1. Executive summary

1.1. The Competition Commission ("the Commission") conducted a market inquiry into the supply and distribution of liquefied petroleum gas ("LPG") in South Africa. The inquiry was conducted in terms of Chapter 4A[1] of the Competition Act, Act No. 89 of 1998 (as amended) ("the Act"). This was in keeping with the purpose and functions of the Commission as set out in Section 2 and Section 21 of the Act, respectively.[2] For the Commission to fulfil these functions, and in line with the purpose of the Act, Chapter 4A of the Act enables the Commission to conduct market inquiries into the *"general state of competition in a market for particular goods or services, without necessarily referring to the conduct or activities of any particular named firm"*.[3] A market inquiry is a general investigation into the state, nature and form of competition in a market, rather than a narrow investigation of specific conduct by any particular firm.

1.2. Section 43C of the Act directs that upon completion of the market inquiry, the Commission must publish a report in the *Gazette* and submit the report to the relevant *Minister*, with or without recommendations. The report may include recommendations for new or amended policies, legislation or regulations; and recommendations to other regulatory authorities on competition matters. The information obtained during a market inquiry may cause the Commission to: (a) Initiate a complaint and enter into a consent order with any respondent, in accordance with section 49D, with or without conducting any further investigation; (b) Initiate a complaint against any *firm* for further investigation, in accordance with Part C of Chapter 5; (c) Initiate and refer a complaint directly to the Competition Tribunal without further investigation; (d) Take any other action that is recommended in the report on the market inquiry, within its powers in terms of this *Act*; or (e) Take no further action.

1.3. In fulfilment of the above obligations, the Commission is making recommendations that it believes will address features of the market that prevent or distort competition. The Commission acknowledges the participation of all stakeholders during the inquiry. The stakeholders assisted the Commission in formulating recommendations that, if implemented, would prevent distortions in the market.

1.4. "LPG" is the abbreviation used to describe liquefied petroleum gas, a group of hydrocarbon gases that typically comprises propane, propylene, butane and

1 Chapter 4A of the Act, which introduces the powers to conduct market inquiries, came into effect on 01 April 2013.
2 Section 21 of the Act calls on the Commission to, inter alia, "implement measures to increase market transparency" and "advise, and receive advice from, any regulatory authority".
3 According to Section 43B (1)(i) of the Act, the Commission may initiate a market inquiry if it has reason to believe that any feature or combination of features of a market for any goods and services prevents, distorts or restricts competition within the market.

butylenes.[4] LPG is used mainly as a thermal fuel for industrial, commercial and residential purposes. LPG is a hazardous product, and safety is a key concern in this market for suppliers and users. South African households tend to rely on multiple energy sources and the key determining factor is whether one has access to an electrical connection. LPG is an important clean energy source particularly for non-electrified households. The ease of portability (through cylinders) makes LPG access by poor households particularly important. On average, wholesalers distribute between 20% to 50% of LPG through cylinders and the remainder through bulk.

1.5. LPG and natural gas are both energy sources used to generate power for use by domestic and industrial customers. Natural gas occurs naturally underground and is transmitted through pipelines or in the form of Liquefied Natural Gas (LNG). LPG, on the other hand, is produced during the refining of crude oil or the processing of natural gas. A comparison of LPG and natural gas reveals that in terms of functionality, they perform the same functions. However, the distribution of natural gas, unlike LPG, requires reticulation infrastructure such as pipelines to be in place and this infrastructure is only available in a few areas in South Africa. This shows that there is limited competition between LPG and LNG in South Africa given the existing supply-side substitutability constraints.

