

**DOMESTIC BULK LIQUEFIED PETROLEUM GAS MARKET INVESTIGATION
(METERED ESTATES) ORDER**

Notice of Making of Order

1. On 5 July 2004, the Office of Fair Trading (OFT), in exercise of its powers under section 131 of the Enterprise Act 2002 (the Act), referred to the Competition Commission (CC) for investigation and report, the supply of domestic bulk liquefied petroleum gas (LPG) in the UK. On 20 October 2004 the OFT announced, that following a period of consultation, it had varied the terms of reference to the supply of bulk LPG for domestic use.
2. The CC investigated the matters referred to it in accordance with section 131 of the Act and concluded, in accordance with section 134(1) that there were features of the market, either alone or in combination which prevent, restrict or distort competition within the relevant market, and in accordance with section 134(2) that an adverse effect on competition existed. These conclusions were published on 29 June 2006 in its report [Market investigation into supply of bulk liquefied petroleum gas for domestic use](#) (the report).
3. The CC regarded the following as features of the market which adversely affected competition;
 - (a) the practice of uplifting and replacing tanks when a customer switches supplier;
 - (b) the lack of information available to customers on the costs and benefits of switching;
 - (c) the imposition of contractual restrictions on switching; and
 - (d) the limited ability of suppliers to identify and target their marketing efforts on each other's customers.
4. The CC found that there was a detrimental effect on customers resulting from the adverse effect on competition and considered, in accordance with section 134(4) whether action should be taken by it, or whether it should recommend the taking of action by others, for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or the detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition.
5. The CC consulted on a range of possible actions in a Remedies Notice published on 23 August 2005. The CC considered that a package of remedies consisting of the following key elements would be effective and proportionate in remedying the various features of the market identified as having an adverse effect on competition:
 - (a) tank transfer with a price determined by a formula in default of agreement;
 - (b) standardization of, and improved information on, the switching process;
 - (c) changes to customer contracts; and
 - (d) improved information on suppliers and their offers.

6. The CC indicated in the report that it intended to implement the remedies by an order rather than undertakings.
7. On 31 July 2007, in accordance with section 165 and paragraph 2 of Schedule 10 to the Act, the CC gave notice of its intention to make an order and invited written representations from any interested person or persons by indicating the nature of its provisions and stating that any interested person who wished to make representations about it should do so in writing before 17.00 on 14 September 2007. A draft of the order was published and written representations were received.
8. Following consideration of those representations, the CC made certain modifications to the draft order. In particular, having regard to the issues raised in relation to metered estates, the CC decided to proceed by way of making two separate orders. The first order, covering the supply of bulk LPG for domestic use other than for metered estates, was made on 13 October 2008.
9. On 2 March 2009, in accordance with paragraph 2(4) of Schedule 10 to the Act, the CC gave notice of its intention to make a second modified order and invited written representations from any interested person or persons by indicating the nature of its provisions and stating that any interested person who wished to make representations about it should do so in writing before 17.00 on 23 March 2009. A draft of the modified order was published and written representations were received.
10. The CC has considered all the representations it has received. In the light of those representations the CC has made some modifications to the draft modified Order. The CC does not consider the modifications to be material in any respect and has decided, in accordance with paragraph 5(2) of Schedule 10 to the Act, that the Order, as modified, does not require any further consultation.
11. The CC now gives notice of the making of the attached Order. The Order is made in accordance with section 138 and in exercise of the powers conferred by section 161 (1)(3)(4) of, and paragraphs 1, 3, 10, 15, 19, 21 and 22 of Schedule 8 to, the Act. It is made for the purpose of remedying, mitigating or preventing the adverse effect on competition and for the purpose of remedying, mitigating or preventing any detrimental effects on customers so far as they have resulted from, or may be expected to result from, the adverse effect on competition specified in the report.

