

# SUMMARY FOR LPG

(LIQUEFIED PETROLEUM GAS)



**competition commission**  
south africa

# 1 THE MARKET STRUCTURE

a. **Five** refineries producing LPG



b. **Four wholesalers** accounting for more than **90%** of the market



c. All four major wholesalers have foreign origins with some level of BEE participation (Afrox, Easigas, Totalgaz, Oryx)



## RECOMMENDATION:

Commission to keep monitoring this market as the structure is conducive for collusive behaviour.

# 2 REGULATORY ENVIRONMENT: NON-PRICE

a. Overlapping mandates and misaligned regulatory activities e.g. National Energy Regulator South Africa (NERSA), Transnet National Ports Authority (TNPA) leading to delayed approvals for **infrastructure related licencing**



b. Lack of monitoring of wholesale licensees.

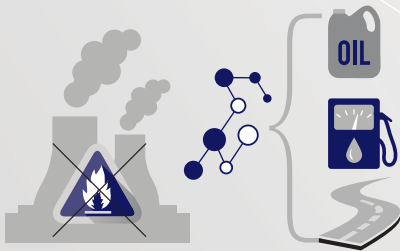


## RECOMMENDATIONS:

- NERSA and the TNPA's adjudication processes should be aligned. The MOU regulators should be used as a mechanism to give effect to this recommendation. In addition, there should also be a sequencing of legal processes.
- NERSA to undertake wholesale licensing activities.

# 3 REGULATORY ENVIRONMENT: PRICING

- a. MRGP & MRP methodology had not been periodically reviewed.
- b. Maximum Refinery Gate Price (MRGP) does not incentivise the refineries to produce more LPG – molecules diverted to **other petroleum products**



- c. Landed price for imported LPG higher than MRGP for **small parcels**
- d. Limited evidence of monitoring MRGP and Maximum Retail Price (MRP) by the Department of Energy (DoE) – **9 inspectors** in the whole country



## RECOMMENDATIONS:

- Prioritise import efficiency to ensure large parcels of LPG can be imported.
- NERSA to take over pricing functions from DoE, including pricing methodology for MRGP and MRP.
- DoE to conduct a study on price deregulation once import facilities under construction come on stream.

# 4 LIMITED DOMESTIC SUPPLY

- a. Bottlenecks are caused by the overlapping jurisdictions of NERSA and the TNPA in relation to approvals for constructing import and storage facilities at ports

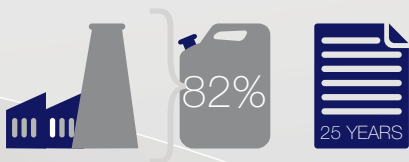


## RECOMMENDATION:

The Commission recommends a review of the applicable regulatory frameworks, relating to LPG construction and storage facilities at ports, as outlined in applicable legislation, including the Petroleum Pipelines Act and the National Ports Act.

# 5 LONG-TERM SUPPLY AGREEMENTS

- a. Refineries prefer **long-term agreements**:
  - i. **82%** of LPG is sold through long term contracts
  - ii. Some contracts were renewed with the same wholesaler for over 25 years – “**evergreen contracts**”



- b. Larger wholesalers have long-term contracts **discounts** of upto 10% from MRGP
  - i. Discounts confer some **competitive advantage** especially in a market with limited availability of LPG
  - ii. **Local production** of LPG declining. Gap filled by imports.



- c. Smaller wholesalers are unable to attain economies of scale due to the existence of the long-term contractual agreements in place. Smaller wholesalers rely on the spot market to access LPG.

## RECOMMENDATIONS:

- Smaller wholesalers to get preferential access to 10% of LPG volume
- Contracts to be limited to 10 years and all automatic renewal clauses to be abolished

# 6 POSSIBLE CO-ORDINATED BEHAVIOUR

- a. **Evidence of collusion** on setting deposit fees found



- b. Cylinder deposits not reviewed periodically by DoE

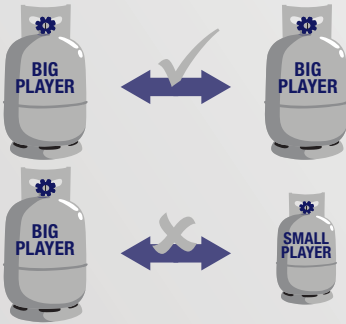


## RECOMMENDATIONS:

- DoE to amend the MRP Working Rules to enable NERSA to undertake the determination of deposit fees.
- NERSA to undertake the determination of deposit fees and the subsequent annual reviews.

# 7 SALE OF LPG THROUGH CYLINDERS

a. The cylinder exchange practice acts as a potential barrier to entry into the cylinder market as it is governed through bilateral agreements and participation by new entrants has been difficult. Smaller wholesalers face barriers to participate in cylinder exchange



**RECOMMENDATIONS**

- Cylinder exchange practice should be more inclusive, no wholesaler should unreasonably be denied to enter into bilateral arrangements to facilitate cylinder exchange.

