

Flogas response to the Proposals on a Roadmap for Deregulation in the Non-Daily Metered Retail Gas market

3.3 Assessment of Competition

We believe that it is appropriate at this stage to consider the roadmap for deregulation. We are strongly of the view that the assessment and resultant decisions should be based on an assessment of the market as it currently is. It would be dangerous and potentially damaging to the development of a competitive market if assumptions regarding future market trends were factored into the current assessment and decision making process. Such assumptions could well prove to be flawed. The base principle whereby the incumbent is deemed to have a dominant position if their market share exceeds 40% should be adhered to.

4.2 Is there a single Market for electricity and Gas

We do not believe that there is a single market for electricity and gas. Clearly gas cannot in the majority of cases be substituted for electricity. Some suppliers may decide to operate in both the gas and electricity markets and that of course is their prerogative. Other suppliers may decide to operate solely within the gas or electricity markets. Customers ideally should be in a position to select different suppliers for gas and electricity should they so wish. While consumers will often buy milk and bread together one would not endeavour to argue that the milk and bread markets were a single market. It is perverse to argue that participation in one market demands participation in the other. From both a consumer and supplier perspective we believe that the gas and electricity markets should be considered as separate markets.

4.4 Relevant Retail Markets for Gas by Customer Category

We agree with the CER that the three market sectors defined are the appropriate market sectors to be used for the purpose of analysis

5.0 Relevant Market analysis

We believe that the factors as set out are appropriate in assessing the level of competition in each of the defined market sectors. In assessing market share data we believe that the relevant measure is customer numbers as opposed to gas volumes. The issue of branding is extremely important. The incumbent enjoys enormous advantage built up over many years arising from the fact that both the System Operator and Gas Supply sides of the business utilise identical branding. This branding advantage which in our view hinders fair competition continues to be reinforced.

6.0 Other criteria for Determining a Competitive Market

It is true that the residential gas market in Ireland is a good deal smaller than the residential electricity market and that significant investment in I/T systems and Technical knowledge is required prior to entry to the market. We believe that this supports the argument that the incumbents market share should be at or close to 40% before deregulation occurs.

While there is a well developed natural gas trading market in the UK we do not see this as supporting the case for higher deregulation thresholds. The fact that suppliers can access gas on the UK market is not of great relevance in assessing competition in the Irish gas market. Gas traded in the UK is at the NBP and not at the Moffat entry point to the inter-connector.

We believe that the branding issue is of the utmost importance. It is our view that the BGE brand is extremely strong and is virtually on a par with the ESB brand. In the interests of maintaining a competitive consumer orientated market we would expect the CER to require BG Energy supply to change their branding prior to market deregulation.

7.0 Triggers for Deregulation

We believe that the CERs view that all four of the requirements must be met prior to price deregulation occurring is fair and reasonable.

We agree with the commissions proposal that there should be a minimum of three active suppliers serving a particular market.

The CER is proposing that there must be a minimum of two independent suppliers with a market share of at least 10% each before the particular market sector can be deregulated. We believe that the thresholds are too low. We would suggest that the relevant thresholds should be not less than 15%. A supplier with a 10% market share is still very much in the developmental phase.

We are of the opinion that the incumbent market share thresholds suggested by the CER are inappropriately high. There does not appear to be any clear rationale for selecting such high thresholds. Flogas believes that the appropriate thresholds should be set at 40%. It is clear that the branding issue is a significant barrier to switching, particularly in the residential sector. It may be appropriate to lift the threshold in the residential sector to 50% in the event that the branding issue is dealt with. In principle we are strongly of the view that the branding issue needs to be addressed in totality before deregulation occurs.

The annual switching rate hurdle proposed by the CER seems reasonable.

7.3 Practical aspects of Deregulation

Existing independent suppliers will typically be hedged for a proportion of their gas requirements for a period of 12 months forward on a rolling basis. It would be essential that Suppliers receive a minimum of 12 months notice of any decision by the CER that any particular market sector was to be deregulated. This does not apply to the FVT market sector.

We believe that the Market Status reviews should be based on actual historic data only.

We believe that the proposal to bring in a price cap under the existing RCF formula is seriously flawed in a number of respects. Firstly the RCF formula gives little or no recognition to the major benefits which BG Energy Supply receives in respect of subsidised marketing and advertising from the Networks and Electricity sides of the business. Appropriate costs should be built into the formula. All other suppliers have these costs. In addition the BG energy electricity business is already subsidising the Gas business through the 2% dual fuel discount. Furthermore we believe that a price cap will inevitably result in below cost selling by BG and squeeze other suppliers out of the market.

8.0 Proposed Changes to the Regulatory Framework-Removal of Price Controls

On determining the appropriate criteria to be met prior to market deregulation the CER should assess each market sector at periodic intervals based on the actual up to date historic data. Attempting to anticipate future trends and factoring them into any assessment inevitably undermines what is intended to be an independent and impartial process. Market sectors should be deregulated based on the assessment and not with any regard to the size of the customers within the sector.

It is vital that market suppliers receive adequate notice of any decision to deregulate a market sector. Any lack of notice could seriously prejudice the interests of suppliers.

If the CER considers that a market sector has met all the criteria and should be deregulated than full deregulation should occur without any confusion such as price caps.

The CER should continue to monitor the market post deregulation to ensure that the currently dominant semi-state energy suppliers do not abuse their positions to the detriment of a longer term competitive market.

