



INDEPENDENT CONSUMER & COMPETITION COMMISSION

**REVIEW OF CURRENT PRICING ARRANGEMENTS FOR
PMV FARES**

DRAFT REPORT



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9th July 2008

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COMMISSIONER'S FOREWORD

The Independent Consumer and Competition Commission (the Commission or ICC) is a statutory body, established under the provisions of the *Independent Consumer and Competition Commission Act 2002*. The Commission has been given responsibility in PNG for the promotion of competition and fair trading, the regulation of prices for certain goods and services, and the protection of consumers' interests and other related purposes. As part of its functions, the Commission has the mandate to set fares for Public Motor Vehicles ("PMVs") for various routes throughout the country.

This Review into the current PMV fares is in response to a number of submissions received by the Commission from various PMV Associations and operators on the need for an adjustment in fares in response to significant increases in fuel prices since the Commission released its Price Determination for PMVs and Taxis in November 2007. The Commission has independently considered these submissions and of its own volition has decided to examine more formally the need for a further price adjustment in response to the increases in fuel costs.

This Review will primarily focus on the recent increases in fuel prices and the impact of these price increases upon the ability of PMV operators to maintain their services. The review is not intended to reopen or reconsider the matters covered more fully in the PMV and Taxi Review released by the Commission in late 2007. There were a wide range of issues raised and considered as part of the 2007 Report, and the Final Determination made by the Commission put into place a price adjustment mechanism that makes allowances for various costs increases, including fuel costs, that PMV and taxi operators face in providing their transport services. The focus of this current review will be upon whether or not it is necessary for the Commission to take action within the terms of the existing Price Determination process to make more regular adjustments to PMV fares at a time when one of the more significant operating cost variables is increasing at a rapid rate.

The Commission is undertaking this review in accordance with Sections 25B and 25C of the *Prices Regulation Act Chapter 320* (hereinafter the "PR Act"). The Review process will be undertaken by the Commission in an open and transparent manner and will seek to encourage the public and stakeholders to participate in this process. In this respect, the Commission has released this Draft Report to solicit submissions and comments from industry stakeholders and other interested parties.

It should be noted that the Commission undertook a comprehensive review into this industry culminating in the release of its final determination in November 2007. This current Review is not intended to be a detailed re-

examination of the industry and the regulatory arrangements to apply to the industry, but rather a more focused examination of the operation of the price adjustment mechanism that has been specified in the price determination made in the November 2007 report. Accordingly, the Commission's primary focus in this Draft Report is the recent significant increases in fuel costs subsequent to the release of the Commission's fare determination in November 2007.

Under the current pricing arrangements relating to PMV fares as determined by the Commission in 2007, the fare adjustments are driven by a formula which takes into account movement in the underlying costs of operating a PMV business. Essentially the formula incorporates movements in the Consumer Price Index ("CPI") and a fuel cost index devised by the Commission from movements in the retail price of diesel. Movements in this index are applied to PMV fares on an annual basis. The purpose of this current review is to consider whether or not there needs to be more frequent adjustments in the fare levels given the volatility of the fuel price index.

The Commission will release the Final Report of this Review after assessing comments and submissions made to this Draft Report in accordance with this Review's timeframe. A schedule of those who have made initial submission on which this review is instigated by the Commission is set out in Appendix B of this Draft Report.

For the review to be fully informed I urge all owners and operators of PMV to co-operate fully with the current inquiry and to provide the necessary information.

Submissions to the Draft Report should be received by 23rd July 2008 and should be directed to:

THOMAS ABE
Commissioner & CEO
Independent Consumer & Competition Commission
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PO Box 6394
BOROKO 111
National Capital District

All enquiries should be directed to Mr. Stanley Alphonse, Executive Manager for Prices, Regulatory Affairs & Special Projects Division on 325 2144 or email him at salphonse@iccc.gov.pg.

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Thomas Abe
Commissioner

8th July 2008

1. EXECUTIVE SUMMARY

This Review has been undertaken by the Commission at its own volition in accordance with the provisions of Section 25 of the PR Act.

This executive summary provides an overview of the Commission's key findings and its draft determinations that will apply to the pricing arrangements of PMV in 2008. These key draft findings and determinations are based on submissions and comments received by the Commission plus the Commission's own analysis. It is important to note that the Draft Determination does not replace the Pricing Determination on PMV Fares issued by the Commission in November 2007. Rather, this Draft Decision seeks to address a particular issue, namely the recent significant increase in world prices for fuel and the flow on effects on the PMV industry in PNG.

Key Draft Findings

The Commission has reviewed the movement in fuel prices and discussed the overall impact of these cost increases on the PMV industry. The Commission has also examined a number of issues in relation to the level of service being provided by the industry, and the ability of the industry particularly on urban routes to recover the higher fares that the Commission approved last November. The Commission notes that these higher fares were designed to address the need for the industry to have a fare structure that better reflected its need to recover costs given the number of passengers that were being carried and the types of routes being serviced. The failure of the urban PMVs to recover these higher fares raises a concern for the Commission in that by increasing the fares yet again to take into account the higher fuel prices, there is no guarantee that the industry will actually collect the additional revenues that these higher fares would otherwise imply.

The Commission has also received submissions on matters arising out of its November Determination. Submissions received, particularly for non urban routes, have suggested that the Commission should have used as a base a higher level of fares than that used in the November decision and the price adjustments that took effect from 1 January 2008 (that is, the then existing level of fares upon which the Commission then allowed an increase based on movements in the general level of inflation and fuel costs-the fare adjustment formula). The Commission has examined these submissions, and notes that they are often based on arguments and evidence which do not support the conclusions that have been reached. In making its November 2007 Determination, the Commission undertook a detailed evaluation of the industry based on operating costs and other materials provided by the industry. Nothing in the new submissions has indicated that the analysis previously undertaken by the Commission was wrong. In fact, the new submissions have tended to support the view that there is a high degree of

inefficiency in the way in which the industry operates, and that while local villages and communities may be prepared to 'fund' this inefficiency for the convenience of having their own family group or village owned PMV, this does not mean that fares should be increased so that all commuters pay for that social benefit that is fully appropriated by the village or family group concerned.

However, the Commission has noted that there are a number of omissions in the schedule of fares that it has gazetted, and as a consequence of these omissions being identified, the Commission will make some amendments to the schedule of fares that is gazetted.

The Commission has examined four possible fare adjustment arrangements to take into account the recent rises in fuel costs. Effectively these adjustments work in a manner similar to the existing price adjustment formula, but endeavour to bring forward the fare adjustment in recognition of the significance of the fuel cost increases.

The Commission has examined these options in the context of the requirements that are placed upon it by section 21(2A) of the PR Act. The Commission has concluded that there is justification for some adjustment of fares to take effect immediately, but that this adjustment should apply to non-urban routes only. Urban PMV operators are challenged to find ways to improve their overall recovery of the existing fares, so that more of their customers pay the maximum fares allowed for each customer segment. The Commission is prepared to work with the industry to help to achieve a better fare recovery.

For non-urban routes, the Commission has calculated a fare increase of 6.86% for this Draft Determination. This is based on movements in the costs indices up until the end of March 2008. A further fare increase for the non-urban routes would take effect from 1 January 2009 and would take into account the more recent increases in fuel costs and other underlying inflation effects. For urban routes, the existing determination by the Commission will stand and the next fare adjustment for urban routes would take effect from 1 January 2009 and would take into account the more recent increases in fuel costs and other underlying inflation effects.

The Commission believes that this adjustment best meets its requirements under the PR Act to balance the interests of the industry and consumers, while ensuring that there is continuing improvement in overall efficiency and service delivery.

The Commission will make a Final Decision on this matter once it has received and considered comments on this Draft Report.

Draft Determinations

Draft Determination 1

The Commission will make amendments to the gazetted fare schedule to include destinations/pick up points that have inadvertently been omitted from its November 2007 decision.

Draft Determination 2

The Commission will apply a six month adjustment to non-urban fares covering movement in the fare adjustment formula for the six months to the end of March 2008. The adjustment will be 6.86%, and the standard rounding rules will apply to the fares calculated using this adjustment factor.

Draft Determination 3

The six month adjustment will apply on a once only basis, although the adjustment to non-urban fares to take effect from 1 January 2009 will also be based on the movement in the fare adjustment formula for a six month period.

The Commission invites comments and submissions from interested stakeholders and members of the public on the above Draft Determinations.

2. INTRODUCTION & BACKGROUND

Overview of Commission & Legislative Arrangements

The Commission is a statutory body, established under the provisions of the *Independent Consumer and Competition Commission Act 2002* (“ICCC Act”), which has been given responsibility for the promotion of competition and fair trading, the regulation of prices for certain goods and services, and the protection of consumers’ interests and other related purposes.

The Commission is also responsible for the administration of the Prices Regulation Act (“PR Act”) relating to the price regulation of certain goods and services declared by the Minister for Treasury for the purposes of this Act. As part of the economic regulatory reforms undertaken in 2002, certain amendments were made to the PR Act which saw the inclusion of certain provisions that effectively allowed the Commission to initiate reviews into the pricing of certain goods or services declared under this Act. The Commission can undertake such a review on its own volition, or upon any written request from the Minister responsible for the Act or the supplier of the declared goods or services concerned.

Under the provisions of Section 25A(6) of the PR Act, the Commission of its own volition may decide to undertake a review of a ‘reviewable order’ (see Appendix A). A reviewable order under the terms of the PR Act is a pricing order that has been made in accordance with the PR Act. The Commission’s determination on PMV prices announced last November has resulted in a reviewable order being issued, namely the price control arrangements that are to apply to PMV fares. This review by the Commission has been in response to community and industry concern about the pricing of PMV fares in the context of significant increases in fuel prices, and the Commission has exercised its powers under the provisions of Section 25A(6) to undertake a review of the current reviewable order relating to the setting of PMV fares.

In undertaking this review, the Commission has also had regard to other provisions of the PR Act, in particular:

- Sections 10, 20A & 20B and 25B & 25C of the amended PR Act; and
- Confidentiality and public disclosure provisions of the PR Act relating to information received from stakeholders and other interested parties.

Overview of Review

2.2.1 Background

The regulation of PMV operations in PNG is shared between the Department of Transport, the National Land Transport Board (“NLTB”), and the Commission. The Commission has recently undertaken a major review of the PMV and taxi industry. The Final Report detailing the current PMV Fare Determination was released on 7th November 2007. Urban PMV fares in Port Moresby were adjusted at that time, and adjustments to fares for other routes across PNG were made to apply from 1 January 2008. The current determination will apply until 31 December 2012.

