

## Shell Gas Limited

### Summary of response to the Competition Commission's Notice of Provisional Findings and Notice of Possible Remedies of 23 August 2005

1. SGL does not wish to dwell on the features which the Group has identified. The main focus of its comments is to assist the Group to reach an appropriate and proportionate set of remedies.
2. The Group has proposed a long "menu" of possible remedies and has not provided clear guidance as to how they will be selected and implemented. If the Group implemented all remedies, it would create a highly regulated market with little scope for competition or innovation. Such an outcome would increase barriers to entry (as it would be more difficult for, in particular, smaller suppliers to spread the costs of this regulation) and accelerate the decline of this small industry in which demand is not growing.
3. SGL acknowledges that there is currently some uncertainty amongst customers of the switching process and the exit fees they face upon switching supplier. SGL accepts that the process and exit fees could be made more transparent. There is scope, for example, for posting on each supplier's website, details of how customers might either enter into a contract with that supplier or terminate an existing contract with that supplier. It would, however, be disproportionate to require suppliers to publish information about their competitors.
4. Unlike network industries, bulk LPG suppliers, face substantial upfront costs which they endeavour to recoup. If exit charges were reduced, customers would ultimately pay for upfront costs through higher entry fees, LPG prices or tank rental charges for example. Entry and exit fees form part of the competitive process and should be left to the discretion of each supplier.
5. The alternative operating model of mandated tank transfer which has been put forward by the Group to replace the model of tank uplift on a change of suppliers, would pose a very heavy regulatory burden in this market. It is important to recognise that the upfront costs associated with tank transfer would not be insignificant and there are practical difficulties in implementing this model. A remedy which introduces a more detailed and transparent switching process, particularly if combined with capped exit charges (as suggested by the Group although not supported by SGL), would encourage but not mandate tank transfer<sup>1</sup> and would be proportionate and effective.
6. If a remedy of tank transfer were to be supported and implemented (for the avoidance of doubt, SGL does not support such a remedy), it would be important to prescribe a method of tank valuation to cover circumstance in which a negotiated price could not be agreed. SGL believes that the most appropriate tank transfer model would be to combine price negotiation with a "right to buy" at a set price should that negotiation fail. In SGL's view, that set price should be set to reflect the full value of the tank. Furthermore, in order to avoid potential disputes over the appropriate allocation of responsibilities, under a "right to buy," all transfers should be made on the basis that there remains no residual liability for the seller. In addition, under a tank transfer model, a form of incentive structure would need to be put in place to ensure that all parties complied with all Codes of Practice and health and safety requirements.

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<sup>1</sup> **Provided that concerns regarding the current safety regime were fully addressed**

7. Without fundamental changes to the safety regime, a remedy leading to customer-owned tanks becoming commonplace would be wholly inappropriate.
8. In relation to contractual restrictions on switching, the Group has overstated the problems associated with fixed term contracts. Fixed term contracts can be used in pro-competitive ways and should be permitted provided that the terms are transparent and the fixed period is compatible with the cost base. The appropriate term will ultimately depend, for example, on the extent to which entry and exit fees are permitted. Given the OFT's recent conclusions, SGL considers the current terms to be appropriate for new-to-market customers. Moreover, the Group has acknowledged that a model comparable to that for the supply of heating oil (in which suppliers would deliver to an unknown tank as a one-off) is difficult to envisage. In relation to notice periods, a reasonable period of time will be necessary to allow all parties to comply with their health and safety duties.
9. SGL does not believe that there is a lack of price transparency in this market. In any event, publication of prices will not be necessary if remedies for making the switching process more transparent and setting up a service for providing details of active suppliers, are implemented. Customers are at all times free to telephone suppliers and obtain a quote. Any increased transparency is therefore unnecessary and may, paradoxically, have the effect of making prices less competitive.
10. SGL does not believe that the imposition of standard prices is feasible or necessary in this market, particularly if implemented alongside other remedies which have been proposed by the Group for making information on other supplies available. Standard pricing assumes a level of similarity of costs between customers, however, this assumption is flawed in this market since it takes no account of differences in prices to customers on metered estates and those with underground tanks for example.
11. Selective discounting, where applicable, is a pro-competitive reaction by suppliers to customers who express an intention to switch. Furthermore, selective discounting should be regarded as an important choice for customers, since obtaining lower prices through negotiations with one supplier will be less costly (both financially and in terms of inconvenience) than contacting another supplier and effecting a switch.
12. In proposing alternative arrangements, the Group has not addressed the practicalities of complying with the current legal framework. SGL believes that any proposed alternative operating model should be assessed for compatibility with the current legal framework, in particular the PSSR.