z feel financially pressured to look for a second job: Finder Cost of Living Report 2023," <https://www.finder.com.au/gen-z-cost-of-living-report-2023>

³¹ The Smith Family, "Community Attitudes Survey 2023,"

<https://www.thesmithfamily.com.au/media/stories/community-attitudes-survey-2023>

³² AHURI, "What are the real costs of Australia's housing crisis for women?"

<https://www.ahuri.edu.au/analysis/brief/what-are-real-costs-australias-housing-crisis-women>

³³ ACOSS, "How JobSeeker and other income support payments are falling behind the cost of living,"

https://www.acoss.org.au/wp-content/uploads/2022/09/ACOSS-cost-of-living-report_web_v02.pdf

³⁴ National Seniors Australia, "How is the rising cost of living affecting you?,"

<https://nationalseniors.com.au/news/featured-news/how-is-the-rising-cost-of-living-affecting-you>

³⁵ The Hon Dr Andrew Leigh MP, "A more dynamic and competitive economy,"

<https://ministers.treasury.gov.au/ministers/andrew-leigh-2022/media-releases/more-dynamic-and-competitive-economy>

³⁶ Ross Garnaut, "2023 Annual Bannerman Competition Lecture," <https://lawcouncil.au/business-law/bls-news/2023-annual-bannerman-competition-lecture>

³⁷ R. Garnaut, C. Emerson, R. Finighan and S. Anthony, (2020), "Replacing Corporate Income Tax with a Cash Flow Tax," *The Australian Economic Review*, 53: 463-481. <https://doi.org/10.1111/1467-8462.12385>

that prohibits 'excessive' price increases, offering the courts flexibility in evaluating the pricing practices of sellers and all relevant facts and circumstances.³⁸

Conclusion

While the substance of these suggested reforms differ, they do all acknowledge that price gouging and other anti-competitive behaviour, engaged in by market oligopolies, needs to change. CRA likewise believes that price gouging for unethical reasons, as outlined above, needs to be addressed, and not allowed to, or even be facilitated to, continue as per current ACCC legislation. While oligopolies of businesses reap enormous profits that may boost the Australian economy, everyday Australians are struggling to make ends meet and cannot afford basic necessities. This is an economy that is inherently unjust.

We thank you again for the opportunity to make this submission.

³⁸ Mark Giancaspro, "Perilous Fires, Pandemics and Price Gouging: The Need to Protect Consumers from Unfair Pricing Practices During Times of Crisis," *University of New South Wales law journal* 44, no. 4 (2021): 1474 – 1481.