



Current Issues for Domestic and Small Business Gas Consumers

Consultation with
Stakeholders

Summary Paper

Date issued: 13 August 2008
Submissions close: 25 September 2008





About Gas Industry Co.

Gas Industry Co was formed to be the co-regulator under the Gas Act.

As such, its role is to:

- recommend arrangements, including rules and regulations where appropriate, which improve:
 - the operation of gas markets;
 - access to infrastructure; and
 - consumer outcomes;
- administer, oversee compliance with, and review such arrangements; and
- report regularly to the Minister of Energy on the performance and present state of the New Zealand gas industry, and the achievement of Government's policy objectives for the gas sector.

Authorship

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Submissions close: 25 September 2008

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Executive summary

Gas Industry Co has published a Discussion Paper entitled “Current Issues for Domestic and Small Business Gas Consumers – Consultation with Stakeholders”. The Discussion paper is relatively long because it canvasses a wide range of issues, and reports on progress with a number of consumer work streams.

This summary version of the Discussion Paper has been prepared for those stakeholders who prefer a brief overview the issues addressed in the Discussion Paper. Although, it is complete in itself, it makes references to material included in the full Discussion Paper.

Stakeholders seeking more detail, particularly those who intend making a submission, should read the full Discussion Paper, available from Gas Industry Co’s website at the following link:

www.gasindustry.co.nz

Instructions for those wishing to make a submission are set out in Section 2 of the full Discussion paper. Parties who wish to make a submission on the paper are invited to respond by 5:00 pm on Thursday 25th September 2008. Please note that submissions received after this date may not be able to be considered.

Overview and purpose

The emphasis of government policy for the energy sector is on enhancing competition as the principal means of providing benefits to consumers. There is an expectation that consumers will benefit over the long-term from the market development work undertaken by Gas Industry Co. However, the Gas Act includes a number of other mechanisms targeted specifically at improving consumer outcomes. The possible existence of weak competition, unequal bargaining power and asymmetry of information can individually, or in combination, give rise to a need to intervene to protect consumer interests.

Generally speaking, it is the smaller consumers who are more likely to be at risk of being adversely impacted by any of these factors. A small consumer is defined in the Gas Act as being a consumer who is supplied with less than 10 terajoules of gas in a year. Domestic and small business consumers make up the majority of small consumers in New Zealand. It is protecting the interests of these groups of consumers that is the focus of this Discussion Paper.

Since its inception in 2004, Gas Industry Co has undertaken a significant body of work aimed at addressing consumer issues, both directly and indirectly. These work streams have largely been progressed as discrete projects, and, while some have been completed, others are less well-advanced and progress has been slower than expected, particularly on matters relying on industry agreement.

The aim of this work is to:

- capture and update the work Gas Industry Co has previously performed in relation to consumer outcomes;
- establish a set of reasonable consumer expectations and assess the likelihood of these being delivered collectively across the current initiatives, in order to identify key issues;
- consider possible means to address the issues identified within the overall policy framework for promoting good outcomes for gas consumers; and
- establish a prioritised Gas Industry Co work programme to address the key issues, drawing on stakeholder views and GPS expectations.

The Project was established in late 2007 and has now progressed to the point where stakeholder feedback is sought on the set of issues identified and the range of possible means to address them.

This Summary Paper is a companion document to the full Discussion Paper, and it is that paper that forms the basis for seeking stakeholder feedback. The Discussion Paper contents and structure are set out in the table below.

Section		Contents
2.	Submission requirements	<ul style="list-style-type: none"> • Submission process and timing • Preferred format for submissions
3.	Industry background	<ul style="list-style-type: none"> • Overview of the New Zealand gas sector and the key players • Contractual and institutional arrangements • Key observations relevant to progressing consumer issues
4.	NZ policy framework	<ul style="list-style-type: none"> • Government Policy Statement and the Gas Act • Role of the key Acts and Agencies • Overall framework in NZ
5.	Competition as the primary vehicle	<ul style="list-style-type: none"> • Role of competition in delivering good consumer outcomes • Overview of existing work streams aimed at facilitating competition • Measuring the effectiveness of competition
6.	Competition may be insufficient	<ul style="list-style-type: none"> • Limitations of competition <ul style="list-style-type: none"> – possibly weak competition – poor bargaining power – information asymmetry • The need for consumer protection mechanisms • Powers to regulate and to provide advice to the Minister • International comparisons
7.	Progress with advancing consumer issues to date	<ul style="list-style-type: none"> • Gas Industry Co Consumer forums • Consumer complaints and the EGCC • Model contracts • Low fixed charges and transparency • Disconnection/reconnection practices
8.	What are reasonable consumer expectations?	<ul style="list-style-type: none"> • Derivation and underlying philosophy • Phases in the consumer-supplier relationship <ul style="list-style-type: none"> – entering and exiting the relationship – “making a choice” phase – managing the customer relationship – “business as usual” phase – complaints and remedies – “dealing with problems” phase • Developing a set of reasonable expectations <ul style="list-style-type: none"> – meaningful choice – connection and disconnection – gas supply and related services – contractual terms and conditions – costs – billing and payment – treatment by supplier – complaints and remedies • Approach adopted in identifying issues and options

Section		Contents
10.	Making a choice	<ul style="list-style-type: none"> • Policy objectives and key agencies involved • Key parties • Issues identified • Assessment and proposed initiatives
11.	Business as usual	<ul style="list-style-type: none"> • Policy objectives and key agencies involved • Key parties • Issues identified • Assessment and proposed initiatives
12.	Dealing with problems	<ul style="list-style-type: none"> • Policy objectives and key agencies involved • Key parties • Issues identified • Assessment and proposed initiatives
15.	In conclusion	<ul style="list-style-type: none"> • Summary of findings • The findings in context • Next steps
	Appendices	<ul style="list-style-type: none"> o Consultation questions o Overview of gas industry o Summary of relevant Gas Act provisions o Proposed set of consumer expectations o Draft Model Contract Guidelines published for consultation by Gas Industry Co in late 2005 o Comparison of Draft Model Contract Guidelines with EGCC scheme codes of practice terms o Comparison of Draft Model Contract Guidelines with Victorian Code requirements

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1

Overview of the gas sector

As input to considering consumer issues and protecting the interests of small consumers, it is important to draw attention to a number of key observations about the New Zealand gas sector¹.

- the gas sector is very small in New Zealand compared to gas markets internationally; in 2005, natural gas consumption in NZ was less than 20% of that of Australia, and less than 5% of that in the UK²;
- gas exploration and production is concentrated in a small number of (typically) large firms and focused on the oil-prone Taranaki region; as a result, the system of gas pipelines is designed to ship bulk gas supplies from Taranaki to most North Island cities and large provincial towns; gas options in the South Island and some parts of the North Island are limited to bottled LPG and, in a few areas, reticulated LPG;
- distribution system ownership is concentrated in the hands of Vector and Powerco, with some, much smaller, independent networks;
- although there are nine gas retailers, only three retailers make gas supplies widely available and in all three cases gas is offered alongside electricity; the retail gas sector is small compared to the retail electricity sector (eg in 2006 there were approximately 228,000 residential gas consumers compared to 1,603,000 residential electricity consumers³).
- the majority of natural gas is supplied to major users (eg in 2006 the industrial sector, including petrochemicals and electricity generation, accounted for over 90% of total gas consumption⁴); management of a small number of large gas contracts with such users is generally less intensive than managing a retail gas supply function which involves thousands of very small contracts; for instance, in 2006 there were about 228,000 residential consumers and 9,500 non-residential consumers⁵.

These key observations, in part, shape the possible issues with delivering good outcomes for small consumers, and with identifying possible options to address any issues identified.

¹ An overview of the gas sector is set out in Appendix B of the full Discussion Paper.

² MED Energy Data File, June 2007

³ MED Energy Data File, June 2007

⁴ MED Energy Data File, June 2007

⁵ MED Energy Data File, June 2007

2 NZ policy framework

The legislative framework for governance of the gas industry in New Zealand primarily comprises the Gas Act 1992 (the Gas Act) and the Government Policy Statement of Gas Governance published in April 2008 (the 2008 GPS).