The current Review will be limited in focus, and will address the issue of whether, under the price adjustment mechanism that the Commission has determined, there should be an interim adjustment to fares to take account of the recent price increases in fuel. Thus, the current review will address issues raised by PMV operators that the impact of the higher than expected fuel prices have adversely affected their ability to continue to operate without some financial relief by way of a fare increase.

2.2.2 Review Process

The review will consist of the preparation and release of a Draft Report, the taking of submissions and comments on that report from all interested parties, and the preparation and publishing of a Final Report. It is anticipated that should the Commission find that there is a need to make an early adjustment to the fare structure to address the fuel cost increases, the Commission will be able to implement this fare increase under its existing powers and under the current gazetted price determination and price adjustment arrangements.

2.2.3 Review Timeframe

The timeframe for the Review process is as follows:

Event	Timeframe
Release of Draft Report	Wednesday 9 th July 2008
Due date for Receipt of Submission	Wednesday 23 rd July 2008
Release of Final Report and Determination	Wednesday 6 th August 2008

The Commission envisages completing the Review and having the final determinations within the given timeframe. However, should there be changes in the review timetable; interested stakeholders will be advised of the changes.

Copies of submissions received by the Commission (unless treated as being confidential) will be available for public viewing at the Commission’s office

on a 'Public File' or copies can be obtained from the Commission at a nominal cost for photocopying. The Draft Report and Final Report of the Commission are also public documents and can be obtained from the Commission's office once they are released. The Draft Report and Final Report will also be published on the Commission's web site at www.iccc.gov.pg.

3. OVERVIEW OF CURRENT PMV PRICING ARRANGEMENTS

Current Price Determination

In the November 2007 Final Report on the PMV and Taxi Industry, the Commission reports on its comprehensive review of the industry and the form of the price determination that will apply until 31 December 2012. As part of that Review, the Commission needed to determine whether or not to continue price regulation of PMV and Taxi services, and if price regulation was to continue then what form of regulation would be appropriate. Matters that the Commission considered included the extent of competition in the market for these transport services, the existence of potential new competitors, the ability of consumers to exercise some degree of influence on prices that are charged and the opportunity for innovation or changes in the form of transport to limit the market power of existing service providers.

The Commission concluded that the market conditions were not sufficiently competitive to ensure that any market power holders of a PMV or Taxi licence might have is prevented from being exploited. Thus, the Commission determined that there were sufficient grounds for some form of price regulation to apply for both PMVs and Taxis. Accordingly, the Commission determined that both PMV and Taxi Fares were to be subject to price control under the auspices of the Commission.

In determining the appropriate fares that should be applied across the industry, the Commission undertook some financial modelling based on information provided by PMV and Taxi operators. This allowed the Commission to form a view as to what level fares should currently be set after having allowed for PMV and Taxi operators to recover their efficient costs and to make an appropriate return on their investment in the business concerned. For the purposes of forming a view as to the appropriate fare rates, the Commission took into account the particular routes that are being serviced by PMVs in particular, and the cost structure associated with those routes. Thus the fare structure devised by the Commission and gazetted embraced the fares that should apply on both urban and rural routes across the country.

Not only did the Commission need to determine the level of fares to apply immediately, but as part of its decision to set a five year price path, it needed to devise and determine a mechanism whereby fares could be adjusted on a regular basis over the five years of the price determination period. To determine the appropriate fare adjustment mechanism for the regulatory period, the Commission considered the major cost drivers in the operation of PMV and taxi services. From data obtained from the industry and the analysis undertaken by the Commission, the Commission concluded

that the most appropriate indicators of movements in cost that could be used to adjust the regulated fares over the next five years were the Consumer Price Index (“CPI”) and a fuel price index based on movement in the retail price for diesel in Lae. Based on the relative contribution of fuel and associate fuel based products on the total cost structure of a PMV business, the Commission devised a weighting mechanism whereby movements in the CPI and fuel price index could be combined into a single index which would then be applied to fare levels to calculate revisions to the fare levels at various times over the regulatory period. The Commission decided to make these fare adjustments on an annual basis, reflecting standard regulatory practice for other goods and services for which the Commission determines a price, and also for the practical reason that more regular price adjustments may only result in confusion within the industry and amongst consumers as to what is the current fare level that can be charged.

Fare Adjustment Mechanism

The price adjustment mechanism devised by the Commission and which is currently in force is applied on an annual basis with new fare rates applying from 1st January each year. The Commission’s determination requires that the Commission determine the adjustment to apply from 1st January no later than 7th December each year (or the first business day thereafter). The new fare is to be published by way of the Government Gazette and daily newspapers.

The fare adjustment formula is as follows:

$$\Delta P_{t+1} = \Delta CPI_t * 0.75 + \Delta DFI_t * 0.25$$

where;

ΔP_{t+1} = the percentage increase in fares in the next year t+1

ΔCPI_t = the percentage increase in the CPI (excluding betelnut, alcoholic beverages and tobacco) produced by the National Statistical Office (NSO) and calculated over the four quarters to September in year t over the CPI (excluding betelnut, alcoholic beverages and tobacco) calculated over the four quarters to September in year t-1.

ΔDFI_t = the percentage change in the average monthly price for diesel (including GST) in Lae as published by the ICCC for the period to September in year t over the average monthly price for diesel for the period to September in year t-1

In terms of the calculation of the CPI index, the following formula is used:

$$\left(\frac{Dec\ CPI_{t-1} + March\ CPI_t + June\ CPI_t + Sept\ CPI_t}{Dec\ CPI_{t-2} + March\ CPI_{t-1} + June\ CPI_{t-1} + Sept\ CPI_{t-1}} \right) - 1$$

where;

- Dec, March, June, Sept are the quarterly CPI index numbers
- t, t-1, t-2 refer to years such that t is the current year (the year in which the price adjustment analysis is performed) and t+1 is the next year for which the fare increase is to apply

In terms of the calculation of the $\Delta DF I_t$ index, the following formula is used using Lae diesel prices:

$$\left(\frac{12\ month\ average\ monthly\ diesel\ fuel\ price\ to\ September_t}{12\ month\ average\ monthly\ diesel\ fuel\ price\ to\ September_{t-1}} \right) - 1$$

Under a ‘rounding rule’, the fare calculated for individual PMV routes using this annual adjustment formula is adjusted down to the nearest whole number evenly divisible by 10 if the calculated rate is no more than 5 toea greater than the number evenly divisible by 10. If the calculated rate is 6 toea or more above a number evenly divisible by 10 the rate is adjusted up next to the highest level evenly divisible by 10. When the following year’s fare adjustment is calculated for PMVs, the actual (not rounded) fare rate issued as the starting point for purposes of applying the percentage increase to calculate the new fare.

The Commission’s decision also made an allowance for a concession fare to apply on PMV routes. These concession rates apply to children and students. The two concession categories are “School Children”, that is for those in Primary and High School up to and including Grade 10 students, and “Senior and Tertiary Students”, that is for those in High School Grades 11 and 12, and in tertiary institutions (university), technical school and teachers college. The latter group must be able to provide a student identification card to the PMV operator when requested, in order to be eligible for the concession fares.

A uniform concession applies across PNG. For “Senior and Tertiary Students” the concession fare rate is 75% of the full fare and for “School Children” the rate is 50% of the full fare. These percentages have been applied to the determined fares. The rounding rule also applies to the concession fares.

Conditions for Granting Fare Certainty to the Industry

As part of its 2007 Report, the Commission gave consideration to the issue of the service standards offered by the PMV industry. The Commission was particularly concerned by clear evidence that not all PMV operators are

meeting their obligations in terms of providing safe and reliable transport service to the locations indicated by their PMV licence conditions. Furthermore, the Commission was concerned about apparent public safety issues arising not only from poorly maintained PMVs, but also from some unsavoury and illegal activities perpetrated by some PMV drivers and their offsidiers. While these are matters that should ideally be prosecuted through the enforcement of the licence conditions (and therefore should be enforced through the Department of Transport) or under the existing public law and order legalisation applying in PNG (and therefore enforced by the police), it is clear that the enforcement of these standards is not occurring. Thus, the Commission took the decision to build into its price determination arrangements under the PR Act whereby it can effectively take action under the PR Act to have fines applied to PMV drivers and operators who fail to meet their obligations for service and safety.

In particular, the two conditions that were set by the Commission were:

- a PMV may only charge fares on the condition that it completes its full designated route from one end of the route to the other, on every journey during each day on which it carries passengers; and
- PMVs may not discriminate against concession paying passengers (including school children) in any way or at any time, either by refusing to carry concession fare passengers whenever there is room available on the PMV for them to get on, or by asking or requiring concession fare passengers to get off the PMV before completion of the passenger's journey.

Failure to comply with either of these conditions would place the PMV operator in breach of the PR Act and through the powers given to the Commission action could be taken that would lead to fines and in conjunction with the Department of Transport, potentially the removal of the PMV licence to help enforce these standards. The Commission established a 'complaints line' whereby the public could report instances where PMV drivers fail to meet these requirements. The Commission, by way of its own pricing inspectors will also keep an active look out for PMV operators who are failing to meet their obligations and thereby are breaking the law.

The inclusion of these requirements for the industry to improve its overall image and level of service was a fundamental condition of the decision of the Commission in November 2007 to grant fare increases and to put in place a fare adjustment mechanism which gives PMV operators certainty regarding fare adjustments against cost increases over the next five years. It is important to note this link between the granting of certainty over fares and the requirement that the industry provide a reasonable and safe service. These two issues go hand in hand, and were considered as being part of the trade off in requiring the public to pay higher prices.

4. SUBMISSIONS RECEIVED

The Commission's decision to undertake this Review was in part driven by the number of submissions received regarding the impact of fuel price rises on PMV operators' ability to continue to operate profitably. These submissions are briefly discussed below. A list of submissions received to-date is provided at Appendix B.

4.1 Overview of Submission Received

The Commission received submissions from the following:

- Klinki PMV Association - Lae-Wau-Menyamya Route;
- Rigo Central PMV Association;
- PMV Owners Route 300 - Barakau;
- Hoodlagoon PMV Association; and
- Mr. Elim Kiang

These submissions were received primarily from service providers. The Commission has yet to receive any submissions from service users or other interested parties. Further to these submissions, PMV operators in NCD had a stop work on the Monday 21st April 2008 and set out below are the main issues raised during this meeting.

