



*competition***commission**  
*south africa*

**LPG MARKET INQUIRY GUIDELINE FOR STAKEHOLDER  
PARTICIPATION**

**THESE GUIDELINES ARE EFFECTIVE ON THE  
COMMENCEMENT OF THE MARKET INQUIRY: 15  
SEPTEMBER 2014**

## **A. INTRODUCTION TO THE GUIDELINES**

1. These guidelines are released pursuant to Chapter 4A of the Competition Act 89 of 1998 as amended (“the Act”) which allows the Competition Commission (“the Commission”) to conduct a “*formal inquiry in respect of 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*”. The aim of the market inquiry is to assess whether the liquefied petroleum gas (“LPG”) market is working effectively from a competition perspective, and focuses on the entire market/value chain holistically as opposed to focusing on a single aspect of the market or on a specific firm or number firms within a market.
2. The market inquiry was initiated by the Commission because it had reason to believe that there are features of the LPG market that prevent, distort or restrict competition. The objective of the market inquiry is to determine whether such features exist and, if they do, what recommendations to make.
3. These guidelines contain the rules of participation that will apply to all stakeholders who wish to participate in the proceedings of the market inquiry. The guidelines seek to provide for a fair opportunity and a transparent process for all stakeholders to effectively participate in the market inquiry. The guidelines outline who may participate in the market inquiry and how they may submit information; the treatment of confidential information; the administrative activities of the market inquiry; and the powers available to the Commission, among other issues.
4. These guidelines will be published on the Commission’s website ([www.compcom.co.za](http://www.compcom.co.za)) and **will become effective on 15 September 2014, the date of the commencement of the market inquiry**. The guidelines may however be reviewed from time to time to reflect any best practice that may develop. Any amendments to the guidelines will be notified to the public, and the latest version will always be that appearing on the Commission’s website.

## **B. APPLICATION OF THE GUIDELINES**

5. These guidelines only apply to the LPG market inquiry and not to other market inquiries that may be conducted by the Commission under Chapter 4A of the Act. These guidelines must be read in conjunction with the Act and its Rules as well as the Terms of Reference for the LPG market inquiry, none of which are superseded by these guidelines.

### **C. CONDUCT OF THE MARKET INQUIRY**

6. The Commission is committed to the principles of fairness, transparency, and integrity and will conduct the market inquiry in accordance with these principles. The Commission will allow stakeholders fair and reasonable opportunity to provide input into the market inquiry process and its outcomes.
7. The Commission may evaluate the subject matter of the market inquiry through a review of secondary material obtained via information requests, consultations and summons, as required. For the purposes of this market inquiry, the methods that may be used for gathering information may include the following:
  - a. **Questionnaires** to identified participants or to the general public
  - b. **Information Requests** to particular market participants
  - c. **Calls for submissions** on issues relevant to the market inquiry
  - d. **Targeted meetings** with industry stakeholders

### **D. ACTIVITIES**

8. The market inquiry will be conducted in accordance with the following phases:
  - a. Information Gathering
  - b. Analysis of information
  - c. Provisional findings
  - d. Final report
9. It is expected that the market inquiry will be completed in **March 2016**. The Commission may amend the time within which the market inquiry is expected to be completed by issuing a notice in a government gazette in terms of section 43B (5) of the Act.

### **E. WHO MAY PARTICIPATE IN THE MARKET INQUIRY?**

10. The participants in the market inquiry process may include: business enterprises along the LPG sector value chain (including manufacturers, wholesalers/distributors and retailers), other related business enterprises, end-users, government departments, public entities, regulatory authorities, industry associations, and any other stakeholders that may be able to provide information relevant to the market inquiry. In particular, the following participants are encouraged to participate in the market inquiry process:
  - a) **Members of the public** – any member of the public (individual or group) that has an interest in the market inquiry or is affected by the subject matter of the market inquiry;

- b) **Firms** – any designated representative of a business that has an interest in or is affected by the subject matter of the market inquiry;
- c) **Organised groups** – organised business fora, labour unions, civil society based organisations, industry bodies or any other bodies or institutions that have an interest in or are affected by the subject matter of the market inquiry
- d) **Government** – government departments, regulatory authorities, public entities and any other organ of state or statutory body that has an interest in the market inquiry or is affected by the subject matter of the market inquiry.

## **F. METHODS OF PARTICIPATION**

11. Anyone wishing to participate in the market inquiry process or proceedings may do so by:

- a) Making a written submission to the Commission; and
- b) Availing themselves for a meeting with the Commission.

### Written submission

12. Anyone making a written submission is expected to provide the information reflected in “LPG1” form. Submissions may be made in any of the official languages. The submissions may be hand-written or typed and must be sent to the Commission in any of the following ways; fax, email, post or hand delivery. The contact details are as follows:

**Fax:** 012 394 6723/012 394 6503

**Email:** [lpg@compcom.co.za](mailto:lpg@compcom.co.za)

### **Postal address:**

The LPG Market Inquiry,  
Private Bag x23,  
Lynwood Ridge,  
Pretoria  
0040

### **Physical delivery:**

The LPG Market Inquiry,  
The DTI Campus,  
Mulayo (Block C),  
77 Meintjies Street,  
Sunnyside,  
Pretoria,  
0002

13. If the submission contains confidential information, the submission should be accompanied by the “CC7” form indicating the confidential information (see paragraphs 19 – 24 below).