Findings and recommendations

1.6. The Commission performed an in-depth analysis of the submissions made by market participants (refineries, wholesalers, retailers, relevant government bodies and regulators, and technical consultants) and from stakeholder engagements, meetings and field investigations. Some of the general findings are highlighted below:

Concentration and Ownership

1.7. There are only five refineries that are currently producing LPG in South Africa (SAPREF, ENREF, Sasol, PetroSA, and CHEVREF). At a wholesale level, the market is highly concentrated with four large wholesalers accounting for significant market share. The recent mergers between Easigas/Reatile and Totalgaz/KayaGas have resulted in increased in concentration in supply of LPG to bulk and cylinder markets. The increase in market concentration amongst the wholesalers is fostering an environment which is conducive for coordination.

4 World LP Gas Association website

1.8. The major wholesalers are Afrox, Easigas, Totalgaz and Oryx. These major wholesalers collectively account for more than 90 percent of the wholesale market. In addition to the high levels of concentration, new entrants and small existing firms must overcome high barriers to entry in the wholesale markets. These entry barriers include, amongst others (i) extensive capital investment, (ii) regulatory hurdles, and (iii) security of supply of LPG.

1.9. Some of the wholesalers were vertically integrated with refineries in the past and have maintained these relationships. The four major wholesalers are all foreign-owned companies with limited black ownership.

1.10. In addition to the general findings, the Commission concluded that the following features prevent, restrict or distort competition in the LPG sector:

The regulatory environment

1.11. The Commission's investigation identified a clear need for implementing measures aimed at improving the regulatory environment in which the LPG sector operates. The Commission found significant hindrances in the regulatory environment which may encumber the ability of potential competitors to enter and/or expand within the LPG sector.

Price regulation

1.12. The pricing regulations applied to the LPG industry most commonly constitutes the maximum refinery gate price ("MRGP") and the maximum retail price ("MRP") which are determined by the Department of Energy ("DoE"). While the DoE made a commitment in 2012 to review the adopted price methodology for MRGP and MRP, the Commission found that this has not materialised.

1.13. The current MRGP framework does not give refineries adequate incentive to prioritise LPG production as compared to other petroleum products. The lack of incentives by refineries impact negatively on the security of supply for LPG. The Commission's comparative assessment indicated that, for smaller volumes of LPG, the MRGP is lower than its landed import price. The Commission learnt that the driving factor behind the high cost of imported products relates to logistics. As South Africa has limited import and storage facilities for LPG, import efficiency and optimisation is key to sourcing LPG at a lower cost.

1.14. The Commission found that importing larger parcels of LPG would result in the landed import price being lower than the MRGP. The Commission is of the view that to encourage the sustainable supply of LPG throughout the year, the focus of this sector should be on constructing larger import and storage facilities. This finding does not absolve the DoE from its responsibility to review the pricing methodology.

1.15. Regarding price monitoring, the Commission found limited evidence of the effective monitoring and enforcement of regulated prices (the MRGP and the MRP) by the DoE. The Commission found the DoE does not monitor the MRGP and has limited resources with which to monitor the regulated retail price of LPG (the MRP). The DoE has only nine inspectors across the country responsible for monitoring all petroleum products, including LPG. These nine inspectors monitor an estimated 5 112 fuel retail service stations or sites in the country and DoE indicated that the inspectors cover just under 2 000 service stations annually. This implies that it might take over two years before another inspection takes place at the same service station. This lack of monitoring results in pricing abuse by the market participants. The sanctions of violating maximum pricing are ineffective as the DoE does not have prosecutorial powers and have to refer such cases to law enforcement entities for prosecution.

1.16. The Commission recommends the following:

1.16.1. NERSA must undertake pricing and the monitoring of MRGP and MRP.

1.16.2. Price deregulation after supply constraints have been resolved. The reason for this is that the immediate deregulation of pricing may cause price increases above the current MRGP and consequently MRP, given the significant regulatory bottlenecks identified as well as the supply constraints faced by the sector. To circumvent this concern, the Commission is of the view that import efficiency and optimisation should be prioritised. This would result in an increase in import storage capacity and make it possible to accommodate larger LPG parcels, allowing for an increase in LPG supply domestically.