The following summary of submissions and the Commission's comments are intended to inform the debate and for this reason they are included in this Draft Report. The Commission is seeking submissions and comments from other interested parties prior to making its Final Decision on this matter.

4.1.1 Klinki PMV Association

The Klinki PMV Association represents PMV owners who operate on Route 2 providing PMV services between Lae, Wau and Menyamya in the Morobe Province. The route currently services a population of 250,000 people including residents involved in alluvial mining sector, the Wafi and Hidden Valley mines, PNG Forest Products timber and associated activities, various coffee producers and other general and small businesses operating in this area.

The Association claims that fares for this route were last increased in 1990 and have remained unchanged after almost 18 years. They draw parallels with other routes where there have been fare increases over this time.

The Association has proposed that the Commission grant an 87% increase in the PMV fares to account for general inflation and more recently increases in fuel costs. The Association claims that the current fare for this route is K4.00.

In considering this submission, the Commission notes that the fare on this route was in fact increased from K4.00 to K4.70 on 1 January 2008 as a result of the decisions announced in the Commission's November PMV and Taxi Fare determination. In setting this new fare, the Commission had made use of statistical information provided by operators on their operating costs, and had undertaken detailed studies into issues such as the rate of return that should apply to this industry and the asset value against which this rate of return should apply. (Readers are invited to read the Commission's 2007 report as it deals with these issues in more detail -see www.iccc.gov.pg/publications/index). Thus the issue of a general fare increase plus the matter of more regular fare adjustments to take into account underlying inflation has been addressed in the Commission's November 2007 report. However, the Commission notes that the Association has also raised the issue of fuel cost increases and this raises the issue of whether more frequent price adjustments are needed in a period in which fuel prices are changing rapidly and increasing significantly compared to previous periods.

4.1.2 Rigo Central PMV Owners Association

The PMV operators in Rigo District through the Rigo Central PMV Owners Association have provided a submission to the Commission seeking a further increase in fares to that was granted from 1 January 2008. The Rigo Owners have argued that the maximum fare set by the Commission is not sufficient to meet the cost of fuel and other operating costs. An increase of 100% is proposed by the Owners.

The Commission notes that prior to releasing the Final Determination on PMV fares in November 2007, it had released a Draft Report which had been available for public comment for many months. One of the reasons the Final Report was delayed in being released was that the Commission was promised data from the industry to help determine an appropriate price for various routes, and the industry was particularly slow in providing this information. Furthermore, in developing the financial models and analysis that the Commission used drawing on the cost data provided by the industry, the Commission built into the cost build up of the fares to be charged an allowance for a rate of return calculated on the price of a standard PMV vehicle, and an allowance for depreciation on this vehicle. These are costs that are not normally properly recognised in a number of the submissions that the Commission receives from the PMV industry as many operators in the industry particularly on rural routes are operating vehicles on behalf of their village or community group. As a consequence, there is often not a full accounting for these economic costs in the calculations that the operators perform. The Commission however, has

made allowance for these costs and thus the fares set by the Commission include these costs.

The submission from the Rigo Owners does not address the wider issue of number of passengers being carried or the frequency of trips on the route involved. All of these are relevant issues as they go to the issue of the ability of the owner to recover the fixed cost of operating the PMV over a certain number of paying passengers. The Commission has considered all these issues in its November 2007 report.

However, the Rigo Owners submission again raises the issue of the more recent rapid increases in fuel costs and the impact that this is having on the financial viability of the industry. It is interesting to note that at no time do owners provide information in their submissions to suggest that they have explored ways of reducing their variable operating costs (such as fuel costs) by altering the pattern of trips that they make to maximise the number of passengers and freight that can be carried. These are relevant matters and need to be considered as part of any review of the price adjustment mechanism.

4.1.3 Route 300 (Barakau) PMV Owners

Barakau PMV operators of Route 300 along the Magi Highway in Central Province have made a submission seeking a fare increase to compensate for the recent increases in the cost of fuel which has effectively increased their cost of operations and diminishing their profit levels. The operators are also querying the Commission's reference in the Prices Order currently applying to this route where the maximum fare of K2.60 applies to Barakau Turn-off, but no fare is set for the additional 4.7 kilometres from the turn-off to the village.

In the submission, the operators provide a generic cash flow for a PMV operation to illustrate their contention that the net income generated by an operator after all costs is only 12% of the net income after fuel costs. It is argued that an investment proposition of 12% return on income after fuel costs is not viable and unsustainable in the longer term for the operator. The operators concerned have requested an increase in the relevant fares to between K3.50 to K4.00.

The question of the gazettal of fares to the village a further 4.7 kilometres from the Barakau turn off raises an interesting administrative issue. The gazettal of fares by the Commission has had to rely upon the various locations identified in previous fare schedules. While this has been updated wherever possible drawing upon information provided by the relevant Land Transport Boards, the Commission is only too well aware of gaps that exist in the current gazettal notice. Thus, the Commission is inviting interested parties to inform the Commission of these fare schedule gaps and the Commission will take steps to correct the gazettal notice. In terms of the gaps in the schedule as it applies to the village of Barakau further down the

road from the turn off from the Magi Highway, the Commission has a mind to gazette this additional part of the route such that the total fare to the village would be K3.00, that is 40 toea more than the current fare to the turnoff in question. Comments are invited on this draft proposal.

In terms of the analysis that the Barakau PMV operators have provided in their submission, the Commission has examined this data and made some comparisons with the data that it had used when developing the models for purposes of preparing the November 2007 Final Report. There are a number of similarities between the cost estimates provided by the Barakau operators and the estimates used by the Commission (which were in turn derived from information obtained from the industry). However, there are some important inconsistencies between the Barakau submission and the provisions of the Commission's current price determination. In particular, the submission bases its revenue estimates on a fare structure that is wrong. For example, the full fare from the relevant turnoff is currently K2.60, not the K2.50 assumed in the submission's analysis. In addition, the concession rates assumed for students are significantly less than the actual concession rates. Thus, for example, the concession rate for primary school children is 50% of the standard adult rate, that is K1.30, not the 50 toea assumed in the analysis.

The Commission also notes that the number of passengers assumed on a daily basis is half the capacity of the number of vehicles that operate out of Barakau village. This may of itself suggest that there is either a congestion problem at certain times of the day (and thus the need to have an overcapacity of buses) or that the PMVs are running at various times with very little patronage. It would be inappropriate for the Commission to set fares at levels that encourage the inefficient operation of PMVs. While the total of eight buses reported may be needed at the peak times of the day, it would be uneconomic for these eight buses to continue to operate three return trips a day if the trips could effectively be shared between the fleet so that the cost of fuel could on average be reduced by PMVs doing on average (say) 2.5 return trips a day over the year rather than the three return trips currently assumed in the analysis.

Once these types of fare adjustments, plus cost savings are built into the Barakau model, the return on the operation of the PMVs involved becomes more viable commercially. Furthermore, the analysis does not include freight charges or special hiring. While there may be some difficulty in being precise about these revenues, the fact is they add to the total revenue being generated and help to defray the fixed costs that the PMV operators incur.

Thus, the Commission is not convinced that the Barakau operators need a price increase to prices in the K3.50 to K4.00 range. However, the Commission is inclined to give a price decision in favour of declaring a fare to Barakau village that would set the fare at K3.00. In addition, the Commission is aware that the operator's decision to make representations to the Commission was in part driven by the increasing price of fuel. The

Commission will consider this issue further in the following sections of the Draft Report.

4.1.4 Hoodlagoon PMV Association

Similar to other submissions received, the Hoodlagoon PMV Association argues that the recent (1 January 2008) increase granted by the Commission is insufficient due to the continuing increase in fuel prices as well as increases in other operational costs of running the PMV business. Therefore, they propose that the Commission consider reviewing the current fares.

It is important to note that the Commission fully recognise that underlying inflation will make it necessary to have adjustments to fare levels just in the same way as there are adjustments to the price charged for electricity or water and sewerage services to take into account increases in the cost of providing these services. The Commission's November Price Determination factors into its operation a mechanism whereby adjustments can be made on a regular basis which is in sharp contrast to the arrangements that have previously applied for this industry. As is outlined in Chapter 3 above, the current adjustment mechanism is based on an annual adjustment. The purpose of this review is to consider whether more frequent adjustments are required.

At the same time, the Commission would expect a regulated business to seek to manage its affairs so as to address costs increases that occur between fare adjustments. This may mean that a PMV operator will consider alternate timetabling of trips so as to maximise the number of passengers carried and thereby help to spread fixed costs across a larger number of paying passengers. The Commission would also expect PMV operators to consider ways of economising and becoming more efficient in the operation of the PMV. It should not be an accepted practice that passengers should automatically pay an increase in fares simply because costs go up, as these costs may also over time come down. The PMV operator is expected to manage his business in a way that works within the fare structure that is set. Provided the PMV operator has confidence in the regular nature of price adjustments to take into account costs increases that cannot be avoided, then the operator has a high degree of certainty. In these circumstances the PMV operator would certainly have more certainty than a business that is competing for customers and has no guarantee that if it increases its prices it can still expect customers to continue to use its services.

4.1.5 Mr. Elim Kiang

Mr. Kiang has made a submission to the Commission which, while noting the current concern about fuel costs, looks at the much wider range of issues relating to the operation of the PMV industry, and particularly the industry in the NCD. Mr Kiang identifies a number of the issues affecting the PMV industry, including:

- poor state of existing PMV service;
- poor and uncontrolled state of PMV licensing;
- monopoly of PMV services as some PMVs in urban routes including NCD are controlled by ethnic groups and a few individuals;
- lack of proper PMV Business Management; and
- poor quality road construction and maintenance.

Mr Kiang claims that Port Moresby Public Transport System (“POMPTS”) is one case of privatisation in the 1980s that failed. Mr Kiang argues that POMPTS faced many structural issues well before the current fuel price crisis. Rather than simply make adjustments for fuel cost increases, Mr Kiang proposes a multifaceted solution to improve the general service and operating standard of the industry. He argues that by simply increasing PMV fares the structural problems within the industry would not be solved.

As a wider solution to the NCD transport problem, Mr Kiang proposes the following:

- Development of two public transport systems in the NCD - restricted and unrestricted;
- Implementation of efficient licensing and enforcement systems;
- Adoption of efficient PMV operations which include collection of appropriate fares, daily book keeping by operators; and
- Fares to be restructured and based on the distance travelled.

