

LP Gas Association

Unit 14, Bow Court
Fletchworth Gate
Burnsall Road
Coventry CV5 6SP

RS/sd/5090

14th September 2007

Dear David

Re: Domestic Bulk LPG Market Investigation Draft Order for Consultation

The LPG industry, as represented by the LP Gas Association and ALGED, has now reviewed the Draft Order for Consultation and has a number of comments it wishes to make.

The industry is concerned that despite lengthy conversations with, and representations by, individual companies the draft Order still contains areas of ambiguity. Further there is a real question about the workability of aspects of the Order. The industry would like to highlight its concerns in the following areas:

Article 5. Notices

When exactly should the process start?

We believe the customer notice should follow a formal quote so as not to put a gas company in the position of receiving a customer letter indicating their desire to switch based only on a telephone quote.

We therefore suggest that **Article 5.1** should be amended to start:

“If a new supplier receives a notice from a customer *following receipt of a formal quote*, requiring the new supplier.....etc.”

We notice that the wording of this paragraph has changed from the previous draft with regard to how a customers' written notice is passed from the new supplier to the existing supplier. Should the new supplier be obliged to pass on the customer's notice to the existing supplier, or if not how does the existing supplier verify the date that on which the customer gave notice?

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Article 7. Tank Transfer and Valuation

There appears to be no option, other than tank uplift and installation, should the New Supplier decide not to proceed with tank transfer. This appears to be contrary to natural justice should factors come to light during the process that would mean the New Supplier would not otherwise have quoted for the business. In particular a record of customer bad debt, provision of false information by the customer or unknown ownership of the tank should be sufficient reason for the New Supplier at any stage of the process to decline the business.

Further the obligation to provide a new tank comes with a different set of costs for the new supplier and different considerations for the customer who may not wish the disruption.

Regarding bad debt, there is no provision in the draft Order for the existing suppliers to have the right to prevent transfer of a customer holding an outstanding debt. OFGEM brought in a modification to gas suppliers licences on 27th November 2003 which allows an existing supplier to prevent transfer if a debt remains unpaid 28 days after a demand was made in writing. The LPG industry thinks it not unreasonable that the Competition Commission should allow for a similar condition in its Order.

We propose therefore that Article 7 be amended to allow for the reconsideration of the business by the new supplier should a) new factors come to light and b) a tank installation is required rather than transfer.

The existing supplier should have the same rights as the regulated utilities regarding prevention of transfer of customers with outstanding bad debt.

Article 8. Emergency Cover

We are seriously concerned that so far as this Article is concerned the Competition Commission is defining "supplier" in terms that contradict definitions of "supplier" in GSIUR, a set of regulations the industry is bound by. The industry believes that the HSE and the CC must agree common terms and that these must be reflected in both the Order and GSIUR. Otherwise we must know which takes precedence.

We are happy to provide detail of the contradiction in definitions and where we see the risks to both the Competition Commission and the HSE, but suggest that a meeting of all parties urgently is the best way forward.

Articles 10, 13 and 15 & 16.3 Time limits/Customer contracts

There is ambiguity in both the Order and the explanatory notes regarding maximum timescales permitted for tank transfer or tank uplift and installation. Notwithstanding this ambiguity, the industry would like to understand why the timescales in the Order are being proposed at all. The regulated utilities are not under any statutory obligation regarding maximum time they can take to transfer a customer.

Condition 22 of The Standard conditions of Gas Supply Licence refers to "a reasonable period of time" but this is not defined.

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The Energy watch website says that once *the contract is agreed* the process should take about six weeks to complete. A recent enquiry made of Energywatch elicited the following response “There is no maximum timescale (for a new gas supply company to take over from current supplier) however most transfers are finalised within 6 to 8 weeks”

Given that the utilities are dealing with a purely paper exercise, it seems totally unreasonable to expect the LPG industry, where physical tank and location inspection is a necessity to transfer business, to complete a transfer process in any less time, never mind a tank uplift and installation.

We propose that if the Competition Commission wishes to set maximum time, it is set at 56 days from receipt by outgoing supplier of the notice in accordance with article 5.

To ensure consistency of any transfer timescale with the proposed maximum exclusivity period, we believe that **Article 16.3 (b) should read** “*in any other case from the date of tank transfer*”

Article 19. Eligibility to Switch

It is not clear whether “within one month” refers to the month before or the month after. However, whichever its meaning, the industry estimates that significant proportion of its customers will be eligible to switch from the date the Order comes into force. There is a very real risk that the industry will be unable to deliver the intent of the Order should a high proportion of these customers choose to switch, thus provoking adverse comment to its, and possibly the authorities’, detriment.

We believe the Order should allow for a staged communication of its provisions once it comes into force to reflect the industry’s capability to handle switching of customers.

Part II Supply of domestic bulk LPG to metered estates

The industry remains seriously concerned that there is considerable scope for confusion within the draft Order in regard to supply to metered estates as currently worded and would like this to be a matter of record. In fact the industry is doubtful of its workability.

The industry believes it may be possible to resolve some of the confusion by developing its own processes, and notes the Competition Commission’s consent to do so in explanatory note 5, though it must be pointed out that the industry has no more powers than the Competition Commission regarding how multiple customers come to a collective decision.

In addition to its concerns stated above, the industry would like to clarify the following points:

Article 7.5/ Annex 1: Tank dataplate

Annex 1 says “New supplier changes signage and dataplate”, whilst 7.5 (b) says “New supplier shall... obliterate the signage of the existing supplier”

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For purposes of clarification the new supplier will obscure any name of the existing supplier from the dataplate by a means that is not removable except by deliberate application of a chemical. They will not obscure any other data on the plate (eg serial number, latest test date). The result will be that the signage *fixed* to tank will be anonymous in regard to ownership. The new supplier signage will be in the form of semi permanent stickers on tank as is current practice.

Article 19.1 Explanatory Notes

The industry would like to ask the legal status of the Explanatory Note in relation to its interpretation of the Order.

The Associations would be very happy to meet the Competition Commission Team members to discuss our concerns and the above comments.

Yours sincerely

ROB SHUTTLEWORTH
LPGA - Director General

STEVE WALMSLEY
ALGED - Chairman

cc Julia Soave, HSE