Response to and Analysis of Submissions on the Consumer Issues Consultation paper dated 18 August 2008

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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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Executive summary

Introduction

This report analyses submissions on, and provides a response to, the Consumer Issues Consultation Paper (Consultation Paper) issued by Gas Industry Co in August 2008. The purpose of this paper and the consultation is to provide a platform for reviewing and renewing work in the consumer issues area. A full analysis of submissions is attached to this paper.

The report provides a response to submissions and sets out conclusions or proposals for future work in the following areas:

- updating of consumer expectations;
- performance measurement, including the assessment of competition and its effectiveness and the performance of specific gas governance measures;
- provision of information to assist consumer choice;
- connections and disconnections; and
- retail contract terms and conditions.

Issues raised and Gas Industry Co response

The current paper sets out issues raised and the Gas Industry Co response in respect of each of the areas set out above.

A set of nine issues is discussed in relation to performance assessment and these broadly include whether a full assessment of competition should be deferred until all gas governance arrangements are in place, whether additional or modified indicators of performance should be developed, whether inter-fuel competition should be included, and avoiding overlap with other agencies. Submissions mainly commented on competition assessment. There was no disagreement with the proposal that the performance of specific gas governance arrangements should be monitored. On competition assessment, Gas Industry Co has decided to defer a report until the 2010/2011 financial year. This is due to a variety of factors including budgetary constraints in the next financial year, a decision to focus on completing some of the existing workstreams, and to allow arrangements already in place to fully bed down.

A set of four issues is discussed in relation to the provision of information to assist consumer choices. The views are mixed. There are doubts about whether measures additional to those already being taken are justified, but conversely some significant support for the idea of providing information from a central source. The Gas Industry Co response is that further arrangements for providing information are justified, but that action on this needs to be taken by agencies other than Gas Industry Co.

Two issues are discussed in regard to connections and disconnections and they are in recognition of the importance of safety and the need to consider distribution aspects as well as retail aspects. Gas Industry Co agrees with both of these points.

Four issues are discussed in regard to retail terms and conditions and they include whether or not any arrangements are required, a general objection to a regulatory solution if arrangements are set in place, and whether distribution contracts should be covered at the same time. Gas Industry Co has set out options for possible further consideration which take account of these industry views. These will be progressed as a medium priority as resources permit.

A set of ten issues on consumer expectations is discussed, under the broad areas of making a choice, business as usual and dealing with problems. Many of the comments are about practical implementation rather than the principles involved.

Update on consumer expectations

The 18 consumer expectations set out in the Consultation Paper have been reviewed against the submissions received and, as a result, some minor wording changes have been made. The minor changes apply to five of the expectations and are underlined in the text.

Future work on performance measurement

There is a substantial body of past work available on which to base proposals for work on performance measurement and this includes the 2001 ACIL Report, the 2006 Allen Report for Gas Industry Co, and several reports for the Electricity Commission on electricity markets. The experience in selected overseas jurisdictions (Australia and the UK) has also been reviewed.

It is considered that performance measurement should be at two levels – at the higher level of the performance of competition in markets, and in relation to the performance of specific gas governance arrangements. While the whole supply chain may impact on market effectiveness, the focus should be on retail and distribution markets and consumer outcomes.

A set of possible indicators for market assessment is set out but this needs to be further developed for consultation with stakeholders. Because of the complexities, market evaluation should be through periodic review reports rather than the annual measurement of indicators.

For example purposes only at this stage, a trial set of indicators for the recently implemented Gas (Downstream Reconciliation) Rules 2008 is set out. The indicators mostly use readily available information but some indicators require new information which would have to come from an industry survey. An issue for consideration is whether a survey of this sort would be practicable and acceptable.

It is proposed that performance measurement for gas governance arrangements should be implemented as a part of overall implementation, with indicators preferably developed as a part of the policy development process. For market performance, it is recognised that an interim review should ideally be carried out when possible, given the significant changes since the Allen Report in 2006. However, as indicated above, budgetary constraints are unlikely to allow any action in 2009/2010 and other factors such as the higher priority to be given to the completion of existing workstreams also support a delay. A full review should certainly be carried out when all gas governance arrangements are in place.

Future work on information to assist consumer choice

The lack of access to timely, accurate and complete information on available choices for consumers when choosing between fuels or between retailers for gas is cited by consumer agencies as a significant concern for consumers. The major element of concern is pricing, but information on how to switch between retailers has also been raised as an issue at the annual Gas Industry Co consumer forums.

Information is currently available from a number of sources and these are set out in the body of the paper. While some submitters think that the existing sources are sufficient, the general view is that there are deficiencies that need to be addressed.

A range of options is considered in the paper, but the proposed approach is as follows:

- provision directly by the industry occurs already and is the lowest cost option; but better information on deficiencies and improvements, and action accordingly, would be assisted by having a central arrangement for monitoring and setting best practice benchmarks, which would preferably be industry-led;

- in the longer term, or earlier if an industry arrangement proves not to be feasible, an independent central mechanism could be established, particularly for providing information in areas where competitive pressures are unlikely to be sufficient; and

- as a part of this, an option on pricing is to make the gas equivalent of Power Switch (Gas Switch) available to all consumers.

Because Gas Industry Co does not have a mandate for information provision arrangements, the proposals above will be drawn to the attention of the Minister of Energy for possible action.

Future work on connections and disconnections

Past work by Gas Industry Co on connections and disconnections has identified three key problems: different retailer practices following vacancy; seasonal connection and disconnection; and inefficient retailer-initiated connections following a vacancy. An industry working party was set up to develop solutions but was unable to reach agreement. In mid 2007, Gas Industry Co thus proposed a voluntary solution. The responses led Gas Industry Co to write to the Minister in December 2007 suggesting that a regulatory solution was required.

Gas Industry Co remains of the view that industry wide arrangements are required but further work will be mainly carried out as part of the distribution work stream. However, retail related aspects of connection/disconnection issues will be considered in further work on retail contract terms and conditions.

Future work on retail contract terms and conditions

Work on retail model contracts was initiated by Gas Industry Co in 2005. Recommendations were made to the Minister of Energy in 2006 but for various reasons these were not actioned. The need to restart work in this area was a major motivation for the development of the Consumer Issues Consultation Paper.

It is noted that parallel work is being done jointly with the Electricity Commission on the establishment of a single, dual fuel, consumer complaints scheme. Work on retail contract terms and conditions needs to be linked with this, so that there is complete coverage of consumer issues by the chosen scheme.

It is proposed to position future work in terms of a defined set of minimum terms and conditions, whether these are voluntary or mandated. Reference sources for doing this include especially the existing work by Gas Industry Co, the guidelines in the EGCC Code of Practice, and the Victorian Energy Retail Code.

Actions to be taken will be determined in the context of planning for the 2009/10 financial year. However, an appropriate course of action would be to issue an options paper, for consultation with stakeholders on the most appropriate means for implementing minimum terms and conditions. The options consulted on would be likely to include:

- publication of recommended minimum terms and conditions with voluntary disclosure on the extent of adoption (this is the least cost and least intrusive option) but is also least likely to resolve current concerns over the contracts from some retailers;

- publication of recommended minimum terms and conditions with regulated (mandatory) disclosure of actual practice (this is a relatively low cost option which is likely to cover more consumers); and

- regulation for mandatory minimum terms and conditions (this option will probably provide the most protection for consumers but it comes at a higher cost).

One suggestion has been that if work is done in this area, it should also include or be preceded by work on distribution contracts. Gas Industry Co disagrees with this view and the reasons are set out in the paper.

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1 Introduction

1.1 Background

Since its inception in 2004, Gas Industry Co has undertaken a significant body of work aimed at addressing consumer issues, both directly and indirectly. The work has been progressed through several separate work streams, and while some have been completed, others have not progressed as well as expected, especially where the focus has been on industry agreement. One outcome of this situation was a decision made in late 2008 to prepare and issue a broadly based consumer issues consultation paper to provide a platform for reviewing and renewing work in the consumer issues area.

The Consumer Issues Consultation Paper was issued in August 2008 with a closing date of late September 2008, but this was informally extended by a month – in part to provide more time for submissions to be made, but also to reflect constraints on staff availability at Gas Industry Co. Submissions have been received and analysed and a Gas Industry Co response prepared. This report sets out Gas Industry Co's response to the submissions both in terms of the issues raised and the impact on the forward programme of work.

1.2 Structure and content of report

Appendix A to this paper is a summary of the submissions received, and supporting extracts from the individual submissions. The full submissions can be accessed through the Gas Industry Co website at:

http://www.gasindustry.co.nz/work-programme/consumer-issues?tab=273

The paper sets out an analysis of key issues raised by submissions and the general Gas Industry Co response. This follows through into the detailed discussions under the subject headings. The subject headings provide comments and forward work proposals in the following areas:

- updating of consumer expectations to reflect submissions;
- performance measurement, including the assessment of competition and its effectiveness, and the performance of specific gas governance measures;
- provision of information to assist consumer choice;

- connections and disconnections; and
- retail contract terms and conditions.

With one exception, none of the proposals in this response document will be implemented until there is further consultation with stakeholders. Consultation will occur in terms of more detailed documents which will be produced separately for the subject areas set out above.

The exception is future work on information for assisting consumer choices. Views on this will be drawn to the attention of the Minister of Energy and Resources but not further actioned by Gas Industry Co.

2 List of submitters

A total of ten submissions were received from the following submitters:

- Wellington Community Law Centre
- Energy Direct NZ (EDNZ)
- LPG Association of New Zealand
- Rinnai New Zealand
- Powerco
- Genesis Energy
- Mighty River Power
- Vector
- Contact Energy
- Nova Gas (received late)

3 Issues raised and the Gas Industry Co response

Key issues have been extracted from the submitter comments as summarised in the next section. The issues and the Gas Industry Co response are set out as follows:

3.1 Performance assessment

Issue 1: It is contended by some submitters that the first assessment should not be carried out before the new wholesale and retail market systems are implemented and fully operational. Nova Gas generally contends that no assessment should be necessary in a competitive market (Wellington Community Law Centre, EDNZ, Powerco, Genesis, Contact, Nova Gas).

Response: Performance assessment is proposed to occur at two levels: firstly the effectiveness of market competition, and secondly, the effectiveness of specific gas governance arrangements.

As far as specific gas governance arrangements are concerned, Gas Industry Co's view is that baseline measures of performance should be obtained either prior to or when specific arrangements are implemented, and progress should be monitored annually. Three sets of arrangements (downstream reconciliation, switching and contingency management) are now operational. Monitoring action thus needs to start immediately.

So far as the performance measurement of the industry as a whole and of the effectiveness of competition is concerned:

- The Allen Report provided a baseline assessment of the state and performance of the New Zealand gas industry, but it is now two years out of date and gas governance has developed considerably in the meantime.
- For these reasons, Gas Industry Co agrees with the Allen Report's view that a partial assessment would be beneficial before the completion of a full assessment at a later time, but this may be delayed for budgetary reasons. The appropriate time for a full assessment is when a full set of gas governance arrangements is implemented and operational.

- In regards to Nova Gas' view, it is hard to see how any robust conclusion can be reached about the effectiveness of competition (the existence of some competition is not in itself evidence of effectiveness) without some evaluation.

Issue 2: It is suggested by some submitters that the implementation of strong contractual alignments between retailers, distributors and other relevant parties in the value chain is needed as a prerequisite to the assessment (Powerco, EDNZ, Mighty River Power).

Response: Gas Industry Co disagrees that assessment should be deferred until a full set of contractual alignments exists because such a full alignment may never occur (it is an industry matter in the first instance, not necessarily a Gas Industry Co matter) and there is value in carrying out an assessment now so that the impacts of improved alignment can be assessed.

Issue 3: It is suggested that Gas Industry Co should clarify how it intends to assess the level of competition. The assessment should be low cost in the form of semi-regular consultant reports (Vector).

Response: This comment is agreed. Gas Industry Co intends to further develop its proposals for assessment and will make these available for industry comment in due course. For the assessment of competition, the option of periodic ad hoc reports is a cost-effective and practicable solution.

Issue 4: It is suggested by some submitters that distribution indicators would be best collected by the Commerce Commission/the work of Commerce Commission should not be duplicated. (Genesis, Powerco)

Response: Gas Industry Co agrees with the submitters that it is important to avoid duplication of existing measurements and unnecessary complexity to reduce the costs of an assessment.

The Commerce Commission's authorisation sets controls in respect of price and quality for Powerco's and Vector's controlled natural gas distribution and metering services for the initial control period, which is from 25 August 2005 to 30 June 2012. In its inquiry, the Commerce Commission recommended controlling the prices, revenue and quality of the gas distribution services of Powerco and Vector.

No work is planned on distribution arrangements at this stage so no indicators will be developed. Work on competition assessment more generally will not duplicate the areas covered by the Commerce Commission.

Issue 5: It is contended that a low number of switches does not indicate a low level of competition (EDNZ, Mighty River Power and Vector).

Response: Gas Industry Co is aware that switching rates as a competition performance indicator should only be interpreted in the context of wider market information. Switching can increase not only because of increased competition, but also because of increased wholesale and retail prices or price volatility. Switching behaviour changes over time and empirical results show that the rate of switching can stop growing or reduce even if the retail market is competitive. Measuring switching, however, remains important from the viewpoint of market competition because a low (below five per cent) switching rate can operate as a barrier to entry as potential market entrants may choose to avoid these markets. Switch rates between five and twenty per cent represent healthy competition and a greater opportunity for new entrants to win market share and increase cash flow to cover overheads.

While the absolute customer switch rate is not necessarily a relative measure of market success, a lack of active customer switching can indicate a market in poor health.

Issue 6: Some submitters suggest that the set of indicators proposed is incomplete; market structure indicators/standard economic tools (Herfindahl-Hirschman Index, Lerner Index, barriers of entry) should be included (Vector, Powerco)

Response: Gas Industry Co agrees, and will look to incorporate meaningful market structure measures in its assessment such as: number of firms in the supply chain; number of exits and entries; change in market share; and barriers to entry and exit.

Concentration, however, directly depends on the market definition which hinges primarily on the notion of substitutability; the gas market might be dominated by only a couple of firms but they also compete with other companies from the markets of substitute products, mostly electricity.

A typical problem with these measures in general is choosing a geographical scope: a service provider in one region does not necessarily compete with providers in other regions. A map showing the HHI values, and retailers' net margins of the different regions in New Zealand can help identify the areas with limited competition, similarly as shown in the Electricity Commission's Market Design Review.[1]

Issue 7: It is emphasised by many submitters that there is a strong competitive discipline on the gas sector which provides a strong constraint on pricing and an upward pressure on service quality (Genesis, Mighty River Power, Vector, Contact, Nova Gas).

Response: Gas Industry Co broadly agrees that gas competes with other energy forms. However, as one of the submitters (Rinnai) argued, most energy retailers have interests in gas, both as a fuel for electricity generation and for gas retailing, and therefore the incentives for attracting new retail customers for gas are poor.

Because gas is primarily a 'fuel choice', ie the key choice is between gas and other energy forms, there may not be such a strong competitive discipline to make competition efficient within the gas market itself. There is particular concern about the need for protection of small consumers. This is reflected in the policy framework in the Consumer Issues Consultation Paper. The 2008 GPS also sets out expectations in the area of protecting small consumers.

[1] Electricity Commission. 'Market Design Review – Options Paper.' 8 July 2008:47.

Issue 8: There is concern from one submitter that assessment may incur extra costs which will eventually fall on the consumer (Wellington Community Law Centre).

Response: It is appropriate to consider both costs and benefits.

Gas Industry Co intends to measure competition performance in the form of cost-effective, semi-permanent reports. Cost will be kept to a minimum by using a standard format and by using low cost information from the operation of gas governance arrangements as far as possible.

It is expected that a regular programme of assessments will have benefits including the stimulation of competition by comparison, and the development of new policies that reflect the developing needs and issues of the industry.

Issue 9: Some submitters suggest that Gas Industry Co should not spend its levy on analysing interfuel competition (Genesis, Nova Gas).

Response: Gas Industry Co does not itself intend to analyse interfuel competition although some insights into this may come from information on the number of permanent gas disconnections and the number of new gas connections. Any action other than this will need to be taken by other agencies.

3.2 Information provision to better inform consumer choice

Issue 1: Customer information about retailers, prices, gas supply requirements and appliances are currently available at the following (and other) places: Gas Switch[2], retailers' websites, GANZ, EECA, Smarter Homes, BRANZ, local government programmes, and from the gas industry. The information available at these agencies can provide some assistance, or in the opinion of some submitters, sufficient assistance in comparing energy options (Genesis, Contact, Nova Gas).

Response: Information available from retailers and agencies listed by the submitters can provide some assistance in comparing energy options. 'Gas Switch' is especially useful in providing comprehensive, easy to understand information on gas options and suppliers. It is, however, only available to the members of Consumer NZ, for an annual fee. Further, consumers have currently no ability to compare gas and electricity options through a single integrated package.

Issue 2: Some submitters suggest that using a central place to make consumer information available might duplicate information already existing elsewhere (Powerco, Genesis, Contact).

Response: Gas Industry Co agrees that duplication should be avoided and this should be an essential requirement for any new information source.