1.16.3. To give effect to the recommendation in 1.16.2. above, the DoE must undertake a study on how price deregulation in the LPG industry can be achieved.

1.17. The Commission is of the view that the deregulation of prices in the sector must be regarded as a long-term solution and should only be considered after the existing supply bottlenecks have been resolved. The priority in the short-term must be to improve import efficiency, increase import storage capacity and accommodate larger LPG parcels in order to allow for an increase in LPG supply domestically.

Non-price regulation

1.18. The Commission found the overlap in mandates and misaligned regulatory incentives create uncertainty amongst market participants. This overlap causes barriers to entry by delaying much-needed investment (import, loading and storage facilities) into this sector.

1.19. On infrastructure related licensing, the Commission found that several regulators are involved in infrastructure licensing and have overlapping jurisdictions that could lead to projects being stalled. For example, the Commission found it can take almost four years for a refinery to obtain regulatory clearance and over three years for a wholesaler to commence operations, due to the heavy administrative requirements and regulatory review process. This entails processes which include obtaining a wholesale licence, environmental authorisation, construction licence and an operation licence, amongst others.

1.20. Regarding regulatory overlaps, the Commission found that significant bottlenecks are caused by overlapping and complementary jurisdictions of the National Energy Regulator of South Africa ("NERSA") and Transnet National Ports Authority ("TNPA") regarding approvals for the construction of import and storage facilities at the ports. The Commission found that, in terms of the National Ports Act, the TNPA is permitted to grant concessions to infrastructure developers within port boundaries. At the same time, such infrastructure requires licensing under the Petroleum Pipelines Act, administered by NERSA, leading to an overlap in jurisdictions as well as inconsistent policy outcomes.

1.21. The Commission also found a mismatch between the TNPA's 20-year concession agreements and the Petroleum Pipelines Act regulations. The former incentivises recoupment in 20 years, whereas the Petroleum Pipelines Act regulations allow depreciation over the useful life of the asset. In most cases, the assets concerned ensure useful life of longer than 20 years. NERSA licences are valid for 25 years in terms of the Petroleum Pipelines Act as opposed to TNPA concessions. This misalignment can then become an issue in relation to the appropriate tariff to be charged since the period over which to recover the investment differs. This might lead to projects being stalled if the investor is not satisfied with the NERSA-approved tariff. Regulatory certainty is required in order to attract investment in this sector and this is not guaranteed by the current system due to the observed misalignment.

1.22. Policy harmonisation and regulatory clarity across the various bodies are required to allow for better decision-making, taking cognisance of any outstanding processes required by other regulators. This might also call for improved sequencing of these processes (where possible).

1.23. The Commission found that the holders of DoE wholesale licences owning storage facilities for their operations (as defined in the Petroleum Pipelines Act) also require licensing by NERSA. This creates an additional burden on wholesalers to approach multiple regulators that might act as a disincentive to investment. These licensing requirements could be housed under one regulator to ensure streamlined services and reduce delays.

1.24. The Commission recommends the following:

1.24.1. NERSA must be the regulator responsible for issuing wholesale licences and the monitoring thereof. NERSA is also involved in licensing import, loading and storage facilities for market participants including wholesalers.

1.24.2. NERSA and the TNPA's adjudication processes should be aligned to avoid delays in the construction of import and storage facilities and resolve the issues identified. As an MOU has been signed between the two entities, the Commission recommends that it be used as a mechanism to give effect to this recommendation. In addition, there should also be a sequencing of legal processes.

Limited domestic supply

1.25. The Commission's analysis found that the production of LPG in South Africa is limited and that imports are used to fill in the gaps in the supply of same. The Commission also found that the current import infrastructure is inadequate and has stifled the uptake of LPG. The Commission notes that a number of import facility licences have been granted and if all these facilities are constructed the supply bottlenecks will be addressed. In addition, the Commission found that significant obstacles are caused by the overlapping jurisdictions of NERSA and the TNPA in relation to approvals for the construction of import and storage facilities at the ports.