[signed]

Peter Freeman

Group Chairman

Competition Commission

6 May 2009

**Domestic Bulk Liquefied Petroleum Gas Market Investigation (Metered Estates)
Order**

Date of report: 29 June 2006

Date of Order: 6 May 2009

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Background

1. On 5 July 2004, the Office of Fair Trading (OFT), in exercise of its powers under section 131 of the Enterprise Act 2002 (the Act), referred to the Competition Commission (CC), for investigation and report, the supply of domestic bulk liquefied petroleum gas (LPG) in the UK. On 20 October 2004, the OFT announced that, following a period of consultation, it had varied the terms of reference to the supply of bulk LPG for domestic use.
2. The CC investigated the matters referred to it in accordance with section 131 of the Act and concluded, in accordance with section 134(1), that there were features of the market, either alone or in combination, which prevent, restrict or distort competition within the relevant market, and in accordance with section 134(2) that an adverse effect on competition existed.
3. The CC found that there was a detrimental effect on customers resulting from the adverse effect on competition and considered, in accordance with section 134(4), whether (a) action should be taken by it for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or the detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition and whether (b) it should recommend the taking of action by others for the purpose of remedying, mitigating or preventing the adverse effect on competition concerned or any detrimental effect on customers so far as it has resulted from, or may be expected to result from, the adverse effect on competition.
4. In accordance with section 165 and paragraph 2 of Schedule 10, on 31 July 2007 the CC published a Notice stating its intention to make an Order, indicating the nature of its provisions and stating that any interested person who wished to make representations about it should do so in writing before 17.00 on 14 September 2007.
5. The CC considered all the representations it received and consequently made some modifications to the draft Order. In particular, with regard to the issues raised in relation to metered estates, the CC decided to proceed by way of making two separate Orders. The first Order, covering non-metered estates, was made on 13 October 2008.
6. On 2 March 2009, in accordance with paragraph 2 of Schedule 10 to the Act, the CC published the Notice of Intention to Make the Modified Order and the draft modified Order on the CC website, and invited written representations from any interested person or persons by indicating the nature of its provisions and stating that any interested person who wished to make representations about it should do so in writing before 17.00 on 23 March 2009.
7. The CC considered all the representations it received and consequently made some modifications to the draft Order that are not material in any respect. The CC is now issuing this final Order.

The Order

The CC makes this Order, in performance of its duty under section 138 and in exercise of the powers conferred by sections 161 and 164 of, and Schedule 8 to, the Act. It does so for the purpose of remedying, mitigating or preventing the adverse effect on competition and any detrimental effects on customers, so far as they have resulted, or may be expected to

result, from the adverse effect on competition, specified in the report of the CC entitled *Market investigation into supply of bulk liquefied petroleum gas for domestic use*.¹

A. Title, commencement, application and interpretation

1.1 This Order may be cited as the 'Domestic Bulk Liquefied Petroleum Gas Market Investigation (Metered Estates) Order 2009' and shall come into force on 6 May 2009 except Articles 2.1 to 12.3 inclusive and 13.2 to 14.1 inclusive, which shall all come into force six months from the date of this Order.

1.2 This Order applies to any person who supplies bulk LPG for domestic use in the UK in respect of any supply to any person whose residence is connected to the LPG infrastructure serving a metered estate. It does not apply to any supply of bulk LPG for domestic use to a person whose residence is not connected to the LPG infrastructure serving a metered estate nor to a metered estate manager of a leisure park.

1.3 Interpretation:

'the Act' means the Enterprise Act 2002;

'bulk LPG' means LPG supplied to a tank or tanks that are part of an LPG infrastructure serving a metered estate;

'CC' means Competition Commission;

'customer' means a person whose residence is connected to the LPG infrastructure serving a metered estate and who purchases domestic bulk LPG for their own use whether directly from a supplier or from a metered estate manager;

'date of agreement to purchase' means the date when the existing supplier receives notification from the new supplier that it agrees to buy the LPG infrastructure and any associated interest in or over land from the existing supplier at a price that has been negotiated between the existing supplier and the new supplier or determined by arbitration;

'disconnect' means, where the existing supplier owns the meter box and its contents, capping the emergency control valve, removing its equipment from the meter box; giving consideration to purging the appliance pipework, and ensuring the main equipotential bonding arrangements are left in a satisfactory condition; or, where the existing supplier does not own the meter box and its contents, isolating the pipework downstream of the emergency control valve and capping the emergency control valve, leaving all equipment in the meter box, giving consideration to purging the appliance pipework and ensuring the main equipotential bonding arrangements are left in a satisfactory condition; and 'disconnecting', 'disconnected' and 'disconnection' shall be construed accordingly;

'domestic bulk LPG' means bulk LPG supplied for domestic use only;

'emergency control' means a valve for shutting off the supply of LPG in an emergency, this being a valve intended for use by the customer;

¹www.competition-commission.org.uk/rep_pub/reports/2006/514lpg.htm.