[2] The gas price comparator service of Consumer NZ is referred on as 'Gas Switch' in this paper. The database is currently limited to suppliers of reticulated natural gas in the North Island.

For example, Gas Industry Co would not propose to duplicate the information already available on 'Gas Switch'. However, this option is not currently free of charge, and a price comparison with other energy options, eg electricity is not available.

Issue 3: It is proposed by some submitters that a central agency where consumers can easily access information would be an effective solution; this could be achieved through Gas Switch/Gas Price Calculator if it was made available on Gas Industry Co's website or through the inclusion of gas on the Powerswitch website (Contact, EDNZ, Vector).

Response: Gas Industry Co agrees that the provision of information through a central agency is an option to consider, but only where it can be clearly established that existing mechanisms or the industry itself are not providing sufficient information.

In the particular case of pricing, making 'Gas Switch' available to all consumers would be an effective tool for mitigating the searching costs of gas customers; it would enhance information availability and would simplify the information situation for existing and potential gas customers. It is also likely to incentivise customer switching and, as a consequence, improve competition. However, the proviso is that it can be demonstrated that consumers will make use of this mechanism, given that it has a significant cost.

Issue 4: Submitters are concerned with the costs of collecting information (Powerco, Genesis and Mighty River Power).

Response: Gas Industry Co is aware of the costs of solutions such as making 'Gas Switch' publicly available for no fee. In this particular case, the Ministry of Consumer Affairs is unlikely to fund the website, so it would have to be financed by the industry.

A preferred method for minimising costs is for the provision of information to be decentralised to the industry as far as possible. EDNZ has suggested that a central agency could establish guidelines on the types of information retailers should provide for customers on their websites. However, effective monitoring would be necessary as, in this case, the information would not be provided by an independent source. A drawback of the decentralised approach is that it will not necessarily address the issue of information complexity.

3.3 Connections and disconnections

Issue 1: It is contended by one submitter that the importance of safety in (dis)connection issues should be better recognised as a key factor (Powerco).

Response: Gas Industry Co is committed to ensuring that any solution proposed for dealing with commercial issues does not compromise safety requirements. However, Gas Industry Co's view is that safety requirements are already well catered for, eg in the safety protocols promulgated by GANZ, and it should be sufficient to ensure instruments like that are not undermined.

Issue 2: Two submitters contend that regulatory intervention needs to start 'upstream', as issues in this area are driven by commercial and contractual obligations imposed on retailers by network and GMS meter operators (Genesis, Mighty River Power).

Response: Gas Industry Co agrees that progressing solutions to connection and disconnection issues is best handled as a part of the distribution work stream, reflecting the views expressed by submitters. Distribution work is not likely to commence for some time yet. However, it may still be possible to address retail elements through the work on retail contracts and this will be part of the proposed options paper on retail contract terms and conditions. Further work can also commence on the efficiency of arrangements for the supply of gas metering, energy and pipeline services, as required by the 2008 GPS.

Issue 3: It is contended by Contact that vacant consumption risk (when a property becomes vacant, retailers continue to pay fixed daily charges to the Gas Pipeline Business and GMS operators until such time as the supply is disconnected in line with the GANZ Disconnection Protocol) can be managed at substantially less cost than through a regulated solution. Contact, in particular, does not understand why Gas Industry Co believes that the attempt to implement a pragmatic industry solution for vacant side disconnection proved unsuccessful.

It is contended by Vector that a regulatory approach would be justified only after existing work streams are reviewed or fully operational, clear reasons are presented for the inability to agree on the issue, and other options are explored (GANZ Disconnection Protocols, EGCC Code of Practice). The GANZ protocols may require regulatory support and if the EGCC were to be approved by the Minister, all members would have to adopt these standards in order to comply with the code (Contact, Vector).

Response: The contention by Contact and Vector that a regulatory approach has not yet been justified is not borne out by the difficulty Gas Industry Co has encountered in pursuing a voluntary solution with the industry. It is difficult to understand how such a view can be sustained.

In fact the majority of those retailers who submitted (EDNZ, Genesis and Mighty River Power) agree with adopting a regulatory approach.

Gas Industry Co also queries the relevancy of some of the comments by Vector, ie the GANZ protocol deals with safety rather than commercial issues, and the option of the EGCC Code of Practice is unlikely to be effective if the option of an 'approved' complaints scheme is adopted.

3.4 Retail contract terms and conditions

Issue 1: One submitter stated that minimum terms and conditions that allow the retailer to personalise the agreement and ensure that it complies with their own supplier arrangements would be preferred (EDNZ).

Response: Gas Industry Co accepts that, if a minimum required terms and conditions approach is adopted, a judgement will need to be made on how far to go to, on the one hand, provide essential protections for consumers and, on the other, provide flexibility for retailers on as many terms and conditions as possible. This issue will be addressed in the options paper on retail terms and conditions.

Issue 2: It is contended by several submitters that new arrangements are not needed to deal with retail contract terms and conditions (Contact, MRP, Vector, Nova Gas and others).

Consumer choice of gas retailer mitigates most of the issues identified (ie the balance between the interests of parties). It also means that any given retailer cannot hold its customers captive to unreasonable terms and conditions. Retailers are not aware of the shortcomings in their customer terms and conditions. Codes of practice under the EGCC scheme deal directly with most of the issues identified (LPG Association, Contact, Vector).

Response: It is accepted that many retailers do have good quality retail contracts. However, there is evidence that some retailers do not have acceptable contracts, and those retailers account for an appreciable proportion of retailed gas. The EGCC Code of Practice is not, and cannot be, a means for addressing the acceptability of these contracts because not all retailers are members of the EGCC.

Gas Industry Co's view is that the incidence of questionable contract terms and conditions is sufficient to warrant industry-wide action.

Issue 3: One submitter contends that if Gas Industry Co pursues a regulatory approach, its application should include network and GMS operators, retailers and consumers simultaneously. (Mighty River Power)

Response: Gas Industry Co accepts that the ideal approach would be to deal with all contracts simultaneously; however, it is not practicable to do so. The scope of work would be too wide to be easily manageable, there would be mismatches with the wider work programmes in each work stream area, and this would anyway be outside the budget either available or potentially available to Gas Industry Co for such work.

Issue 4: Even if new arrangements are considered, most retailers disagree with the regulatory approach based on a set of minimum terms and conditions. A code of standards or minimum contract terms approach, based mainly on disclosure, would be preferable. It has also been suggested that the electricity and gas model contract guidelines could be merged (Mighty River Power, Vector).

Response: The evidence is that some retailers have questionable terms and conditions, so a fully voluntary approach may not be fully effective. However, Gas Industry Co is committed to putting out an options paper in the future which includes a range of options for modifying the status quo. This will provide an opportunity for the evidence to be more firmly examined.

It is not practicable to fully merge the electricity and gas approaches as the jurisdictions are different, but the issue of compatibility of approach between the agencies would need to be considered in selecting a preferred solution.

3.5 Complaints resolution scheme

Issue 1: Some industry participants (EDNZ, Contact and Vector) agree that a single complaints scheme for both electricity and gas consumers would be preferable, although there is some concern about potential costs (Wellington Community Law Centre, Contact Energy).

Others (Powerco, Genesis) support the existing EGCC scheme as it would be more efficient to adopt this, rather than establishing a new scheme through rules and regulations, would avoid the problem of 'manufacturing complaints' and also existing agencies provide consumers with assistance in identifying whether they have a complaint.

Response: A separate project on a single joint complaints scheme is being carried out between Gas Industry Co and the Electricity Commission and this has included the issue of a consultation paper which has analysed the status quo as well as the options of an 'approved' or a regulated scheme.

Issue 2: It is considered that Gas Industry Co should work together with other organisations to help consumers understand the complaints process, eg through a nationwide public awareness campaign (Contact, Vector).

Response: Communications will be considered as a part of the implementation phase of the joint Gas Industry Co/Electricity Commission project.

Issue 3: LPG consumer complaints are adequately handled under current company arrangements and there is no need to include the small number of LPG reticulated consumers in a national gas/electricity system (LPG Association).

Response: The intention at this stage is to keep the possibility of including LPG open, but any decision to include LPG would not be made without further consultation and discussion.

3.6 Comments on consumer expectations

General note: Many submitters (Nova Gas is an example) have provided very extensive comments on the expectations, but mainly along the lines that the expectations are not relevant to Gas Industry Co's scope of work, or the expectations are already being met by existing actions. The general response to this – and it is repeated in some of the sections below – is that the expectations are deliberately meant to be all embracing and are stated irrespective of whether there is currently a problem.

Making a choice

Issue 1: Keeping information up to date can be very expensive. The term 'good quality' should balance the benefit of up-to-date information with the cost of keeping information in 'real time' (Powerco). Retailers, GANZ, Consumer NZ and EECA also provide readily accessible, good quality, comprehensive and easy to understand information on gas options, possible gas suppliers and alternatives to gas (Contact).

Response: Gas Industry Co agrees that the concept of good quality includes the need for information to be cost-effective for both the provider and the recipient.

Issue 2: Once a customer has chosen their energy form and supplier and entered into a contract, there should be a set term during which they cannot change their supplier or energy form without incurring a penalty. Once the contract term has passed, they should again be able to freely change suppliers or energy forms (EDNZ).

The process of switching (with no (dis)connection) should be included (Powerco).

Consumers need to be able to understand the benefits of gas in relation to other products in order to best determine which fuel complements their desired end uses (Vector).

Response: Qualifications on contractual flexibility for customers are best dealt with as a part of considering arrangements for retail contract terms and conditions, not by altering the statements on consumer expectations.

The other comments are largely agreed with by Gas Industry Co but should be adequately covered by the existing expectations.

Issue 3: The LPG Association believes that the current arrangements on connections and disconnections are reasonable for LPG users (LPG reticulated customers can always disconnect from the reticulated system and switch immediately to cylinders/tanks). Safety is also an important factor in disconnection (Powerco). The Energy Safety Service and safeguards under the Consumer Guarantees Act 1993, overseen by the Ministry of Consumer Affairs, help to fulfil this expectation. Contact believes that the current arrangements are reasonable. Contact also suggests that a cost-benefit analysis should be undertaken before any changes are made and it should also be shown that the current situation is not reasonable and fair for domestic and small business gas consumers.

Response: Most of the comments relate to current industry practice rather than to consumer expectations per se.

Business as usual

Issue 4: Contact believes that the issue around gas supply and related services are covered by organisations like the Energy Safety Service and the Ministry of Consumer Affairs. Any dissatisfaction faced by the consumer can be solved by the gas retailer's internal customer resolution service or by the EGCC.

Response: The intention was to make the expectations as comprehensive as possible and Gas Industry Co firmly believes that this is the best approach.

Issue 5: In regard to contractual terms and conditions, there is a complexity around the inter-relationships throughout the gas supply chain (eg statutory rights of access that network operators have to their equipment) which have to be reflected in the final contracts between the retailers and the customers. If any changes take place, Gas Industry Co should align contractual rights and obligations down the gas supply chain (Mighty River Power).

Response: Most of the comments relate to practical implementation rather than to expectations, but Gas Industry Co does accept that constraints imposed by upstream contracts should legitimately be recognised.

Issue 6: EDNZ disagrees that customers want a price that is reflective of the cost of the supply. The term 'fair and reasonable' is subjective and relative. Customer prices are determined by the market with monopoly pricing applying throughout the supply chain for the delivery of gas (Mighty River Power).

Response: Gas Industry Co's view is that the existing expectation statements on costs are important statements of principle that should remain.

Issue 7: There may be legitimate reasons for additional costs to be passed through to consumers and provided these are clearly communicated to consumers when they sign up, this shouldn't be considered unreasonable (Powerco).

Customers should be able to switch to another retailer at any time they wish, but if they choose to do so within the contract's minimum term, penalties should be applied (EDNZ).

Response: Gas Industry Co accepts that in many instances it is appropriate that increases in costs should be passed on, but that is covered by the current wording of the expectation.

In regard to customer switching, see the comment above under Issue 2.

Issue 8: In regard to special provisions for payment of bills, there are limits as to how far this should be taken. Excessively generous payment arrangements are ultimately cross-subsidised by consumers who pay their invoices on time (Genesis).

Response: Gas Industry Co accepts that there may be practical limitations as to how far the point should be taken.

Issue 9: The retailer should **assist** the customer to obtain answers to all of their queries, and should be able to answer any contracting or billing queries directly (EDNZ).

Response: The modification suggested by EDNZ is accepted.

Issue 10: There are certain situations where it is both necessary and appropriate to terminate gas supply without reasonable notice, but in all other situations, such as disconnection for non payment, the retailer must provide reasonable notice to the customer (EDNZ). Powerco is concerned that the following situations are not captured by this point: when retailers have to cut supply under r26(3) of the Gas Regulations 1993; and when distributors have to stop the gas supply under r7 of the Gas Regulations 1993 for safety purposes or to preserve the network.

Response: The general point made by Powerco is accepted and Gas Industry Co will modify the expectations accordingly.

Dealing with problems

No issues have been raised about the reasonable consumer expectations in this phase.

4 Update on consumer expectations

The Consumer Issues Consultation Paper sets out 18 proposed consumer expectations. Submitters broadly agree with the proposed expectations but some relatively minor amendments have been suggested. Gas Industry Co has thus reviewed the expectations to see whether changes should be made. In undertaking this review, a primary aim has been to preserve the principles embodied in the expectations. Many of the comments made relate to practicable implementation rather than to principle, and have been set aside accordingly.

The modified consumer expectations proposed as a result are set out below. Modifications are underlined to make them clear.

Broad area of concern	Relevant expectations	Comments
Meaningful choice	1. Suppliers offer a range of products and services for consumers to consider and make informed decisions.	No change from Consultation Paper.
	2. There is ready access to <u>cost-effective,</u> good quality, comprehensive and easy to understand information on gas options, possible gas suppliers and alternatives to gas.	Point fairly made that costs are important so measures must be cost-effective.
	3. From the options available in the market, consumers are readily able to choose their energy form and supplier, and to modify their choice.	No change from Consultation Paper.
Connections and disconnections	4. The connection to supply is safe, reliable and 'fit for purpose', and the connection process is timely and well managed.	No change from Consultation Paper.
	5. Arrangements for termination of the contract and supply disconnection are reasonable, and are undertaken <u>safely and</u> in a timely and well-managed way.	Point fairly made that it is appropriate to explicitly recognise the need for safety to be paramount.
Gas supply & related services	6. The supply of gas is safe, reliable and 'fit for purpose'.	No change from Consultation Paper.
	7. Other services reasonable required as part of receiving gas supply, such as a call centre and metering services, are readily available and 'fit for purpose'.	No change from Consultation Paper.

Broad area of concern	**Relevant expectations**	**Comments**
Contractual terms and conditions	8. The contractual terms and conditions of supply of gas to the consumer are lawful, fair and reasonable, <u>while accurately reflecting any upstream conditions or constraints.</u> 9. The contractual terms and conditions are complete, easy to understand, and clearly set out the respective obligations of the supplier and the consumer.	Some industry concerns about linkages through the supply chain, so this has been explicitly recognised. No change from Consultation Paper.
Costs	10. The delivered price for gas supply is fair and reasonable, and is reflective of the cost of supply. 11. The supplier does not impose additional or unexpected costs on the consumer.	No change from Consultation Paper. No change from Consultation Paper.
Billing and payment	12. Consumers receive timely and accurate bills for gas and associated services, and the bills are easy to understand. 13. Consumers have access to appropriate mechanisms for making payments that take account of consumer circumstances.	No change from Consultation Paper. Issue raised of how far this should be taken but the general principle remains. Thus no change from Consultation Paper.
Treatment by the supplier	14. The supplier is honest and open, and acts with integrity in all its dealings with the consumer. 15. The supplier will <u>either directly answer where possible, or otherwise assist in obtaining an answer to</u> consumers' enquiries about all aspects of their supply, billing and contracting arrangements in a timely, courteous and accurate manner. 16. <u>Apart from safety, maintenance and similar actions under the Gas Regulations 1993</u>, 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.	No change from Consultation Paper. Minor extension of wording to reflect limitations on ability to give answers directly. Minor extension of wording to cover need to take urgent action under the Gas Regulations 1993.
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.	No change from Consultation Paper. No change from Consultation Paper.

5 Future work on performance measurement of competition in markets and of specific gas governance arrangements

5.1 Background

A requirement of Gas Industry Co's constitution, reflecting a requirement in the Gas Act, is that the Company reports on the performance of the gas sector. This requirement has been considered several times in the last few years, most significantly resulting in the commissioning of the Allen Report by Gas Industry Co. The review leading to this report was commenced in mid 2006 and the findings reported to the Minister of Energy in a letter dated 7 December 2006. The Allen Report is commented on further below.

Other relevant bodies of work include the ACIL Report in 2001 and related programmes of work carried out by the Electricity Commission. The Commission has produced a series of reports on industry performance starting with the LECG and TWSCL report on the state of competition in wholesale and retail markets in August 2006, leading up to release of the Market Design Review Options paper in August 2008[3].

5.2 Review of the Allen Report's proposals

The Consultation Paper highlighted the ACIL and Allen Reports' findings and sought industry feedback on the monitoring framework of competitive activity recommended by the Allen Report. Two questions were raised in the Consultation Paper: when and how to assess. The responses are dealt with in the next section of this paper.

