

2. Market inquiry process

- 2.1. The Commission initiated an inquiry into the LPG sector in terms of Chapter 4A of the Act. The Commission had reason to believe certain features of the sector prevented, distorted or restricted competition. The terms of reference (“ToR”) identified the following broad themes as the rationale for initiating the market inquiry:
- 2.1.1. Structural features of the market;
 - 2.1.2. High switching costs;
 - 2.1.3. The regulatory environment and its impact on competition; and
 - 2.1.4. The limited usage of LPG at the household level.
- 2.2. The discussion sets out a summary of the process followed in conducting the market inquiry.

Launch of the market inquiry

- 2.3. On 15 August 2014, the Commission officially announced the initiation of the market inquiry into the LPG sector and the ToR were published in the Government Gazette as mandated by the Act. The ToR provided for key phases and for the main activities that would take place during each phase. These included:
- 2.3.1. Phase 1: Evidence gathering/investigation.
 - 2.3.2. Phase 2: Competition assessment.
 - 2.3.3. Phase 3: Reporting.
- 2.4. Following the publication of the ToR, the Commission published the Stakeholder Participation Guidelines (“the Guidelines”) on 2 September 2014. The Guidelines contained the rules of participation applicable to all stakeholders. The Guidelines essentially provided a fair opportunity and a transparent process for all stakeholders to participate effectively. They outlined (i) who could participate in the market inquiry and how they could submit information; (ii) the treatment of confidential information; (iii) the activities of the market inquiry; and (iv) the powers available to the Commission, amongst other issues. On 15 September 2014, the LPG market inquiry officially commenced.

Phase 1: Evidence gathering/Investigation

- 2.5. In collecting information for the market inquiry, the Commission contacted at least 90 market participants operating across the industry value chain. Interactions with stakeholders occurred in different forms, namely (i) Meetings; (ii) Site visits; (iii) Teleconferences; (iv) Responses to calls for submissions with a further call for submissions; and (v) Information requests. Details of each type of interaction, and a list of the respondents, follow:
- 2.6. **Calls for submissions:** The Commission published two submissions inviting all interested stakeholders to make formal submissions. The initial call for submissions, published on 16 September 2014, provided a list of questions related to the issues identified in the ToR as the rationale for the market inquiry. Stakeholders were advised that their responses need not be limited to those issues, but could extend to other matters that might be relevant to the inquiry, including the impact of the identified issues on the state of competition in the LPG sector.
- 2.7. Based on the information received by way of the responses to the initial call for submissions, the Commission identified specific factors that could have an impact on competition. Accordingly, the Commission published a call for further submissions on 27 August 2015 requesting that market participants provide further submissions and information regarding these identified factors. Interested stakeholders were encouraged to provide any additional information on any other issue identified as being relevant to the promotion of healthy competition in the LPG market.
- 2.8. **Introductory meetings, teleconferences and site visits:** The Commission engaged in face-to-face meetings and teleconferences with various stakeholders to obtain more details particular to features of the LPG sector and/or the stakeholders' activities within the market. These engagements also served to encourage stakeholder participation across the value chain. In addition, the Commission was afforded the opportunity to visit the facilities of producers, wholesalers, distributors and large industrial consumers of LPG. These site visits contributed to the Commission's improved understanding of the LPG value chain. Tables detailing the stakeholders contacted are included in **Annexure A1**.

- 2.9. **Information requests:** In March 2015, the Commission issued a first round of information requests to selected market participants. The purpose of the information requests was to obtain detailed information from the various market participants within each level of the value chain in the LPG sector relating to their respective businesses. The information submitted by stakeholders assisted the Commission in understanding the pertinent issues in the LPG value chain, the interactions between market participants across the value chain, and the regulatory environment.
- 2.10. In August 2015, the Commission issued a second round of information requests to a narrower selection of market players. These information requests focused on key issues identified by the Commission which warranted further examination. Refineries were probed on issues relating, *inter alia*, to their relation with wholesalers, supply allocation decisions, long-term supply agreements, switching and pricing, import facilities, storage capacity and licensing. Wholesalers were requested to provide further pricing information, details about the procurement of cylinders and the number of cylinders in circulation, cylinder exchange practice and cylinder deposit prices, amongst other things. Industrial users were also requested to submit information about their arrangements or relationships with LPG suppliers and their ability to switch between LPG suppliers, and they were asked to comment on the ownership of LPG equipment. Regulators were questioned about the regulatory requirements in place and the rationale for implementing various regulations.

Phase 2: Assessment of the state of competition

- 2.11. Phase 2 of the market inquiry involved an assessment of the state of competition in the LPG sector based on the information received from market participants. A range of analytical techniques, both qualitative and quantitative, was applied to understand and draw conclusions on the nature of competition in the sector, and the impact of any particular feature or conduct observed within the sector.
- 2.12. The Commission's activities in this phase included: (i) Describing the relevant product and geographic markets; (ii) Assessing competitive dynamics in the defined markets; (iii) Assessing whether any features of the market lessened, prevented or distorted competition; and (iv) Drawing conclusions regarding the state of competition in the LPG market. Following the assessment referred to above, the Commission published its preliminary findings and proposed remedies and invited interested stakeholders to provide input on the recommended solutions and/or actions. The input received from stakeholders was assessed and incorporated into the analysis to enhance the outcomes of the market inquiry process.

Phase 3: Reporting

- 2.13. The final phase of the market inquiry involved the drafting of the final report on the state of competition in the LPG sector and publishing the report in the *Gazette*, under Section 43B of the Act.

Table 1: Key milestones during the inquiry

Key milestones	Date
Gazetted terms of reference	15 August 2014
Stakeholder participation guidelines	02 September 2014
Inquiry commenced	15 September 2014
Published call for submissions	16 September 2014
Received responses to call for submissions	31 October 2014
Introductory stakeholder engagements and site visits	05 January 2015 to 27 February 2015
Issued first round of information requests	02 March 2015 to 31 March 2015
Analysis of responses to first round of information requests	01 June 2015 to July 2015
Issued second round of information requests	04 August 2015
Further call for submissions on specific factors	27 August 2015
Consultation with market participants	01 February to 29 February 2016
Gazetted amended terms of reference	23 March 2016
Publication of the draft recommendations for public comment	10 May 2016
Comments on proposed recommendations	11 May 2016 to 29 July 2016
Engagements with stakeholders	01 July 2016 to 31 August 2016
Gazetted amended terms of reference	28 September 2016
Further consultation with key stakeholders	01 November 2016 to 28 February 2017
Finalisation of the market inquiry	31 March 2017

- 2.14. During the market inquiry, the Commission placed several documents on its website. These included the ToR, participation guidelines, a statement of issues and draft recommendations for public comment.