The points that Mr Kiang raise go to a much wider range of issues, but they do address what the Commission believes are fundamental issues that need to be resolved if the NCD is to have an efficient and effective public transport system. In its November 2007 Report, the Commission recognised these fundamental issues and sought to take action within its powers to address a number of these matters. In particular, the Commission sought to:

- Make a price determination which would allow an appropriate recovery of efficient costs including a return on investment and depreciation of the PMV itself, and thereby encourage PMV operators to take a more commercial and financially sound approach to the operation of their PMVs;
- Introduce a process whereby the Commission has power to impose penalties on PMV operators who fail to provide the service that they are required to provide under the terms of their licence¹;
- Put in place a functioning price regulatory arrangement that recognises that there is little direct competition between the existing PMV operators; and
- Establish a price adjustment mechanism that gave certainty to PMV

¹ Effectively, failure to meet service standard requirements should be policed by the licensing authority, the Department of Transport. However, administrative difficulties in that Department have blunted any attempt to enforce these licensing conditions, and thus the Commission has needed to take its own direct action.

operators while at the same time kept price movements within the bounds of the change in the underlying costs that an efficient PMV operator would face.

In addition, the Commission raised the issue of whether it may be better to move to some form of fare based on distance for travel on urban PMVs within NCD. The Commission moved partly towards this approach by adopting a special rate for the Big Bus operation which uses a more direct route from the outer suburbs of Port Moresby to Town to that used by standard PMVs. However, the Commission recognised that to derive an appropriate fare structure for different route journeys required additional financial information which at this time is not readily available. Accordingly, the Commission noted that it would be one of the issues to be considered as part of its next major price review, by which time the Commission was hopeful that the current price determination and associated arrangements would encourage better record keeping and a more efficient PMV operation.

The Commission also highlighted the need for a more detailed consideration of the policy objectives and operating arrangements for the passenger transport industry. To help facilitate this process, the Commission indicated that it would be taking steps to engage the Department of Transport with a view to seeking to establish a better long term model for the provision of passenger transport services in PNG.

4.1.6 Strike Action by PMV Operators in Port Moresby

On Monday 21st 2008, PMV operators in the National Capital District held a stop work to express their frustration on issues relating to the operation of PMVs in NCD. Issues raised by the operators included:

- Rising cost of fuel;
- Underpayment by passengers of the prescribed fare; and
- The need for review and adjustment of current PMV fares to take into account the rise in fuel costs.

The issues that have been raised at the stop work meeting are similar to those raised in other submissions received by the Commission from various PMV owner groups. However, the stop work meeting also raised the issue of passengers failing to pay the new fare rates gazetted to take effect following the November 2007 Price Determination made by the Commission. This raises a new issue, although it is an issue that is in part included in the comments and views expressed by Mr Kiang in his submission.

For the Commissions it raises the fundamental point that there is a limit to the price that consumers will be able to afford and continue to use PMV transport. This then raises the prospect that fewer passengers using PMVs would necessitate further price increases in order for the PMV operators to recover not only their variable costs (which include fuel) but also their fixed costs. Thus, the issue is that the demand for PMV transport is not perfectly

inelastic, that is, as prices are continually increased, it cannot be expected that the same number of passengers will want to use PMVs. This adds a new dimension to the question of what if any action the Commission should take to address the current rapid increase in fuel costs.

4.2. Discussion of the Issues

The written submissions received from the operators stem from the main concern facing the industry that of the rising cost of fuel. Other issues that have concerned operators are:

- The general rising cost of goods and services;
- Deteriorating road conditions; and
- Means of obtaining further increases in the level of fares.

Most submissions have argued that fuel prices have risen significantly within a short period of time and for the operators to continue to provide services at the current fares would mean operating at a loss as a greater proportion of fare revenue is spent on fuel costs. The additional fuel costs have also driven inflationary price increases in other areas, particularly in terms of internationally imported goods and services, and these additional costs have needed to be passed to consumers and in this instance to PMV operators who need to meet these higher costs in terms of maintenance and repair work on their vehicles.

In addition, some operators have claimed that the adjustment granted by the Commission following the release of the November 2007 Report is not sufficient to allow them to earn an appropriate return. They have argued that the previous gazetted fares which the Commission used to calculate the adjustment to set the current fares had remained unchanged for more than ten (10) years and that a substantial adjustment to those fares was warranted.

The Commission notes that urban PMV operators have also expressed concern with the issue of underpayment of the PMV fares by the public. Passengers are not paying the higher fares set by the Commission in November, and as consequence, the PMV operators are having financial difficulties which are further exacerbated by the more recent price increases in fuel costs. Operators on the rural routes are arguing that the fares recently announced by the Commission are marginally different to the fares that have applied over the last (10) years, and that with deteriorating road conditions on the rural routes, maintenance costs are now difficult to recover from the fares collected.

Before discussing the issue of fuel costs in more detail, it is worthwhile commenting upon these two major points that have arisen from consideration of the submissions received to-date. Each will be dealt with in turn.

4.2.1 Recent fare Increases from November 2007 report

The fare adjustments announced by the Commission in its November Report were determined after an extensive public review process to which the PMV operators were invited to submit information on prices and other issues. As part of this review the Commission undertook an exercise in data gathering from the industry, and as reported in the November 2007 report, received information from operators on a number of routes, both urban and rural from across the country. This information was then used in building a cost based pricing model for the industry which looked at costs on a route by route basis using the information that was obtained from the industry. In addition to the direct costs that the industry provided, the Commission also included an allowance in the cost build up for the depreciation of vehicles (over a standard life of four years) and a return on the investment in the vehicles of 15.8% nominal pre-tax. Thus, the Commission went into some detail to incorporate not only the costs as advised by the industry, but also allowance for a fare return on the investment that had been made in the vehicles and a recovery of the cost of those vehicles over an assumed four year life span.

The Commission therefore can be said to have considered in some detail the cost of operating PMVs in a number of locations across the country.

When the Commission then considered what fares would be required to allow PMV operators to recover these costs, the Commission noted that on a number of routes, PMV operators were already recovering these costs plus more. However, on other routes, the Commission noted that there was a need for a fare increase. But in this process, the Commission also had to have regard to the efficiency of the operation of the PMVs involved. As has been highlighted above, when discussing the Barakau submission, there was evidence of poor efficiency in the operation of some PMVs. This was reflected in overcapacity on some routes and the running of PMVs when it was clear that the additional revenue likely to be generated would not meet the additional marginal costs for items such as fuel and staff wages. Thus in considering the number of passengers carried, while the Commission gave strong consideration to the passenger numbers reported by the industry, where it was apparent that the number of passenger carried was uneconomic, the Commission did not simply increase the fares to a level that would have meant that this small number of passengers would have met all the cost of the PMV.

Thus, the process of setting the fares was not simply one of assessing all the costs and then setting the fares to recover those costs. The Commission had to have regard to the demand for the PMVs and whether or not the additional costs of running PMVs with low patronage was an inefficiency that passengers should not be required to meet by way of fare increases. One approach which could be used to improve efficiency, could be to re-adjust the number of vehicles from one operator travelling a particular route so that more vehicles were on the route during peak travel times and less were

deployed during off-peak times. Overall the vehicles deployed would use more of their available seating thus improving the financial performance of the operator. Other approaches could be used for single vehicle operations including advertising departure times and adjusting departure times to periods of highest demand.

The Commission used the existing fare structure as a starting point for its analysis for the November 2007 decision. However, as is demonstrated by the decision that the Commission took with reference to the urban fares, the Commission was not necessarily bound to that structure. Rather, the Commission, having undertaken its detailed route-by-route analysis came to a view that an across the board fare adjustment was justified in this particular situation. In some instances where operators have claimed that fares have not changed from those existing ten years ago, the Commission is aware that on some routes the Land Transport Board prior to 2003 and even since the establishment of the Commission, made what are effectively illegal decisions to increase fares. Again, the Commission's analysis demonstrated that in these instances the increases were not justified, and the Commission believes that the fares that it has determined are appropriate for the routes concerned given the economic and financial analysis undertaken at that time.

Under the provisions of the PR Act, operators have the right to request the Commission to reopen a price determination, but such a reopening cannot occur within 12 months of the Determination being made without the agreement of the Commission. After a 12 month period has elapsed, the Commission is required to reopen a determination if requested by the supplier of a declared good or service. However, the Commission notes that the current determination is for PMV fares across a wide range of routes, and a route-by-route re-examination of the determination would be a very expensive exercise, both for the operators concerned and for the Commission.

The Commission has noted the comments received regarding omission of certain parts of rural PMV routes from the published fare determination. The Commission acknowledges the difficulties that have been encountered in terms of having up-to-date route details, and therefore is prepared to make adjustments to the gazetted fare schedule to take account of these omissions.

Accordingly, the Commission is seeking input from the industry of any apparent omission from the gazetted fare schedule together with any proposal for the appropriate adjustment in fares to cover the additional distance involved. The Commission will consider each of these proposals on their merits and will make an appropriate decision in the Final Report of this current review.

4.2.2 Collection and Payment Issues

Collection and payment of the appropriate fare is pertinent to the effective operation of a PMV business. In the November 2007 Final Report, the Commission noted that the manner in which fares are collected is based on “pay as you enter” arrangement whereby the passenger pays before boarding. This type of arrangement is mainly practised on the urban routes. However, this does not seem to be the practice particularly during the peak hours when there is a rush for commuters to either leave for home after work (in the afternoon) or go to work in the morning, thus making it impossible for the crew to collect the fare as people are boarding the PMV. As a consequence, having boarded the PMV, passengers can and do refuse to pay the full fare. As a consequence, and allegedly in response to this practice, PMV operators are shortening their route and demanding that all passengers leave the PMV.

The Commission considers that the onus is on the PMV operators to ensure that they have collected the maximum approved fares. However, if the operators are willing to accept a fare lower than the maximum approved fare then this is a commercial decision made by the PMV operator concerned. A decision by the operator to accept less than full payment should not be used as the basis to shorten the route and offload passengers. The PMV operator has the prerogative to refuse entry or offload the underpaying passenger at the nearest police station.

However, the Commission acknowledges that it can be difficult to take the PMV to the nearest police station to seek help to remove passengers who have not paid the full fare. Such a disruption in the operation of the PMV may be unacceptable to the PMV operator and to the other full paying passengers on the PMV. Thus, some other form of action is required by the PMV operator if they are to ensure full payment of the fares.

