



***Response to the Competition
Commission's draft Investigation
Order on***

***"Domestic Bulk Liquefied
Petroleum Gas Market"***

September 2007

1.0 INTRODUCTION

The Consumer Council welcomes the opportunity to respond to the Competition Commission's draft Investigation Order on the Domestic Bulk Liquefied Petroleum Gas Market.

In 1993, the Consumer Council carried out research into the Liquefied Petroleum Gas (LPG) market in Northern Ireland and published our findings in our report *What Choice?* Thirteen years later, following the publication of the Competition Commission's report into their investigations, we were struck by the similarities in their findings to the outcome of our research.

We were delighted with the Competition Commission's proposal that the Consumer Council had a key role to play regarding raising awareness among consumers to shop around and switch suppliers in Northern Ireland. We look forward to working with the Competition Commission and the LPG suppliers to achieve this aim.

Our comments and queries on the draft Investigation Order are detailed below.

2.0 GENERIC ISSUES

Safety Issues

The Consumer Council appreciates that the Competition Commission has discussed in detail any potential safety implications of their draft Order with the Health and Safety Executive.

The draft Order requires that, in the event that a new supplier purchases the tank from the existing supplier, the company logo should be amended accordingly. We seek further information from the Competition Commission regarding any potential safety implications of this. For example, will the specification of the tank and its service history be provided to the new supplier so that they are in a position to fix any problems should they arise? What safety measures have been implemented to ensure safety is not compromised?

Outstanding Debt

The draft Order does not provide any guidelines to suppliers on managing consumers with bad debt who wish to switch supplier.

It is the view of the Consumer Council that domestic consumers should not be prevented from switching supplier because they have outstanding invoices on their account. Consumers who are struggling to pay should not be prevented from switching to a better deal. We believe, however, that there should be provisions in the Order, or a service agreement between suppliers referred to

the in the Order, that sets out the procedure to ensure suppliers receive payment for gas used. A procedure on this issue is necessary to ensure consumers who refuse to pay do not use the switching process as a mechanism to avoid their debt. A procedure will protect all consumers and suppliers, and should reflect the importance of preventing and managing debt effectively.

We are happy to discuss this issue further with the Competition Commission, given our experience in the Northern Ireland natural gas and electricity market, where domestic consumers are eligible to switch despite having outstanding invoices on their account.

Monitor and Evaluation

The Consumer Council welcomes the role of the Office of Trading (OFT), who can request information from suppliers for the purposes of monitoring compliance with the Order. We understand suppliers must report to the OFT on an annual basis and provide certain data, however we are interested to receive additional information regarding the methodology that will be adopted by both OFT and the Competition Commission on how they intend to monitor supplier compliance with the Order.

Further, we seek an extension to the Order which will outline the consequences for suppliers if they fail to comply with the Order.

Date of Purchase

We seek clarity from the Competition Commission regarding the date of purchase, and at what stage in the process this is likely to occur. We appreciate the Order defines date of purchase as the date which payment is received by the seller of the tank. It is our view that the Order should be more specific, and outline who has responsibility for the consumer throughout the switching process. If a problem arises during the process, the consumer must know who to contact. Also, suppliers must also be clear who is responsible otherwise problems may not be addressed and the consumer will suffer.

Part 2 Section B Metered Estates

We seek further information from the Competition Commission regarding the process applied to metered estates. By their very nature, the profile of consumers receiving their supply on a metered estate can include domestic and business customers. Given the Order applies to domestic bulk LPG, can the Competition Commission provide further guidance on this?

3.0 ARTICLES IN THE ORDER

This section outlines queries with specific articles in the Order. For ease of reference we have adopted the same reference number as the draft Order.

1 *Title, commencement and application*

1.1 The Consumer Council is aware that the Order will come into force nine months from the date of making the Order. We would seek additional information from the Competition Commission regarding the process that is applied to make an Order, the length of time this takes, and an expected timescale of when the Order will be in force.

7.0 *Tank transfer and valuation*

7.4 In the event that a new supplier decides not to purchase the tank from the existing supplier, this article states that the provisions in article 11 will apply. Article 11 refers to notices and statements and not the tank uplift process. Can you confirm whether this condition should refer to article 12 and not 11 as stated?

12.0 *Tank Uplift*

12.1 (c) From the draft order, there appears to be a period of time where consumers may not have a supply of LPG during the process of switching supplier – potentially up to five days. This may have the effect of putting consumers off switching suppliers if they will be left with no supply for a period of time. We are concerned that vulnerable consumers may be most affected, therefore we propose provisions in the Order which would ensure consumers are not left without supply for a period of time.

16.0 *Contracts*

16.1 The Consumer Council would welcome the Competition Commission's views on a customer re-entering a contract with the same supplier after their exclusivity period has ended, thereby tying them into another exclusive contract.

19.0 *Eligibility to Switch*

19.1 We seek clarification on when suppliers are required to send a 'wake up' letter to their customers advising them they are eligible to switch. It is not clear from the Order whether the 'wake up' letter should be sent

one month prior to the consumer becoming eligible to switch, or one month after this. We welcome any clarification from the Competition Commission on this matter.

The Consumer Council is particularly interested in this given the recommendations the Competition Commission made in their June 2006 report stating that the Consumer Council should play a role in educating consumers about switching. While the Competition Commission recommended we include this message within our overall message about energy market opening, in the current market opening climate in Northern Ireland this is not feasible. Therefore we intend to adopt a more targeted approach to LPG consumers who are eligible to switch suppliers, and hope to work with the suppliers in Northern Ireland in achieving this.

4.0 Conclusion

The Consumer Council believes that the Order will enable consumers to more readily exercise their right to switch suppliers. However we believe that the draft Order should be more specific to ensure suppliers are aware of their responsibilities toward consumers during the switching process.

We believe that it is of vital importance that the Competition Commission ensure any areas relating to safety are watertight, and that there is no room for interpretation as to where responsibilities for suppliers lie.

Further, we believe that the issue of consumer debt should be addressed in the Order, to ensure suppliers receive payments due, and the system is not abused by consumers who refuse to pay. However we expect that domestic consumers should not be prevented from switching if they owe money to their existing supplier, but that procedures are in place to accommodate all parties.

The Consumer Council looks forward to working with the LPG suppliers in Northern Ireland, particularly in relation to the dissemination of information to LPG customers.

We are also happy to meet with the Competition Commission to discuss any aspect of our response. Please contact us should you wish to discuss our response in more detail.