The Gas Act provides for co-regulation of the gas industry by the Government and Gas Industry Co (as the approved industry body under the Gas Act). It contains gas governance regulation-making powers relevant to outcomes for domestic and small business consumers, relating to such matters as complaints resolution, the wholesale gas market, transmission and distribution, customer switching, consumer contracts and information disclosure.

Other Acts such as the Commerce Act, Fair Trading Act, and Consumer Guarantees Act contain provisions relating to the protection of consumer interests. In addition to Gas Industry Co, other relevant agencies include the Minister of Energy, Ministry of Consumer Affairs, Commerce Commission, and the Energy Safety Service.

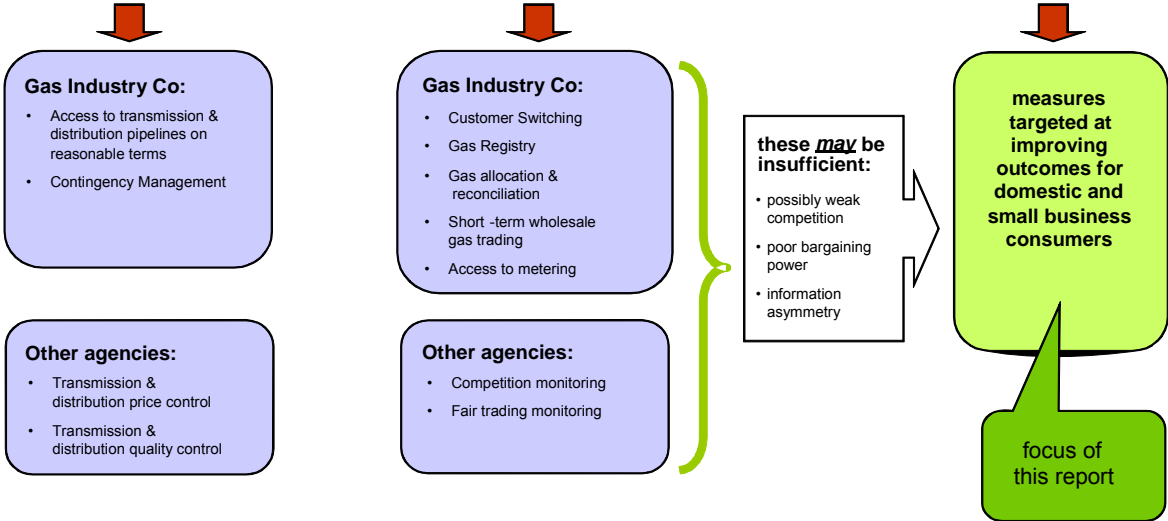
The Gas Act and the GPS taken together, and considered in the wider context of energy policy and other relevant statutes, provide the overall policy framework for promoting good consumer outcomes for the gas industry which can be summarised as having the following three main strands:

- intervene as required in common good areas such as transmission and distribution;
- facilitate effective competition as the primary vehicle for improving outcomes for all consumers; and
- to the extent that this may be insufficient, intervene to protect the interests of domestic and small business consumers.

Thus the overall policy framework can be depicted as follows:

POLICY FRAMEWORK

common good aspects may require intervention + effective competition promotes good outcomes for all consumers + domestic and small business consumers may need additional protection



3

Competition as the primary vehicle

The Government's general approach to policy for the energy sector is that the long-term interests of consumers are best served by competitive markets. Where this is not possible, or where it is inadequate on its own, some intervention may be required. There are a number of benefits to developing competition in gas markets. In relation to the retail and distribution sectors, the development of more competitive markets is aimed at delivering the following benefits:

- allowing consumers to choose their supplier thereby creating downward pressure on prices and promoting better service standards and innovation;
- enhancing transparency and the availability of market information;
- reducing the potential for incumbent gas suppliers to cross-subsidise between competitive and monopoly customers/segments, which become exposed to market forces;
- exposing all participants to market forces, which encourages efficiency across all markets;
- removing the need for a heavy handed regulatory approach and the cost to consumers of this; and
- providing for fair and equitable access to industry infrastructure while promoting the need for contestable processes that attract new market entrants.

In essence, facilitating competition in the gas sector is designed to deliver gas consumers more choice, and access to better prices and services.

Competition with electricity as an alternative energy option, especially for small consumers, may also be important.

4

Work streams to facilitate retail competition

Work streams to facilitate competition and/or to improve the effectiveness of competitive markets have been a focus for the gas sector over the last decade, with varying degrees of success. Amendments to the Gas Act and the establishment of Gas Industry Co saw the accountability for progressing such initiatives focus around Gas Industry Co (as the approved industry body under the Gas Act).

Key areas that are important for facilitating competition and enhancing outcomes for gas consumers are developing arrangements for:

- customer switching;
- allocation and reconciliation of downstream gas quantities;
- short term wholesale gas trading;
- transmission access;
- distribution contracting; and
- compliance and enforcement.

These initiatives are in varying stages of completeness, and work streams to facilitate competition continue to form a substantial part of Gas Industry Co's work programme.

5

Measuring competition

As the primary mechanism for delivering good outcomes for consumers, it is important that the effectiveness of competition be measured and monitored over time to ensure the continued appropriateness of the overall policy framework and the means by which it is being delivered.

Drawing on two key reports, ACIL Consulting (2001) and Allen Consulting Group (2006), and on its own experience and analysis, Gas Industry Co considers that assessing the level of competition before certain key arrangements that facilitate more effective competition have been fully implemented is likely to provide an incomplete or inaccurate picture, and may result in unnecessary or inappropriately targeted interventions. It has identified a proposed set of minimum requirements for effective competition to act as a guideline for determining when it is appropriate to begin regular assessment and monitoring.

Gas Industry Co noted the set of competitive activity indicators proposed by Allen Consulting Group, and related work undertaken by the Electricity Commission in the area of performance indicators. It considers that the indicators proposed by Allen Consulting Group provide a good starting point for the development of meaningful and measurable indicators of the level of competition in the gas industry. However, this is an area where more work needs to be done in the lead up to beginning regular assessment and monitoring.

Gas Industry Co seeks feedback on the proposed guideline and indicators.

6

Competition may be insufficient

Although effective competition is the primary vehicle for promoting good consumer outcomes, the policy framework contemplates that this may be insufficient. The Gas Act contains regulation-making powers to protect small consumers, and the GPS sets out expectations in the area of consumer protection. At the heart of the issue is under what circumstances, and in what way, is it appropriate to intervene to protect consumers?

The Government is committed to ensuring that gas is delivered to gas customers in a fair and equitable manner. It is desirable that “fairness and equity” are achieved for all consumers, all of the time. There are, however, a number of potential barriers to consumers having access to fair prices and reasonable levels of service, having choices of supply (considering also the extent to which electricity is an alternative energy option), and making effective decisions about the purchase and subsequent use of products and services. These include:

- weak or limited competition;
- unequal bargaining power; and
- imperfect or asymmetric information.

The Discussion Paper considers the current situation and sets out Gas Industry Co’s views on the extent to which each of these may be present in the relationship between small consumers and retailers. This is summarised later in this Summary Paper.

Gas Industry Co has a number of means through which it may intervene, ranging from recommending regulatory solutions under the Gas Act through to assisting the industry to establish voluntary or contractual arrangements such as model contracts and disclosure of information.

The New Zealand framework for consumer protection is broadly consistent with that of relevant overseas jurisdictions; however there are some key differences relevant to this work. In particular, New Zealand does not have a formal gas retailer licensing regime (other than industry specific rules and regulations), and there is no general consumer law that prohibits unfair contract terms.

These observations are important inputs to assessing the current situation for domestic and small business consumers, and for proposing a range of options to address any issues identified.

7

Progress with advancing consumer issues

Since its inception, Gas Industry Co has undertaken a number of work streams aimed at improving consumer outcomes. These have been in the following areas in particular:

- consumer forums;
- complaints resolution scheme;
- model contracts;
- low fixed charges and transparency;
- disconnection / reconnection practices; and
- contractual alignment and bundled services.