1.26. The Commission recommends the following:

1.26.1. A review of the regulatory frameworks applicable to the construction of LPG import and storage facilities at ports, as outlined in the applicable legislation including the National Ports Act and the Petroleum Pipelines Act.

Long-term supply agreements

1.27. The Commission found refineries prefer long-term supply agreements. This may be ascribed to, *inter alia*, commercial considerations like the reliability of volume upliftment due to storage limitations at refineries for LPG, established credit and payment histories, and the existence of historical relationships. Problems in securing supplies of LPG from refineries pose a significant barrier to entry for wholesalers. Wholesalers with long-term contracts have a competitive advantage over those relying on short-term contracts or the spot market. The ability of competitors to enter and/or expand at the wholesale level may be affected negatively due to foreclosure of supply. In a sector where price is regulated and where there are supply constraints, securing a reliable supply of LPG is crucial for competition.

1.28. The Commission also found that the allocation of LPG by the majority of refineries takes place in the following order: (i) Internal consumption to satisfy the refineries' own operational needs – this ranged from 30% to 70% of total LPG production for some refineries for the period 2010 to 2014; (ii) Contractual obligations which accounted for an average of 82% of the LPG available to the market between 2010 and 2014; and (iii) Spot sales which accounted for the remaining 18% of the total sales in the market.

1.29. Upon further analysis, the Commission found the following with regard to a number of long-term supply agreements in place between the refineries and wholesalers:

1.29.1. In terms of the duration of the contracts, some agreements were renewed with the same wholesaler for over 25 years. Contracts exist with some of the large wholesalers including unlimited renewal clauses. These clauses have the effect of creating "evergreen contracts", thus entrenching incumbency advantages for the parties involved.

1.29.2. Some long-term supply agreements contained provisions for discounts on the MRGP up to a maximum of 10%. Small wholesalers, whether in a supply agreement or not, do not benefit from any significant price discounts. Whilst the Commission takes cognisance of the principle of volume discounts afforded to large wholesalers, it noted that smaller wholesalers found themselves having to price competitively against the more established larger wholesalers despite the declining volumes available on the spot market and without benefiting from any discount on MRGP.

1.30. The Commission found the long-term supply agreements offered by the refineries to large wholesalers have resulted in some degree of competitive advantage. These long-term supply agreements are offered on a preferential basis, allowing large wholesalers to maintain their positions in the market, regardless of new entries. Further, the Commission's analysis revealed the perpetuation of historical relationships that Shell and BPSA had with SAPREF regarding the allocation of LPG. The perpetuation of these historical relationships, through Shell and BPSA to Easigas and Oryx, is likely to afford these wholesalers a competitive edge in a market marred by insufficient and on occasion inconsistent supply.

1.31. The competitive position of a wholesaler (large or small) is dependent on being able to obtain a sufficient and consistent supply of LPG. The Commission is of the view that the market is likely to be more competitive if smaller wholesalers are able to secure sufficient volumes of LPG on a consistent basis. The price competitiveness of the smaller wholesalers that were able to secure LPG volumes clearly demonstrated this.

1.32. The Commission recommends the following:

1.32.1. Existing evergreen agreements or agreements with more than a ten-year duration must be capped to a maximum of ten years. The ten-year duration will provide sufficient opportunity for wholesalers to recoup the cost of investment in bulk storage equipment required to store the large volumes of LPG as negotiated in the supply agreements. This contract duration will provide refineries with predictability of demand for LPG, so they can mitigate against situations of under- or over-supply. The ten-year duration was determined using the typical recoupment period required by wholesalers for the various investments they need to make prior to operating in the market.