‘emergency cover’ means any arrangements made by suppliers to ensure that reports of emergencies can be received and responded to 24 hours a day in order to comply with Regulation 37 of GSIUR;

‘exclusivity period’ means any fixed period provided for in a contract for the supply of domestic bulk LPG during which the customer or metered estate manager is obliged to purchase LPG solely from the supplier under that contract and during which the customer or metered estate manager is not able unilaterally to terminate the contract otherwise than in accordance with its terms;

‘existing contract’ means a contract between a supplier and a customer or a supplier and a metered estate manager for the supply of domestic bulk LPG, that is entered into before the coming into force of any provision of this Order;

‘existing supplier’ means the person supplying the customer or metered estate manager immediately before a request to switch is received by that person;

‘GSIUR’ means the Gas Safety (Installation and Use) Regulations 1998² or the Gas Safety (Installation and Use) Regulations (Northern Ireland) 2004³ as amended or replaced with or without modification;

‘individual contract’ means a contract for the supply of domestic bulk LPG between a supplier and a customer and specifies the terms of supply between the supplier and the customer;

‘individual supply’ means any arrangement whereby domestic bulk LPG is supplied other than to a metered estate;

‘industry trade association’ means any association representing suppliers of domestic bulk LPG in the UK in their capacity as suppliers and includes UKLPG or any successor body but does not include road hauliers or their associations;

‘leisure park’ means a metered estate consisting of a majority of holiday homes (whether or not let on a commercial basis) or homes which are otherwise occupied on a temporary basis from time to time;

‘LPG’ means liquefied petroleum gas, a group of hydrocarbon gases typically containing three or four carbon atoms per molecule and often referred to as C3 or C4, the quality specifications for which are defined by BS 4250;

‘LPG infrastructure’ means the entire system of tanks, service pipework, apparatus, equipment and meters by means of which LPG is stored and delivered to customers;

‘LPG infrastructure transfer’ means the process by which, when a customer or metered estate manager switches supplier, ownership of the LPG infrastructure is transferred to the new supplier with the LPG infrastructure remaining in situ;

‘meter’ means a device incorporated into the LPG infrastructure by means of which the LPG supplier can determine the amount of LPG supplied to an individual customer or the amount of LPG contained in a tank or other part of the LPG infrastructure as the context demands;

²SI 1998 No 2451.

³SI 2004/63.

‘metered estate’ means an estate where a customer is supplied using a tank or tanks and pipework which supply more than one customer and where customer consumption is individually measured by a dedicated meter and does not include a leisure park;

‘metered estate manager’ means a natural or legal person who contracts for the supply of domestic bulk LPG to a metered estate and may include (but is not limited to) any owner of any interest in land upon which the metered estate is situated, their agent or representative, a developer, a residents management company or a residents association;

‘new supplier’ means a supplier other than the existing supplier to whom the customer or metered estate manager has indicated in writing their wish to contract for the supply of LPG;

‘normal UK working hours’ means 0900 to 1700 hours on a working day in the UK;

‘OFT’ means Office of Fair Trading;

‘PSSR’ means The Pressure Systems Safety Regulations 2000⁴ or the Pressure Systems Safety Regulations (Northern Ireland) 2004⁵ as amended or replaced with or without modification;

‘request to switch’ means a notice given by a customer or metered estate manager to an existing supplier indicating that the customer or metered estate manager wishes to switch to an identified new supplier for the supply of domestic bulk LPG;

‘service pipework’ means a pipe or system of pipes for supplying gas to premises from a tank or tanks, being any pipe and associated fittings between the tank outlet valve and the outlet of the emergency control or controls;

‘signage’ means any notice indicating the owner of the LPG infrastructure or any procedure to be followed in the event of an emergency;

‘single contract’ means a contract for the supply of domestic bulk LPG to a number of customers but which is concluded between the supplier and a metered estate manager;

‘specified information’ means the information required by [Schedule 2](#) to this Order;

‘supplier’ means any person who supplies domestic bulk LPG but excludes any person acting in the capacity of a metered estate manager;

‘supplier’s address for service’ means a single postal address at which a request to switch will be received;

‘switching’ means the act of a customer changing supplier;

‘tank’ means the storage pressure vessel(s) from which LPG is drawn for supply to a metered estate, including any fittings and valves fitted directly to the pressure vessel(s) (customarily including the outlet connection, drain connection, fill connection, pressure gauge, level gauge), and all other associated fittings but excluding any telemetry equipment;

⁴SI 2000 No 128.