The Allen Report suggested that a full assessment of performance should be made in April 2009 as the new wholesale and retail market systems were planned to come into operation in mid-2008. In practice, implementation of the first tranche of arrangements is occurring over the period between late 2008 and mid-2009; and further arrangements will move to the point of go-live over the period to the end of 2010. A first full assessment will probably not thus be possible until 2011.

[3] Electricity Commission. 'Market Design Review – Options Paper.' 8 July 2008:62-62.

Gas Industry Co originally scheduled a partial assessment to occur in 2009. However, in response to industry concerns about the cumulative impact of a number of gas governance recommendations coming into effect at the same time, and the present economic climate, action has been deferred until the 2010/2011 financial year.

The Allen Report lists a set of indicators for each part of the supply chain that could be applied when a full assessment is able to be carried out. These indicators provide a good starting point in developing competition effectiveness measures. Further work was suggested on two levels:

- measuring the effectiveness of competition; and
- measuring the effectiveness/performance of specific gas governance arrangements.

It is considered that the level of competition should be measured for each part of the supply chain because both retail and wholesale markets must be successful for consumers to receive the full benefits of competition. The focus, however, should be on retail competition and customers.

5.3 Review of overseas and local comparators

As part of the follow up work to the Consultation Paper and to provide some wider reference points, performance measurement in some selected overseas jurisdictions has been reviewed. The jurisdictions reviewed are those in Victoria, South Australia and the UK. Aspects considered have been market structure, retail trading and distribution monitoring. Competition indicators in these jurisdictions are very similar to the Allen Report's set of competitive activity indicators. However, there are some differences which are highlighted below.

According to the Allen Report, performance indicators should measure the efficiency of competition in each part of the supply chain, because they all affect competition and hence the outcomes for customers. Experience in other jurisdictions is that competition performance is rarely measured at any other part of the supply chain than retail and distribution, and the focus is primarily on consumer outcomes.

Another point of difference is that in the reviewed retail markets, performance is measured only for residential and small business customers. However, effective competition may also provide positive outcomes for large industrial and commercial customers. The Allen Report suggested that market competition for these market subgroups should be separately measured. It is nevertheless considered that the primary focus of monitoring should be the residential and small business consumers as they are most affected by competition and market efficiency and are the most likely to suffer from market inertia.

It is also important to emphasise that the reviewed jurisdictions (Essential Services Commission of Victoria, ESCOSA and Ofgem) are economic regulators as well as market regulators, and that they can impose price control on gas distribution services (natural monopolies) and require reporting on supply quality indicators (for a price to be allocatively efficient, the quality of service must be at a standard that reflects that price and meets consumers' preferences). In New Zealand, the Commerce Commission has regulatory control over gas pipeline businesses and requires the distribution businesses of Powerco and Vector to report on supply quality indicators, while Gas Industry Co is the general market regulator for the gas sector. This raises issues about avoiding reporting on the same indicators for these distribution businesses.

The Allen Report recommends that assessing the state of the gas industry in terms of its market concentration, barriers to exit and entry, progress of market development and competitive activity should be performed in a two-yearly cycle, given that many market development initiatives will take some time to become measurable, while all the reviewed regulators have annual performance reports for both retail and distribution. Issues of scale suggest that annual assessment of competition for the New Zealand industry would be inappropriate and too costly.

Finally, the Allen Report did not consider customer service indicators for distribution. These indicators established by the aforementioned jurisdictions are similar to those introduced for measuring customer service performance in retail markets. It is noted by Ofgem that the number of complaints received by distribution companies is small, due to customers' practice of complaining to their retailers in the case of an interruption. Consequently, measuring the level of written complaints and call centre performance in regard to residential and small business customers might be less relevant. Promptness of connection and customer satisfaction surveys - such as the one used by Ofgem - can provide more meaningful measures of the customer service performance of distribution services.

Submissions to the Electricity Commission on retail activity indicators suggest that the following questions should be answered before an assessment is made. An indicative Gas Industry Co response is given in each case:

Question	Gas Industry Co response for the gas industry
Will the collected information by itself indicate whether any intervention is necessary?	Not necessarily, however information collected may be used to develop Gas Industry Co's policies. As competition develops the regulatory framework can be kept under review.
Is ex ante notification on benchmarks needed?	Yes, but other jurisdictions are inherently different and most surveyed markets are substantially larger. In New Zealand, as submissions on the Consumer Issues Consultation Paper point out, gas is a fuel choice rather than an essential service. Therefore adopting other countries' benchmarks, where gas is an essential service, would be misleading. Instead Gas Industry Co considers that collecting some data before the arrangements - mentioned as prerequisites of the assessment by the consultation paper and submitters - are implemented, it is appropriate to obtain baseline measures that can be used as benchmarks to monitor the efficiency of specific arrangements.

5.4 Possible indicators for market assessment

Some possible indicators for the first level of assessment (market performance) are set out below, focusing mainly on consumer outcomes. They are based on:

- the work carried out by the ACIL Group and the Allen Consulting Group;
- submissions on the Consumer Issues Consultation Paper; and
- the overview discussed above of overseas jurisdictions and Electricity Commission practice.

Desirable characteristics of performance indicators have also been considered, especially that they should be relevant to the area of performance being considered, should be quantitative and should be practicable (measureable at reasonable cost).

Information sources: Ministry of Economic Development (MED), industry survey (IS), market survey (MS), Switching Registry (SR), customer survey (CS), Electricity and Gas Complaints Commission (EGCC), Commerce Commission (CC).

Areas of performance measurement[4]	**Aspects that could be monitored**
Market structure	• Number of firms on the whole supply chain, history of entries, exits (MED); • Market shares, concentration (MED); and • Barrier to enter/exit (IS).
Number and type of market offers made	• Market offers (MS); • Wholesale, retail prices and gas bill trends (IS); and • Gross profit margins/mark-ups, wholesale-retail margin spread (IS).
Gross, net and multiple switching	• Annual customer transfers (customer switching) (SR); • Information availability and awareness (CS); • Reasons for switching/not switching (CS); • Possible savings with switching (IS); and • Time to switch (average days taken to complete the switch) (SR).
Customer satisfaction with retailer arrangements	• Customer satisfaction surveys (CS); • Disconnections and reconnections (IS); and • Call centre (and written responsiveness); performance (CS).
Number of customer complaints	• Complaints to retailers (EGCC); and • Complaints to Electricity and Gas Complaints Commissioner (EGCC).

[4] Based on the Allen Report (2006).

Areas of performance measurement[4]	Aspects that could be monitored
Type of new products and evidence of innovation	• Innovative products (online deals, green tariffs, rewarding customers for saving gas) (MS).

This is an indicative set and will be further developed prior to a further round of industry consultation at the appropriate point in time. An issue to be further considered also is what place quantitative indicators should have in assessing market performance, given the complexities involved. This is further referred to below.

5.5 Development of indicators for specific gas governance arrangements

As suggested above, Gas Industry Co considers that it would be appropriate to also develop indicators for specific gas governance arrangements. For example purposes only at this stage, a trial set of indicators has been developed for Downstream Reconciliation and they are summarised in the table below. With one exception (discussed further below), these indicators use information that is readily obtainable from the allocation system or from allocation results. The cost involved is thus low.

The following indicators relate to the impact of the arrangements on market performance:

Purpose	Indicator prescription	Method of measurement
To measure the increase in retailer competition at allocated gas gates.	Average number of separate retailers per gas gate across all gas gates.	Ad hoc report from allocation system at end of each gas year.
To measure the increase in the amount of gas traded at allocated gas gates.	Total gas quantity per annum at allocated gas gates.	Ad hoc report from allocation system at end of each gas year.

The following indicators relate to the performance of the arrangement against the purpose set out in the Rules:

Purpose	Indicator prescription	Method of measurement
To measure the extent to which allocation information is of higher quality than previously.	Number per annum of estimates having to be made for missing information. Averaged over all gas gates, the difference between initial and final allocations as a proportion of the final allocation.	Ad hoc report from allocation system at end of each gas year. Ad hoc report from allocation system at end of each gas year.
To measure the extent to which the allocation process is seen as fair by the participants.	The number of complaints and disputes. Level of industry satisfaction with	Gas Industry Co to maintain a log of written (email) complaints and disputes. Annual industry survey.

Purpose	Indicator prescription	Method of measurement
	the fairness of the process.	
To measure the extent to which the allocation process is efficient.	The cost of allocation operations charged to the industry. Time spent on allocation by allocation participants.	Actual operating cost at end of each year. Annual industry survey.
To measure progress in reducing UFG.	Proportion of gas gates being allocated that are outside the cap and floor limits. Average UFG across all gas gates. Proportion of event audits per year which are successful in reducing UFG.	Calculation of annual UFG factors per gas gate. Calculation of annual average UFG for all allocated gas gates. Follow up report to each audit.
To measure benefits to the industry other than in reducing UFG.	Level of benefit for a set list of possible benefits.	Annual industry survey.

These indicators do go beyond information generated from the allocation system. In particular some of the indicators need information on industry reactions or views and the only way of achieving this is through an industry survey of some type. An issue for further consideration is whether a survey of this type should be instituted, and critically whether the industry would be prepared to participate. For the survey to be workable:

- it would need to operate on-line to minimise bureaucracy and costs; and
- the number of questions would need to be restricted to a relatively high level and so that the time to complete the survey would be regarded by the industry as reasonable.

5.6 Implementation

Implementation needs to be considered separately for specific gas governance arrangements and for the assessment of gas markets and competition more generally.

Three gas governance arrangements (downstream reconciliation, switching and critical contingency management) have reached the go-live point at which ongoing operations start and other arrangements are at the stage of implementation leading in to go-live. The wholesale market trial is expected to start in mid 2009. It is thus appropriate that the process of arrangement-specific, ongoing performance measurement should start as soon as possible. Amongst other things, that would ensure that baseline measurements are established before baseline information becomes difficult to obtain.

The approach proposed is as follows:

- Draft performance indicators for downstream reconciliation have already been developed and these should be confirmed and baseline measurements made as soon as possible.

- For other arrangements in the implementation phase, performance measurements should, as far as possible, be determined and baseline measurements made prior to or as soon as possible after go-live.

- For other arrangements still to be developed or approved the general approach should be to build up performance indicators as a part of the policy development process, so that this can inform the development of policy itself and so that baseline measurements can be made as a part of the pre-go-live establishment process.

A different approach is proposed to the assessment of competition more generally. In this area there are practical problems with measurement and with separating out the impacts of different influences on the effectiveness of competition. For these reasons, the approach of a periodic review rather than the annual monitoring of performance indicators is preferred – although information from indicator measurement may still inform this review. The Allen Report was the last such review and was carried out at a time when the gas governance regime was at a very early stage of development. It is thus suggested that:

- a further comprehensive review of the performance of the gas sector should be carried out when budgetary constraints and other factors permit, with a view to establishing a baseline statement on the extent of competition and the effectiveness of competition in producing appropriate outcomes for consumers; and

- further reviews should be carried out at about five year intervals, as a part of a continuing programme, with these future reviews including the effectiveness of specific gas governance arrangements as well as competition.

6 Future work on improving the quality of and access to information to assist consumer choices

6.1 Background

The lack of access to timely, accurate and complete information on available choices is cited by consumer agencies as a significant concern for consumers. The major element of concern is pricing, although there is anecdotal evidence that other aspects, such as information on how to effectively switch retailers, is also important. The latter point has been raised in at least two Gas Industry Co consumer forums.

Regarding the issue of pricing, in June 2005 only two of the then five retailers had details of their pricing arrangements readily available. The situation has not changed significantly since then. At present, four of the currently operating nine retailers' prices are unavailable online. The potential to switch between gas and electricity further complicates the information situation for consumers. Submissions from industry participants on the Consultation Paper raise similar issues: there is a view that information availability to inform consumer choice should be enhanced, but submissions disagree on who this role should be assigned to, and many submitters are also concerned with the costs of collecting information. There is a particular concern over the high cost of operating the Power Switch website.

A recent study has explored drivers and barriers to switching and awareness of competition in the electricity sector. The study - undertaken by UMR Research[5] for the Electricity Commission - clearly shows customers' low awareness of the available information channels and inability to compare prices when making choices about their electricity provider. Although a similar survey has not been carried out on gas customer switching behaviour, the present arrangements for access to information are less favourable for gas customers. It is thus highly likely that the awareness is even lower and comparing prices even more difficult for gas consumers.

[5] UMR Research. 'Retail Competition. A Qualitative and Quantitative Study.' March 2008.

6.2 Present arrangements

Consumers first need to understand that they have an option to make an informed choice. This means knowing enough about the sector to understand who the various participants and agencies are, and who to talk to about their options. Customer information about retailers, prices, gas supply requirements and appliances is currently available at the following (and other) places: Gas Switch[6], retailers' websites, GANZ, EECA, Smarter Homes, BRANZ, and local government programmes. The information available from these sources can provide some assistance in comparing energy options.

Gas Switch is a particularly useful price calculating web-tool, but is only available to the members of Consumer NZ for an annual fee ($79). Also consumers currently have no ability to compare gas and electricity options through a single integrated package.

The information situation is similar for electricity consumers, except their price calculator, Powerswitch, is available free of charge. Despite this advantage and the more numerous information channels available to electricity consumers, awareness is low and consumers make apparently suboptimal choices. The Electricity Commission's Market Design Review paper points out that:

> 'annual potential savings for customers on the most common tariff option range from zero to approximately $265 per year for medium residential customers (up to around $155 per year for low user customers). Furthermore, some customers could save even more than this if they are on a tariff option that is inappropriate to their needs.'

Customers could thus make substantial savings by switching to the cheapest supplier in their area. However, the UMR Research paper reveals that there are relatively low switching rates in the electricity sector – over 50 per cent of survey respondents would seriously consider switching for savings of $150 per year – and this is due to poor awareness of the extent of retailer choice and difficulty in comparing prices. Only 13 per cent of the survey respondents said that they had heard of Powerswitch.

The Electricity Commission has identified another problem concerning the Powerswitch website in that the underlying retail data is not entirely accurate - at least one retailer has not provided up-to-date information to Consumer NZ. The Electricity Commission proposes to address this issue by collecting data from retailers and passing it to Powerswitch. This would also facilitate the analysis of the underlying data by the Electricity Commission.

On the positive side there is evidence that use of Powerswitch is growing quite rapidly. Recent information from Consumer NZ for example shows that use of Powerswitch grew 72% between 2007 and 2008, and the figure for February 2009 compared with the previous February shows a 114% growth. There were close to 200,000 visits to Powerswitch in 2008. A survey of members conducted by Consumer NZ in September 2007 showed that 52% of respondents had heard of

[6] The gas price comparator service of Consumer NZ is referred to as 'Gas Switch' in this paper. The database is currently limited to suppliers of reticulated natural gas in the North Island.

Powerswitch, and 24% of those who visited Powerswitch changed their supplier based on the information provided.

The only comparable available figure for Gas Switch is that there were about 31,000 unique visits to the gas price comparison calculator in 2008. This is about 12% of ICPs.

A further interesting statistic from the September survey is that 6% of respondents wanted electricity and gas with the same supplier.

Based on this information Consumer NZ is actively exploring the avenues for financial support for upgrading the functionality of Powerswitch, and making an integrated gas and electricity calculator freely available.

6.3 Options to address the improvement of information quality and availability

As indicated in the section above, most submitters have acknowledged that information availability is an issue and some have offered possible solutions. There is some support for having a central agency to provide easy access to information; in the case of pricing, this could be done through Gas Switch or through the inclusion of gas on the Powerswitch website.

Alternatively, the information could be decentralised - as EDNZ suggests – and guidelines could be established on the types of information retailers should provide for customers on their websites. However, in this case the information would not be marketed by an independent source and decentralisation of information may be less efficient in mitigating the information complexity issue. Other submitters have disagreed and argue that the existing agencies already provide accessible, good quality, comprehensive and easy to understand information on gas options, gas suppliers and alternatives to gas. Using a central agency to make consumer information available might only duplicate information already available elsewhere. The Electricity Commission's Market Design Review also offers a range of options to address the main areas of concern.

The table below summarises the possible approaches. In each case, it is important to characterise the status quo, ie relying on suppliers in competitive markets to provide ready access to good quality information. It is noted that good quality means (amongst other things):

- timely;
- up-to-date;
- relevant;
- comprehensive in relation to the purpose;

- easy to understand; and
- cost-effective.

Area of concern	Options to address the issue	Advantages of the options	Disadvantages of the options
1. Not all consumers have easy access to good quality information for choosing the cheapest retailer in their area or the tariff option that best suits their needs.	1.1 Reliance on the status quo	• Decentralised information is already available. • This option would not impose further costs on the industry.	• Does not provide centralised information so consumers can easily compare retailers' offers.
	1.2 Making Gas Switch available free of charge	• Provides access to good quality, easy to understand information, free of charge to all gas customers. • Provided by an independent source. • Similar price calculators are present and successful in other countries.[7]	• Some consumers are not comfortable with a web-based tool/don't have internet access. • The accuracy of the underlying data should be investigated. • Relatively high costs.
2. Consumers may not understand or have information on situations where gas is an attractive alternative to other fuel or energy forms.	2.1 Reliance on the status quo	• Already exists, consequently there are no costs of this option. • Immediately available.	• No evidence suggests that such information is being provided. • A significant issue is that gas and electricity are often supplied by the same company so interfuel competition does not exist.
	2.2 Inclusion of gas on Powerswitch website	• Same as 1.2. • Ability to compare gas and electricity options through a single integrated package.	• Same as 1.2.