1.32.2. All automatic renewal clauses must be removed from all supply agreements.

1.32.3. To improve LPG access to small wholesalers, refineries must allocate a minimum of ten percent LPG production (excluding internal consumption) to small wholesalers on at least two-year supply agreements. The Commission believes that the ten percent allocation must not be made available to small wholesalers on a take-or-pay basis, as this would increase the barriers created by financial limitations. In the event that small wholesalers are unable to purchase the entire ten percent, the remaining LPG can be sold in the spot market to any buyer.

1.33. These recommendations are a short-term solution to the supply constraints in the LPG sector, as it is envisaged that within five years South Africa's LPG import infrastructure and the storage facilities at its ports will support increased LPG imports, averting the domestic supply shortage.

Sale of LPG through cylinders

1.34. The Commission analysed: (i) The effects of the cylinder exchange practice; (ii) Allegations received regarding cross-filling cylinders; and (iii) Allegations received regarding hoarding cylinders and the effect this has on competition.

Cylinder exchange practice

1.35. Cylinder exchange practice functions as follows: when one supplier or distributor receives cylinders belonging to another supplier, the supplier that received the cylinders returns the cylinders to the other supplier and in turn receives any of its own cylinders which the first-mentioned supplier may have in its possession.

1.36. The Commission found distortions to competition derived from using the cylinder exchange practice. The cylinder exchange practice acts as a potential barrier to entry into the cylinder market as it is governed through bilateral agreements and these agreements have made participation by new entrants difficult.

Cylinder deposits

1.37. To gain access to a cylinder, end-users may choose to either purchase the cylinder outright or pay a deposit fee on it. In the latter instance, the end-user becomes entitled to use the cylinder, whilst the wholesaler retains ownership thereof. According to the DoE, the deposits were put in place to help lower the cost of acquiring a cylinder for domestic end-users. The DoE's MRP Working Rules (2010) state that *"deposits on cylinders will be limited to a maximum amount of 45% of the cost of a cylinder and will be adjusted annually"*.

1.38. The Commission found evidence indicating that the uniform deposit fee applied until 2015 was not equivalent to the 45% maximum cylinder deposit fee prescribed by the DoE. In addition, the DoE has not reviewed the deposit fees annually since 2010, as stipulated in the working rules.

1.39. The Commission has found evidence suggesting collusion among wholesalers to increase cylinder deposit fees. The Commission received information from an anonymous distributor indicating possible collusion by the four main wholesalers, Afrox, Totalgaz, Oryx and Easigas, through co-ordinated increases in their deposit fees for the various gas cylinder sizes. These wholesalers all notified their distributors of a pending increase in the cylinder deposit fee, while at the same time introducing a non-refundable rental fee for using their cylinders. Following these allegations, the Commission has thus initiated an investigation.

1.40. The Commission found that using a uniform deposit fee across all cylinder sizes is not justified, as domestic end-users (using the smaller-sized cylinders below nine kg) are paying the same deposit as commercial customers using larger cylinders (19 kg and above).

Cylinder cross-filing practices

1.41. The Commission found that cross-filling is prevalent in the sector and occurs through either legal[5] or illegal means. Safety was noted as a key concern related to the filling of cylinders illegally. Filling and distributing another wholesaler's cylinders in the absence of an agreement (or some form of consent) is unlawful.[6]

1.42. The Commission is of the view that both safety and competition considerations are important to the long-term sustainability of and investment in the LPG sector. To foster an environment where competition amongst wholesalers may thrive, a customer's ability to fill their cylinder(s) at any accredited filling site is important. Accreditation of the sites and training of fillers is crucial.

1.43. The Commission recommends the following:

Cylinder deposit fee

1.43.1. NERSA must be responsible for the determination of the cylinder deposit fees and must review same on an annual basis, so that they are aligned with changes in market conditions.