⁵SI 2004/222.

'telemetry equipment' means any equipment installed on or in the tank or LPG infrastructure which enables the supplier remotely to receive information about the contents of the tank, the system operating pressure, or meter readings;

'telephone enquiry point' means a telephone-based service operation which deals with customer enquiries;

'website' means one or more pages of information published on the Internet's World Wide Web;

'working day' means any day which is not:

(a) Saturday, Sunday, Good Friday or Christmas Day; or

(b) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the UK; and

'WSOE' means 'Written Scheme of Examination' as defined in Regulation 8 of the PSSR.

- 1.4 Except where words and expressions are expressly defined, the Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.

B. Obligations on suppliers

2. *The overriding obligations*

- 2.1 An existing supplier shall be obliged to use all reasonable endeavours to facilitate switching in accordance with this Order on receipt from a customer or a metered estate manager of a request to switch.
- 2.2 The existing supplier and the new supplier shall negotiate in good faith to give effect to the provisions of this Order.
- 2.3 This Order shall create no obligations on a metered estate manager in relation to any contract between that metered estate manager and any customer.

3. *Obligation to facilitate individual supply*

- 3.1 Where a supply of domestic bulk LPG to a customer is made by means of an individual contract, the existing supplier shall at the request of the customer terminate that contract and disconnect that person's supply of LPG unless the existing supplier can demonstrate that it is impractical to do so.
- 3.2 The obligation in Article 3.1 is subject to any exclusivity period which is consistent with Article 9.1 and provided for in a contract in force at the time the customer makes their request to terminate that contract.
- 3.3 The cost of disconnecting a customer from a metered estate in accordance with Article 3.1 shall be borne by the existing supplier.
- 3.4 Nothing in Article 3.1 shall interfere with the existing supplier's rights of ownership, inspection and maintenance over LPG infrastructure retained by it, up to the outlet of the emergency control or, where the meter is located beyond the emergency control, the meter.

- 3.5 Where a customer procures an individual supply in accordance with Article 3.1, the provisions of this Order do not apply from the time at which the customer is disconnected from the metered estate.

4. *Obligations to customers and metered estate managers*

- 4.1 Where a contract for the supply of domestic bulk LPG is a single contract with a metered estate manager (whether a natural person, a body corporate, an unincorporated association or otherwise) all the obligations of the supplier in Articles 2.1 and 2.2 to facilitate switching shall be owed to the metered estate manager.
- 4.2 Where a supply of domestic bulk LPG to customers is made pursuant to a number of individual contracts, no obligation to facilitate switching shall arise unless all those customers are not subject to an exclusivity period (provided the exclusivity period complies with Article 9.1) and resolve unanimously to switch. Customers must have resolved unanimously to switch at the time the request for the LPG infrastructure transfer is provided to the existing supplier. An existing or new supplier may require proof that customers unanimously agree in a form consistent with Article 6.1 and no obligations shall arise under this Order until such proof is received by the supplier that requires it.
- 4.3 For the purposes of Article 4.2, customers may elect to appoint an agent to negotiate and carry out any other relevant function, including the execution of contracts, on their collective behalf and both the existing and new supplier shall be entitled to require proof of such appointment, its scope and its terms and no obligations shall arise under this Order until such proof is received by the supplier that requires it.

C. *Transfer of LPG infrastructure*

5. *General provisions*

- 5.1. Subject to Article 4.2 and after receiving a request to switch in accordance with Article 6.2, the existing supplier shall be obliged to facilitate customers or metered estate managers switching using LPG infrastructure transfer.
- 5.2. A supplier shall ensure that any LPG infrastructure transfer:
- (a) is conducted in accordance with the provisions of this Order;
 - (b) is carried out expeditiously; and
 - (c) is carried out in compliance with the relevant safety requirements in force at the time of transfer.
- 5.3. The new supplier and the existing supplier shall use all reasonable endeavours to ensure that continuity of supply to all customers is maintained during any LPG infrastructure transfer.
- 5.4. If a customer or metered estate manager decides at any time after a request to switch is made that they do not wish to proceed, then nothing in this Order shall prevent them from withdrawing that request provided such withdrawal takes place before the date of agreement to purchase.