[7] U-Switch (UK), ESCOSA estimator (Essential Services Commission, South Australia), Energy Comparator (Essential Services Commission, Victoria). According to the World Energy Retail Ranking Report (2007) these two Australian states and the UK have been classified as having the most active energy retail markets.

Area of concern	Options to address the issue	Advantages of the options	Disadvantages of the options
3. Consumers' awareness of the extent of choice about retailer, and the available savings by switching retailer, need to be raised	3.1 Reliance on the status quo	• This option would not impose further costs on the industry.	• This option does not raise consumers' awareness of the already existing information channels.
	3.2 Information about the best option for the customer as a part of the gas bill	• 63 per cent of respondents to the UMR survey rated this channel as useful for facilitating price comparisons.	• The information would be a replica of the Gas Switch website. • Unlikely to be voluntarily adopted by the industry
	3.3 Inclusion of Gas Switch website address on the gas bill	• Same as 3.2.	• Some consumers are not comfortable with a web-based tool/ they don't have internet access.
	3.4 0800 helpline	• Could provide access to good quality easy to understand information free of charge to gas customers, who have difficulty using a web-based tool. • Provided by an independent source.	• Significantly more expensive to run than a website.
	3.5 Direct advertising	• Effectively raises general awareness. • Financial support from government sources for promotional activity might be available.	• Not suited to the delivery of customer-specific information. • High costs.
	3.6 Publication of information by a central agency including general analysis on retail competition and information on how to connect to gas or switch retailers	• Lifts customer awareness. • Potential benefits through its impact on suppliers.	• Publication does not guarantee that the material will be read or understood, so publications may not be effective by itself. • Significant costs.

Notes: Mainly based on information gained from the submissions on the Consumer Issues paper and the Electricity Commission's Market Design Review paper (pp 65-67).

There are costs and other constraints that have to be considered in selecting the most appropriate mix of options and solutions. A particular concern is that much of the evidence about the adequacy of information is anecdotal, so it would be prudent to adopt an approach that enables adequacy to be more rigorously monitored before significant commitments are made to additional expenditure. The approach proposed in this paper is as follows:

- The best source of information is the industry itself, because they have the best access to information, are in the best position to judge what will attract new customers, and can aggregate the cost with other elements of the cost of doing business. However, the general view is that there are shortcomings in the information currently being provided.

- In areas where industry provision is clearly the best solution, a relatively low cost and non-intrusive response to this might be to establish an industry arrangement for:

  - monitoring the information being provided; and on this basis

  - identifying and promoting examples of excellent practice;

  - suggesting improvements in quality, timeliness, and delivery mechanisms; and

  - identifying areas where competitive pressures are not effective or likely to be, for ensuring information provision and other solutions are needed.

- In the longer term, or earlier if an industry arrangement proves not to be feasible, look to establish a central mechanism for providing information in areas where competitive pressures are unlikely to provide a solution. However, there would clearly be issues to resolve in terms of the type of central mechanism, its organisational 'home' and how the arrangement might be funded.

- One obvious option is to make the gas equivalent of Powerswitch (Gas Switch) available to all consumers. This option is being actively explored by Consumer NZ. If financial support can be secured this will deal with any cost issues. The indications are that an integrated gas and electricity calculator, which was feely available to all consumers, would be an effective tool for assisting consumer choice..

Implementation

Establishing cross-industry arrangements for the provision of information does not currently fall within Gas Industry Co's powers. Gas Industry Co also has no budget or mandate for the financial support of initiatives in this area. The most appropriate way forward is thus to draw the conclusions of this paper to the attention of the Ministry of Economic Development and the Minister of Energy and Resources. The paper also should be published for the information of the industry.

7 Future work on connections and disconnections

7.1 Work to date

As set out in the Consultation Paper, past work by Gas industry Co has identified three possible policy problems that relate to gas connections and disconnections. These are as follows:

- *Different retailer practices following vacancy:* Retailers have adopted different approaches to triggering disconnections following vacancy, and different practices for charging customers for those disconnections and subsequent reconnections. The different charges and practices, and the lack of clear consumer information, have reinforced a perception for some consumers that some of these charges and practices are unfair and unreasonable.

- *Seasonal disconnection and reconnection:* Some consumers are requesting disconnections during the summer, in order to avoid paying fixed charges to retailers during that period. This leads to unnecessary disconnection and reconnection costs.

- *Inefficient retailer-initiated disconnections following vacancy:* Some retailers appear to be disconnecting residential gas supplies very quickly after a vacancy occurs. Occasionally, this has included the removal of the gas meter. In many cases, the departing customer is invoiced for the cost of the disconnection, and any new customer is charged for the cost of a reconnection. This appears to be unnecessary and inefficient because, if a new customer contracts for a gas supply within a short time after the vacancy emerges (as frequently occurs), the cost of the disconnection and subsequent reconnection (both performed by a gas fitter) could have been avoided.

To address this problem, a solution was proposed that contained the following elements:

- retailers would agree to provide clearer information to consumers about charges that will apply to disconnection and reconnection, and the circumstances in which charges will apply, as part of their standard terms and conditions, and would make this information readily available to consumers at the time the consumer is choosing a gas retailer and on retailer websites;

- distribution pipeline companies and retailers would continue to manage the issue of seasonal disconnections;

- distribution pipeline companies would agree to adopt a policy of ceasing line charges 14 days following a vacancy, rather than the current practice of following a disconnection. This would reduce the incentive for retailers to avoid paying fixed daily pipeline charges by requesting disconnections shortly after a customer vacancy; and

- distribution pipeline companies and retailers would agree to modify use-of-network agreements to clarify that the responsibility of the existing retailer for monitoring vacant consumer installations must continue through to the point of disconnection.

A working group was convened to consider industry arrangements for implementing a solution based on the elements set out above. However, there were fundamental difficulties in agreeing on a solution across the industry, in part because of concerns about Commerce Act implications, but also because of apparently irreconcilable differences of view between retailers and distributors.

In mid 2007, Gas Industry Co wrote to all retailers and distributors to suggest a way forward and requested voluntary agreement. The key elements of the way forward were as follows:

- encouraging retailers to provide clear information to consumers about disconnection and reconnection practices and charges as part of their standard terms and conditions, and to make this information readily available to consumers at the time the consumer is choosing a gas retailer and on retailer websites;

- encouraging distribution pipeline companies and retailers to manage the issue of seasonal disconnections;

- seeking agreement with each distribution pipeline company to adopt a policy of ceasing line charges 14 days following a vacancy, rather than the current practice of following a disconnection; and

- seeking agreement with each distribution pipeline company to modify their Network Service Agreements in order to clarify that the responsibility of the existing retailer for monitoring vacant consumer installations must continue through to the point of disconnection.

Only some parties responded but the responses received were sufficient to indicate that there would not be enough industry support to implement a solution through a voluntary agreement. In December 2007 Gas Industry Co wrote to the Minister of Energy to say that:

'It appears that the issues of disconnection and reconnection of customers will require a regulatory solution'.

7.2 Future work

The submissions received from the industry largely reflect the views that prevented a solution emerging from the original work in 2005 to 2007. In that sense, nothing has changed, which would suggest that the next step should be to propose a regulatory solution. However, the issues are multi-facetted and industry differences are not likely to disappear simply because a regulatory approach is put forward. The passage of time is also important because there are now different people involved and it is prudent to re-establish the platform for moving forward.

The reality, too, is that connections and disconnections are a joint retail/distribution issue. Thus, although some aspects might get dealt with in the context of retail contracts, others will not. This begs the question of whether a partial solution, ie one which deals with retail contract elements only, would provide a positive step forward or would be ineffective or counter-productive without corresponding action at the distribution level.

One firm conclusion, from a Gas Industry Co perspective, is that there are commercial issues to deal with, which are distinct from managing safety issues, and should not adversely affect the latter. The contention from some submitters that safety issues need to be dealt with first does not stand up to scrutiny. A great deal of work has already been done by the industry in this area which is set out especially in the GANZ Disconnection and Reconnection Protocol. There is no suggestion Gas Industry Co is aware of that the Protocol is not being implemented and even if it were not, this would not be a matter within the mandate of Gas Industry Co to resolve. The key requirement is simply to ensure that any work that is done by Gas Industry Co takes account of, and does not have the effect of degrading, the effectiveness of safety protocols.

Given the context above, it is thus proposed to take a two step approach:

- Individual discussions will be held with participants who have expressed views to help crystallise the best way of designing and applying a broad set of solutions for dealing with connection/disconnection issues. It is accepted that such discussions are likely to be more effective than a general industry workshop for example. The timeframe for this will be relatively open-ended, given current resource constraints on Gas Industry Co, and will be done as a part of the distribution work stream.

- The extent to which retail elements could be productively dealt with as a part of work on retail contract terms and conditions will be separately examined as a part of the broader work programme on retail contracts (see below).

8 Future work on retail contract terms and conditions

8.1 A recap on work to date

The October 2004 GPS invited Gas Industry Co to develop arrangements for model contract terms and conditions between consumers and retailers. Work in this area was initially progressed by the setting up of the Model Contracts Working Group (MCWG). The group was composed of individuals with experience from across the gas sector, and with an independent chair. More details are given in the Consultation Paper.

The outcome of the work was the development of a set of model contract guidelines, based in large part on the EGCC Code of Practice. In June 2006, following consultation on the guidelines developed, a recommendation was made to the Minister in response to the GPS invitation. The essence of the recommendation was that Gas Industry Co would not develop a separate model contract but that model contract guidelines would continue to be effected through the existing EGCC scheme. This arrangement would be bolstered by approving the EGCC scheme under the Gas Act so that the EGCC scheme Code of Practice would have mandatory status. It was also proposed that changes should be made to strengthen the EGCC Code of Practice.

While agreeing with it in principle, the Minister did not accept that recommendation on the grounds that steps should first be taken to approve the EGCC scheme. A number of other events then occurred:

- correspondence with the Commerce Commission alleged inappropriate contract-related behaviour by a retailer who happened not to be a member of the EGCC scheme (while reinforcing the need to have better standards, this also exposed the difficulties of voluntary participation);

- there were indeterminate delays in making proposed changes to the EGCC Code of Practice, which was associated with concerns about the EGCC governance arrangements for approving changes;

- the Ministry of Economic Development raised concerns about the lack of external monitoring; and

- the 2006 Allen Report queried whether it was appropriate for EGCC to have both a rule-making and an enforcement role.

In September 2007, Gas Industry Co thus decided to reconsider its earlier recommendation in the context of a comprehensive review of consumer issues in the form of the Consumer Issues Consultation Paper. This course of action was communicated to the Minister in December 2007.

8.2 Interaction with work on consumer complaints

For completeness, the Consultation Paper covered the subject of consumer complaints. Arrangements for consumer complaints are inextricably linked with other arrangements for consumer outcomes because complaints resolution is one of the key mechanisms for dealing with problems.

However, a joint project with the Electricity Commission is already in progress, aimed at implementing an 'approved' dual-fuel complaints scheme. There is a particularly important connection between work on retail terms and conditions and consumer complaints, for the following reasons:

- For legal reasons, it is not possible for an 'approved' scheme to have rules which go outside the scope of dealing with complaints. Thus, although the Achievement Standards published in the Request for Applications (RFA) include a requirement for a Code of Practice, this Code is restricted in scope to the conduct of members in handling complaints.

- This contrasts with, for example, the Code of Practice for the EGCC (the main existing industry-led complaints scheme) that covers matters which are relevant to contractual terms and conditions as well as the handling of complaints. The EGCC can do this because it is a voluntary industry arrangement. Although an approved scheme could decide to have a code which went beyond that able to be part of the approved scheme, this would have to be on a voluntary basis. Members would thus be free to 'opt out'.

- Consumers would benefit if both the Electricity Commission and Gas Industry Co could fill this prospective gap by having arrangements in place that, amongst other things, ensured full industry coverage for the remaining content of the EGCC Code of Practice, or its equivalent, which is not going to be covered by the rules of the approved complaints scheme.

8.3 Defining desirable or mandatory minimum terms and conditions

The Consultation Paper included three sources of information on contractual terms and conditions which might form the basis for retail contracts with consumers. The sources of information are:

- the draft model contract guidelines set out in the Gas Industry Co consultation paper of November 2005 (Appendix E of the Consultation Paper);
- the guidelines in the EGCC Code of Practice as at November 2005 (Appendix F of the Consultation Paper); and
- the Victorian Energy Retail Code which specifies minimum retail standards for small gas and electricity customers in Victoria, Australia (Appendix G of the Consultation Paper).

These sources of information are not repeated in this report as they are readily available from the Consultation Paper.

In addition to the above, the development of contractual terms and conditions should include terms and conditions relating specifically to connections and disconnections. In this particular case, consultation should include the issue of the extent to which it is useful to regulate for retail elements, in isolation from dealing with network or distribution aspects.

Terms and conditions such as those referred to above could be put forward as benchmarks, provided as a model contract, more strongly recommended perhaps with regulated mandatory disclosure to assist monitoring, or regulated for as a required minimum in all contracts. Content may vary depending on the approach adopted – for example, minimum regulated terms are likely to be restricted to a core set, while a model contract is more likely to cover a wider range.

In the Consultation Paper, Gas Industry Co has already stated a preference for working in terms of minimum terms and conditions. The reason for this is that only some terms and conditions are a potential concern from a consumer outcomes perspective, and regulatory oversight of contracts should be restricted accordingly. The preferred approach taken in moving forward would thus be to formulate a proposed set of minimum terms and conditions, based on the source material above and taking account of the submissions on the Consultation Paper.

Consultation on terms and conditions would logically occur in conjunction with consultation on options for the implementation of arrangements covering retail contract terms and conditions.

8.4 Implementation options

Industry and consumer views on options for dealing with contractual terms and conditions are mixed, although the majority of industry participants particularly are opposed to a regulated solution. If the submissions are examined, it is clear that this view is based on the analysis of the companies' own positions. In most of these cases, the evidence indicates that good quality retail contracts are in force.

However, there is evidence that some companies have contracts in place which have some questionable terms and conditions. A particular concern is the inclusion of conditions that make it difficult for a consumer to switch to another retailer unless the existing retailer agrees to this happening. If the downstream allocation of gas is used as a guide, companies in this category retail about 25% of gas. This is a significant portion of the market. Moreover, the companies concerned are not members of the EGCC, so are not even subject to that voluntary discipline. This provides good reason for considering options which ensure better industry coverage.

This in turn raises the issue of the appropriate regulatory objective, which must be based on the outcome stated in the GPS. It is considered that this outcome should apply to **all** small consumers (if it can be applied to only some then it becomes essentially meaningless.) The regulatory objective is thus:

> 'All contractual arrangements between gas retailers and small consumers adequately protect the long term interests of small consumers'

The next step is to provide a consultation document which sets out options for consideration and looks broadly at the costs and benefits. This has been given a medium priority by the Board and will be progressed as resources permit.

Based on work to date, it is anticipated that the following option would be excluded from further consideration:

- Mandatory adoption of a full set of regulated terms and conditions. This approach is considered to be unnecessary and over prescriptive, and could prevent companies from offering innovative contracts which are of benefit to consumers.

Options warranting further consideration would be expected to include:

Option 1: Publication of recommended minimum terms and conditions, with monitoring of uptake occurring on the basis of voluntary disclosure. This is the least cost and least intrusive option, and arguably the least that should be done to intermesh with and support the establishment of an approved complaints resolution scheme; however it is also the least likely to resolve concerns over the retail contracts of some retailers.

Option 2: Publication of recommended minimum contract terms, with disclosure of actual contract terms and conditions required by regulation, to enable the monitoring of the extent of adoption.

Option 3: Regulation for minimum terms and conditions, with enforcement provided by the existing Gas Governance (Compliance) Regulations 2008.

8.5 Other issues

As indicated above, there is a view amongst some retailers in particular that if arrangements are set in place covering contractual terms and conditions, they should include distribution contracts as well as retail contracts. Further, there are arguments that distribution contracts are more important because they cover an area of monopoly supply, whereas there is competition in the retail area.

It is first accepted that connections and disconnections are a joint retail/distribution area and that is why that subject is treated separately above.

It is not accepted that distribution contracts should be dealt with as a priority because of monopoly arguments. The reasons are as follows:

- the participants involved are companies (not consumers), who should be able to look after their own interests, or at least identify issues which are not being satisfactorily resolved through the contractual process; and

- some distributors are already under price control, which will soon require the disclosure of a wide range of 'quality of service' metrics, as well as dealing with pricing. The Commerce Commission is very clearly taking the lead in this area.

The genesis of the current work is also relevant. The current work is concerned with addressing consumer issues. In this respect, distribution contracts are a secondary consideration noting that:

- end users do not have contracts with distributors; and

- the key issue is what needs to be done to ensure that acceptable standards of service are provided to consumers, not whether retail or distribution contracts are more important or more urgent to deal with.