# 8 HIGH COST OF SWITCHING FOR BULK LPG

a. Switching limited by reluctance of incumbent wholesalers to sell equipment to incoming wholesaler. Differences in valuation of the equipment is one of the reasons



b. Bulk LPG supply agreements are structured in a vague manner with no or limited disclosure of equipment ownership during and after the contract term ends



**RECOMMENDATIONS**

- Separation of LPG supply agreement from LPG equipment agreement. The agreement pertaining to the cost and usage of LPG equipment should provide for the end-user to own the installed equipment after the costs have been fully amortised; or, alternatively, it should be clear that the equipment is subject to a rental agreement.
- 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. NERSA to develop and publish a bulk LPG equipment installation valuation methodology. NERSA to adjudicate on disputes in the valuation of bulk equipment and installations leading to switching impediments.

# IMPLEMENTATION PLAN FOR LPG MARKET INQUIRY RECOMMENDATIONS

Sections	Commission's findings	Commission's recommendations	Who will implement	Timeline
<b>Non-Pricing Regulation</b>	The overlap in mandates and misaligned regulatory between NERSA and TNPA creates uncertainty amongst market participants regarding approvals for constructing import and storage facilities at the ports.	NERSA and the TNPA's adjudication processes should be aligned. The MOU regulators should be used as a mechanism to give effect to the recommendation. In addition, there should also be a sequencing of legal processes.	DoE in consultation with NERSA and TNPA	20 June 2018
	Lack of monitoring of wholesale licensees.	NERSA to undertake wholesale licensing activities.	DoE	20 March 2019
<b>Pricing regulation</b>	MRGP and MRP methodology had not been periodically reviewed.	NERSA to undertake pricing and the monitoring of MRGP and MRP.	DoE	20 March 2019
	Lack of monitoring of adherence to the MRGP and MRP by the DoE.			
	Import efficiency and optimisation should be prioritised.	DoE to undertake a market study on how price deregulation can be achieved 1 in the LPG industry.	DoE	20 March 2019
	MRGP in its current form is not creating an incentive for refineries to expand their production and storage capacity of LPG.	Price deregulation once sufficient supplies of LPG in the domestic market are established.	DoE	To be implemented following the recommendations of the Market Study
<b>Addressing the limited domestic supply of LPG</b>	The significant bottlenecks are caused by the overlapping jurisdictions of NERSA and the TNPA in relation to approvals for constructing import and storage facilities at ports.	The Commission recommends a review of the applicable regulatory frameworks, relating to LPG construction and storage facilities at ports, as outlined in applicable legislation, including the Petroleum Pipelines Act and the National Ports Act.	DoE in consultation with the Department of Transport	20 June 2018
<b>LPG supply agreements with refineries</b>	Wholesalers with long-term contractual agreements have a competitive advantage over those that rely on short-term contracts or the spot market.	Existing evergreen agreements or agreements with over ten year duration should be capped to a maximum of ten years.	Refineries and wholesalers	30 September 2017
	There is evidence of contracts with some large wholesalers that included unlimited renewal clauses. These clauses have the effect of making them "evergreen contracts".	The automatic renewal clauses should be removed from all supply agreements.	Refineries and wholesalers	30 September 2017

<i>LPG supply agreements with refineries continued</i>	Smaller wholesalers are unable to attain economies of scale due to the existence of the long-term contractual agreements in place.	10% allocation should be made available through a supply agreement with at least two year duration.	Refineries and wholesalers	30 September 2017
<b>Possible co-ordinated behaviour</b>	DoE had not reviewed the deposit fees since 2010 in terms of the MRP Working Rules (2010).	DoE to amend the MRP Working Rules to enable NERSA to undertake the determination of deposit fees.  NERSA to undertake the determination of deposit fees and the subsequent annual reviews.	DoE and NERSA	20 March 2019
<b>The sale of LPG through cylinders</b>	The cylinder exchange practice acts as a potential barrier to entry into the cylinder market as it is governed through bilateral agreements and participation by new entrants has been difficult.	The cylinder exchange practice should be more inclusive, any unjustifiable restrictions in place should be removed. No wholesaler should unreasonably be denied the opportunity by another party to enter a bilateral agreement to facilitate the exchange of cylinders.	Wholesalers and distributors	30 September 2017
<b>The high cost of switching</b>	Bulk LPG supply agreements are structured in a vague manner regarding equipment ownership during and after the expiration of the initial supply agreement. 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. The majority of cases, equipment ownership lies with the wholesale supplier and that equipment ownership is not transferred to the bulk end-user at the end of the term.	Separation of LPG supply agreement from LPG equipment agreement. The agreement pertaining to the cost and usage of LPG equipment should provide for the end-user to own the installed equipment after the costs have been fully amortised; or, alternatively, it should be clear that the equipment is subject to a rental agreement.	Wholesalers and end-users	30 September 2018
	Limited disclosure of the salient features of supply agreements creates an environment wherein end-users are unable to switch seamlessly at the end of a contractual period.	The mandate of NERSA must be expanded to include the resolution of disputes relating to the interpretation and application of the <i>valuation methodology of LPG equipment</i> .  NERSA to develop and publish a bulk LPG equipment installation valuation methodology.  NERSA to adjudicate on disputes in the valuation of bulk equipment and installations leading to switching impediments.	NERSA	30 June 2018

**T:** +27(0) 12 394 3200 / 3320

**F:** +27(0) 12 394 0166

**E:** [ccsa@compcom.co.za](mailto:ccsa@compcom.co.za)

**W:** [www.compcom.co.za](http://www.compcom.co.za)

The DTI Campus, Mulayo (Block C)  
77 Meintjies Street, Sunnyside, Pretoria

Private Bag x23, Lynnwood Ridge  
0040, South Africa