- 5.5. A request to switch does not replace any contractual requirement for a customer or metered estate manager to give notice to terminate a contract with an existing supplier.
- 5.6. After a request to switch has been made by a metered estate manager, customer or agent, the existing supplier and new supplier shall use reasonable endeavours to inform the metered estate manager, customer or agent of progress of the request and, in particular, notify them when it would be appropriate to give notice to terminate the existing contract if required by the terms of that contract.

6. Statements and documents

- 6.1. Any notice required by this Order shall be in writing, signed and dated and sent or delivered to the supplier's address for service. Where a notice has been sent and where proof of posting is produced, receipt shall be deemed to have taken place two working days after the date of posting. Where a notice has been delivered and proof of delivery is produced, receipt shall be deemed to have taken place on the actual date of delivery.
- 6.2. A customer or metered estate manager may only make a request to switch to their existing supplier.
- 6.3. If an existing supplier receives a request to switch then within one week from the date of receipt the existing supplier shall provide the new supplier with a statement of:
 - (a) any impediment which would prevent switching (including if any customers are subject to an exclusivity period in their contract); and if there is no impediment then
 - (b) ownership of LPG infrastructure and any relevant interest in land.
- 6.4. If an existing supplier has confirmed its ownership of the LPG infrastructure and that there is no impediment which prevents switching, then the existing supplier shall provide the following information to the new supplier within one month of receiving the request to switch:
 - (a) copies of all documents held by virtue of Regulation 14 of the PSSR, and any other technical and safety documentation that the existing supplier has, which relates to the tank(s), together with details of the tank(s)' WSOE;
 - (b) information as to the existence of any telemetry equipment;
 - (c) any information that the existing supplier has about the existence, ownership, construction, routing, pressure capacity, operating pressure, age, safety of, or inspection results relating to, the LPG infrastructure;
 - (d) In the case of a tank below ground, all documentation in the existing supplier's possession relating to the cathodic protection of that tank; and
 - (e) information as to any interest in or over land in the possession of the existing supplier in connection with the LPG infrastructure and whose contemporaneous transfer with the LPG infrastructure or in relation to which the grant of an appropriate right is necessary in order to ensure continuity of supply.

- 6.5. If the existing supplier lacks any of the information or documentation listed in Article 6.4, the existing supplier shall notify the new supplier of this in place of providing the information.
- 6.6. Where, pursuant to Article 4.2, a customer could only switch by obtaining the consent of other customers the existing supplier shall inform the customer of that fact. However, the existing supplier shall not be obliged to disclose details of other customers where it is precluded by law from doing so.

7. Valuation

- 7.1. Within 28 calendar days of receiving copies of the documents and the information specified in Article 6.4, the new supplier shall notify the existing supplier whether or not it wishes to acquire, and the price it is prepared to pay for, the LPG infrastructure including any LPG it contains and any associated interest in or over land.
- 7.2. The existing supplier and the new supplier shall use all reasonable endeavours to agree the price to be paid for the LPG infrastructure, including any LPG it contains. If the existing supplier and the new supplier fail to agree on the price to be paid for the LPG infrastructure, including any LPG it contains, then at any time during a period commencing two calendar months and expiring four calendar months after the relevant date, the new supplier may elect to refer the dispute to arbitration in accordance with [Schedule 1](#) and the existing supplier shall be obliged to submit to such arbitration. Where the right to refer the dispute to arbitration has expired the parties may agree to continue to negotiate.
- 7.3. The relevant date for the purposes of Article 7.2 shall be the day on which the new supplier receives from the existing supplier the information specified in Article 6.4.
- 7.4. Any price for LPG contained within the LPG infrastructure may be negotiated subject to confirmation of the actual amount established following a final reading, which shall be taken by the existing supplier of the relevant meter or meters at or immediately prior to the date of the agreement to purchase and once obtained it shall be provided to the new supplier. Where it is not possible to determine an exact amount of LPG contained within the LPG infrastructure, the existing supplier and the new supplier shall use best endeavours to produce an agreed estimate which shall be used as the basis for determining the price to be paid by the new supplier to the existing supplier.
- 7.5. Subject to Article 7.6, where LPG infrastructure cannot be transferred from the existing supplier to the new supplier without the contemporaneous transfer or grant of an interest in or over land (whatever the nature of that interest) the existing supplier shall be obliged to make such transfer or grant and both the existing supplier and new supplier shall use all reasonable endeavours to agree the terms of that transfer or grant of that interest. Where such transfer or grant cannot take place without the consent of a third party (for example, but not limited to, a freeholder, a landlord or other superior interest) the existing supplier shall use all reasonable endeavours to secure the agreement of that third party to an appropriate transfer or grant of sufficient interest to enable the new supplier to supply LPG to the metered estate.
- 7.6. The existing supplier may limit the extent of a transfer or grant of an interest in or over land to no more than what is required to give effect to this Order.
- 7.7. If the existing supplier and new supplier fail to agree on the terms of any transfer or grant of an interest in or over land required under Article 7.5 (including whether the extent of any interest in or over land that needs to be transferred or granted in accordance with the provisions of Article 7.6 is sufficient to give effect to this Order)