It is not possible for the Commission to institute arrangements that would force passengers to make full payment. It can only be the PMV operators themselves who can address this problem. However, their ability to address and resolve the problem may be helped if the industry was to take a common approach to a resolution. For example, while it is currently common practice for passengers to ‘rush’ a PMV at the peak hours and not pay until on board, a concerted action by the industry to refuse entry until the fare is paid would help to address this problem. Thus, if all PMVs adopted the approach whereby passengers must pay before they board and this approach was applied during all hours of the day, there would gradually be an acceptance of the fact that this is the way that the PMVs are going to operate.

Failure to adopt some form of disciplined entry arrangements onto PMVs over a number of years has contributed to the problem that is currently being faced in the urban areas. To a large extent the solution to this problem is in the hands of the PMV operators themselves, and provided that

they operate within the law, they are within their rights under the PR Act to refuse entry to someone who does not pay the gazetted fare.

Some passengers, especially in NCD and Lae, have argued that PMVs do not complete their routes and therefore that provides the justification basis for them to pay less than the maximum approved fares. While the Commission understands the frustration from the commuters, the Commission considers that this is not a proper justification to intentionally pay less than the maximum fares. The Commission further considers that commuter's position will be protected if they can pay the approved fares and should the PMV not complete its route then commuters should quickly provide the details of the PMV to the Commission using the telephone 'hotline' established by the Commission for this purpose. The Commission in conjunction with other relevant authorities will ensure that the operators concerned will be brought to account.

In rural areas, failure to pay fares is not a problem for the operators as passengers tend to pay the required amount and in instances where a passenger cannot pay the full fare, a negotiation between the operator and passenger is made and payments can be made later. Thus the problem is mainly one that is impacting on the urban routes in NCD and Lae.

The consequences of this failure to collect the full fare on urban routes is that PMV operators on these routes are failing to fully recover their costs and make an appropriate return on their investment. This is of concern to the Commission as it lessens the ability of the PMV operators concerned to maintain their vehicles in a safe operating condition, and it implies that the PMV fleet is not being operated in the appropriate manner. At the same time, the solution to this problem in terms of seeking to increase the gross revenue of the PMV operators is not necessarily to increase the PMV fares to compensate for this underpaying. Indeed it is likely that such action will only serve to exacerbate the problem.

As noted by Mr. Kiang in his submission to the Commission, the resolution to the difficulties with the urban transport arrangements requires a multifaceted approach directed at improving the standard of the industry. The focus should not only be on increasing PMV fares as this will not necessarily resolve the immediate on longer term issues facing the industry.

The larger issues of the condition of the roads, the possible need for a distance based urban fare structure, the appropriate training of PMV owners and operators in 'good management' techniques, and the policing of the licence conditions to remove 'rogue' operators from the industry are all longer term matters which the Commission has raised in its November 2007 report and which it is acting upon through discussions with the relevant authorities. But in the short term, in terms of the underpayment of fares, the potential to do something about this problem is with the industry itself. It needs a concerted and unified approach to the problem. The Commission is willing to work with the industry to ensure that people understand their obligation to pay the gazetted fare and the rights that the PMV operators

have to refuse to provide a service to people who will not pay the approved fare.

4.3. Fuel Costs

The principle concern raised by the submissions to the Commission and in public comments on this matter is the rising fuel cost. Under the determination made by the Commission in 2004 and embodied in the Petroleum Pricing Review, fuel products in PNG are regulated under Section 10 and 32A of the Prices Regulation Act. The Commission determines the margin that applies on the wholesaling and retailing of fuel and has a close monitoring approach to the freight costs associated with delivering fuel around the country. However, under the terms of the Project Agreement entered into between the Government of PNG and the Napa Napa refinery operator, InterOil, the Commission's role in terms of the ex-refinery price for fuel products is simply to monitor the movement in the price against a formula that has been determined by the Agreement (although this Project Agreement has recently been subject to review by InterOil and the Government). The Commission has given its views on various aspects of this pricing formula, both in terms of the version that exists in the original Project Agreement, interim pricing formula agreed by Government and InterOil and the revisions that have been discussed in recent months. However, the formula itself is one that is not of the Commission's making and the Commission does not have any direct power over its structure. The role of the Commission is simply one of checking and confirming that the agreed formula has been applied correctly.

Announcement of fuel prices are made every 8th day of each month. Movements on a month-to-month basis are closely tied to the movement in fuel prices in the Singapore market with adjustments for freight costs to PNG. Currently the adjustment in fuel prices each month is based on the movement in the Singapore price over the previous month adjusted for exchange rate differences and other cost differentials which are currently under review by Government. Unlike Australia where fuel prices can move more frequently and even on a day-to-day basis, the fuel price in PNG is set for the month and no official adjustment is allowed over that month. PNG is a 'price taker' when it comes to the prices paid for petroleum products, and as a consequence, transport operators including PMV operators are unable to influence the final cost of their fuel bills other than by careful, fuel efficient driving.

In the November 2007 PMV Final Report, the Commission used survey information from the PMV industry to determine the cost build up of the revenue requirements for this industry. This included the cost of fuel at that time, and its relative contribution to the overall cost of operating a PMV service.

In recognition of the importance of fuel costs to the total costs that are incurred by the industry, the Commission also explicitly included movement

in a domestic fuel cost index in the price adjustment mechanism that is to apply to PMV fares on an annual basis (see discussion in Section 3.2 above).

The Commission has examined the movement in fuel costs over several years to assess to what extent the current movement might be regraded as being outside of the normal pattern. The reasoning for this is that under a normal annual price adjustment mechanism of the type that the Commission has established for the PMV industry, adjustment is usually made at the beginning of each calendar year to take into account the movement in costs over the previous 12 months. By providing a greater degree of certainty in making price adjustments (unlike under the previous pricing arrangements in PNG where there was little certainty regarding any adjustment to prices to take into account cost increases) and by developing a model that reflected the underlying costs of the industry and ensuring that revenue generated from expected patronage and the fares set would allow an efficient PMV operator to recover costs and make an appropriate return on investment as well as a recovery of the depreciated value of the vehicle, the Commission sought to establish a fair basis for setting PMV fare rates that balanced the interests of PMV operators and consumers. However, to the extent that underlying costs are growing at an unprecedented rate, and therefore putting the financial viability of the PMV operations at risk, there may be grounds for the Commission to consider whether more frequent fare adjustments are required to allow for the pass through of these more rapid cost escalations.

Analysis of the movement in fuel prices, and in particular diesel fuel prices in Lae since September 2004 indicate that there have been periods where prices have risen rapidly on average over the year (that is, at rates greater than 10% on average, for example 2005 and 2006) and other years when there has been very little change over the year on average (such as 2007) (See Figure 4.1). Since 1st January 2008, the price of diesel has however increased by nearly a third over the average price that applied in 2007. This is shown by the rapidly rising index series shown in Figure 4.1.

Figure 4.1 - Index of Retail Prices for Diesel (Sept 2004 - June 2008):
Lae



Table 4.1 provides details on the price of diesel in Lae on a monthly basis for the period from October 2006 to June 2008. The price adjustment mechanism that the Commission has established for the PMV industry uses the average movement in the prices for diesel for the 12 months to September each year as the indicator of movement in these prices. The prices in Lae are used because it is a higher price than in Port Moresby and includes the higher costs related to fuel distribution, which are relevant to outlets away from the Napa Napa refinery which is close to Port Moresby.

From Table 4.1 it can be calculated that the movement in the average monthly price for diesel for the period October 2007 to June 2008 by comparison to the average monthly price for the period October 2006 to September 2007 is 27.5%. In the 12 month period to September 2007 over the 12 month period to September 2006, there was a slight reduction in the average monthly price of diesel. This further highlights the fact that prices for diesel fuel in recent months have been rising at a much faster rate than in previous years.

Table 4.1 Retail Diesel Prices:-Lae

Month	Retail Prices (toea per litre)
October 2006	268.66
November	250.40
December	239.95
January 2007	247.59
February	245.31
March	235.18
April	243.60
May	252.41
June	259.07
July	263.92
August	264.91
September	269.25
October 2007	267.70
November	274.43
December	310.31
January 2008	312.14
February	310.48
March	319.94
April	346.99
May	368.88
June	404.98

Source: ICCC Fuel Prices Data

To further highlight the significance of the recent price increases, and to provide a comparison with previous years, Table 4.2 summarises the average price for diesel in Lae for the nine months to June each year for the last three years and compares this average with the average price for the previous 12 months ending in September.

Table 4.2 Percentage Change in Average Monthly Price for Nine Month period to June

Period	Nine Month Average Price to June (toea per litre)	Annual Average Price Previous Year	Percentage change
2005	206.35	N/A	N/A
2006	247.44	213.57	15.9%
2007	249.13	254.52	-2.1%
2008	322.98	253.35	27.5%

Source: ICCC Fuel Prices Data

The 2004 Annual average price of fuel under Column 3 above cannot be derived as there was a change in the base of price of fuel from landed cost reviews (“LCR”) to import parity price (“IPP”) due to the commencement of the Napa Napa refinery in September 2004.

Table 4.2 again highlights the extent to which, on current trends, the average monthly price for fuel in the current year (that is the year October 2007 to September 2008 which is used for purpose of the price adjustment mechanism) has been growing much faster than in previous years. While it is possible to assume that there may be no further increase in prices over the remainder of the year, or that prices may even fall as they have done in some previous years, on the basis of current market projections, and given the lagged effect of the way in which fuel prices are set in PNG (such that it is already known that prices will rise again from 8th July), it is possible to conclude that the average monthly price of fuel over the current year is likely to be at levels not seen in PNG in recent years.

The question is, do these price increases represent a hardship to PMV operators such that the Commission should take early action to adjust PMV fares in advance of the next scheduled adjustment on 1st January 2009.

4.4. Other relevant issues

4.4.1 Omissions in the current fare schedule

Some operators particularly in the rural routes have raised concerns that the base fares used by the Commission to set the current fares were incorrect and requested the Commission to correct these anomalies. As discussed in section 4.2.1 above, the Commission has reviewed these submissions and notes that it has used as the base for the adjustment of fares the legally approved fare rate that was applicable on the relevant route. In addition, the Commission has modelled its fare adjustment arrangements on these legally approved fares, and the adjustment that has been made is entirely consistent with the Commission's modelling of an appropriate fare for the individual routes. The issue that the Commission has had to contend with is the extent of patronage on some of these routes and the extent to which the level of demand is over-served by the availability of PMVs. It is not the Commission's role to subsidise over-capacity by increasing the fares for those that do use the PMVs. Thus the Commission is not proposing to make any adjustment to these fares in response to this comment.