1.43.2. The deposit fee for each cylinder size must be linked to the cost of the cylinder.

1.43.3. The Commission will continue with its ongoing cartel investigations separate from the market inquiry process.

Cylinder exchange

1.43.4. The cylinder exchange practice must be more inclusive. No wholesaler should unreasonably deny another party the opportunity to enter a bilateral agreement to facilitate the exchange of cylinders. Any wholesaler who has

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5 Cross-filling, within the current legislative framework, is legal if permission is granted (in writing) by another wholesaler to fill its cylinders. The Commission has noted instances where cross-filling is done for a fee. Most of these instances have occurred amongst established players.

6 The courts have relied on the SANS 100019:2001 regulation in establishing this. This means that South African wholesalers and distributors are unable to engage in cross-filling without the consent of their competitors. The courts found that wholesalers derive an unfair advantage in refilling competitors cylinders mainly related to the loss in revenue (as the wholesaler would then lose the opportunity to use their own cylinder to sell LPG).

invested in cylinders and complies with all relevant regulations, including those relating to safety, should not be barred from participating in cylinder exchange.

1.43.5. The current hybrid cylinder ownership model must continue to enhance customer choice. More specifically:

1.43.5.1. For 9 kg cylinders and below, customers must have the choice to either lease a cylinder from a wholesaler or purchase a cylinder directly from a wholesaler or retailer.

1.43.5.2. If a customer chooses to lease the cylinder, they may only fill their cylinder at the respective wholesaler or its designated distributor or they may exchange the cylinder at any accredited cylinder exchange site.

1.43.5.3. If a customer chooses to purchase a cylinder, they may fill their cylinder at any accredited filling site.

Cylinder cross-filing

1.43.6. Cross-filling of LPG cylinders should occur within the confines of the law, which under section 10(4) of the OHSA requires written consent prior to a wholesaler filling the LPG cylinders of another wholesaler. The Commission is of the view that this practice must continue and the responsible enforcement authorities must impose the necessary sanctions to curtail any violation.

1.43.7. The responsible enforcement agencies must impose sanctions against illegal cross-filling. The Commission recommends cross-filling LPG cylinders must continue to the extent that it is practised legally. Where it occurs illegally, the relevant enforcement agencies must step in and curtail the illegal behaviour.

The high cost of switching

1.44. The Commission found that switching takes place within the bulk LPG segment of the market, but it does not occur seamlessly. The ease of switching depends on the costs likely to be incurred by the end-user. These costs relate to the possible disruption in supply because of protracted negotiations between the incumbent and new suppliers on commercial terms for the sale of the equipment, or delays experienced in removing LPG equipment when no agreement can be reached on commercial terms. Customary reasons cited for not switching included: (i) The end-user's ability to renegotiate their supply contract to get more favorable terms (like lower pricing); or (ii) Circumstances where the cost to switch suppliers outweighed any savings that the end-user might derive from switching.

1.45. The Commission found bulk end-users took the following into account when considering switching: (i) The substantial capital investment required to install LPG bulk tanks and cylinder manifolds; (ii) The ownership of equipment usually remaining with the party providing the capital outlay (typically the LPG supplier and not the end-user); (iii) Safety considerations and regulations; and (iv) The existence of highly restrictive supply contracts between LPG wholesalers and end-users.

1.46. The Commission analysed the terms and conditions of supply agreements between LPG suppliers and end-users. The Commission found bulk LPG supply agreements are structured in a vague manner regarding equipment ownership[7] during and after the expiration of the initial supply agreement. In particular, the Commission found that there is limited disclosure of when the costs of the installed LPG equipment will be fully amortised and whether the end-user will ever own the installed equipment. An examination of the supply agreements revealed that in the majority of cases, equipment ownership lies with the wholesale supplier. Ownership is not transferred to the bulk end-user at the end of the contract term.

1.47. Supply agreements entered into by tenants and proprietors or property developers at shopping centres are structured in an equally vague manner that does not facilitate switching. The same applies for residential estates where a body corporate and a supplier enter into a supply agreement. The following salient features were of particular concern to the Commission:

1.47.1. Ownership of the installed reticulation system rests with the supplier even where the property owner fully amortised the cost of the installation.