then at any time during a period commencing two calendar months and expiring four calendar months after the relevant date the new supplier may elect to refer the dispute to arbitration in accordance with [Schedule 1](#) and the existing supplier shall be obliged to submit to such arbitration. This article shall not apply where the failure to agree results from an objection from a third party provided that the existing supplier has used all reasonable endeavours to secure that third party's agreement or where the failure to agree results from the new supplier seeking a more limited interest in land from that offered by the existing supplier.

- 7.8. The relevant date for the purposes of Article 7.7 shall be the day on which the new supplier receives from the existing supplier the information specified in Article 6.4.
- 7.9. If the new supplier purchases the LPG infrastructure then it shall, as soon as is reasonably practicable, but in any event within 14 calendar days from the date of agreement to purchase:
- (a) notify the customer or metered estate manager that it has purchased the LPG infrastructure; and
 - (b) render illegible any visible signage of the existing supplier; and at the same time
 - (c) have its signage displayed permanently and prominently on or near to the tank(s) and shall have updated the meters and emergency control(s) with its details.
- 7.10. The existing supplier shall undertake a final meter reading for each customer and/or metered estate manager at or immediately prior to the date of the agreement to purchase and once obtained it shall be provided to the new supplier.
- 7.11. If the new supplier decides not to purchase the LPG infrastructure and any associated interest in or over land, nothing in this Order shall prevent the new supplier from taking this decision provided the existing supplier is informed of the withdrawal and it takes place before the date of agreement to purchase.
- 7.12. For the purposes of Article 7.11, the request to switch will be deemed to have been withdrawn from the date notification of withdrawal is received by the existing supplier.
- 7.13. In the circumstance of Article 7.11, the new supplier shall inform the customer or metered estate manager requesting to switch of its withdrawal from negotiation with the existing supplier and the reasons for it.
- 7.14. For the purpose of Articles 7.2 and 7.7, under no circumstances shall the customer or metered estate manager be required to bear any of the costs of arbitration in accordance with [Schedule 1](#).

8. *Emergency cover*

- 8.1. The supplier shall respond, or may make arrangements for another person to respond on that supplier's behalf, to any request for emergency cover made at any time within 14 calendar days from the date of agreement to purchase the LPG infrastructure.
- 8.2. For the purposes of Article 8.1:
- (a) 'supplier' means the person providing the supply of the gas to the customer or metered estate manager at the time the request for emergency cover is made and may be the existing supplier or the new supplier; and

(b) where, at the time the request for emergency cover is made, the supplier is the existing supplier, the new supplier shall reimburse the existing supplier for the existing supplier's reasonable costs of responding to, or making arrangements for another person to respond to, the request for emergency cover.