However, the Commission has acknowledged above that there have been some parts of the routes gazetted that have not been specifically itemised and the fare specified in the gazettal notices. The Commission will rectify this omission upon receipt of submissions and evidence from the PMV operators concerned that there is in fact an omission, and the submission must specify the distance of the omission, the name of the start point and the name of the end point.

Examples of these are the Route 300 where fares were set for Barakau turn-off, Gaire turn-off and Tubuseria turn-off without specific reference to the villages which are located a distance from the main highway. Also some

parts of Route 400 that goes beyond the Port Moresby to Yule Island Turn-off, adjoining to Nikura, Delena, Poukama and Nabuapaka villages. The Commission set a maximum fare of K10.50 per adult for the POM to Yule Island Turn-off but not the additional fare relating to the extension of the route to the four villages. The Commission is informed that passengers travelling to Nikura are charged K11.00 while those travelling to Delena, Poukama and Nabuapaka villages are charged K13.00 by the PMV operators.

The Commission seeks submissions and evidence on additions or extensions to the routes currently gazetted to identify omissions from the currently approved routes, where the submissions must specify the accurate distance of the omission, the name of the start point and the name of the end point, and any other details of relevance for the Commission.

4.4.2 Service Standards

Since the release of the November report on PMVs and the Commission's warning of action that will be taken under the PR Act should PMVs be found to have not met their service obligations, the Commission notes that it has continued to receive complaints that urban PMVs, particularly in NCD, Lae and other main urban centres have not been completing their full designated routes as specified in their licences. By comparison, in the rural routes, most PMVs complete their routes and there is limited evidence of a similar problem.

It has been argued by some operators that this type of behaviour is necessary in order to allow the PMV operator to break even or make a profit. With recent increases in fares on urban routes, it should be no longer necessary to take such action. Inefficiencies in the operation of the PMV may still encourage some more unscrupulous operators to seek to make up for the extra costs they incur as a result of poor maintenance of their vehicles or poor driving behaviour, by adopting this practice.

The Commission further urges PMV operators, particularly those in the urban centres of Port Moresby and Lae to complete their designated routes while at the same time ensuring that the maximum fares are collected.

The failure of PMV operators to meet their obligations under their licence conditions adds weight to the argument that the Commission should refrain from making further fare adjustments. Certainly if the industry is to regain the good will and support of the community it needs to recognise that the behaviour of some PMV drivers and operators is unacceptable and is bringing the whole industry into disrepute.

The Commission seeks submissions on whether or not it should preclude the proposed fare increases from PMV operators operating in urban areas. Submissions should cite why this increase should apply to urban PMV operators and how the PMV operators themselves will enforce the service standards which apply to and are maintained by the majority of operators. Approaches to call-in observed non-compliance to service standards or other approaches or suggestions would be considered.

4.4.3 Monitoring and Policing Aspects

In terms of enforcement arrangements, the Commission's Price Inspectors have been making random checks to ensure that the correct fares are being charged on PMVs and taxis. The Commission has also established a 'telephone complaints line' which can be used by commuters to report instances of overcharging, discrimination against concession paying passengers or lack of completion of licensed routes.

To-date, while the Commission has not issued any fare infringement notices, it has made several warnings to individual PMV drivers concerning their actions. Having given ample warning of its intentions to take appropriate legal action within its powers, the Commission will now commence taking direct action to prosecute PMV operators who are found to be in breach of the declared pricing and service requirements.

The Commission will also continue to work collaboratively with other relevant organisations and government agencies to further improve the services currently provided by PMV operators.

5. OPTIONS AVAILABLE

The issue before the Commission is what if any action it should take to address the rapid increase in fuel prices that has occurred over the last six to nine months. The evidence demonstrates that there has been a strong growth in fuel costs. In addition, the CPI for PNG has risen rapidly (in part reflecting the fuel cost increase within the CPI itself) in response to the growing inflation levels on a worldwide basis. The Commission has established an automatic price adjustment mechanism which is based on movement in the costs of fuel and general inflation levels in PNG. From a practical perspective, because the adjustments are retrospective (that is they are made at the end of the year), the ability of the domestic PMV industry to remain viable over the year while waiting for a price adjustment to take effect on 1 January can prove to be particularly difficult for an industry where the financial resources of the operators are not very high.

At the same time, the fare increases that have occurred in the last 12 months, particularly for the urban PMV routes have been quite significant and there is already evidence of consumer resistance to these higher prices. If fares are lifted again there is the real possibility that consumers may refuse to pay the higher rates, or forego using PMVs and opt for other forms of transport. In these circumstances (where the elasticity of demand would be said to be highly elastic) there is the real risk that in terms of the recovery of sufficient revenue to cover their costs, the PMV operators may find that there is a fall in their total revenue takings notwithstanding that fares have risen, because passengers forego travel or seek other transport alternatives.

The added complication in considering the options available is the apparent failure of some urban PMVs to be providing the full route service that they are required to provide under their licence conditions. This poor performance by some reflects badly on all PMV operators and captures the attention of consumers who are quick to express their dissatisfaction with the whole industry rather than just those few who break the law. Thus, at a time when there are rapid rises in costs elsewhere across the economy, there will be little sympathy for the PMV industry, as is demonstrated by the public calls for the relevant authorities (including the ICCC) to take action to ensure delivery of the service that is required of the PMVs.

5.1 Option A: Adopt a Six Monthly Price Adjustment

In considering the options that it might take, the Commission needs to have regard to a model that best balances the interests of both the operators and the consumers with regard to Section 21 (2A) of the Prices Regulation Act. The Commission's 2007 Determination which currently stands and is not intended to be changed by this current review has been based on an

extensive review not only of the cost factors facing the industry, but also of the wider social and economic consequences of the form of fare setting arrangements adopted. If any change is to be made to the fare setting arrangements to take into account the rapid increase in the cost of fuel it needs to be made in the context of not distorting the existing fare adjustment mechanism while at the same time making some adjustment to reflect changed cost parameters.

Under the Commission's annual price adjustment mechanism, the fares for PMVs would next be adjusted from 1 January 2009. However, one option that is possibly open to the Commission is to bring forward an adjustment and base it upon movement in the relevant price series for the six months period to the end of March (the annual adjustment is based on movements in the price series for the 12 month period to September, so the adjustment to March would be a six month adjustment). The Commission would apply the same weighting and other elements of the price adjustment mechanism as specified in its determination announced in November 2007. However, an adjustment would simply take into account the most recent cost movements, and effectively bring forward part of the adjustment that would have occurred from 1 January 2009. The 1 January 2009 adjustment could then be based on the six-month movement in costs for the period to September 2008, or could be based on the twelve-month movement in costs for the period to September 2008 less the adjustment which is allowed at approximately the end of July 2008, following the finalisation of this report.

One of the advantages of this early adjustment approach is that it would provide a degree of certainty to the industry that prices will be regularly reviewed with a view to adjusting them for changes in underlying costs, and it would represent a more current updating of the fares given the movement in costs. At a time of rapidly increasing costs, this could be advantageous for the operators as it allows them to charge at a rate that reflects the current cost paradigm that they face rather than wait a full twelve months before a price adjustment occurs. Another advantage is that if there are to be price adjustments, then it will mean that these might be smaller individual adjustments rather than larger adjustments that might otherwise occur on an annual basis.

Disadvantages with this early adjustment approach are primarily practical ones in the sense that it requires more administration to calculate the six monthly price increases, and to make the necessary gazettal orders that authorise the new price. From a customer perspective, even though the price adjustments may be smaller, being more frequent may create confusion in consumers' minds about the process and concern about what they may see as constantly changing prices for a service that they normally expect to have reasonably stable prices.

The Commission's determination on pricing which allows for a rounding up or down of the price if after the calculation of the change, the price that is calculated for each route needs to be rounded to the nearest price evenly divisible by 10. This has the effect of possibly smoothing out the smaller

price movements and then having more noticeable price changes, for example pricings moving from 70 toea to 80 toea rather than going from 70 toea to 75 toea. This might be advantageous for consumers, but it may not help the industry if effectively the price adjustment for the costs movement should be negated by the rounding rules.

A six monthly price adjustment mechanism may also be more inclined to involve price reductions as well as price increases. Thus, the fare to be charged from a PMV operator and consumer perspective could be further confused by the possibility that fares may be reduced at some point, only to be increased again after the next six months. Certainly given the cyclical pattern of some elements of the CPI series (although the Commission excludes movements in the price of beverages and betel nut), there would a real possibility of prices going down as well as up if a six monthly cycle is used.

5.2 Option B: Adopt a Trigger Mechanism

A variation of this option might be to introduce a trigger mechanism. Under a trigger mechanism, a price adjustment (other than the normal annual adjustment) could occur if there had been an underlying increase in costs such that movement in the weighted fare adjustment formula was greater than some predetermined value. Thus for example, the trigger could be set such that is the movement in the fare adjustment formula resulted in an increase greater than 5%, then an adjustment would be made to the fares. However, if the increase was less than 5% then no adjustment would be made. A similar adjustment mechanism is built into the Regulatory Contract for the determination of electricity prices in PNG. This allows an adjustment to the charges if during the year the costs of diesel fuel exceed a certain percentage rate, whereupon prices for electricity can be increased to allow PNG Power to recover the added costs of the fuel cost increase.

This approach has the merit that it does not mean that prices need to be changing generally more frequently than once a year (as is standard practice for regulated prices), but at the same time recognises that there may be exceptional circumstances that require an adjustment to occur more frequently. However, it has the complexity of requiring a decision to be made as to what should be the trigger value. Under the Regulatory Contract for electricity, the trigger point is an increase in the overall inflation index used in the Contract of greater than 10% on a six monthly basis. If this was to be applied to the PMV industry, there would need to be increase in the tariff adjustment formula as defined in section 3.2 above of 10% over a six month period.

To assess how this might apply to the current situation, the following example is provided drawing on the CPI and fuel price index series as defined in the fare adjustment formula.