Some work streams have been completed, and final recommendations provided to the Minister. Others are nearing completion. However, while there has been significant activity on a range of consumer issues projects, successful completion has been elusive thus far in several key areas: retail contracts, complaints resolution scheme and disconnection/reconnection practices in particular. Determining the appropriate way forward on each of these is at the heart of this work, and the review of stakeholder feedback that will follow.

8

Developing a set of reasonable consumer expectations

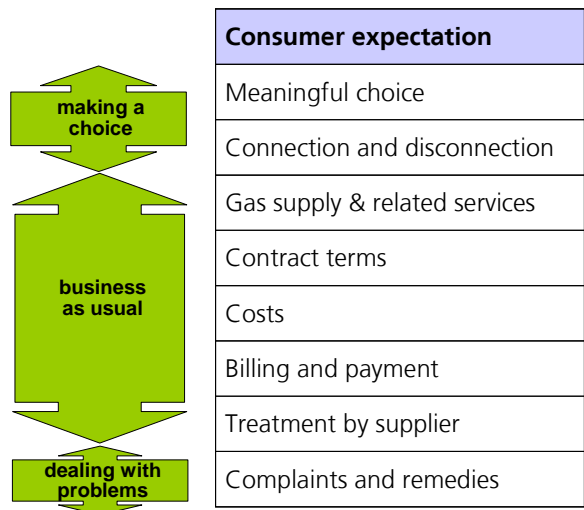
This work takes a first principles approach to identifying a set of reasonable consumer outcomes then determining what the issues might be in delivering on these with a view to identifying possible means to address them.

Gas consumers in general, and domestic and small business consumers in particular, are entitled to have confidence in a reasonable set of expectations being met by the provider of their gas supply. This premise has its origins in accepted principles of good business practice, and is supported by consumer legislation such as the Consumer Guarantees Act and the Fair Trading Act. Factors such as the nature of the product or service, the level of competition, relevant regulatory protections and the market positioning of the provider all impact on the extent to which reasonable expectations are met or exceeded.

Gas Industry Co has structured its consideration of consumer expectations into the following three key phases in the consumer-supplier relationship:

- entering or exiting the relationship – the “making a choice phase” in which the consumer decides they have a need for a (new) gas supply and chooses which option best meets their requirements and becomes connected (or chooses to terminate an existing gas supply arrangement);
- managing the contract – the “business as usual phase” in which the consumer has a contract with the chosen supplier, receives the chosen supply and associated services in accordance with the contract, makes enquiries about any aspect of their supply and receives and pays bills for those services; and
- complaints and remedies – the “dealing with problems phase” in which the consumer raises complaints or disputes for resolution and has access to remedies.

Each phase has then been expanded further by setting out the key “topic areas” of consumer expectation relevant to that phase:



Built around this framework, a set of consumer expectations has been prepared from discussions with consumer representatives and agencies, outputs from industry forums such as the Model Contracts Working Group and a recent workshop specifically on this subject, and stakeholder feedback from other relevant work streams.

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Entering and exiting the relationship: 'Making a Choice'

In the “making a choice” phase the consumer decides they have a need for a (new) gas supply, obtains information about gas options, possible suppliers, and energy alternatives, then determines the option that best meets their requirements. This phase also includes the process of getting connected or disconnected. The proposed consumer expectations relating to this phase are set out in the table below.

Ensuring effective competition is the primary vehicle for delivering meaningful choice for all consumers in this phase. However, additional measures may be required to ensure domestic and small business consumers have access to the information required to make an informed choice, can become connected (or disconnected), and are not subject to inappropriate business practices such as misleading material, unfair pressure, inappropriate marketing, or barriers to switching away from an existing supply relationship.

	Consumer expectations in the “making a choice” phase
<i>Meaningful choice</i>	<ol style="list-style-type: none">1. Suppliers offer a range of products and services for consumers to consider and make informed decisions.2. There is ready access to good quality, comprehensive and easy to understand information on gas options, possible gas suppliers and alternatives to gas.3. From the options available in the market, consumers are readily able to choose their energy form and supplier, and to modify their choice.
<i>Connection and disconnection</i>	<ol style="list-style-type: none">4. The connection to supply is safe, reliable and “fit for purpose”, and the connection process is timely and well-managed.5. Arrangements for termination of the contract and supply disconnection are reasonable, and are undertaken in a timely and well-managed manner.

Gas Industry Co, as the industry body approved under the Gas Act, is the agency charged with recommending arrangements (including rules or regulations where appropriate) which improve the operation of gas markets and consumer outcomes. However, a number of other agencies also have a

role in delivering outcomes in this area. They include the Commerce Commission, Ministry of Consumer Affairs, Consumer NZ⁶, EECA and the Energy Safety Service.

The key parties directly involved in the “Making a Choice” phase are the retailers and the consumers. However, the nature of gas and its delivery mean that there are other parties indirectly or optionally involved. These include network companies, contractors (eg gas fitters), electricity retailers, the EGCC and other complaints bodies, and local councils.

In general terms, consumers need to know who to deal with, how to get information on connection options and how to compare the different options in order to make an informed choice appropriate to their needs. They then need to become connected to that chosen supplier. In the case of a consumer choosing to exit an existing relationship, they need to terminate a contract and switch to an alternative supplier, or become disconnected if moving to an alternative energy source.

At present there is a reliance on competitive pressures on retailers to deliver on these requirements, supported by legislated safety outcomes and the general consumer protection mechanisms in place through the Commerce Act, Consumer Guarantees Act and Fair Trading Act. On the face of it this is not necessarily an unreasonable approach.

However, there are a number of issues with reliance on the existing measures and mechanisms. These are summarised in the table below, drawn from observations on the current state of the market and market arrangements, discussions with stakeholders, and anecdotal evidence.

Area	Discussion of issues in the “making a choice” phase
Market size and structure	The market for domestic and small business users of gas is comparatively small and competition is concentrated amongst a few key retailers; this potentially limits the scope for competition. Market structure features such as vertical integration and the contractual interfaces between the participants in behind delivery of a bundled service can inhibit competition or lessen its effectiveness through loss of transparency and increased transaction costs.
Institutional arrangements	Effective competition requires a number of institutional arrangements to be in place and operating effectively. These include arrangements for customer switching, wholesale gas trading, and allocation and reconciliation of gas quantities. Major initiatives to deliver suitable arrangements are under way but not yet completed.
Access to information	The gas market and institutional arrangements for the supply of gas are not well understood by domestic and small business consumers. The nature of supply options, contracts and fuel substitute options can mean that the information required to make an informed choice is complex, as is the process to accurately assess that information and determine the best supply option. Access to timely, accurate and complete information on choices is consistently cited by consumers and consumer agencies as a major failing of the present arrangements. Unless the required information is readily accessible, the cost to obtain it could outweigh the potential savings to be gained by making a better choice.

⁶ Consumer NZ is the organisation formerly known as Consumers’ Institute.

Area	Discussion of issues in the “making a choice” phase
	Retailers may suggest that the provision of information about their products and services is part of their role as a supplier, and that in a competitive market they are incentivised to provide the information their existing and prospective customers seek. Others contend that if there is weak or limited competition then the incentives are not necessarily sufficiently strong to ensure small consumers have access to timely, accurate and complete information. Consumers often want access to information from an independent source that is not perceived as having a vested interest.
Connection and disconnection process	<p>There are many factors affecting the process to connect a gas customer, particularly if it is a new connection. These include the location of the consumer’s premises, local council requirements, the nature of their gas requirements, and the relationship between the supplier and the party undertaking the (dis)connection. This can mean that seemingly similar customers experience different processes to get connected. There have also been some complaints regarding industry practices in this area.</p> <p>Consideration of the issues and options has been the subject of a separate Gas Industry Co work stream. Implementing the proposed industry-solution proved unsuccessful, and Gas industry Co now considers that the proposed solution should be effected through a regulated solution.</p> <p>Ensuring a (dis)connection is safe, reliable and fit for purpose is primarily the responsibility of the Energy Safety Service. However, there is some overlap with Gas Industry Co, whose principle objective under the Gas Act is to ensure that gas is delivered to existing and new customers in a “safe, efficient, and reliable manner.”</p>
Distribution and metering arrangements	An important consideration for the efficiency of the retail and distribution sector is the interface between retailers and distributors and meter owners. In most cases retailers do not have a choice about which distributor or meter owner they use, posing a possible barrier to entry or lessening of competition. To determine if the market is operating efficiently it may be appropriate to review the efficiency of distribution and metering arrangements.