D. Limitations on contractual terms and information to be provided

- 9.1. A supplier shall ensure that in any contract for the supply of domestic bulk LPG to a metered estate, the notice period for the termination of the contract shall not exceed 42 calendar days, and the maximum length of any exclusivity period in the contract shall not exceed 24 months.
- 9.2. The requirements in Article 9.1 shall apply to existing contracts for the supply of domestic bulk LPG to a metered estate.
- 9.3. Where an existing contract is modified as a result of the application of Article 9.1, the existing supplier shall notify the customer or metered estate manager of this modification.
- 9.4. In the case of any contract for the supply of domestic bulk LPG to a metered estate, any exclusivity period shall begin:
- (a) where a metered estate manager is being supplied with domestic bulk LPG for the first time, on the date of first supply (excluding any prior de minimis supply(s) for the purposes of checking and commissioning the LPG infrastructure) provided that where the date of first supply cannot be determined it shall begin no later than the date of initial installation of the relevant part(s) of the LPG infrastructure; and
 - (b) where a customer is being supplied with domestic bulk LPG for the first time, on the date on which the meter is first read for that customer.
- 9.5. An existing supplier shall not charge the customer or metered estate manager for switching away from it to a new supplier, provided that any exclusivity period in any relevant contract has expired.
- 9.6. Further to Articles 9.1 and 9.2, a supplier shall ensure that any contract for the supply of domestic bulk LPG to a metered estate incorporates the following terms:
- (a) in the case of a single contract for a supply of domestic bulk LPG to a metered estate the date on which a contract for exclusive supply will end;
 - (b) what notice period will apply in the event of terminating the contract; and
 - (c) whether and in what circumstances the customer or metered estate manager will be charged for terminating their contract and what the maximum level of those charges might be.
- 9.7. A supplier shall ensure that any contract for the supply of domestic bulk LPG to a metered estate which is entered into, modified or extended after the Order comes into force is accompanied by a document containing, clearly and prominently:
- (a) a description of the procedure the customer or metered estate manager has to follow to switch away from that supplier to another supplier with specific reference to the provisions of this Order which set out the switching process;

- (b) in the case of a supply of domestic bulk LPG to a metered estate that is supplied under the terms of two or more individual contracts a note drawing attention to Articles 4.2 and 4.3;
- (c) a single postal address at which a request to switch will be received;
- (d) details of its own websites and telephone enquiry points and those of the industry trade associations; and
- (e) a statement confirming when any exclusive period of supply will end.

E. Suppliers' obligations to provide information

10. Industry trade association

- 10.1. A supplier shall ensure, so far as is reasonably practicable, that any industry trade association of which it is a member makes available to the public free of charge:
 - (a) a list of the supplier members of the association;
 - (b) a description of the areas in the UK served by each of the supplier members;
 - (c) contact details of each of the supplier members; and
 - (d) contact details for any other industry trade association including any website address and telephone number for such association.
- 10.2. A supplier shall ensure, so far as is reasonably practicable, that the information mentioned in Article 10.1(a) to (d) shall be published on the association's website and be made available during normal UK working hours from a telephone enquiry point.
- 10.3. A supplier shall ensure, so far as is reasonably practicable, that any industry trade association of which it is a member works with any other industry trade association in order to create a single unified source providing the information mentioned in Article 10.1.
- 10.4. In the event that an industry trade association ceases to exist, then a supplier shall use its best endeavours to ensure as far as is reasonably practicable that there remains in existence a single unified source providing the information mentioned in Article 10.1.

11. Invoices

- 11.1. A supplier shall ensure that any invoice sent to a customer or metered estate manager contains:
 - (a) a statement drawing the attention of the customer or metered estate manager to the fact that the information mentioned in Article 10(a) to (d) can be obtained from the relevant websites and telephone enquiry points; and
 - (b) a statement of the amount of LPG supplied in litres to the customer or metered estate manager under the invoice and the price charged to that customer for that amount in pounds sterling and pence per litre on the basis that the supplier has

converted the gas meter reading into liquid litres using a conversion rate provided by UKLPG or any successor industry trade association.

12. Exclusivity periods

- 12.1. A supplier shall notify a customer or metered estate manager of the end of an exclusive period of supply no sooner than one month before and no later than one month after the date when that period ends. Where a customer receives a supply of domestic bulk LPG under an individual contract an existing supplier shall also inform that customer of the provisions of Articles 4.2 and 4.3.
- 12.2. Where a customer would be prevented from switching because they are supplied with domestic bulk LPG (a) as part of a supply to that metered estate provided under the terms of more than one individual contract or (b) by a metered estate manager, the supplier shall explain how the customer might seek to exercise their right to switch drawing particular attention to the extent they are relevant to the provisions of Articles 4.2 and 4.3.
- 12.3. An exclusive period of supply shall end on the later of:
 - (a) the date on which any provision of this Order comes into force; or
 - (b) the end of any exclusivity period.