The formula is as follows:

$$\Delta P_{t+1} = (\Delta CPI_t * 0.75) + (\Delta DFI_t * 0.25) \text{ where}$$

ΔP_{t+1} = The adjustment in the fare

ΔCPI_t = Change in CPI (excluding beverages and betel nut) for the period December 2007 to March 2008 over the period June 2007 to September 2007. The change over this period applying the formula set out in the PMV Determination but over a six months period is 4.15%

ΔDFI_t = Change in diesel retail prices in Lae for the period October to March 2008 over April to September 2007. The change over this period applying the formula set out in the PMV Determination but over a six month period is 15%

In applying the formula, the resultant change to the fares will be as follows:

$$\begin{aligned} \Delta P_{t+1} &= (\Delta CPI_t * 0.75) + (\Delta DFI_t * 0.25) \\ &= (4.15\% \times 0.75) + (15\% \times 0.25) \\ &= 3.11\% + 3.75\% \\ &= 6.86\% \end{aligned}$$

On the basis of this option, the adjustment would be 6.86%². It is noted that this falls well short of the 10% trigger used in the electricity Regulatory Contract. However, given the limited financial ability of the smaller PMV operators to carry a large increase in fuel costs by comparison to a larger corporate entity such as PNG Power, it may be more appropriate to use a 5% cut off point as the trigger that would be applied should this option be adopted.

5.3 Option C: Use Different Time Periods for the Fare Adjustment Formula

As is outlined in a footnote linked to the previous section, if the Commission was to adopt different time periods for the purposes of calculating a six monthly adjustment (or determining whether a trigger has been breached), the results may be somewhat different to that shown in the worked example

² The six month period to March is used for both price series to be consistent. A June quarter CPI figure is not currently available. However, the Commission notes that there has been further strong fuel price increases in the June quarter 2008, and if the January to June six month period was substituted for the October to March six month period, then the fuel price index would increase by 25.7% and the fare adjustment formula would produce an outcome suggesting a fare increase of around 16%.

presented in section 5.2 above. The footnote refers to a possible outcome from the formula of a price adjustment of around 16% if the fuel price adjustment is used for the six months to June (over the previous 6 months to December) and the CPI is still for the six months to March (over the six months to September in 2007).

Adopting an adjustment mechanism that incorporates the latest information for both variables would seem to be a logical approach. The reason why the fuel index is more up to date is that the Commission is the body that announces the monthly changes in the price of fuel and thus it has ready access to the latest information with fuel prices for each month being announced on the eighth day of the month. The CPI series is obtained from the National Statistical Office (NSO) and is prepared on a quarterly basis with the results from the NSO's data collection usually not being available for around six to eight weeks after the end of the quarter.

Adopting different time periods in the fare adjustment formula is not a practice the Commission would normally consider. It adds to complexity of the ongoing fare adjustment arrangements (remembering which period has previously been included and being careful not to double count the changes in the index numbers) and it could be argued that it is being adopted to achieve a specific predetermined outcome rather than the appropriate and consistent outcome. It is noted that in the example used above, if the 6.86% increase in fares was applied to the current PMV fare in NCD of 80 toea, then the suggested fare would be 85.488 toea. Under the rounding rule that is applied by the Commission in its Determination on PMV fares, this would round down to 80 toea. In other words the price would not change (although the higher number of 85.488 toea would be used as the starting point for the next six month adjustment). On the other hand, if the 16% increase was used which has been derived from using two slightly different time periods (because the data is available for the fuel cost index), then the implied fare would be 92.8 toea which would be rounded down to 90 toea. In other words, the fare would be increased which would presumably be the favoured outcome from the PMV operators' perspective although not necessarily from the consumers' perspective.

5.4 Option D: Adopt an Adjustment for the Non Urban Routes Only

Under this option, urban PMV fares particularly for Port Moresby and Lae but also on other urban routes in Wewak, Kokopo, East Sepik and Kimbe should remain at their current level while fares for other (primarily non urban) routes should increase based on the revised adjustment formula.

The concerns raised by PMV operators in urban routes and in particular in NCD and Lae is the argument that commuters are not paying the full maximum fares which results in lost revenue for the operators concerned. The urban based PMV operators have not demonstrated whether the financial difficulty they are facing is as a result of passengers failing to pay

the regulated fare or the fact that even at these higher fares which were introduced from November 2007, they are still unable to recover their costs given the increases experienced in fuel costs in particular. Urban fares were increased at a higher rate than non urban fares when the amended fares were introduced at the end of 2007 and from 1 January 2008. Thus there may be greater justification in allowing some adjustment to the non urban fares and retaining the existing urban fares until the next scheduled fare adjustment on 1 January 2009.

The Commission has discussed in section 4.2.2 action that the PMV operators in these urban areas might take to address the under recovery of fares. To some extent the ability to resolve the current underpayment problems is one that is in their own hands. While the Commission is willing to support action taken to collect fares (by publicly stating what the approved fares are and that commuters are obliged to pay these fares), it is up to the operators themselves to consider the way that they collect their fares and seek to implement arrangements which improve their overall collection. Simply by increasing the fares in these urban areas is not of itself going to resolve their cash flow problems if passengers are refusing to pay the current approved fares.

The pertinent issue is that for both the urban and rural routes it is incumbent for the operators to ensure that all boarding passengers should pay the full fare. An increase in fares is not and should not be viewed as the only solution to addressing their profitability concerns as commuters will and may continue to pay below the maximum fare.

5.5 Preferred Option

The Commission has identified four principle options, although some of these are slight variations on the others. In considering what if any action it should take, the Commission has referred to the legislative requirements contained section 21(2A) of the PR Act to guide the Commission in its decision on this matters (see Appendix E).

Under the provisions of section 21(2A), the Commission is to have regard to several matters when making a decision on regulated prices under the PR Act. These can be broadly summarised as follows:

- the need to protect consumers and address the issues of any broader economic and social impact of a decision;
- the need to ensure that the efficient costs of providing the PMV service are recovered by service providers, including an appropriate rate of return on their investment; and
- the level of service quality and reliability that is required of the service providers and the need to send the right pricing signal for the appropriate level of supply of PMV services.

The need for the Commission to balance what might be seen as competing requirements as an inherent feature of independent economic regulation. Ultimately, the Commission must consider the facts against these requirements and make a decision as to how prices are to be set, at what levels and how they are to be adjusted over time.

The four options under consideration by the Commission are:

1. Adopt an automatic six month price adjustment for all PMV operations using the existing price adjustment formula (for this year the adjustment would have to apply from 1 August 2008);
2. Adopt a trigger mechanism based on designated changes in operating costs which, if exceeded, would then require a price adjustment using the existing price adjustment formula (the trigger could be tested quarterly or every six months and is dependent on the release of the CPI data);
3. Apply different time periods in the data series included in the price adjustment formula to reflect availability of data (CPI data is available quarterly and fuel price data is available monthly);
4. Apply a six month adjustment at this time for non urban routes only (for this year the adjustment would have to apply from 1 August 2008).

In relation to each of these options, the Commission notes the following factors in terms of the section 21(2A) requirements:

Automatic six month price adjustment:

- The evidence suggests that there has been a strong increase in fuel prices, which will have an impact on the ability of PMV operators to recover their costs;
- Applying the price formula set by the Commission in its November 2007 Determination, but bringing this forward by six months, effectively passes this increase in costs on to consumers sooner than would have otherwise applied;
- Furthermore, the significance of the cost increase that has occurred and the limited ability of PMV operators to ‘carry’ this cost increase for a 12 month period, gives weight to the argument for a price adjustment sooner rather than later;
- However, there is concern that the level of service being offered in the urban areas has been compromised by the inability of PMV operators to recover the higher prices that were approved by the Commission in November 2007, and that there may be evidence to support a view that the inability by PMV operators to recover the current approved price suggest that their current funding difficulties are in part caused by their inability to adopt fare collection arrangements that ensure that they can collect the current approved fare levels;

- Increasing the fares will not ensure a full recovery of the higher fares, and may not resolve the problem of PMVs in urban areas not completing their routes which is anecdotally tie to PMV customers not paying the approved prices; and
- Thus the Commission is not convinced that by bringing the fare adjustment forward by six months on the timing that had previously been approved will necessarily resolve the current funding problem faced by PMV operators, particularly in the urban areas

Set a trigger mechanism whereby if an adjustment is needed it will automatically occur

- Again, it is accepted that significant cost adjustment has occurred and that these costs must ultimately be recovered from commuters using PMVs;
- Use of a trigger mechanism will possibly give some relief to PMV operators, although again there is a question in the Commission's mind as to whether increasing prices in the urban areas will of itself resolve the PMV operators' financial difficulties and will results in a return to the level of service that is required under the PMV licence conditions;
- Use of a trigger mechanism requires a degree of arbitrary determination of where the trigger should operate. As seen in the examples discussed above, a trigger mechanism may need to be reasonably low to ensure that a fare adjustment occurs at this time. There is a danger that the trigger mechanism if set too low could be activated on a regular basis, thereby removing any degree of stability for consumers in terms of price, while at the same time not guaranteeing that the PMV operators will always be compensated for their cost increases;
- The form of 'incentive regulation' used by the Commission is designed to encourage the regulated businesses to improve their overall efficiency. While a PMV operator may have little room to become more efficient (but that does not deny that there is room to improve such as to re-examine the number of trips being made each day and whether all trips are necessary in terms of maintaining an overall competitive and financially sound business); and
- The Commission does not favour the use of a trigger because of the arbitrary nature of the determination of the trigger itself, and the limited knowledge about how often this trigger might be activated, limited by the availability of the CPI data which comes out quarterly with a delay of 6 to 8 weeks.

Apply different time periods in the data to be used

- This option could be used as part of one of the other options, and goes to the matter of the 'currency' of the data that is being used to make decisions on price adjustments;
- If the Commission was to use both CPI and fuel price data for the six months to March 2008 (the latest period for which CPI data is

- available at this time), the fuel index would not include at this time the further cost increases that have occurred over the period April to June 2008;
- However, if the Commission was to use a combination of cost movement data for different time periods, it raises practical difficulties for later periods when the data is available, or when the next price adjustment is to occur;
 - The Commission notes that on the basis of its estimates, if the data series are used up to the March quarter 2008, then the price adjustment for the urban areas in particular is likely to be nil as a result of the application of the rounding rule. However, there will be a price adjustment at the end of the year to take effect from 1 January 2009, and this adjustment will reflect the data that is available up until that time. In other words, it will take into account the fuel cost increases that have occurred over the last three months; and
 - The Commission is not inclined to combine data from different time periods in the calculation of price adjustment factors. It only serves to complicate the understanding of what is happening and what allowances have been made for what costs within what time frames. Because of the complexity of the adjustments and the difficulty in providing a simple explanation to consumers, the Commission is not inclined to use the data series where one period is different than another.