The key questions to be answered when considering the “making a choice” phase can be summarised as follows:

- Are the existing measures sufficient (ie relying on competitive pressure supported by general protection mechanisms in the Commerce Act, Consumer Guarantees Act and Fair Trading Act)?
- If not, what additional measures could Gas Industry Co pursue, and when would it be appropriate to do so?
- What advice could Gas Industry Co provide to the Minister on these issues?

Gas Industry Co has considered these questions against the background of the regulatory framework. It has drawn on feedback from consumer forums, discussions with other agencies and expectations from existing relevant initiatives.

It has reached a preliminary assessment and set of conclusions, and now seeks feedback on these as input to determining the next steps.

Consumer expectations in the “making a choice” phase	Assessment
<p>Meaningful choice</p> <ol style="list-style-type: none"> Suppliers offer a range of products and services for consumers to consider and make informed decisions. There is ready access to good quality, comprehensive and easy to understand information on gas options, possible gas suppliers and alternatives to gas. From the options available in the market, consumers are readily able to choose their energy form and supplier, and to modify their choice. 	<ul style="list-style-type: none"> Facilitating effective competition is the primary vehicle for ensuring a diversity of suppliers and supply options. Suppliers cannot be compelled to offer products and services. Institutional arrangements to foster effective competition are not yet fully implemented. Once these arrangements are fully implemented Gas Industry Co should assess the effectiveness of competition to see if further measures are required In the interim, general protection mechanisms under the Commerce Act, Consumer Guarantees Act and Fair Trading Act provide backstop protection Other measures are open to other agencies, such as the Commerce Commission’s powers to investigate competitive market behaviours. There appear to be significant opportunities to improve outcomes for domestic and small business consumers through enhanced information provision on all aspects of this phase. Consumers seek independent authoritative information. Gas Industry Co should identify a set of targeted reports and information to address specific information deficiencies and appropriate agency(s) or party(s) with a role in publishing these, and provide this advice to the Minister. There is a possible role for commercial entities and/or central agencies to collate and pre-process certain information to make it more accessible to a wider range of consumers in a more efficient manner than individuals making their own enquiries. Gas Industry Co should explore such opportunities further. At this stage there is not a strong case to intervene to impose a direct regulatory solution to enhance information availability, although some rules may be required to support the publications identified if voluntary disclosure of required information proves unsatisfactory.
<p>Connection and disconnection</p> <ol style="list-style-type: none"> The connection to supply is safe, reliable and “fit for purpose”, and the connection process is timely and well-managed. Arrangements for termination of the contract and supply disconnection are reasonable, and are undertaken in a timely and well-managed manner. 	<ul style="list-style-type: none"> Ensuring a (dis)connection is safe, reliable and fit for purpose is primarily the responsibility of the Energy Safety Service. Existing arrangements regarding the (dis)connection process are not proving effective in protecting the interests of domestic and small business consumers. A Gas Industry Co work stream in this area found that there were inefficiencies in the commercial arrangements between distributors and retailers and that, as a result, consumers were sometimes subject to unnecessary disconnection and reconnection charges. Implementation of the proposed industry solution proved unsuccessful. Gas Industry Co should seek to effect a solution through minimum terms in consumer contracts and/or Network Service Agreements.

Gas Industry Co proposes to undertake the following initiatives to address the issues identified with meeting consumer expectations in the “making a choice” phase:

Information provision to better inform consumer choice

There appear to be significant opportunities to deliver more meaningful and informed choice for domestic and small business consumers through enhanced information provision. Key steps proposed for Gas Industry Co to undertake are:

- identify a set of targeted reports and information to address specific information deficiencies.
- explore the opportunities for commercial entities and/or central agencies to collate and pre-process certain information regarding consumer choice to make it more accessible to a wider range of consumers in a more efficient manner than individuals making their own enquiries.
- if appropriate, provide advice to the Minister on the findings.

Connection/disconnection

Existing arrangements regarding the (dis)connection process are not proving effective in protecting the interests of domestic and small business consumers. This was the subject of an earlier Gas Industry Co work stream; however, implementation of the proposed industry solution has proved unsuccessful.

Gas Industry Co prefers to effect a solution through rules or regulations made under the Gas Act.

10

Managing the contract: 'business as usual' phase

In the "business as usual" phase the consumer becomes connected to the gas supply and enters a contract with the chosen supplier for supply of gas and related services. The proposed consumer expectations relating to this phase are set out in the table below.

Ensuring effective competition is an important vehicle for delivering good contracting and customer relationship outcomes for consumers. However, inequality of bargaining power is also likely to be an area of concern. Accordingly, additional measures may be required to protect the interests of domestic and small business consumers in the "business as usual" phase.

	Consumer expectations in the "Business as Usual" phase
<i>Gas supply & related services</i>	<p>6. The supply of gas is safe, reliable and "fit for purpose".</p> <p>7. Other services reasonably required as part of receiving gas supply, such as a call centre and metering services, are readily available and "fit for purpose".</p>
<i>Contractual terms and conditions</i>	<p>8. The contractual terms and conditions of supply of gas to the consumer are lawful, fair and reasonable, and equitable between the parties.</p> <p>9. The contractual terms and conditions are complete, easy to understand, and clearly set out the respective obligations of the supplier and consumer.</p>
<i>Costs</i>	<p>10. The delivered price for gas supply is fair and reasonable, and is reflective of the cost of supply.</p> <p>11. The supplier does not impose additional or unexpected costs on the consumer.</p>
<i>Billing and payment</i>	<p>12. Consumers receive timely and accurate bills for gas and associated services, and the bills are easy to understand.</p> <p>13. Consumers have access to appropriate mechanisms for making payments that take account of consumer circumstances.</p>

	Consumer expectations in the “Business as Usual” phase
<i>Treatment by supplier</i>	<p>14. The supplier is honest and open, and acts with integrity in all its dealings with the consumer.</p> <p>15. The supplier answers consumers’ enquiries about all aspects of their supply, billing and contracting arrangements in a timely, courteous and accurate manner.</p> <p>16. The supplier does not take any action to alter or terminate the supply of gas without providing reasonable notice to the consumer, and an opportunity for the consumer to remedy any failing on their part which may have triggered that action.</p>

Gas Industry Co, as the industry body approved under the Gas Act, is the agency charged with recommending arrangements (including regulations and rules where appropriate) regarding the operation of gas markets and consumer outcomes. However, a number of other agencies also have a role in delivering outcomes in this area. They include the Ministry of Consumer Affairs, the Commerce Commission, the Energy Safety Service, and the Plumbers, Gasfitters and Drainlayers Board.

The key parties directly involved in the “business as usual” phase are the retailers and the consumers themselves. Other parties indirectly or optionally involved include contractors (eg gas fitters), registry operator, network companies, and the EGCC.

In general terms, consumers need to enter a suitable contract covering the supply of gas and associated services and obligations, then be party to normal day to day interaction such as receiving the gas supply, making customer enquiries, receiving bills and making payments.

At present there is a reliance on general consumer protection mechanisms in place through the Consumer Guarantees Act and Fair Trading Act, and the (voluntary) EGCC code of practice (for EGCC members). There are a number of issues with the current situation, as evidenced by the number and nature of complaints received by the EGCC and other complaints bodies, and the feedback received in consumer forums.

Issues with the process to make complaints and have these remedied are considered in the following section “dealing with problems”. However, the nature of complaints received over recent times is a pointer to issues with the contracting and supply arrangements, which are the subject of this section.

The issues identified in the “business as usual” phase have been collated and are summarised in the table below.