#### Meetings

14. The Commission may hold meetings with key stakeholders in the market during the course of the market inquiry. The Commission may exercise its discretion to determine which participants these meetings will be held with. One of the issues which may be taken into consideration in the exercise of its discretion is the extent to which the meeting may help to clarify or resolve any issues raised by the written submissions.
15. Participants seeking to have meetings with the Commission must provide written submissions first in order to provide information to the Commission on the issues to be addressed during the meeting.
16. Electronic copies of the visual presentations and/or copies of any additional material to be relied on for the meeting with the Commission must be submitted at least ten (10) business days prior to the meeting.
17. There is no charge for making a written submission or for attendance a meeting with the Commission. The meetings will be conducted mainly in English. However, to cater for the other official languages, an interpretation service may be made available if a request has been made for such a service in the written submission to the Commission or indicated on “LPG1” form.

### **G. HANDLING OF INFORMATION AND DATA**

#### Voluntary disclosure

18. It is the Commission’s aspiration to solicit information from parties voluntarily, through written submissions, questionnaires, requests for information, testimony and other such means.

#### Confidential information and information disclosure

19. Information management during the inquiry is guided and bound by procedures related to confidentiality in Sections 44, 45 and 45A of the Act and Rules 14 and 15 of the Rules

for the Conduct of Proceedings in the Competition Commission (“the Rules”) to the extent applicable.

20. Parties have the right to claim confidentiality over any information that is claimed to be confidential in nature. Any confidentiality claim must be supported by a written statement in the prescribed form “CC7”. On a separate sheet of paper the parties must identify the confidential information and provide a full explanation to the Commission as to why the information is considered confidential. It is important in this regard to bear the following in mind:
  - a) Trade, business or industrial information that belongs to a firm, that has a particular economic value and is not generally available to or known by others is entitled to protection as confidential information in accordance with the Act.
  - b) A claim of confidentiality is binding on the Commission during the conduct of the inquiry, subject to Section 44. If the Commission is of the view that the information is not truly confidential as defined in the Act, it may, at any time, refer the claim to the Competition Tribunal (“the Tribunal”) to determine whether or not the information is confidential. Parties will be notified if their claim for confidentiality is referred to the Tribunal.
  - c) The Commission may request a party to submit two versions of their submissions: one confidential version for the Commission and the Commission only, and a non-confidential version which omits any confidential information, which may be disclosed to the public.
21. Access to confidential information and/or documents submitted to the inquiry shall be in accordance with the provisions stipulated in section 45 of the Act and Rules 14 and 15.
22. Where information is subject to a claim of confidentiality, the Commission may with the written consent of the owner of such information, allow specified third parties such as legal representatives and/or independent experts appointed by stakeholders to view and assess the confidential information subject to appropriate confidentiality undertakings being signed by the parties concerned.
23. Any party who seeks access to information that is subject to a confidentiality claim may apply in the prescribed manner and form to the Tribunal, as stipulated in section 45 of

the Act. Equally, the party with confidentiality claims may appeal an unfavourable ruling at the Competition Appeal Court.

24. The Commission may use confidential information in making decisions, in a manner that does not prejudice a party's claim to confidentiality as provided for in Section 45A of the Act.

#### **H. CONCLUSION OF THE MARKET INQUIRY**

25. In terms of section 43B (6), the Commission must issue a report in accordance with section 43 (C) within the time frame stipulated in the Terms of Reference, unless amended in terms of section 43B (5). However, based on the information obtained during the market inquiry, the Commission may decide to not take any further action as contemplated by section 43C (3) (e).
26. Prior to publishing its final report, the Commission may periodically publish progress reports to inform the public of the progress and direction of the market inquiry. These provisional reports may be published on the Commission's website. The provisional reports may be made available for stakeholders' comments. After reviewing stakeholder's comments, the Commission may, if necessary, request further interviews, information or data before finalising the report.
27. In accordance with section 43C(1), the market inquiry may produce any number of recommendations, including but not limited to the following:
  - a) Publication of information to help consumers;
  - b) Encouragement of firms to take voluntary action;
  - c) Promotion of a customer or industry code of practice;
  - d) Recommendations to Government or other regulators on new or amended policy, legislation or regulations; or
  - e) Initiation of further investigations or of immediate enforcement actions against a particular firm or firms.

# ANNEXURE B1



**competition commission**  
south africa

## REGISTRATION FORM FOR WRITTEN SUBMISSION

### Form LPG1

#### About this form

This is a registration form issued pursuant to the Guidelines for Participation in the Market Inquiry into the LPG Sector.

The form is to be completed by parties making written submissions.

#### LPG market inquiry contact

Fax: 012 394 6723/012 394 6503

Email: [lpg@compcom.co.za](mailto:lpg@compcom.co.za)

#### Postal address:

The LPG Market Inquiry,  
Private Bag x23,  
Lynwood Ridge,  
Pretoria  
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The DTI Campus,  
Mulayo (Block C),  
77 Meintjies Street,  
Sunnyside,  
Pretoria,  
0002

### Details of person making submission

(Please print)

Name and Surname: \_\_\_\_\_

Name of Organisation or Entity: \_\_\_\_\_

Contact Details: \_\_\_\_\_

Physical/Postal Address: \_\_\_\_\_  
\_\_\_\_\_

### Required Details

Does your submission contain any confidential information?  
If yes, please also file **Form CC7**

Yes  No

Do you require interpretation services?

Yes  No

If yes, please indicate language: \_\_\_\_\_

**Main focus of submission:**

**Summary of the issues:**

Signature \_\_\_\_\_ Date \_\_\_\_\_