13. Switching

- 13.1. A supplier shall inform every customer or metered estate manager who is preparing to sign a contract that includes a period of exclusive supply of this Order and the process of switching in general.
- 13.2. A supplier shall ensure that a description of the procedure any customer or metered estate manager would have to follow to switch to a new supplier, together with information about any possible charges that the existing supplier might make and the circumstances in which such charges may be made, is available from a telephone enquiry point during normal UK working hours.
- 13.3. A supplier shall make available to a customer or metered estate manager, from a telephone enquiry point, an estimate of any costs that might be incurred (for example, if a valid exclusivity period was terminated early) and how long switching may take. For the purposes of this provision, the supplier shall make an estimate of how long the transfer process could potentially take based on its understanding of this Order and its experience (if any) of how long the process has taken on other similar transfers.
- 13.4. A supplier shall make available via a telephone enquiry point quotes for the supply of domestic bulk LPG to a customer or metered estate manager, such quotes to be provided in pounds sterling and pence per litre.
- 13.5. Any information a supplier provides in accordance with Articles 13.2, 13.3 and 13.4 may be stated to be subject to an inspection of the LPG infrastructure and its site and such other checks as the supplier may reasonably require or the supplier may decline to provide any information until these checks have been carried out. Where a supplier cannot provide any of the information required by Articles 13.2, 13.3 or 13.4 immediately, it may take a reasonable amount of time to prepare its response

regardless of whether an inspection of the LPG infrastructure and site and any other check is required.

- 13.6. Any information a supplier is required to make available from a telephone enquiry point may also be made available from the supplier's website.

F. Provision of specified information to the OFT

- 14.1. The obligations in [Schedule 2](#) to this Order shall apply.

G. Directions by the CC as to compliance

- 15.1. The CC may give directions to a person specified in the directions, or to a holder for the time being of an office so specified in any company or association:

(a) to take such steps as may be specified or described in the directions for the purpose of carrying out, or securing compliance with Part G of this Order; or

(b) to do, or refrain from doing, anything so specified or described which they might be required by Part G of this Order to do or refrain from doing.

- 15.2. In Article 15.1(a) 'steps' include steps to introduce and maintain arrangements to ensure that any director, employee or agent of a supplier discharges the obligations of, or secures compliance with Part G of this Order.

- 15.3. The CC may vary or revoke any directions given under Part G of this Order.

Schedule 1

Arbitration

1. In the absence of contrary agreement any arbitration provided for under this Order will be conducted:
 - (i) by a single arbitrator appointed in accordance with the Rules of the Chartered Institute of Arbitrators in force for the time being;
 - (ii) in accordance with the Rules of the Chartered Institute of Arbitrators in force for the time being, or such other dispute resolution body as is nominated by the arbitrator

in London, England or such other city within the United Kingdom as the new supplier nominates.
2. The arbitrator shall decide how the costs of the arbitration, including the fees and expenses of the arbitrator, shall be borne as between the existing supplier and the new supplier. It shall be open to the arbitrator to determine that the entire costs of the arbitration may be imposed upon either the existing supplier or the new supplier.
3. The decision of the arbitrator will be binding and final on both the existing supplier and new supplier save that either the existing supplier or the new supplier may appeal on the grounds set out in sections 67 to 69 inclusive of the Arbitration Act 1996.

Schedule 2

The specified information

1. Any person to whom this Order applies is required to provide to the OFT any information and documents which the OFT may require for the purposes of monitoring compliance with this Order or giving effect to any of the provisions of this Order in the form specified by the OFT. The information includes, but is not limited to, the following:
 - (a) the number of requests to switch received by a supplier and the outcome of each request over a specified period;
 - (b) the number of days each LPG infrastructure transfer has taken to complete;
 - (c) the number of customers who switched from it in the previous year; and
 - (d) the number of requests to switch which have not taken place and the reasons why they did not.
2. In particular, a person to whom this Order applies shall provide the OFT with the following information on the first working day following 1 July 2010, and annually thereafter:
 - (a) the number of customers or metered estate managers who switched to it in the year to 31 May; and
 - (b) the number of customers or metered estate managers who switched from it in the year to 31 May.
3. Any information provided to the OFT pursuant to this Order shall be presented separately to any information required to be presented to the OFT pursuant to obligations arising under any other legislation.
4. Any person to whom this Order applies may be required by the OFT to keep, maintain and produce those records specified in writing by the OFT that relate to the operation of any of the provisions of this Order.
5. Any person to whom this Order applies and whom the OFT believes to have information which may help it monitor or review the operation of this Order or any provision of the Order may be required by the OFT to attend and provide such information in person.