Area	Discussion of issues in the “business as usual” phase
<p><i>Balance between interests of parties</i></p>	<p>Many of the issues raised with contracts relate to an inappropriate balance between the interests of the consumer and those of the retailer. This is a common result of unequal bargaining power and information asymmetry. The issues typically relate to: billing and payment problems; unanticipated charges; metering problems; (dis)connection practices, and treatment by call centres and other retailer representatives.</p> <p>The EGCC codes of practice have attempted to redress the balance for EGCC members by setting out certain requirements for contracts and conduct of scheme members. They are reasonably comprehensive in terms of content; however they only apply to members of the EGCC scheme and are only enforced where a consumer complains to the EGCC. There are general protection mechanisms such as the Consumer Guarantees Act and Fair Trading Act, however these are not tailored to the complexities of gas supply, and the agencies responsible for enforcement/administration do so across a very wide range of goods and services.</p> <p>It is important to remember that suppliers also have legitimate commercial interests which should be protected. If the balance were to be tipped too far in the interests of consumers, this could have the adverse result of a lessening of competition through the reluctance of existing retailers to take on small customers and/or presenting an unnecessary barrier to entry for new gas retailers.</p>
<p><i>Complexity of contract terms</i></p>	<p>Most aspects of retail contracts relate to normal business practices such as billing and payment for which contract terms should be reasonably straightforward and comprehensible. However, gas supply is complex and technical, and involves a number of obligations regarding its delivery, usage and metering. Retail contracts need to include provisions relating to these aspects, which can make parts of the contracts long and difficult to comprehend.</p> <p>Many of the issues raised in complaints appear to have their origins in the consumer not understanding some of the more technical obligations. Examples include the responsibility for supply between the meter and point of consumption, and metering requirements. However, technical complexity does not mean that it is impossible for a retailer to set out the terms and conditions in simple terms, and to clearly spell out the respective obligations on the parties to the contract. It is arguable whether there are sufficient incentives on retailers to meet this responsibility under the current arrangements.</p>
<p><i>Contract formation and change practices</i></p>	<p>The manner in which gas arrangements are entered into can mean that the contract is formed before the consumer has had a reasonable opportunity to examine the contract. This can expose the consumer to certain obligations (including payment) without them being fully informed as to the nature and consequences of those obligations. Related to this is the process which the supplier is required to follow to make changes to an existing contract and the information to be provided to consumers in relation to such changes.</p>
<p><i>Distribution and metering arrangements</i></p>	<p>An important consideration here is the interface between retailers and distributors and meter owners. In most cases retailers do not have a choice about which distributor or meter owner they use. Therefore, there is the potential for these parties to be able to impose economically inefficient terms and conditions or prices in their contracts with retailers, which may be passed on to consumers. It may be appropriate to review the contractual interface issues relating to distribution and metering arrangements.</p>

Area	Discussion of issues in the “business as usual” phase
Customer service and enquiries	<p>In the normal course of business, consumers often have need to make enquiries of their supplier, for instance in relation to a billing query, gas supply question or for emergencies such as a possible gas leak. Concerns with the manner in which such routine enquiries are answered, and with customer service more generally, are frequently raised in consumer forums.</p> <p>Retailers may contend that their approach to customer service is a commercial matter for them in their market positioning. This is a reasonable position: in a fully competitive market consumers are readily able to switch away from their current supplier in response to service levels that do not meet their requirements.</p> <p>Currently the EGCC codes of practice include provisions relating to supplier conduct in the form of minimum standards of behaviour. Until such time as there is an approved complaints scheme it is perhaps premature to consider further action in this regard.</p>
Costs	<p>The Commerce Commission is responsible for enforcement of Part 4 of the Commerce Act, under which the Commission can consider whether it should impose control on the price of goods or services that are subject to limited competition. The Commission has already exercised this power in respect of the gas distribution businesses of Vector and Powerco.</p> <p>However, Gas Industry Co has a role to play in respect of some aspects of consumer expectation on costs, for example in relation to disclosure of pricing information and the imposition of additional or unexpected costs. These have been the subject of a number of consumer complaints over recent years, particularly in relation to metering charges and fees for connection/disconnection. This is a feature of unequal bargaining power and points to a possible failing in the contract terms and conditions.</p>
Billing and payment	<p>Billing and payment continue to be a significant source of consumer complaints. Retailers may contend that their approach to billing and payment is largely a commercial matter for them. This is a reasonable position: in a fully competitive market consumers are readily able to switch away from their current supplier if they are unhappy with the current billing and payment arrangements. Accordingly, facilitating effective competition is the primary mechanism for improving these outcomes.</p> <p>However to the extent that there is a need to protect the interests of small consumers (eg as a result of unequal bargaining power or information asymmetry), there may be a need to provide for more targeted regulation of the mechanisms used by retailers to bill their customers.</p> <p>The development of a central registry of gas customers under the Switching Rules, once completed, is likely to significantly improve this situation, through more accurate recording of customer information and the matching of that to metering and billing.</p> <p>However, metering issues (eg errors, estimates) are a significant contributor to billing and payment concerns. While certain aspects could potentially be addressed through minimum contract terms, other aspects are beyond the scope of the retailer-consumer relationship and may require further consideration as part of a possible review of metering arrangements.</p>
Delivery mechanism for minimum terms or guidelines	<p>Consideration of retail contracting arrangements was the subject of a substantial Gas Industry Co project in 2005/2006. A key aspect of that work was consideration of the appropriate delivery mechanism for minimum contract terms or guidelines for small consumers. In the context of the overall framework for consumer protection, the options distil down to the following possible mechanisms:</p>

Area	Discussion of issues in the “business as usual” phase
	<ul style="list-style-type: none"> • general protection mechanisms through the Commerce Act, Consumer Guarantees Act and Fair Trading Act; • voluntary code of practice made and overseen by Gas Industry Co (with monitoring of compliance undertaken either by consumers or by Gas Industry Co); or • regulated minimum terms and conditions made under the Gas Act. <p>Gas Industry Co does not consider that a fully regulated retail contract is a practicable option. It would be difficult and expensive to establish and administer, and would necessitate a “one size fits all” approach, thereby significantly reducing the prospects for flexibility, tailoring, and innovation. Similar views have been expressed in earlier submissions by consumer and industry representatives.</p> <p>There is a need to consider which of these most effectively delivers the outcomes sought, when considered alongside the means adopted in addressing other consumer issues.</p>

The key questions to be answered when considering the “business as usual” phase can be summarised as follows:

- are the existing measures sufficient to meet the policy ideal of protecting the interests of all small consumers all of the time (ie relying on voluntary measures such as codes of practice and/or “name and shame” arrangements, supported by general protection mechanisms in the Commerce Act and Fair Trading Act)?
- if not, what additional measure should Gas Industry Co pursue? For example, should Gas Industry Co move to develop a set of minimum contract terms and recommend they be implemented through the regulation-making powers under the Act?
- what advice could Gas Industry Co provide to the Minister on these issues?

Gas Industry Co has considered these questions against the background of the regulatory framework. It has drawn on feedback from consumer forums, discussions with other agencies and expectations from existing relevant initiatives.

It has reached a preliminary assessment and set of conclusions, and now seeks feedback on these as input to determining the next steps.