The conclusions are as follows:

- the focus of the current work programme is retail contracts, and that is appropriate and should remain the case; however

- additional work should be carried out when resources permit to identify any distribution issues preventing retailers from meeting reasonable consumer expectations. This work is not programmed in the current financial year, but could occur as a part of the future distribution work stream.

Appendix A Summary of submitter comments on the questions in the Consultation Paper

Summary of submissions

Q1: 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 could be proposed?

Wellington Community Law Centre, EDNZ, Powerco, Genesis and Contact agree that the assessment is too early. Nova Gas disagrees with the underlying proposition that intervention or regulation of some sort is required

The following prerequisites and changes were suggested in addition to Gas Industry Co's proposed guidelines:

- EDNZ does not consider that the functioning of a short-term wholesale gas trading market is a prerequisite, saying that waiting for it would only delay the assessment.
- Powerco says that strong alignment of contracts between retailers, distributors *and other relevant parties in the value chain* is needed. EDNZ and Mighty River Power propose that a top-down approach be taken to ensure strong contractual alignment between industry participants in the supply chain.
- Genesis Energy would add 'improved balancing arrangements' as a prerequisite.
- Contact suggests that a full assessment should not occur before 12 months have elapsed post 1 March 2009.

Genesis, Mighty River Power, Vector and Contact Energy are not convinced that the level of competition needs to be assessed in the way it is described in the Allen Report. Monitoring, however, should help inform future policy decisions and evaluate the effect of past decisions.

The following alternative guidelines are proposed by the submitters:

- A simple set of indicators should span the time before and after any new interventions (Genesis). Vector also suggests that the assessment should be low cost in the form of semi-regular consultant reports.
- Any such review would be helped by a better understanding of the level of competition in the gas retail market, why it may differ throughout the country, and what the barriers to competition are (Mighty River Power).
- The impact of the limited number of gas producers supplying retailers should also be investigated (Mighty River Power).
- Gas Industry Co should clarify how it intends to assess the level of competition (Vector). Vector also provides a more detailed description of the proposed assessment of competition in its submission. It

says the main focus, when collecting information to assess competition, should be: efficiency of the wholesale market; balancing and reconciliation arrangements; ease of access to essential infrastructure; the effectiveness of switching arrangements; and consumers' access to low-cost information to make informed choices.

Q2: What comments do you have on the set of possible competition indicators described here?

EDNZ, Powerco, Mighty River Power and Vector agree that there is value in assessing competition.

Other comments:

- Nova Gas disagree with the underlying assumption that the existing market is uncompetitive
- Cost-benefit analysis and strong justification for any additional information requests are needed (Powerco).
- Powerco proposes some standard economic tools as primary measures of the degree of competition; Herfindahl-Hirschman Index, Lerner Index and assessing the barriers of entry.
- Vector argues that the set of indicators are incomplete and that the market structure should also be the focus of competition analysis.
- The proposed list of indicators is perhaps too exhaustive (Contact).
- Distribution indicators would best be collected by the Commerce Commission/the work of the Commerce Commission should not be duplicated (Genesis, Powerco).
- Intra-network variations in performance should be considered for distribution indicators rather than just averages (Genesis).
- Powerco disagrees with reporting on the following indicators: number of new connections; number of access disputes; types of new products and evidence of innovation. Genesis also disagrees with reporting on the innovation indicator.
- GMS indicators are not included (Mighty River Power).
- The low number of switches does not indicate a low level of competition (EDNZ, Mighty River Power and Vector).
- Contact emphasises the small number of complaints received by EGCC. Counting the number of complaints is potentially misleading; their categorisation and their relative seriousness may be more useful.
- The extra utility and satisfaction that customers gain from having both gas and electricity services provided by the same retailer could also be assessed (Contact).

Q3: Is there any information or comment you can provide on current industry performance against these indicators?

Comments on customer switching:

- EDNZ mentions that gas switches should be completed within six to eight weeks but that this often takes up to three months. Customers therefore sometimes cancel switches. Notification of rejected switches is not received promptly. Business customers do not always understand their contract terms, particularly those with the term roll-over clause. EDNZ received numerous complaints from customers switching to them about the behaviour of the previous retailer.

- Contact is able to provide switching statistics where it has been a party to a customer switch. Distributors would be able to provide such statistics across all retailers.

Other comments:

- The majority of customer complaints relate to delays in switches, large first accounts covering several months, estimated accounts, and meter reading issues (EDNZ).
- The Commerce Commission has reviewed the competitiveness of the gas distribution sector (Powerco).
- According to Genesis, the industry is performing well.
- Vector mentions that there has been relatively little growth in the direct consumer market, but active inter-fuel (electricity) and intra-fuel (LPG, both reticulated and bottled) competition.

Q4: To what extent do you think that gas faces competition from other energy forms, and how would you characterise that?

The submitters all agree that there is strong competitive pressure from alternative fuels; electricity (especially heatpumps), LPG, wood/pellet fires, coal, and diesel for small business consumers. According to the submitters, this has two implications:

- Gas is a fuel choice, rather than an essential service. There is a strong competitive discipline on the gas sector which provides a constraint on pricing and upward pressure on service quality;
- Gas should be promoted as a fuel choice in competition to electricity.

Q5: Would it be appropriate to include performance indicators relating to competition with other energy options, especially electricity? If so, what additional information would you suggest?

Powerco and Contact disagree, saying Gas Industry Co should not duplicate existing initiatives (provided by GANZ or consumer.org.nz). However, it is important to point out that they interpreted the question in a different way – they considered the comparison of electricity and gas appliances rather than the performance of **competition** in the energy retail markets. Nova Gas do not believe that Gas Industry Co has a mandate to expend resources on interfuel competition.

Wellington Community Law Centre is worried that the assessment may incur extra costs which are ultimately passed to consumers. Genesis is also not convinced that Gas Industry Co should spend its levy on analysing interfuel competition this way.

The other submitters suggest the following interfuel indicators:

- the number of permanent disconnections (EDNZ, Genesis);
- the number of new gas connections and conversions from other fuels to gas (EDNZ); and
- the percentage improvement in connection timeframes for electricity and gas (Genesis).

Q6: Do you agree with the set of reasonable consumer expectations for the 'making a choice' phase? If not, what alternative consumer expectations would you propose?

The submitters generally agree with the reasonable expectations. However, Nova Gas are unsure why the expectations are needed and believe that suitable customer switching regime is the best tool to encourage competition

The following changes are suggested:

Meaningful choice

Keeping information up to date can be very expensive. The term 'good quality' should balance the benefit of up-to-date information with the cost of keeping information in 'real time' (Powerco). Retailers, GANZ, Consumer NZ and EECA also provide readily accessible, good-quality, comprehensive and easy-to-understand information on gas options, possible gas suppliers and alternatives to gas (Contact).

Once a customer has chosen their energy form and supplier and entered into a contract, there will be a set term during which they cannot change their supplier or energy form without incurring a penalty. Once the contract term has passed, they will again be able to freely change suppliers or energy forms (EDNZ). The process of switching (with no (dis)connection) should be included (Powerco). Consumers need to be able to understand the benefits of gas in relation to other products in order to best determine which fuel complements their desired end uses (Vector).

Connection and disconnection

The LPG Association believes that the current arrangements are reasonable for LPG users (LPG reticulated customers can always disconnect from the reticulated system and switch immediately to cylinders/tanks). Safety is also an important factor in disconnection (Powerco). The Energy Safety Service and safeguards under the Consumer Guarantees Act 1993, overseen by the Ministry of Consumer Affairs, help to fulfil this expectation. Contact believes that the current arrangements are reasonable. Contact also suggests that a cost-benefit analysis should be undertaken before any changes are made and should also be shown that the current situation is not reasonable and fair for domestic and small business gas consumers. Nova Gas think that this is the wrong place to discuss connections and disconnections.

Q7: What comments do you have on the issues identified in meeting consumer expectations in the 'making a choice' phase?

Nova Gas identify a statement in the Consultation Paper on distribution and metering arrangements (page 61) and evidence of problematic relationships which they believe to be at odds with the facts in the first instance and wrongly interpreted in the second.

Market size and structure

EDNZ disagrees that the small size of the New Zealand gas market is a barrier to competition, while Genesis disagrees that the market size is prima facie an evidence of market failure and also adds that vertical integration across competitive parts of the supply chain may be an efficient structure rather than a cause of concern. Rinnai New Zealand believes that market structure is a constraint to competition in terms of new gas customers: the major companies have interest in both electricity retailing and thermal gas generation, and because electricity and gas are competitors in the energy market, there is no dedicated focus on attracting new gas customers.

Contact disagrees that such a comprehensive monitoring framework is necessary to assess the competition of an industry this size; the costs would exceed the benefits of small business or domestic consumers.

Institutional Arrangements

With the Gas Registry set to go live on 2 March 2009, Contact sees no need for further work in this area.

Access to information and decision-making

The LPG Association believes that LPG customers are more involved in the choice of LPG, as theirs is very much a lifestyle choice. Making Consumer NZ's Gas Price Calculator available to all consumers could be valuable and could be achieved by industry funding (Contact).

Connection and disconnection

Powerco considers safety the priority. The starting point for improving connection/disconnection practices should be altering network service agreements. Many terms in retail contracts flow from network service agreements, therefore regulatory intervention needs to start 'upstream' in the contractual chain (Genesis).

Mighty River Power describes the disconnection process of vacant properties; When a property becomes vacant, retailers continue to pay fixed daily charges (38.8-67.1 cents per day incl. GST) to the Gas Pipeline Business and GMS operators until such time as the supply is disconnected in line with GANZ Disconnection Protocol. In the absence of this cost, retailers would disconnect only for safety reasons, which would drastically reduce the number of physical disconnections, meaning no reconnection charges when customers move in. Mighty River Power is of the opinion that these matters will require direct intervention by Gas Industry Co as they are driven by commercial and contractual obligations imposed on retailers by network and GMS operators. Genesis also agrees that the aforementioned costs unnecessarily incentivise disconnections and if these costs are not recovered by the finalising customer, they flow to all customers. Yet they are largely avoidable if the industry (distributors, meter owners and retailers) would accept a degree of responsibility and pain. Contact also emphasises that disconnections are rarely a safety problem and vacant consumption risk can be managed at substantially less cost.

Distribution and metering arrangements

Wholesale and transmission arrangements should be considered too (EDNZ). Powerco disagrees that there is little information available on the nature and efficiency of distribution or metering arrangements, and adds that the Commerce Commission has reviewed these arrangements. The contestability for metering services is a valuable enabler of market-driven innovation in the field of advanced metering services; cautious approach is needed to set aside the dynamic efficiency benefits of market-driven arrangements in pursuit of static consistency or efficiency (Genesis).

Addressing the issues

Vector disagrees with the regulatory approach until all other options are explored. Vector believes that existing measures are sufficient.

Q8: 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?

Wellington Community Law Centre, EDNZ, Rinnai New Zealand agree. Vector disagrees: Gas Industry Co should focus on improvements to existing measures. Contact also disagrees as it believes that there are organisations and resources already catering to the consumer expectations of small businesses and domestic users. Nova Gas also disagree that additional information is required.

The following comments were made by the submitters in relation to the expectations:

Access to information to inform decision making

EDNZ agrees with the expectations apart from that consumers should be readily able to choose their energy form and supplier and modify their choice, as explained in EDNZ's response to Q6. Rinnai believes that the horizontally integrated market structure is an impediment to information provision, and the gas industry would prosper in an environment where gas is marketed in competition to electricity. Genesis believes that consumers' choice about energy use is more complex than choosing retailer and fuel type; therefore it is difficult for a single-fuel regulator to effectively provide balanced and complete information to consumers.

Connection and disconnection

Powerco disagrees with the proposed solution because of safety reasons. Powerco also emphasises that extensive work has been undertaken in this area by the industry and GANZ. The proposed solution is for distributors to stop fixed line charges 14 days after the property is vacated. This action is a necessary cost of supplying gas, and retailers should manage this risk within gas contracts. The fixed line charge (10 cents per day for a gas customer using less than 15 GJ gas per year) also acts as an incentive for retailers to arrange for vacant properties to be disconnected. Powerco believes that this cost is small enough to be managed by retailers (Powerco). Mighty River Power argues that as far as disconnections from the network are concerned, these issues will be resolved only if there is an alignment of network, GMS and retail contracts. Nova Gas disagree with the approach proposed by Gas Industry Co.

Q9: 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 have a role in its provision? If not, what alternative proposals would you suggest?

Wellington Community Law Centre, EDNZ, Rinnai New Zealand and Vector agree. Genesis would also support the proposal if there is a net public benefit to do so and Gas Industry Co does not use levies to fund work outside its jurisdiction. EDNZ and Vector also agree that a central agency where consumers can easily access information would be an effective solution; this could be achieved through Gas Switch if it was made available on Gas Industry Co's website (EDNZ) or through the inclusion of gas on the Powerswitch website (Vector).

EDNZ doubts that consumers want information on choosing gas retailers from an independent source. EDNZ also suggests that guidelines on the types of information they should provide to customers would be useful, but it should ultimately be up to the retailer. LPG Association disagrees with the regulation of consumer information. Powerco, Genesis and Mighty River Power are concerned with

the costs of collecting information. Powerco, Genesis and Contact also say that using a central place to make consumer information available might duplicate information already available elsewhere. Regulatory intervention should be designed with care and not to impair retail competition by lessening the scope for retailer differentiation, and a regulatory solution could also crowd out private sector enterprises specialising in expert advice on energy choices (Genesis). Nova Gas does not agree with the need for any further information provision.

Q10: Do you agree with Gas Industry Co's preference for addressing (dis)connection issues via a regulatory approach? If not, what alternative proposal would you suggest?

EDNZ, Genesis and Mighty River Power agree with the regulatory approach. Genesis cautions that regulatory intervention needs to start upstream in the contractual change ie in the network services first. Mighty River Power also points out that such regulation should include network and GMS operators as well as gas retailers. The Wellington Community Law Centre and LPG Association disagree, as they are concerned with the cost to consumers' of a regulatory solution. Wellington Community Law Centre believes that this issue should be addressed by the Switching Arrangements or the Code of Practice under the EGCC scheme. Rinnai New Zealand does not believe that the regulatory approach is a fundamental issue for consumers, but rather, the lack of competition with electricity. Powerco, Vector and Contact disagree. Powerco emphasises that drivers in this area appear to be commercially driven rather than based on safety first (please refer to Powerco's answer on Q8). Vector states that a regulatory approach would be justified only after existing work streams are reviewed or fully operational, clear reasons are presented for the inability to agree on the issue, and other options are explored (GANZ protocols, EGCC Code of Practice). Vector believes that the GANZ protocol may require regulatory support and if the EGCC were to be approved by the Minister, all members would have to adopt these standards in order to comply with the code. Nova Gas does not agree that the current connections/disconnections process is sufficiently flawed to need attention.

Q11: What other initiatives would you propose to address issues with meeting consumer expectations in the 'making a choice' phase?

EDNZ, Vector and Contact envisage a **central place** similar to Powerswitch that helps consumer choice in finding a gas retailer. Genesis emphasises the need to review network industries' performance. Nova Gas does not agree that mandating requirements is necessary where the market is properly regulated via consumer protection laws that apply to all industries.

Q12: Do you agree with the set of reasonable consumer expectations for the 'business as usual' phase? If not, what alternative consumer expectations would you propose?

The submitters generally agree, with the following exceptions:

Gas supply and related services

Contact believes that this issue is covered by organisations like the Energy Safety Service and the Ministry of Consumer Affairs. Any dissatisfaction faced by the consumer can be solved by the gas retailer's internal customer resolution service or by the EGCC. The latter has been effectively resolving disputes for consumers for some time. Contact is strongly supportive of the EGCC Consumer Code of Practice; Nova Gas believes that requirements are already covered by existing legislation.

Contractual terms and conditions

There is a complexity around the inter-relationships throughout the gas supply chain (eg statutory rights of access that network operators have to their equipment) which have to be reflected in the final contracts between the retailers and the customers. If any changes take place, Gas Industry Co should align contractual rights and obligations down the gas supply (Mighty River Power). Nova Gas believes that this assessment category is redundant and if there is a problem it should be addressed at national level by the Ministry of Consumer Affairs.

Costs

EDNZ disagrees that customers want a price that is reflective of the cost of the supply. The term 'fair and reasonable' is subjective and relative; customer prices are determined by the market with monopoly pricing applying throughout the supply chain for the delivery of the gas (Mighty River Power). There may be legitimate reasons for additional costs to be passed through to consumers and provided these are clearly communicated to consumers when they sign up, this shouldn't be considered unreasonable (Powerco). Nova Gas believes that these metrics are redundant.

Billing and payment

There are limits as to how far this point should be taken. Excessively generous payment arrangements are ultimately cross-subsidised by consumers who pay their invoices on time (Genesis). Nova Gas believe this is a redundant criterion.

Treatment by supplier

The retailer should **assist** the customer to obtain answers to all of their queries, and should be able to answer any contracting or billing queries directly (EDNZ).). Nova Gas believe this is a redundant criterion.