Apply a six month adjustment to routes other than urban routes

- The Commission recognises that there has been a significant cost increase in fuel, and this impacts on the costs of PMV operators;
- For non urban routes, this increase is likely to be more significant in that the price increases that were granted from 1 January 2008 included allowances for cost increases up until that time, but these cost increases were not as significant as the fare increases that were granted to urban PMVs;
- Service levels are broadly being maintained on these routes notwithstanding the fact that costs have gone up;
- By comparison, for urban PMVs it is not clear whether the under recovery of costs that some are reporting at this time is not in fact self imposed in the sense that they have not taken action to recover the new fares that were approved for them from November 2007;
- Any adjustment for the current six months would rely upon the available indexes that apply to the same period, thereby limiting the full flow on of the cost increase (and thereby encouraging the PMV operators to seek to make efficiency improvements, particularly in terms of the number of vehicles that are in operation at any one time, but also in ensuring they collect from all their customers the previously approved tariff);
- The Commission will also favourably consider making adjustments to the gazetted fare schedule for PMV destination/pick up points in non urban areas that were inadvertently omitted in the schedules

gazetted earlier this year, and the Commission will consider proposals for the appropriate fare to these destinations recognising the fare that currently applies to the closest gazetted location to these destinations when making a decision on the fare to approve;

- The magnitude of the rural PMV fare rates is such that the increase likely from this six month adjustment will be such that the rounding rule will still result in some increase in fares whereas the rounding rule for the increase that could have applied in the urban areas was unlikely to result in any fare adjustment even if the Commission decided to apply an interim adjustment to this part of the industry;
- In this way, the service standards will be enhanced, the Commission will have addressed the issue of the recovery of efficient costs, and the overall economic and social impact on the economy and commuters will not be as great as might otherwise have occurred
- At the same time, the Commission notes that the cost increases that have been experienced over the last six months and that are projected to continue in to the next six months will flow through into all PMV fares when the adjustment is made from 1 January 2009.

The Commission seeks submissions on the four options described above and in particular on the option 1 which is preferred by the Commission in this Draft Report.

6. SUMMARY OF DRAFT DETERMINATION

This section sets out a summary of the Commission's draft determination with respect to this Review.

6.1 Retention of current fare adjustment mechanism

The Commission has considered the various submissions in relation to its Determination of November 2007, and reaffirms this earlier determination both in terms of the price adjustments that have been made, and the formula that will be used to adjust fare levels over the five year period of this current determination.

However, the Commission recognises that there have been some omissions in the gazetted listing of destinations/pick up points for PMVs, particularly in the rural areas. The Commission will amend the fare schedules to include these locations based on advice that is received from the industry during the consultation period following release of this Draft Determination. The industry is invited to advise the Commission of these omissions and to suggest what the fare might be to the location concerned together with the distance from the closest destination/pick up point that has already been included in the gazetted fare schedule. The Commission will review each proposal and make amendments to the fare schedule as appropriate.

Draft Determination 1

The Commission will make amendments to the gazetted fare schedule to include destinations/pick up points that have inadvertently been omitted from its November 2007 decision.

6.2 Six Monthly Fare Adjustment

The Commission will gazette amended fares to apply to non urban routes based upon the movement in the fare adjustment formula set out in the November 2007 PMV Report, but using data for the six months to the end of March 2008. This fare adjustment will apply to non-urban routes only, from 1 August 2008. The adjustment to fares under the existing Determination to be made on 1 January 2009 will be for a full 12 months for urban routes following the procedure set out in the Commission's Determination of November 2007, and for non urban routes will be for a six month period, the CPI and fuel price data to be drawn from the six months period 1 April to 30 September.

As a consequence of this decision, and based on the Commission's calculations as set out in section 5.2 above. the non urban fares will rise by 6.86%, with this fare adjustment being applied together with the rounding

rule, in the manner prescribed in the Commission's November 2007 Determination, from 1 August 2008.

Draft Determination 2

The Commission will apply a six month adjustment to non urban fares covering movement in the fare adjustment formula for the six months to the end of March 2008. The adjustment will be 6.86%, and the standard rounding rules will apply to the fares calculated using this adjustment factor. The fare adjustment will occur from 1 August 2008.

6.3 Period of Amendment to the Fare Adjustment Mechanism

The Commission has undertaken this review at this time in recognition of the recent significant increases in the price of fuel. It would not be normal practice for the Commission to apply a price adjustment mechanism that operated at anything less than twelve monthly. The Commission has taken the view that the current adjustment is warranted in the context of the significant change in fuel prices that has been experienced worldwide over the last six to nine months. The Commission is not inclined to make this six monthly adjustment a regular arrangement, and therefore it is applying this adjustment for one six month period only.

In terms of the fare adjustment formula to be used for non urban routes prior to the 1 January 2009 fare adjustment, this will be modified on a one off basis from that set out in the November 2007 Determination, and will take the following form in recognition of the use of six months data:

$$\Delta P_{t+1} = \Delta CPI_t * 0.75 + \Delta DFI_t * 0.25$$

where;

ΔP_{t+1} = the percentage increase in fares in the next year t+1

ΔCPI_t = the percentage increase in the CPI (excluding betelnut, alcoholic beverages and tobacco) produced by the National Statistical Office (NSO) and calculated over the two quarters to September in year t over the CPI (excluding betelnut, alcoholic beverages and tobacco) calculated over the two quarters to March in year t.

ΔDFI_t = the percentage change in the average monthly price for diesel (including GST) in Lae as published by the ICCC for the six month period to September in year t over the average monthly price for diesel for the six month period to April in year t.

In terms of the calculation of the CPI index, the following formula is used:

$$\frac{(June\ CPI_t + Sept\ CPI_t)}{(Dec\ CPI_{t-1} + March\ CPI_t)} - 1$$

where:

- Dec, March, June, Sept are the quarterly CPI index numbers
- t, t-1, refer to years such that t is the current year (the year in which the price adjustment analysis is performed) and t+1 is the next year for which the fare increase is to apply

In terms of the calculation of the $\Delta DF I_t$ index, the following formula is used using Lae diesel prices:

$$\left(\frac{\text{6 month average monthly diesel fuel price to Septmeber}_t}{\text{6 month average monthly diesel fuel price to March}_t} \right) - 1$$

Draft Determination 3

The six month adjustment or mid-year adjustment will apply on a once only basis, although the adjustment to non-urban fares to take effect from 1 January 2009 will also be based on the movement in the fare adjustment formula for a six month period.

7. APPENDICES

Appendix A: Section 25A of the Prices Regulation Act

25A. Decision to review a price control order

- (1) In this Division, “reviewable order” means an order made under Section 21(1) that has not expired or been terminated.
- (2) At any time after a reviewable order is made, the Minister or a supplier of the declared goods or services concerned may apply to the Commission for the order to be reviewed.
- (3) An application under Subsection (2) shall state, with reasons, the variation that the application proposes should be made to the reviewable order, including the proposed new maximum price.
- (4) Prior to the expiration of 12 months from the later date on which a reviewable order took effect and the date on which the outcome of the last review of the reviewable order was published under Section 25C(3), the Commission may, in its discretion, following an application under Subsection (2) -
 - (a) Decide to conduct a review of that order; or
 - (b) Decide not to conduct a review of that order.
- (5) On or after the expiration of 12 months period from the later of the date on which a reviewable order took effect and the date on which the outcome of the last review of the reviewable order was published under Section 25C(3), the Commission shall, following an application under Subsection (3), conduct a review of that order in accordance with Section 25B
- (6) The Commission may at any time, on its own volition, decide to conduct a review of a reviewable order.
- (7) If the Commission has received more than one application under Subsection (2) in respect of the same reviewable order, the Commission may treat the applications as a single application and such application shall be deemed for the purposes of Section 25C(1) to have been received by the Commission on the date the Commission received the first application.

Section 25B: Review of price control order

- (1) If the Commission has decided, or been required by Section 25A(5), to conduct a review of a reviewable order, the Commission shall publish a notice in a daily newspaper generally circulating in Papua New Guinea-
 - (a) Specifying in reasonable detail the order to which the notice relates; and
 - (b) Specifying that the Commission intends to conduct a review of a that order generally or in respect of particular matters, in the later case specifying in reasonable detail those matters; and
 - (c) Inviting interested persons to make submissions to the Commission with respect to the review of the order, within the period specified and in the manner specified in the notice.
- (2) When conducting a review of a reviewable order, the Commission shall consider any submissions received from interested persons with respect to the review of that order.

Appendix C: Section 25C of the Prices Regulation Act

Section 25C: Review period

- (1) In this section, “review period”, in respect of a reviewable order, means the period of 90 days immediately following the date on which the Commission received an application under Section 25A(2), as extended from time to time by the Commission in accordance with Subsection (2).
- (2) The Commission, may from time to time, by notice published in the National Gazette prior to the extension of the review period, extend the review period for a further period of 30 days from the date on which the review period would otherwise have expired.
- (3) If the Commission has decided, or been required by section 25A(5), to conduct a review of a reviewable order, the Commission shall, prior to the expiration of the review period, by notice in the National Gazette, determine that the order should-
 - (a) Continue to operate in its present form; or
 - (b) Be varied; or
 - (c) Be terminated.
- (4) An order under this section takes effect on the date specified in the order of, if no date is specified, on the date of publication of the notice in the National Gazette.
- (5) If, on the expiration of the review period, the Commission has failed to make a decision required by the applicant and the new maximum price shall be as proposed by the applicant or, if there is more than one applicant, the maximum price proposed by the first applicant.

Appendix D: Parties making Submissions to the Commission

1. Klinki PMV Association - Lae-Wau-Menyama Route;
2. Rigo Central PMV Association;
3. PMV Owners Route 300 - Barakau;
4. Hoodlagoon PMV Association; and
5. Mr. Elim Kiang.

Appendix E: Section 21 (2A) of the Prices Regulation Act

When making an order under Subsection (1), the Commission shall have regard to

- (a) the need to protect consumers and users of the declared goods or services from misuse of market power in terms of prices, pricing policies (including policies relating to the level or structure of prices) and the standard of the declared goods or services; and
- (b) the cost of making, producing or supplying the declared goods or services; and
- (c) the desirability of encouraging greater efficiency in relation to making, producing or supplying the declared goods or services; and
- (d) the need to ensure an appropriate rate of return on any investment in relation to the declared goods or services; and
- (e) the borrowing, capital and cash flow requirements of persons making, producing or supplying the declared goods or services; and
- (f) considerations of demand management and least-cost planning; and
- (g) existing standards of quality, reliability and safety of the declared goods or services, and the desirability of encouraging improvements in those standards; and
- (h) the effect any proposed order on general price inflation over the medium term; and the economic and social impact of any proposed order; and
- (i) any other matters the Commission considers relevant.