Consumer expectations in the “business as usual” phase	Assessment
<p>Gas supply & related services</p> <p>6. The supply of gas is safe, reliable and “fit for purpose”.</p> <p>7. Other services reasonably required as part of receiving gas supply, such as a call centre and metering services, are readily available and “fit for purpose”.</p>	<ul style="list-style-type: none"> • Ensuring that gas supply is safe is primarily the responsibility of the Energy Safety Service. • Minimum requirements for access to related services could be addressed, if warranted, through provisions in contract guidelines or minimum terms (see below)
<p>Contractual terms and conditions</p> <p>8. The contractual terms and conditions of supply of gas to the consumer are lawful, fair and reasonable, and equitable between the parties.</p> <p>9. The contractual terms and conditions are complete, easy to understand, and clearly set out the respective obligations of the supplier and consumer.</p>	<ul style="list-style-type: none"> • Some contracts are not meeting these expectations and therefore, overall, existing arrangements are not proving effective in protecting the interests of all domestic and small business consumers all of the time. • Waiting for more effective competition and/or relying on a “name and shame” scheme is unlikely to be sufficient to improve outcomes. • General protection mechanisms provide a back-stop, but the institutional and technical arrangements surrounding gas supply means gas-specific mechanisms are warranted. • There is not yet a complaints scheme approved or regulated under the Gas Act and an approved scheme is unlikely to be able to include regulated minimum terms and conditions. • Relying on voluntary arrangements as the delivery mechanism is unlikely to be sufficient. • The Gas Act provides regulation-making powers for domestic consumers, and the GPS sets out an expectation that contractual arrangements adequately protect the long-term interests of small consumers. • Gas Industry Co considers that voluntary arrangements are unlikely to deliver acceptable outcomes for all small consumers all the time. It therefore considers that regulated minimum terms and conditions are required. • Its preferred approach is to develop regulated minimum terms and conditions for domestic retail contracts for consultation with stakeholders, and a regulatory approach to implementing these. • Gas Industry Co would develop such a proposal by starting with the model contract guidelines developed in the earlier MCWG forum, updating these to reflect changes since that time and to translate them from guidelines into regulated minimum terms and conditions. • Alternative solutions include development of voluntary arrangements; however Gas Industry Co considers that these would not achieve the desired outcome.

Consumer expectations in the “business as usual” phase	Assessment
<p>Costs</p> <p>10. The delivered price for gas supply is fair and reasonable, and is reflective of the cost of supply.</p> <p>11. The supplier does not impose additional or unexpected costs on the consumer.</p>	<ul style="list-style-type: none"> • Gas Industry Co considers that retail margins are a key indicator of the effectiveness of competition. However, it is premature to assess this while key work streams aimed at fostering enhanced competition are not fully implemented. • The Commerce Commission also has a key role in relation to price, for instance in the event that there is a request for a price control inquiry. • Regulated minimum terms and conditions should include provisions protecting consumers’ interests in relation to the imposition of additional or unexpected costs.
<p>Billing and payment</p> <p>12. Consumers receive timely and accurate bills for gas and associated services, and the bills are easy to understand.</p> <p>13. Consumers have access to appropriate mechanisms for making payments that take account of consumer circumstances.</p>	<ul style="list-style-type: none"> • This is largely a commercial matter for the supplier. Accordingly, facilitating effective competition is the primary mechanism for improving outcomes as it enables customers to exercise choice. • To the extent there is a need to protect small consumers, targeted provisions should be included in regulated minimum terms and conditions. • The customer switching and registry project, once completed, is likely to significantly improve this situation, through more accurate recording of customer information and the matching of that to metering and billing. • Metering issues may require further consideration as part of a separate work stream
<p>Treatment by supplier</p> <p>14. The supplier is honest and open, and acts with integrity in all its dealings with the consumer.</p> <p>15. The supplier answers consumers’ enquiries about all aspects of their supply, billing and contracting arrangements in a timely, courteous and accurate manner.</p> <p>16. The supplier does not take any action to alter or terminate the supply of gas without providing reasonable notice to the consumer, and an opportunity for the consumer to remedy any failing on their part which may have triggered that action.</p>	<ul style="list-style-type: none"> • This is largely a commercial matter for the supplier. Accordingly, facilitating effective competition is the primary mechanism for improving outcomes as it enables customers to exercise choice. • To the extent there is a need to protect small consumers, targeted provisions should be included in regulated minimum terms and conditions. • Voluntary measures could be included as part of a complaints resolution scheme. Until such time as there is an approved complaints scheme it is premature to consider further action here.

Gas Industry Co proposes to undertake the following initiatives to address the issues identified with meeting consumer expectations in the “business as usual” phase.

Contract terms and conditions

The nature and extent of gas consumer complaints, coupled with feedback from the consumer forums, points to the fact that some retail contracts are not meeting these expectations, or, put another way, not all small consumers are receiving the benefit of fair contract terms and conditions at all times. Accordingly, Gas Industry Co considers that existing arrangements are not proving effective in protecting the interests of all domestic and small business consumers all of the time.

While acknowledging that current work streams to facilitate enhanced competition in the retail sector may improve outcomes in the future, it considers that poor bargaining power coupled with information asymmetries mean that there is a strong case now to intervene to protect the interests of small consumers.

Gas Industry Co considers that, in view of the significance of these issues and difficulties to date in seeking to implement industry-led voluntary solutions, a regulatory solution is most appropriate. Gas Industry Co has developed the following preferred proposal for protecting the interests of small consumers in their retail contracting arrangements:

- establish minimum terms and conditions for domestic contracts; and
- implement these through either rules or regulations made under the Gas Act.

Gas Industry Co acknowledges that there are alternative approaches it could adopt, such as continuing to rely on general consumer protection law, facilitating a voluntary industry solution, development of model contracts or publication of contract guidelines. However, on the basis of its current assessment, Gas Industry Co considers that these are unlikely to be as effective as regulated minimum contract terms and conditions. Furthermore, it considers that in the absence of regulated contract disclosure, it is unlikely that meaningful monitoring of compliance with voluntary codes or model arrangements is achievable.

Subject to considering stakeholder feedback on its preferred approach, Gas Industry Co proposes to develop a draft set of regulated minimum terms and conditions by:

- starting with the draft guidelines published by Gas Industry Co for consultation in November 2005 (attached as Appendix D to this Discussion Paper);
- translating these from contract guidelines into minimum terms and conditions, updating them to take account of experience and changes since that time;
- expanding the set of minimum terms and conditions (if appropriate) to include additional matters covered in relevant overseas jurisdictions (such as the Victorian Code considered in Appendix G of the full Discussion paper); and
- expanding the set of minimum terms and conditions (if necessary) to include the other matters identified in this paper for addressing via this mechanism, such as:

- connection/disconnection practices;
- minimum requirements for access to related services such as a call centre and metering services;
- protection from the imposition of additional or unexpected costs;
- minimum terms and conditions regarding billing and payment; and
- minimum terms and conditions regarding the ability of the supplier to alter or terminate supply.

Gas Industry Co intends recommending to the Minister that the Gas Act be amended to extend the relevant regulation-making powers to include retail contracts with small business consumers. Gas Industry Co work in this area will need to reflect the outcome of the Minister's consideration of that recommendation.

11

Complaints and remedies: 'dealing with problems' phase

In the “Dealing with Problems” phase the consumer encounters problems and raises complaints which are subsequently addressed. The complaint could be in relation to any aspect of the consumer’s relationship with their supplier, from the process of choosing the supplier and getting connected, to normal day to day transactions, and through to disconnection and termination. The proposed consumer expectations relating to this phase are set out in the table below.

Poor bargaining power and information asymmetry are the dominant areas of concern in this phase. It is arguable whether effective competition is an appropriate vehicle for delivering good contracting outcomes for consumers: by definition a complaint is made in relation to an existing supply arrangement; exercising choice by switching to a different supplier is unlikely to resolve that particular complaint, although it may be a factor in the consumer’s decision to switch thereby reducing the possibility of the circumstances repeating.

It is also important to draw attention to the importance of the contract between the retailer and the customer in promoting good customer relationship outcomes: clearly expressed, comprehensive, fair and balanced terms that are understood by both parties are more likely to result in fewer disputes, and in more timely resolution of any disputes that do arise. Thus there is a very strong link between this phase and the “business as usual” phase discussed in the previous section.

	Consumer expectations in the “dealing with problems” phase
Access to remedies	17. Consumers have access to suitable arrangements for dealing with any complaints in a timely manner, and for obtaining appropriate remedies. 18. Consumers have access to the information necessary to help resolve complaints.

Gas Industry Co, as the industry body approved under the Gas Act, is the agency charged with recommending arrangements (including rules or regulations where appropriate) regarding the operation of gas markets and outcomes for domestic and small business gas consumers, both of which are particularly relevant to the policy objectives for the “dealing with problems” phase. However, a number of other agencies also have a role in delivering outcomes in this area. They include

the Ministry of Consumer Affairs, the Commerce Commission, and the complaints resolution bodies such as the EGCC.