There are certain situations where it is both necessary and appropriate to terminate the gas supply without reasonable notice, but in all other situations, such as disconnection for non payment, the retailer must provide reasonable notice to the customer (EDNZ). Powerco is concerned that the following situations are not covered by this point: when retailers have to cut supply under the Gas Regulations 1993 26 (3); and when distributors have to stop the gas supply under section 7 of the Gas Regulations 1993 for safety purposes or to preserve the network. The abolishment of the National Gas Outage Contingency Plan (NGOCP) in the proposed critical contingency regulations will mean the bands of load shedding will no longer exist, and consumers can be shed in any order required by the distributor (Powerco).

Contact notes that many of these expectations are codified by the EGCC Consumer Code of Practice and the reference point for gas customer expectations could be a guideline set by Gas Industry Co based on the existing EGCC Gas Consumer Code of Practice. Contact also requests that a cost-benefit analysis should be undertaken before any changes, and it also should be demonstrated that the

current situation is not reasonable and fair for domestic and small business gas consumers.

Q13: What comments do you have on the issues identified in meeting consumer expectations in the 'business as usual' phase?

The following changes are suggested:

Gas supply and related services

Please refer to the summary of submissions on Q12.

Contractual terms and conditions

Customers are able to switch to another retailer at any time they wish, but if they choose to do so within the contract's minimum term, penalties will be applied (EDNZ). Minimum terms and conditions need to allow the retailer to personalise the agreement and ensure that it complies with their own supplier arrangements (EDNZ). LPG Association is not aware of any shortcomings in its customer terms and conditions. That consumers can choose their gas retailer mitigates most of the issues identified (ie the balance between interests of parties); it also means that any given retailer cannot hold its customers captive to unreasonable terms and conditions. Codes of practice under the EGCC scheme deal directly with most of the issues identified. Retailer's responsibility to explain contractual terms and conditions in simple terms needs to be balanced against consumers' responsibility to understand any contractual obligations that they take on (Genesis). Nova Gas believe that in a competitive market balance of interests between parties is not an issue; consumers have protection under the Fair Trading Act if they are mislead on contract provisions.

Costs

Connection and disconnection costs are imposed by the network and metering operators, therefore any proposed changes to these costs should consider charges under network and metering agreements (EDNZ).
Metering and connection/disconnection charges reflect supply costs. Consumers must understand that early termination of contracts may incur a cost; Gas Industry Co needs to ensure that this cost is reasonable and does not prohibit consumers from switching retailers. Disconnection/reconnection costs are due to high safety standards which cannot be compromised. Another issue between the retailer and the consumer is the cost of the gas fitter supplying a certificate of compliance (Powerco). Influencing price is within the jurisdictional power of the Commerce Commission (Vector).

Balance between interests of parties

Mighty River Power and Vector disagree that there is evidence of an inappropriate balance between the interests of retailers and their customers. Mighty River Power also notes that a clear majority of retailers are members of the EGCC scheme.

Distribution and metering arrangements

Vector disagrees that retailers do not have a choice about which distributor or meter owner they use.

Q14: 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?

Wellington Community Law Centre and EDNZ agree with the assessment. Nova Gas disagrees with the assessment and believes it is baseless and without support or evidence other than unreliable anecdotal information The other submitters disagree with a number of issues. **Gas supply and related services** Determining who is responsible for which part of the supply chain can be difficult to establish. In addition, customers have to accept their responsibility for their own installation (Mighty River Power). **Contractual terms and conditions** That the consumer can choose their gas retailer mitigates most of the issues identified (ie the balance between interests of parties); it also means that any given retailer cannot hold its customers captive to unreasonable terms and conditions. Codes of practice under the EGCC scheme deal directly with most of the issues identified. The retailers' responsibility to explain contractual terms and conditions in simple terms needs to be balanced against the consumers' responsibility to understand any contractual obligations that they take on (Genesis). Vector disagrees that some contracts do not meet consumer 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. Contact is not aware of any significant issues with the complexity of terms, and considers that the case for regulated minimum terms and conditions is weak. **Costs, billing and payment** Metering and connection/disconnection charges reflect the cost of business. Metering issues do not require further consideration as part of a separate work stream (Powerco). Contact is not aware of an unreasonable number of billing and payment problems and metering issues with small consumers. Gas and dual fuel complaints remain a small proportion of total electricity and gas complaints.

Q15: 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?

Wellington Community Law Centre and EDNZ agree with the regulatory approach for addressing a set of **minimum terms and conditions**. Other submitters disagree with the regulatory approach because of the following reasons: • No case for doing so has been made (Nova). • Including LPG customers would only increase consumer costs for this niche market (LPG Association). • Transitioning to a semi-regulated contracting environment is not without cost. Imperfect regulation can limit innovation, create unnecessary costs or have unintended consequences. The focus should

be on network service arrangements first (Genesis).

- Contractual arrangements are already fair and reasonable (Mighty River Power).
- The case for regulated minimum terms and conditions is weak (Contact, Mighty River Power).
- If Gas Industry Co pursues a regulatory approach, the application should include network and GMS operators, retailers and consumers simultaneously (Mighty River Power).

Model Contract Guidelines would be the preferable option for Mighty River Power. Vector similarly agrees that a central agency setting some contractual standards would be an efficient solution; however, a code or minimum contract terms approach based mainly on disclosure would be preferable. Mighty River Power also suggests that electricity and gas model contract guidelines could be merged. Vector argues that adopting the EGCC scheme would have certain benefits; therefore EGCC should have the roles of rule maker and rule enforcer.

Q16: In contrast to Gas Industry Co's preferred approach, what comments do you have on the Draft Model Contract Guidelines (published in late 2005) attached as Appendix E to the Discussion Paper?

Wellington Community Law Centre and EDNZ agree with the preferred approach. Mighty River Power also agrees as long as the Guidelines remain voluntary.

Vector supports the EGCC Code of Practice. It adds that there should be a clear distinction between code development and compliance.

Genesis says that guidelines developed for voluntary adoption will not automatically be appropriate for use as regulated minimum terms; it adds that unless the EGCC scheme becomes approved, it would not be appropriate for regulations to require retailers to include information on the EGCC in their contracts, given that the market is open to competing complaints resolution schemes.

According to Contact, Gas Industry Co's approach is an unnecessary step. Contact is supportive of a single reference point of expectations (similar to the EGCC scheme) set in guidelines together with a compliance disclosure statement by participants, and of compliance being incentivised by the threat of regulation.

Nova Gas believes they should remain as model guidelines only.

Q17: What other initiatives would you propose to address issues with meeting consumer expectations in the 'business as usual' phase?

Genesis emphasises that work should be progressed on network service arrangements first.

Vector says that having a regulated solution in place may prove inefficient.

Q18: 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?

The submitters broadly agree with the reasonable consumer expectations.

Contact urges Gas Industry Co and the Electricity Commission to choose the EGCC as the preferred scheme for the joint consumer complaints resolution system. Contact believes that the EGCC has been effectively resolving customer complaints for some time and that there is no need to move away from its established processes.

Q19: What comments do you have on the issues identified in meeting consumer expectations in the 'dealing with problems' phase?

EDNZ and Vector agree that a single complaints scheme for both electricity and gas consumers would be preferable.

Powerco suggests that if Gas Industry Co wishes to consider consumer advocates, quantitative evidence of the issue should be provided.

Genesis argues that network companies have less reason than retailers to be wary of reputational risk since they operate in a less competitive market.

In Contact's opinion, the existing EGCC scheme is effective and should be chosen as the preferred joint scheme by Gas Industry Co and the Electricity Commission.

Nova Gas disagree with a number of the propositions in this section.

Q20: 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?

Wellington Community Law Centre, EDNZ, Powerco, Mighty River Power and Vector agree with the assessment. Powerco supports the existing scheme as it would be more efficient to adapt than to establish a new scheme through rules and regulations.

Genesis disagrees with the assessment because Gas Industry Co should be wary of 'manufacturing complaints', and existing agencies provide consumers with help in identifying whether they have a complaint. Nova Gas also disagree with the assessment.

Contact Energy emphasises its support for the choice of the EGCC resolution scheme as the joint scheme.

Q21: In addition to Gas Industry Co's participation in the Joint Gas Industry Electricity Commission Project, do you consider there are further initiatives Gas Industry Co should pursue relating to complaints resolution?

Wellington Community Law Centre and Contact Energy support participation in a joint Gas Industry Co/Electricity Commission project. However, Gas Industry Co should be wary of the costs to consumers. Vector supports a single complaints resolution scheme (EGCC scheme) and also encourages Gas Industry Co to work together with other organisations to help consumers understand the process, eg through a nationwide public awareness campaign. LPG consumer complaints are adequately handled under current company arrangements and there is no need to include the small number of LPG reticulated consumers in a national gas/electricity system (LPG Association).

Q22: Do you agree with Gas Industry Co's proposed initiatives to enhance information provision to support complaint identification and resolution? If so, what information would you consider would be most useful?

Wellington Law Community Centre, EDNZ and Vector agree. The latter also promotes the importance of a nationwide public awareness campaign on the benefits of gas and its efficiency when compared to other fuels. LPG Association, Powerco, Genesis, Mighty River Power, Nova Gas and Contact disagree, arguing that the information already is sufficient.

Q23: What other initiatives would you propose to address issues with meeting consumer expectations in the 'dealing with problems' phase?

The submitters have no further comments.

Other Comments

Distribution • The distributor, rather than Energy Safety, is responsible for the safety of a disconnection (Powerco). • Gas distribution does not (typically) require resource consent from any territorial local authority, reducing interactions with local councils (Powerco). • The meter owner and supplier of a meter reading are also key parties (Powerco). **Wholesale and transmission** • Wholesale and transmission contracts contain a number of terms and conditions that cannot be passed on to domestic and small business customers, including take or pay commitments and capacity reservation overruns, which affect competition. It would be appropriate to consider these

arrangements alongside the distribution and metering agreements (EDNZ).

Consumer expectations

- No matter what energy source a consumer is left with, they should be able to count on a safe and reliable supply. Consumers, however, have little bargaining power in this arena and therefore need the government and its agents to promote and lobby for their interests. This should not be to their detriment by way of increased costs (Wellington Community Law Centre).
- They should be aspirations rather than targets (Powerco).
- They are a useful way for screening issues, but need to be followed up with further work (Genesis).

Model contract minimum terms and conditions

- Regulated minimum terms and conditions for retail contracts should not be developed yet (Genesis, Mighty River Power).
- Further work needs to be done on the minimum terms and conditions (Genesis, Mighty River Power).
- Network access arrangements should have a higher priority (Mighty River Power).
- They should have the potential to improve the overall effectiveness of the gas industry by lowering costs which consumers face (Vector).

Complaint resolution scheme

- Vector supports the development of a low-cost scheme.

Information availability

- Regulatory approach might not be cost-effective (Genesis).
- Existing and available information should not be duplicated (Genesis, Contact).
- Should have the potential to improve the overall effectiveness of the gas industry by lowering costs consumers face (Vector).
- Expanding Power Switch to all energy consumers would be an improvement (Vector).

Competition assessment

- Reticulated gas as an energy source has become increasingly expensive and the benefits of using gas instead of electricity are diminishing (Wellington Community Law Centre).
- Fuel substitutability and competition can and should be relied on to discipline gas retailers' practices (Mighty River Power).
- This issue needs greater investigation (Vector).
- Expensive ongoing monitoring should be avoided (Vector).
- Careful analysis of Gas Industry Co's jurisdiction should be undertaken before an assessment, not to duplicate the work of other regulatory bodies (Mighty River Power, Vector).
- Broader energy context should be taken into account (Mighty River Power).

Submissions from individual submitters

Q1: 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 could be proposed?	
Wellington Community Law Centre	Yes.
EDNZ	Agrees that the following minimum arrangements should be implemented and operational before making an assessment: • switching rules and functioning gas registry; • clear rules and arrangements for downstream reconciliation and allocation of gas; and • strong contractual alignment between retail and distribution contracts. EDNZ believes that a top-down approach should be taken to ensure not only strong contractual alignment between retail and distribution contracts but also between retail, wholesale and transmission contracts. EDNZ does not consider that the functioning of a short-term wholesale gas trading market is a prerequisite for a competitive market, and that waiting for its implementation would only delay the assessment.
Powerco	Agrees that it is too early to assess. The following prerequisites should be implemented before an assessment: • fully operational registry; • established Reconciliation Rules; and • strong alignment of contracts between retailers, distributors and other relevant parties in the value chain.
Genesis	Is not convinced that the level of competition needs to be assessed. It would be more meaningful or practical to focus on assessing any perceived impediments to competition, eg barriers to new entrants or inappropriate allocations of risk. Monitoring, however, should help inform future policy decisions and evaluate the effect of past decisions. A simple set of indicators should span the time before and after any new interventions. This would help Gas Industry Co assess the effect of its activities. Genesis Energy would add 'improved balancing arrangements' to the proposed prerequisites of assessing. Genesis also notes that the arrangements mentioned as prerequisites will take time to bed in.
Mighty River Power	Disagrees; there is nothing presently stopping Gas Industry Co from assessing the level of gas competition. The priority should be to consider what regulatory changes (Gas Pipeline Business access terms and conditions) should be implemented for the purpose of promoting greater competition. 'Any such review would be assisted by a better understanding of the level of competition in the gas retail market, why it may differ in different parts of

	the country and what the barriers to competition are.' Disagrees that competition is weak in the residential and small business markets. Competitive pressures can be more intense or weaker in different areas, and Gas Industry Co should investigate the reasons. Notes that Gas Industry Co has not investigated the impact of the limited number of gas producers supplying retailers as a possible source of weaker competition, and also emphasises - quoting the VENcorp presentation - that 'competition occurring in the upstream market was reflected in competition in the downstream market.' [8] As examples for vertical integration, Mighty River Power refers to Vector and the Todd Group. Nova Gas network is a closed network and the other three are open access networks. With regard to standard terms and conditions for the supply of gas, Mighty River Power argues that these contractual arrangements need to be aligned **down** through the gas supply chain from producers to retailers to customers, not the other way round.
Vector	Does not support the set of indicators proposed by the Allen Report at this time. Believes that the Commerce Commission has a central role in assessing market competition and that Gas Industry Co should not duplicate that role. Further, Gas Industry Co should clarify how it intends to assess the level of competition: who will be monitoring; how and from what sources the information will be collected; how often and at what cost the assessment will occur. Vector considers that the assessment should be low-cost, in the form of semi-regular consultant reports, rather than the creation of new regulatory function. Considers that the primary role of Gas Industry Co derives from S43F and G of the Gas Act and 'information collected should be limited by the Gas Act authority.' Gas Industry Co is responsible for only a subset of policy that relates to the development of a competitive gas market. The main focus when collecting information to assess competition should be: • efficiency of wholesale market, balancing and reconciliation arrangements; • ease of access to essential infrastructure; • the effectiveness of switching arrangements; and • consumers' access to low-cost information to make informed choices.
Contact Energy	Sees little need for such guidelines given the small scale of gas consumption in New Zealand and the competition it faces from alternative energy sources. It is something organisations like the Commerce Commission do anyway. Would expect Gas Industry Co to conduct a cost-benefit analysis before implementing changes. Competition from other retailers keeps any unfair or unreasonable practices to a minimum. Even if appropriate, the suggestion of a full assessment shortly after April 2009 is far too early, being only 2 month after go-live of the new switching/registry arrangements. A full assessment should not occur before 12 months have elapsed post 1 March 2009.
Nova Gas	Nova does not necessarily have a view on this question as it is based on the proposition that intervention or regulation of some kind is required and Nova Gas

[8] VENcorp presentation at the recent annual Gas Industry conference (Mighty River Power).

	disagrees with that. The only requirement for competition is efficient customer switching mechanisms on monopoly assets.
Q2: What comments do you have on the set of possible competition indicators described here?	
Wellington Community Law Centre	No comments.
EDNZ	Agrees with the competition indicators. A high number of switches may not be desirable. 'If there is a high degree of competition keeping retail prices low and gas retailers are providing good service to their customers, customers may be less inclined to switch.'
Powerco	Agrees that there is value in assessing the level of competitiveness in the wholesale and retail sector, but does not believe this is required for the distribution sector. 'This would duplicate the extensive work undertaken during the Commerce Commission's inquiry into Powerco's and Vector's gas services.' Powerco disagrees about reporting on the following distribution indicators: • the number of new connections; • the number of access disputes; and • the type of new products and evidence of innovation. Suggests that a rigorous cost-benefit analysis and strong justification for any additional information requests are needed. Also proposed some standard tools in economic theory to assess the level of competition: • Herfindahl-Hirschman Index (HHI); • Lerner Index; and • assessing barriers to entry, such as sunk costs, switching costs, restricted access to essential facilities and anti-competitive practices. These can be primary measures as they are directly related to the degree of competition. The types of indicators provided by the Allen Consulting Group then provide a secondary level to build onto this picture as some of them have a weaker casual link to the level of competition. It is unlikely that the benefits of regularly assessing competition in the distribution area will outweigh the costs. The Commerce Commission's review as part of its inquiry into Powerco and Vector's gas distribution services seems more efficient to use than attempt to replicate it.
Genesis	Distribution indicators would best be collected by the Commerce Commission and close co-operation is required to help avoid duplication. All indicators need to be justified in terms of adding value for consumers, especially for high-cost indicators. Intra-network variations in performance should be considered for distribution indicators rather than averages across each network, as averages can mask poor performance for customer subgroups. Customer switching is 'not a clear-cut indicator of competition'. 'Low churn may

	indicate a mature market with largely satisfied customers rather than poor competition.' The innovation indicator may not provide useful information because participants may be reluctant or unable to provide information, and a lack of new products could indicate a stable market with limited commercially viable opportunities for change, rather than a low level of competition.
Mighty River Power	Is pleased that upstream market indicators are included but notes that GMS indicators are not. Suggests a regional analysis of switching data to identify the reasons some areas are experiencing strong or weak competition.
Vector	Agrees that the Allen Report indicators provide some useful information but adds that they are incomplete. Vector believes that industry structure is the major determinant of market outcomes, including whether outcomes are consistent with competitive conditions, eg evidence of significant barriers of entry for new retailers would suggest that competitive outcomes are unlikely to prevail. Sound analysis of the market structure is needed for the interpretation of the indicators, eg it may not be economic in a small market, even if competitive, to contain many suppliers offering many products. Vector also cautions that a low switching rate would not be evidence of a lack of competition. Vector proposes that monitoring, including the analysis of the market structure, is best undertaken at regular intervals such as five-yearly, rather than on an ongoing basis.
Contact Energy	The proposed list of indicators is too exhaustive and Gas Industry Co should measure the time and expense involved in collecting data and whether it reveals any useful information. With regard to retail trading, Contact emphasises the small number of complaints received by EGCC. Counting the number of complaints is potentially misleading; their categorisation and their relative seriousness may be more useful. Contact wonders if the extra utility and satisfaction that customers gain from having both services provided by the same retailer should be assessed.
Nova Gas	Reiterate that this works on the assumption that the current market is uncompetitive which is inconsistent with our own retail experience and for which no evidence has been provided. Comments are provided on each of the following items in the matrix: exploration and processing, processing, transmission, wholesale trading, distribution, retail trading (industrial commercial and residential).
Q3: Is there any information or comment you can provide on current industry performance against these indicators?	
Wellington Community Law Centre	No.