1.47.2. The LPG supplier signs an initial contract with the proprietor to install and operate the equipment at a shopping centre. Subsequent to this, the LPG supplier enters another contract with each of the tenants at the shopping centre for the supply of LPG. Given that the contracts between the supplier and the proprietor and those between the supplier and the tenants are entered at different times, the duration of the contracts is staggered. This means that if the tenants' termination period is not aligned with that of the proprietor, neither the proprietor nor the tenants can switch suppliers.

1.47.3 The Commission found evidence of some supply agreements that included clauses under which wholesalers pay the proprietors a monthly rental fee

7 The equipment referred to above includes bulk tank and the reticulation system.

or commission commensurate with the volume of LPG consumed by the tenants or based on a percentage of the invoiced amount. The argument provided by market participants was that the payment is for rental space (the space where the bulk tanks are installed). The Commission found this might be construed to provide perverse incentives to proprietors to ensure the continued use of a certain wholesaler's LPG, thus inhibiting the ability of the shopping centre (or residential estate) to switch LPG suppliers even if the tenants were to identify a supplier with a competitive price. A separate rental agreement between mall owners and LPG wholesalers for the space in which the bulk tank or equipment is installed should be considered.

1.48. The Commission found the limited disclosure of these salient features of supply agreements creates an environment wherein end-users are unable to seamlessly switch at the end of a contractual period as the installed equipment is either not fully amortised or ownership of the equipment remains with the supplier (regardless of the full amortisation of the equipment).

1.49. The Commission recommends the following:

1.49.1. *Separating the LPG supply agreement from the LPG equipment agreement.* The parties to any supply agreement must separate the agreement in relation to the supply of LPG from that pertaining to the use of LPG equipment. The LPG equipment agreement must reflect the cost and usage of the installed LPG equipment, while the LPG supply agreement should reflect the cost of the supply of LPG. The agreement pertaining to the cost and usage of LPG equipment must provide for the end-user to own the installed equipment after the costs have been fully amortised; or, alternatively, it must be clear that the equipment is subject to a rental agreement. The contracts contemplated in this recommendation should, at a minimum, include the following terms:

1.49.1.1. By default, contracts between customers and wholesalers must contain provisions for transferring tanks, with a clear methodology for valuing the equipment.

1.49.1.2. Incoming suppliers must have a right, subject to a commercially agreeable arrangement, to buy the existing tank and piping equipment from the outgoing supplier. The incoming supplier must have two options: first, to negotiate with the incumbent for the transfer of the equipment; or, take over the equipment based on the existing terms between the customer and incumbent supplier. The outgoing supplier will have an obligation to sell the equipment at a price determined by applying the appropriate methodology.

1.49.1.3. Customers must be provided with information on how to switch in their contracts. This information must be clearly explained before they sign the contract, and both parties must sign a legal declaration to prove that this discussion took place. All future supply agreements must contain this legal declaration and that it must be added as an addendum to supply agreements already in existence.

1.49.2. *Guidelines for the valuation methodology of LPG equipment*. In order to facilitate the transfer of LPG equipment and reduce any potential impediments in commercial negotiations relating to same, NERSA must develop and publish guidelines setting out the appropriate valuation methodology that market participants can use for the sale and transfer of bulk installation LPG equipment (e.g. bulk tanks, cylinder manifold and reticulation system). This is specifically in relation to those instances wherein a new LPG supplier seeks to purchase existing and previously used LPG equipment from the incumbent supplier for the purposes of supplying a bulk customer.

1.49.3. The mandate of NERSA must be expanded to include the resolution of disputes relating to the interpretation and application of the *valuation methodology of LPG equipment*. In the event of a dispute in the interpretation and application of the valuation methodology for the transfer of LPG equipment, such disputes should be referred to NERSA.