The key parties directly involved in the “dealing with problems” phase are the retailers and the consumers themselves and the complaints resolution body. Other parties indirectly or optionally involved include contractors, the registry operator, and network companies.

In general terms, consumers need access to an effective complaints resolution scheme and to the information necessary for identifying and resolving the complaint. The process to establish a complaints resolution scheme began some years ago as an industry initiative, and pre-dates the establishment of Gas Industry Co. Since that time Gas Industry Co has been actively involved in various work streams relating to delivering the GPS expectations on complaints resolution. The Electricity Commission and Gas Industry Co are in the process of developing and consulting on a joint complaints resolution scheme.

The issues identified in the “dealing with problems” phase have been collated and are summarised in the table below.

Area	Discussion of issues in the “dealing with problems” phase
<i>Joint electricity and gas scheme</i>	<p>At present there are three consumer complaints schemes. There is a strong desire amongst consumers for a single scheme, for that scheme to cover both electricity and gas, and for it to be enforceable. The April 2008 GPS echoes this desire.</p> <p>In March 2008 Gas Industry Co and the Electricity Commission released a joint consultation paper on the approval of a joint electricity and gas complaints resolution scheme. In that paper, Gas Industry Co and the Electricity Commission set out their intent to act jointly to approve a joint complaints resolution scheme. The process involved consultation on the requirements as a first step. When the requirements are finalised, it is intended that applications will be invited for approval as the joint complaints resolution scheme.</p> <p>Applications will be considered through a joint process involving representatives of both bodies. Once agreement on a preferred applicant is reached, another round of consultation will take place regarding the reasonably practicable alternative options to deliver a complaints resolution scheme.</p>
<i>Scheme requirements</i>	<p>In order to deliver effective complaints resolution, a scheme needs to meet certain requirements.</p> <p>The March 2008 joint Gas Industry Co and the Electricity Commission consultation paper set out, amongst other things, proposed requirements for a scheme including its objectives and scope, procedures, membership, decision-making, governance, and performance monitoring. Those requirements are now being reviewed as a result of submissions received.</p>

Area	Discussion of issues in the “dealing with problems” phase
Access to information	<p>Consumers’ ability to identify that they have a complaint and then to make that complaint and participate effectively in the resolution process can be hindered by lack of access to information. This is in addition to the powers the complaints body may have to support their role in its investigation and resolution.</p> <p>Feedback in consumer forums has suggested a role for consumer advocates in the complaints resolution process as a means of addressing poor bargaining power and information asymmetry faced by small consumers, particularly if the complaint relates to complex technical issues.</p>

Gas Industry Co is committed to the joint process with the Electricity Commission to approve a complaints resolution scheme.

The key residual questions to be answered when considering the “dealing with problems” phase are:

- are there any additional issues Gas Industry Co should address?
- what advice could Gas Industry Co provide to the Minister on these issues?

Gas Industry Co has considered these questions against the background of the regulatory framework. It has drawn on feedback from consumer forums, discussions with other agencies and expectations from existing relevant initiatives.

It has reached a preliminary assessment and set of conclusions, and now seeks feedback on these as input to determining the next steps.

Consumer expectations in the “dealing with problems” phase	Assessment
<p>Access to remedies</p> <p>17. Consumers have access to suitable arrangements for dealing with any complaints in a timely manner, and for obtaining appropriate remedies.</p> <p>18. Consumers have access to the information necessary to help resolve complaints.</p>	<ul style="list-style-type: none"> • The Joint Gas Industry Co and Electricity Commission project regarding approval of a joint complaints resolution scheme is the primary vehicle for delivering an effective complaints resolution scheme. • There is an opportunity to enhance access to information to enable consumers to identify that they have a complaint, make that complaint then actively participate in its resolution. • Gas Industry Co should explore measures to enhance access to such information.

Gas Industry Co proposes to undertake the following initiatives to address the issues identified with meeting consumer expectations in the “dealing with problems” phase:

Complaints and remedies

The joint Gas Industry Co and Electricity Commission project regarding approval of a joint complaints resolution scheme is now the primary vehicle for delivering an effective complaints resolution scheme.

Gas Industry Co will continue to actively participate in this process with a view to delivering an improved complaints resolution scheme at the earliest opportunity afforded by the joint process.

Information provision to support complaint identification and resolution

There appear to be opportunities to enhance outcomes for domestic and small business consumers in the complaints resolution process through enhanced access to information. Key steps proposed are:

- Gas Industry Co should identify the information domestic and small business consumers require to identify that they have a complaint and to then actively participate in the resolution process.
- Gas Industry Co should assess the availability of this information and explore measures to enhance access if and as required.

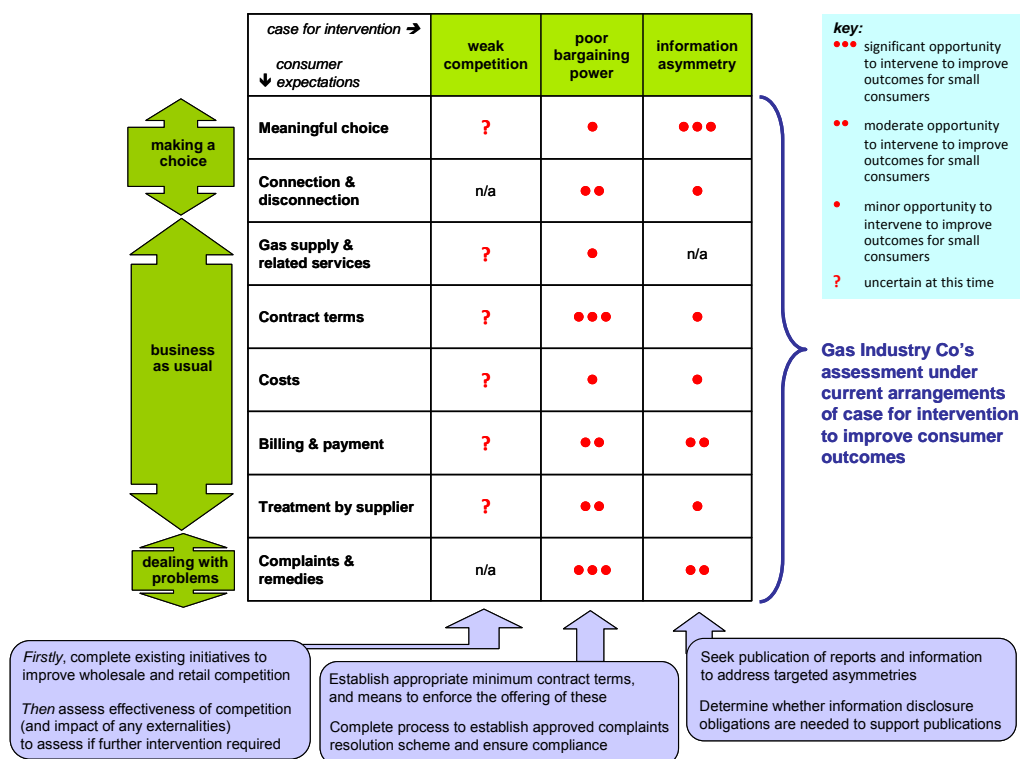
12 In conclusion

Gas Industry Co's preliminary conclusions can be summarised as follows:

- consistent with the overall policy framework, Gas Industry Co considers that facilitating competition is the primary vehicle for promoting good outcomes for all consumers; however, competition may be insufficient in protecting the interests of small consumers;
- although Gas Industry Co has undertaken a number of initiatives aimed at enhancing the effectiveness of retail competition, not all of these are in place, and it is therefore premature to consider the overall effectiveness of the arrangements;
- as a guideline in determining when it might be appropriate to instigate regular assessment and monitoring, Gas Industry Co has identified what it considers to be the set of minimum arrangements required for effective competition;
- a set of possible indicators for assessing the level of competition was proposed by Allen Consulting Group in 2006; Gas Industry Co considers that these provide a good starting point for developing performance indicators in the lead up to initiating regular assessment and monitoring;
- Gas Industry Co has also undertaken a number of initiatives aimed at improving outcomes for consumers, particularly domestic and small business consumers; however, not all of these are yet complete;
- weak competition, unequal bargaining power and information asymmetries have significant potential to adversely impact meeting the proposed set of consumer expectations identified and presented here; from its analysis, Gas Industry Co considers that all three of these are present, to varying degrees, at different stages in the relationship between gas retailers and domestic and small business consumers;
- until the set of minimum arrangements required for effective competition are in place, it is premature to conclude that there is a case for intervention solely on the basis of weak competition; there are, however, issues identified in this analysis that stem from weak bargaining power and information asymmetries; and
- Gas Industry Co has proposed a set of initiatives moving forwards to address the issues identified, which it now seeks stakeholder comment on.