EDNZ	Issues relating to gas switching:
	• Gas switches should be completed within six to eight weeks but they often take up to three months. Customers therefore sometimes cancel switches.
	• Notification of rejected switches is not received promptly.
	• 'Business customers do not always understand their contract terms, particularly those with the term roll-over clause', eg some customers entered into a contract with EDNZ as they thought their previous contract had expired, however, they were still under contract after the switch was requested.
	• EDNZ received numerous complaints from customers switching to it about the behaviour of the previous retailer, including:
	  • that the previous retailer has been harassing them to cancel the switch;
	  • that the previous retailer has provided incorrect information about EDNZ and the switch; and
	  • that the previous retailer has claimed it contacted the customer who then agreed to cancel the switch, although the customer claims had no contact with the previous retailer and wants to proceed with the switch.
	The majority of customer complaints relate to delays in switches, large first accounts covering several months, estimated accounts, and meter reading issues.

Powerco	Extensive work has been completed by the Commerce Commission[9] on the competitiveness of the gas distribution sector.
Genesis	In light of recent challenges (new regulatory developments, depletion of the Maui gas field, expiry of legacy contracts, diversification of gas production, regulation of pipeline businesses, climate change policy, and interfuel competition), Genesis considers that the industry is performing reasonably well.
Mighty River Power	No response.
Vector	Agrees that there has been relatively little growth in the direct consumer market, as opposed to active inter-fuel (electricity) and intra-fuel (LPG, both reticulated and bottled) competition.
Contact Energy	Is able to provide switching statistics where it has been a party to a customer switch. Distributors would be able to provide such statistics across all retailers.
Nova Gas	No comment
Q4: To what extent do you think that gas faces competition from other energy forms, and how would you characterise that?	
Wellington Community Law Centre	Other energy forms provide competition for gas. High costs are associated with installing gas and replacing appliances, the market for these appliances is limited, and it is questionable whether value is added to a property if gas is installed. When moving into properties where gas is already installed, not enough information is given by the landlords, therefore, gas appliances are used sparingly or replaced

[9] Commerce Commission, Authorisation for the Control of Supply of Natural Gas Distribution Services by Powerco Ltd and Vector Ltd, Draft Decision Paper, 4 October 2007. pp 32-50 (Powerco).

	with electricity appliances.

EDNZ	Customers who use gas for space heating in winter frequently request disconnection due to high daily charges. Price plans for six months are offered by EDNZ, 'but these charges are high as we (EDNZ) must recover network and metering charges which are charged to us for the whole year'.
	Main alternatives to gas are:
	• For domestic consumers:
	  o electricity;
	  o wood/pellet fires; and
	  o LPG.
	• For small business consumers:
	  o electricity;
	  o LPG; and
	  o diesel (customers are switching away from it to gas, due to its high costs).
	Reasons for increasing pressure from alternative energy sources:
	• heat pumps are promoted as a cost-effective choice for space heating;
	• wood burners are promoted as being carbon neutral and cost-effective for space heating; and
	• the price of gas is increasing due to numerous reasons (eg the gradual expiry of Maui gas contracts; gas is a fuel choice and an increase in fuel prices pushes up its price).

Rinnai New Zealand	All the major horizontally integrated energy retailers have an interest in both electricity retailing and thermal gas generation. 'Gas is a natural competitor to electricity in every domestic application and therefore there is no dedicated focus on attracting new gas customers.' Rinnai also believes that gas should be marketed in competition to electricity.
Powerco	The document referenced in Q3 also assesses the degree of interfuel competition. Pipeline gas faces competition from a number of other fuel sources. 'It is important to work across the whole gas sector to improve outcomes for small consumers as part of increasing the attractiveness of pipeline gas. This includes the whole supply chain, ie transmission, distribution, metering, gas technology procedures and production.'
Genesis	Competition from other energy forms provides a strong competitive discipline on the gas sector. With about 14 per cent of the residential customers that the electricity sector has, the gas sector is very small. Therefore, gas is not an 'essential' service but a fuel choice in New Zealand. Consequently, interfuel competition provides a strong constraint on pricing and upward pressure on service quality.
Mighty River Power	Believes that there is strong competitive pressure from alternative fuels; LPG, electricity and wood. Says that the number of heat pumps sold is expected to exceed 150,000 next year while disconnection from gas networks appears to be ongoing.

	Adds that electricity is an essential requirement for most homes, gas is a fuel choice and less than 44% of properties that have access to gas mains to take up a gas service.
Vector	Please refer to answer on Q3. Pipeline gas competes with bottled LPG, electricity, coal, wood, diesel and renewables. 'This competitive pressure should … provide enough incentive for retailers to improve their services to customers and thereby limit the need for a heavy-handed regulatory regime.'
Contact Energy	'Gas faces fierce competition from a number of other energy sources, the level of which really means that any attempt to characterise it is quite unnecessary'.
Nova Gas	Gas fuel faces increasing interfuel competition from LPG, electricity and solar hot water systems; and electricity heat pumps and solid fuel burning systems.
Q5: Would it be appropriate to include performance indicators relating to competition with other energy options, especially electricity? If so, what additional information would you suggest?	
Wellington Community Law Centre	No. Wellington Community Law Centre believes that it would not be appropriate to include these indicators as it may mean extra costs which are ultimately passed to consumers.
EDNZ	Agrees with the proposed performance indicators. Suggested additional indicators relating to inter-fuel competition: • the number of permanent disconnections; and • the number of new gas connections and conversions from other fuels to gas.
Powerco	Believes that performance indicators would be useful to help small consumers make informed decisions but emphasises that the work in this area must not duplicate existing initiatives (eg those provided by consumer.org.nz and GANZ). When comparing fuel sources, appliance efficiency and government subsidies for appliances and installation should be taken into account.
Genesis	The number of permanent gas disconnections would be a simple and low-cost indicator, but it would not reveal anything concrete about inter-fuel competition. Inter-fuel competition indicators could add value, eg the percentage improvement in connection timeframes for electricity and gas. However, there could be a number of underlying drivers to account for the differences between the sectors. It is not clear that Gas Industry Co could use its levy to recover costs of analysing the electricity sector in this way.
Mighty River Power	No response.
Vector	'Effective competition across the whole energy sector can enable consumers to choose between gas and other energy sources'. Customers' awareness of having a choice is important; information regarding energy efficiency of possible fuel choices needs to be clear and easily accessible to consumers.
Contact	Information about the cost-effectiveness of gas versus other energy options is

Energy	available on the GANZ website therefore it is questionable whether Gas Industry Co should also keep performance indicators.
Nova Gas	No, we do not believe that Gas Industry Co has a mandate to expend resources on interfuel competition.
Q6: Do you agree with the set of reasonable consumer expectations for the 'making a choice' phase? If not, what alternative consumer expectations would you propose?	
Wellington Community Law Centre	Yes.
EDNZ	**Meaningful choice, point 3** 'Once a customer has chosen their energy form and their supplier and entered into a contract, there will be a set term during which they cannot change their supplier or energy form without incurring a penalty. Once the contract term has passed they will again be able to freely change suppliers or energy forms.' **Connection and disconnection** EDNZ agrees that all of the points are reasonable.
LPG Association	**Connection and disconnection** LPG reticulated customers can always disconnect from the reticulated system and switch immediately to cylinders/tanks. The cost of doing so is minimal for domestic users.
Rinnai New Zealand	Agrees that the consumer expectations are reasonable.
Powerco	**Meaningful choice** The process of switching (with no (dis)connection) should be included. Keeping information up to date can be very expensive. The term 'good quality' should balance the benefit of up-to-date information with the cost of keeping information in 'real time'. **Connection and disconnection** Safety is also an important factor in disconnection.
Genesis	Agrees that the set of reasonable consumer expectations is appropriate for use as an initial screening tool to identify areas for further investigation.
Mighty River Power	No response.
Vector	Broadly agrees. 'Consumers need to be able to understand the benefits of gas in relation to other products in order to best determine which fuel complements their desired end uses'.
Contact Energy	Agrees with the expectation but questions whether further work is needed from Gas Industry Co. **Meaningful choice** 'Retailers offer a range of products and services for consumers to consider and make informed decisions about.'

	GANZ, Consumer NZ and EECA also provide readily accessible, good-quality, comprehensive and easy-to-understand information on gas options, possible gas suppliers and alternatives to gas. **Connection and disconnection** 'Connection to supply is safe, reliable and 'fit for purpose' and the connection process is timely and well-managed.' The Energy Safety Service and safeguards under the Consumer Guarantees Act 1993, overseen by the Ministry of Consumer Affairs, help to fulfil this expectation. Contact believes 'that the current arrangements for the termination of contract and supply disconnection are reasonable, and as far as they are aware, undertaken in a timely and well-managed manner where requested by the consumer.' Please also refer to response on Q7. Contact also requests that a cost-benefit analysis should be undertaken before any changes are made. It also should be shown that the current situation is not reasonable and fair for domestic and small business gas consumers.
Nova Gas	Surely the relevant area to be dealing with such issues is via the consumer legislation that applies to all parties within the New Zealand economy rather than a 'band aid': approach to the gas sector only. If the gas sector receives special treatment relative to other sectors then it will simply incentivise participants to move into other sectors of the economy resulting in less competition, higher costs etc
Q7: What comments do you have on the issues identified in meeting consumer expectations in the 'making a choice' phase?	
Wellington Community Law Centre	No comments.
EDNZ	Agrees with the 'institutional arrangements', the 'access to information to inform decision making', and with the 'connection and disconnection process'. Disagrees that the small size of the gas market in New Zealand is a barrier to competition. Agrees that distribution and metering arrangements should be considered. Additionally, wholesale and transmission arrangements should be considered too. EDNZ emphasises that it ensures that customers are promptly provided with any information that they require.
LPG Association	Believes that LPG customers are more involved in the choice of LPG, as their fuel choice is very much a lifestyle choice. The LPG Association also emphasises the small size of residential connections across all of the LPG reticulated systems (less than 3,000).
Rinnai New Zealand	Market structure is a constraint to competition in terms of new gas customers. 'The current gas retail environment is dominated by the 'horizontally' integrated energy retailers, with the exceptions being smaller or regionally focused small entities.' The major companies have interest in both electricity retailing and thermal gas generation, and, because electricity and gas are competitors in the energy market,

	there is no dedicated focus on attracting new gas customers.
Powerco	**Connection and disconnection** 'Safety is the most important priority.' **Distribution and metering arrangements** Powerco disagrees that there is little information available about the nature and efficiency of distribution or metering arrangements. The Commerce Commission has reviewed these arrangements. Availability of information: there are five metering options[10] available to retailers. 'While consumers have little knowledge or choice of their gas meter, retailers are able to choose their preferred GMS supplier…Competitiveness of metering is not a significant issue compared to other issues in the gas industry.'
Genesis	**Market size and structure** The consultation paper describes the lack of reticulated gas supply in the South Island as an externality (p58). Genesis also disagrees that the small size of the gas market is an externality. The size of the gas market is not *prima facie* an evidence of a market failure, it is a market characteristic reflecting the underlying drivers (low-cost electricity and firewood supplies, geographically isolated gas production). The current size of the gas market may be efficient. Retail market concentration does not automatically indicate a low level of competition. Vertical integration across competitive parts of the supply chain may be an efficient structure rather than a cause for concern. **Connection and disconnection** Please refer to response to Q10. **Distribution and metering arrangements** The electricity market experience[11] illustrates that the contestability for metering services is a valuable enabler of market-driven innovation in the field of advanced metering services. A cautious approach is needed to set aside the dynamic efficiency benefits of market-driven arrangements in pursuit of static consistency or efficiency.
Mighty River Power	**Connection and disconnection** Mighty River Power welcomes the raising of this issue and adds that retailers' disconnection and reconnection policies and prices for vacant properties are based on the requirements of the Gas Pipeline Business and GMS operators' contracts. When a property becomes vacant, retailers continue to pay fixed daily charges to the Gas Pipeline Business and GMS operators until such times as the supply is disconnected in line with GANZ Disconnection protocol. This amount ranges from 38.8-67.1 cents per day (incl. GST). In the absence of this cost, retailers would disconnect only for safety reasons, which would drastically reduce the number of physical disconnections and would also mean no reconnection charges when customers move in.

[10] Five metering options are available: Powerco, Contact Metering, Vector Metering, Wanganui Gas and Nova Gas (Powerco).
[11] Concept Consulting. 'Smart Metering in New Zealand: A report for the Parliamentary Commissioner for the Environment' June 2008. Section 4.1 (Genesis).

	Mighty River Power is of the opinion that these matters will require direct intervention by Gas Industry Co as they are driven by commercial and contractual obligations imposed on retailers by network and GMS operators.
Vector	Agrees with the issues, but does not agree with imposing costly regulations until other options are explored. Believes that existing measures are sufficient and should be explored before proposing further regulations. Vector also proposes that Gas Industry Co should work with existing legislation under the Commerce Act, Consumer Guarantees Act and Fair Trading Act to increase consumer awareness of their rights along with a retailer's responsibility to comply.
Contact Energy	**Market size and structure** For the comparative small size of the market, such a comprehensive monitoring framework in not necessary. The costs of any form of regulation would exceed the benefits that the small business or domestic consumer might gain. **Institutional arrangements** 'With the gas registry set to go live on 2 March 2009, Contact sees no need for further work in this area. Any remaining issues will likely be assessed when the gas registry is reviewed post implementation'. **Access to information to inform decision making** Contact sees value in a Consumer NZ 'Gas Price Calculator' available to all consumers, achieved by industry funding. Aside from this, GANZ and EECA provide information to assist with the decision-making of small business and domestic consumers. **Connection and disconnection** Contact is not aware of any issue regarding gas connections that would warrant rules or regulations. Contact is not aware of why Gas Industry Co's attempt to implement a pragmatic industry solution for vacant site disconnection proved unsuccessful. Currently, 'retailers are billed for network and metering charges for vacant energised ICPs or where an incoming owner or tenant has decided not to contact for gas supply and the site is left energised ('vacant sites').' This unnecessarily incentivises disconnections; if these costs are not recovered by the finalising customer, they 'flow to all customers yet they are largely avoidable if the industry (distributors, meter owners and retailers) would accept a degree of responsibility and pain'. Contact finds it difficult to understand why distributors and meter owners expect retailers to pay network and metering charges for vacant sites as this incentivises disconnections, despite rarely being a safety problem and vacant consumption risk can be managed at substantially less cost.
Nova Gas	Agree that the key driver for any customer is having 'meaningful choice' as GIC proposes. However, most of these items are already covered by existing arrangements. Concern expressed about statements on distribution and metering arrangements and evidenced of problematic relationships, which appear to be untrue.
Q8: 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?	