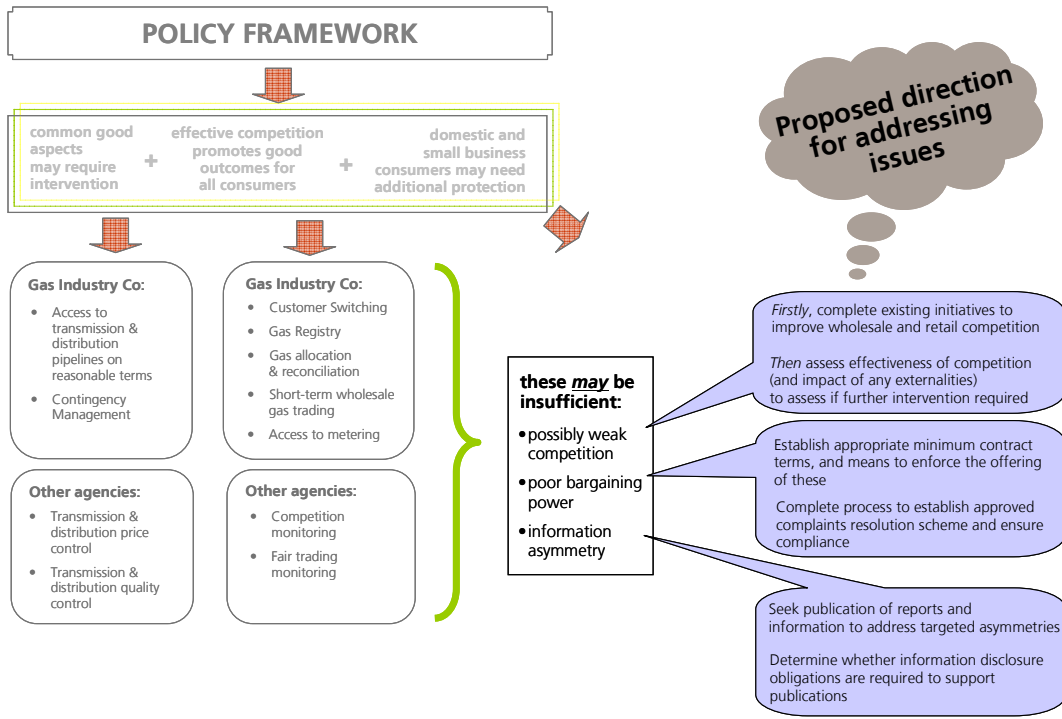
The themes that have emerged from this analysis are depicted in the following two diagrams, which relate the overall conclusions back firstly, to the set of consumer expectations and assessed case for intervention, and, secondly, to the overall policy framework.

Gas Industry Co's overall assessment of the case for intervention to improve outcomes for domestic and small business consumers is set out below. This has been drawn from its assessment of the extent to which consumer expectations are being met in each of the three customer relationship phases.



Gas Industry Co considers that the case for intervening to address weak competition is uncertain at this point in time, as key initiatives aimed at enhancing the effectiveness of competition are not yet fully implemented. These same overall findings are also shown in the context of the policy framework for protecting the interests of domestic and small business consumers.

This serves as a helpful summary of the direction Gas Industry Co proposes taking in its work to improve outcomes for domestic and small business consumers.



13

Questions for stakeholders

The full Discussion Paper poses a number of key questions for stakeholders, and invites responses to these in submissions. For completeness the set of questions is reproduced here. However, the detailed material to which these questions relate is to be found in the full Discussion Paper and its appendices. Stakeholders who intend making a submission, should therefore read the full Discussion Paper, which is available from Gas Industry Co's website.

	Question
1.	Do you agree with Gas Industry Co's proposed guidelines for the arrangements that need to be implemented and operational before it is practical and meaningful to assess the level of competition? If not, what alternative guidelines would you propose?
2.	What comments do you have on the set of possible competition indicators described here?
3.	Is there any information or comment you can provide on current industry performance against these indicators?
4.	To what extent do you think gas faces competition from other energy forms, and how would you characterise that?
5.	Would it be appropriate to include performance indicators relating to competition with other energy forms, particularly electricity? If so, what additional indicators would you suggest?
6.	Do you agree with the proposed set of reasonable consumer expectations for the "Making a Choice" phase? If not, what alternative consumer expectations would you propose?
7.	What comments do you have on the issues identified in meeting consumer expectations in the "Making a Choice" phase?
8.	Do you agree with Gas Industry Co's assessment against consumer expectations for the "Making a Choice" phase? If not, what alternative assessment would you make?
9.	Do you agree with Gas Industry Co's proposals aimed at enhancing the availability of information to inform consumer choice? If so, what information do you consider should be made available, and which agencies have a role in its provision? If not, what alternative proposals would you suggest?

	Question
10.	Do you agree with Gas Industry Co's preference for addressing (dis)connection issues via a regulatory approach? If not, what alternative proposals would you suggest?
11.	What other initiatives would you propose to address issues with meeting consumer expectations in the "making a choice" phase?
12.	Do you agree with the proposed set of reasonable consumer expectations for the "Business as Usual" phase? If not, what alternative consumer expectations would you propose?
13.	What comments do you have on the issues identified in meeting consumer expectations in the "Business as Usual" phase?
14.	Do you agree with Gas Industry Co's assessment against consumer expectations for the "Business as Usual" phase? If not, what alternative assessment would you make?
15.	Do you agree with Gas Industry Co's proposal to move to a regulatory approach for addressing retail contracting issues through a set of minimum terms and conditions? If not, what alternative proposal would you suggest?
16.	In the context of Gas Industry Co's preferred approach, what comments do you have on the Draft Model Contract Guidelines (published in late 2005) attached as Appendix D to this Discussion Paper?
17.	What other initiatives would you propose to address issues with meeting consumer expectations in the "business as usual" phase?
18.	Do you agree with the proposed set of reasonable consumer expectations for the "Dealing with Problems" phase? If not, what alternative consumer expectations would you propose?
19.	What comments do you have on the issues identified in meeting consumer expectations in the "Dealing with Problems" phase?
20.	Do you agree with Gas Industry Co's assessment against consumer expectations for the "Dealing with Problems" phase? If not, what alternative assessment would you make?
21.	In addition to its active participation in the Joint Gas Industry Electricity Commission project, do you consider there are any further initiatives Gas Industry Co should pursue relating to complaints resolution?
22.	Do you agree with Gas Industry Co's proposed initiatives to enhance information provision to support complaint identification and resolution? If so, what information do you consider would be most useful?
23.	What other initiatives would you propose to address issues with meeting consumer expectations in the "business as usual" phase?

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Next steps

Gas Industry Co seeks stakeholder feedback on the material presented in the full Discussion Paper, and the specific questions posed throughout.

Based on Gas Industry Co's current timetable for this work, the next steps and likely timeframes are set out below.

Work Item	Likely timeframe
Closing date for submissions on consultation paper (allowing a 6 week period)	25 September 2008
Consider responses and prepare recommended next steps for progressing consumer issues	October 2008
Consideration and approval of next steps documents by Board	October / November 2008
Confirmation of, and publication where appropriate, of next steps documents	November 2008
Commencement of initiatives moving forwards	late 2008 / early 2009

Gas Industry Co would like to stress the importance of stakeholder feedback in determining the appropriate steps to progressing consumer issues, and encourages all stakeholders to consider the material presented here and the questions posed.