Wellington Community Law Centre	Yes.
EDNZ	Agrees with the expectations apart from that consumers should be readily able to choose their energy form and supplier and modify their choice, as explained in EDNZ's response to Q6.
Rinnai New Zealand	Agrees that better information is needed to allow informed choice. The structure of the gas retail market – as described in the answer on Q7 – is an 'impediment in the provision of that information.' 'The gas industry would prosper in an environment where gas is marketed in competition to electricity.'
Powerco	**Connection and disconnection** Disagrees with the proposed disconnection and connection regulatory solution because of safety reasons. Powerco emphasises that extensive work has been undertaken by the gas industry and GANZ to develop protocols around disconnection and reconnection processes focusing on safety. Disconnection must happen for safety reasons when a property is vacated. The proposed solution is for distributors to stop fixed line charges 14 days after the property is vacated. This action is a necessary cost of supplying gas, and retailers should manage this risk within gas contracts. The fixed line charge (10 cents per day for a gas customer using less than 15 GJ gas per year) also acts as an incentive for retailers to arrange for vacant properties to be disconnected. Powerco believes that this cost is small enough to be managed by retailers.
Genesis	Consumer choices about energy use extend beyond the choice of retailer and fuel type and include: decisions around comfort levels, appliance choices, tradeoffs between capital investment and running costs, and tradeoffs between utility and cost. This inherently makes it difficult for a single-fuel regulator to effectively provide balanced and complete information to consumers.
Mighty River Power	'As far as disconnections from the network are concerned, these issues will be resolved only if there is an alignment of network, GMS and retail contracts'.
Vector	There is not yet a strong case to intervene and Gas Industry Co should focus on improvements to existing measures (that are in its scope).
Contact Energy	Please refer to response to Q7. There are organisations and resources already catering to the consumer expectations of small businesses and domestic users, therefore Contact questions the need for an assessment by Gas Industry Co.
Nova Gas	Novas believes that significant choice does currently exist for customers and this combined with a robust switching process … will ensure the provision of competitively priced services. Nova agrees that the disconnection process needs revising, but not from the angle proposed by GIC. The key issue is network operators requiring retailers to pay for the 15 day stand down period before an ICP can be de-energised.
Q9: 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 have a role in its provision? If not, what alternative proposals would you suggest?	
Wellington Community Law Centre	Agrees that availability of information to inform consumer choice should be enhanced. Gas Industry Co should have this role in its provision. Many residential customers are unaware of Gas Industry Co and the work it does to help consumers. Retailers need to be made aware of the different types of residential consumers as they are very different when it comes to understanding the energy market. Gas should be marketed by a reliable and unbiased agent that consumers can trust.
EDNZ	Agrees that a central place where consumers can easily access information would be useful, possibly through the Gas Switch, if it was made available, or through Gas Industry Co's website. EDNZ however doubts that consumers want information on choosing a gas retailer from an independent source. EDNZ also suggests that guidelines on the types of information they should provide to customers would be useful, but it should ultimately be up to the retailer.
LPG Association	The Association does not believe that there is a need to regulate for consumer information.
Rinnai New Zealand	Agrees with Gas Industry Co's proposals.
Powerco	Collecting information can create a large additional cost for gas distribution companies. The vehicle used to convey information should be also carefully considered. This includes avoiding trying to compete with information sources that consumers may naturally turn to (eg consumer.org.nz rather than creating a separate gas site) and decentralising information (eg linking to information on gas companies' websites, rather than collecting and centralising information).
Genesis	Genesis Energy cautions that: • Providing information is not costless. Genesis refers to the costs of operating Powerswitch ($248,000 per annum). • Many factors influence a consumer's optimal choice, and parameters can change rapidly over time. The cost of making 'sub-optimal' choices is not always high. • Price is not the only factor, and for many customers, not the most important factor. Customer service, bill clarity, reward programmes and payment options are factors of similar importance.[12] • Regulatory intervention should be designed with care and not impair retail competition by lessening the scope for retailer differentiation through quality and accessibility of information – one of the ways that retailers seek to differentiate themselves. • Regulatory intervention can risk crowding out private sector enterprises that

[12] Genesis based this information on the results of surveys conducted through independent agencies to gauge the factors that influence customers' choice of energy supplier.

	provide consumers with expert advice on energy choices. Genesis would support the preparation of targeted reports or other information where there is a net public benefit in doing so and Gas Industry Co does not use levies to fund work outside its jurisdiction. Genesis believes that using a central place to make consumer information available might not be a cost-effective option or perform better than existing services (www.smarterhomes.org.nz, www.energywise.org.nz, local government programmes, BRANZ, private-sector enterprises). 'Any new initiative would be competing in an already crowded field in which brand cut-through is far from easy or low-cost'. Gas Industry Co should provide the Minister with information about any significant work that would occur as a matter of course.
Mighty River Power	Cautions to consider costs, eg operating the Powerswitch website costs approximately $250,000 per annum.
Vector	Agrees. A central agency is likely to be cheaper than every consumer collecting information themselves. Such a measure is to the benefit of the consumers, therefore the cost should be borne by them. Vector supports Gas Switch being made available to all consumers, not just subscribers, as well as the inclusion of gas on the Powerswitch website, as long as the costs of doing so are reasonable. Good examples are the 'Energy Comparator' service in Victoria and 'U-Switch' in the United Kingdom. Vector supports Gas Industry Co collaborating with other agencies to improve information on gas as an energy option and highlights the work of GANZ titled 'Key Positioning Messages for Gas as a Domestic Energy Source'; these messages are key for industry participants to understand that gas is not a complicated or confusing choice.
Contact Energy	Please refer to response to Q7. These proposals are unnecessary and would duplicate advice and information that is provided elsewhere.
Nova Gas	Where customers have a desire and incentive to do so they can easily switch. A low level of switching is generally indicative of customer apathy rather than inadequate competition. Nova does not agree with the need for any further information provision. Lack of use of Powerswitch does not support similar provisions for gas. Detailed comments are given on other aspects.
Q10: Do you agree with Gas Industry Co's preference for addressing (dis)connection issues via a regulatory approach? If not, what alternative proposal would you suggest?	
EDNZ, Genesis and Mighty River Power agree with the regulatory approach. Genesis cautions that regulatory intervention needs to start upstream in the contractual change ie in the network services first. Mighty River Power also points out that such regulation should include network and GMS operators as well as gas retailers. The Wellington Community Law Centre and LPG Association disagree, as they are concerned with consumers' costs of a regulatory solution. Wellington Community Law Centre believes that this issue should be addressed by the Switching Arrangements or the Code of Practice under the EGCC scheme. Rinnai New Zealand does not believe that the regulatory approach is a fundamental issue for consumers, but rather, the lack of competition with electricity. Powerco, Vector and Contact disagree.	

<table>
<tr><td colspan="2">Powerco emphasises that drivers in this area appear to be commercially driven rather than based on safety first (please refer to Powerco's answer on Q8). Vector states that a regulatory approach would be justified only after existing work streams are reviewed or fully operational, clear reasons are presented for the inability to agree on the issue, and other options are explored (GANZ protocols, EGCC Code of Practice). Vector believes that the GANZ protocol may require regulatory support and if the EGCC were to be approved by the Minister, all members would have to adopt these standards in order to comply with the code.</td></tr>
<tr><td>Wellington Community Law Centre</td><td>Disagrees. (Dis)connection issues should be addressed by the Switching Arrangements or the Code of Practice under the EGCC scheme. A regulatory approach may lack the sufficient disciplinary measures to adequately compensate consumers for any costs and stress incurred as a result of a (dis)connection issue.</td></tr>
<tr><td>EDNZ</td><td>Agrees that rules or regulations would be an appropriate way to resolve this issue, which has been outstanding for an extended period.</td></tr>
<tr><td>LPG Association</td><td>A major advantage for LPG reticulated customers is that they can always disconnect and switch to cylinders/tanks. The cost of doing so is minimal for domestic users. A regulatory approach would far outweigh the benefits and would increase consumer costs.</td></tr>
<tr><td>Rinnai New Zealand</td><td>Does not believe that the regulatory approach is the fundamental issue; the lack of competition with the electricity industry is. The primary choice that customers make is the electricity or gas choice, not which energy retailer they buy their gas from.</td></tr>
<tr><td>Powerco</td><td>Disagrees with the proposed regulations. Drivers in this area appear to be commercially directed rather than based on safety first. Please refer to Powerco's answer on Q8.</td></tr>
<tr><td>Genesis</td><td>The starting point for improving connection/disconnection practices should be altering network service agreements. Many terms in retail contracts flow from network service agreements, therefore, regulatory intervention needs to start 'upstream' in the contractual chain. There should be stronger presumption in favour of regulating networks rather than competitive parts of the sector. For retail, there should be a presumption in favour of competition as the primary vehicle for delivering good consumer outcomes. Regulation may be necessary to effect changes to network service agreements.</td></tr>
<tr><td>Mighty River Power</td><td>'For disconnections, yes: however, such regulations have to include the network and GMS operators as well as the gas retailers'.</td></tr>
<tr><td>Vector</td><td>Regulatory approach would be justified only after:
• Existing work streams to be either reviewed or implemented and made fully operational;
• Clear reasons are presented for the inability to agree on the issue; and
• Other options are explored (GANZ protocols, EGCC Code of Practice).
'Previous problems cited by Gas Industry Co's (dis)connection working group pointed out that regulation for these processes were warranted due to inadequate data availability, gas connection difficulties, and switching difficulties'.
Vector considers the metering issues to match the aims of the Gas Registry and Switching Rules; it would not support a regulatory solution prior to the impacts of the</td></tr>
</table>

	registry being fully realised, or a robust case being made. Vector agrees that there are reasons for the inability to agree on the issue, a 'one size fits all approach may not ever work' for retailers, distributors and meter owners. It also emphasises the importance of flexibility, otherwise companies could risk taking on new, unrecoverable costs. It points out that the (dis)connection process may not be an issue of competition but that 'individuals are failing to comply with an industry protocol designed to protect the safety of the public'. Vector also emphasises the importance of the work done by GANZ and EGCC. 'GANZ has developed a robust protocol for connection, reconnection and disconnection standards' and the 'EGCC Code of Practice includes a very good best practice approach to consumer (dis)connection'. It believes that the GANZ protocol may require regulatory support, and if the EGCC were to be approved by the Minister, all members would have to adopt these standards in order to comply with the code.
Contact Energy	Disagrees with the regulatory approach and hopes that some further tweaking of the proposed solution would avoid regulation. Please also refer to response to Q7.
Nova Gas	No comment on whether a regulatory approach is preferred. The only flaw in existing arrangements is requirement that retailers pay the costs of the first 15 days of disconnection.
Q11: What other initiatives would you propose to address issues with meeting consumer expectations in the 'making a choice' phase?	
Wellington Community Law Centre	None.
EDNZ	'Having a central place where consumers can go to find out who the gas retailers in their region are and their contact details would be useful'.
Powerco	No comment.
Genesis	'Patchy performance by network businesses in providing new connections could be an area worth considering'. However, interfuel competition and expanded regulation of gas pipeline businesses under the recently amended Commerce Act may also help to improve performance.
Mighty River Power	No response.
Vector	Please refer to response to Q9.
Contact Energy	'We see value in the Consumer NZ 'Gas Price Calculator' being made available to all consumers in the same way Powerswitch currently is, ie by industry or regulator funding'.
Nova Gas	Nova does not agree that mandating arrangement is necessary where the market is properly regulated via consumer laws that apply to all industries.
Q12: Do you agree with the set of reasonable consumer expectations for the 'business as usual' phase? If not, what alternative consumer expectations would you propose?	
Wellington Community	Yes.

Law Centre	
EDNZ	Agrees, with the following exceptions: • *Costs, point 10*. The customer wants a price that is fair and reasonable but disagrees that customers want a gas price that is reflective of the cost of the supply, eg take or pay conditions in wholesale gas contracts and capacity reservation overruns in transmission contracts could not be passed on customers. • *Treatment by supplier, point 15* should be modified the following way: 'The retailer should **assist** the customer to obtain answers to all of their queries, and should be able to answer any contracting or billing queries directly'. • *Treatment by supplier, point 16* should be altered subsequently: 'There are certain situations where it is both necessary and appropriate to terminate the gas supply without reasonable notice, but in all other situations, such as disconnection for non payment, the retailer must provide reasonable notice to the customer'.
Powerco	**Treatment by supplier, point 16** The following situations should also be covered: • When retailers have to cut supply under the Gas Regulations 1993 26 (3) • When distributors have to stop the gas supply under section 7 of the Gas Regulations 1993 for safety purposes or to preserve the network. Through its Use of System Agreements, a distributor can require a retailer to shed load. The proposed critical contingency regulations will not apply for most of these cases and so there is no prevention of load shedding for small consumers. The abolishment of the National Gas Outage Contingency Plan (NGOCP) in the proposed critical contingency regulations will mean the bands of load shedding will no longer exist, and consumers can be shed in any order required by the distributor.
Genesis	**Costs, point 11** Should be changed to 'the supplier does not impose ~~additional or~~ unexpected costs on the consumer'. 'There may be legitimate reasons for additional costs to be passed through to consumers and provided these are clearly communicated to consumers when they sign up, this shouldn't be considered unreasonable'. **Billing and payment, point 13** There are limits as to how far this point should be taken. 'Excessively generous payment arrangements are ultimately cross-subsidised by consumers who pay their invoices on time'.
Mighty River Power	**Contractual terms and conditions** There is a complexity around the interrelationships throughout the gas supply chain (eg statutory rights of access that network operators have to their equipment) which have to be reflected in the final contracts between the retailers and the customers. If any changes take place, Gas Industry Co should align contractual rights and obligations down the gas supply.

	Costs, point 10 The term 'fair and reasonable' is subjective and relative. Customer prices are determined by the market with monopoly pricing applying throughout the supply chain for the delivery of the gas.
Vector	Agrees that the proposed set of expectations is a fair set of guidelines.
Contact Energy	Agrees with the expectation but questions whether further work is needed from Gas Industry Co to deliver them. Many of these expectations are codified by the EGCC Consumer Code of Practice of which Contact is supportive. The reference point for gas customer expectations could be a guideline set by Gas Industry Co based on the existing EGCC Gas Consumer Code of Practice. Contact also requests that cost-benefit analysis should be undertaken prior to any changes, and it should also be demonstrated that the current situation is not reasonable and fair for domestic and small business gas consumers. **Gas supply and related services** Point 6 is covered by organisations like the Energy Safety Service and the Ministry of Consumer Affairs. Further, consumers have rights under the Consumer Guarantees Act 1993. Any consumer dissatisfaction can be solved by the gas retailer's internal customer resolution service or by the EGCC. The latter has been effectively resolving disputes for consumers for some time. Contact is strongly supportive of the EGCC Consumer Code of Practice.
Nova Gas	Nova provide detailed comments on each of gas supply and related services, contractual terms and conditions, costs, billing and payment and treatment by the supplier. The general response is that the criteria are redundant as they are already covered by existing statutory and other arrangements.
Q13: What comments do you have on the issues identified in meeting consumer expectations in the 'business as usual' phase?	
Wellington Community Law Centre	None.
EDNZ	Agrees with the following points: Balance between interest of parties; Complexity of contract terms; Contract formation and change practices; Distribution and metering arrangements; and Customer service and enquiries. The following changes are suggested: • Connection and disconnection costs are imposed by the network and metering operators, therefore, any proposed changes to these costs should consider charges under network and metering agreements. • Customers are able to switch to another retailer at any time they wish, but if they choose to do so within the contract's minimum term, penalties will be applied. • Minimum terms and conditions that allow the retailer to personalise the agreement and ensure that it complies with their own supplier arrangements would be preferred.
LPG Association	Is not aware of any shortcomings in its customer terms and conditions.

Powerco	**Costs** Powerco believes that both metering and connection/disconnection charges reflect supply costs. Early terminations of supply should not be stopped, but end consumers must understand that this may incur a cost in some contracts. Gas Industry Co needs to ensure that this cost is reasonable and does not prohibit consumers from switching retailers. Disconnection/reconnection costs may seem expensive to consumers, but this is due to the high safety standards which can not be compromised. Another issue between the retailer and the consumer is the cost of the gas fitter supplying a certificate of compliance.
Genesis	Please refer to response on Q14 below.
Mighty River Power	Disagrees that there is proof of an inappropriate balance between retailers and their customers. Mighty River Power also notes that a clear majority of retailers are members of the EGCC scheme.
Vector	Disagrees that there is evidence of an inappropriate balance between the interests of the consumer and those of the retailer. Vector also disagrees that retailers do not have a choice about which distributor or meter owner they use.[13] Vector questions Gas Industry Co's claim that it has a role to play in respect of some aspects of consumer expectation on costs; it believes that influencing price is within the jurisdictional power of the Commerce Commission.
Contact Energy	Please refer to answer on Q12. Contact requests that a cost-benefit analysis should be undertaken prior to any changes and it also should be demonstrated that the current situation is not reasonable and fair for domestic and small business gas consumers.
Nova Gas	In a competitive market, balance of interests is not an issue as consumers have a choice of supplier and the ability to negotiate terms and conditions with multiple suppliers. The issue of unequal bargaining power is overstated. Consumers have protection under the Fair Trading Act if they are misled on contractual conditions.
Q14: 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?	
Wellington Community Law Centre	Yes.
EDNZ	Agrees with the assessment against consumer expectations of the 'business as usual' phase.
Powerco	**Costs, billing and payment** 'Metering and connection/disconnection charges reflect the cost of business'. Metering issues do not require further consideration as part of a separate

[13] Vector mentions the following GMS services: AMS, Contact Metering, Powerco and Nova.

	work stream.
Genesis	That consumers can choose their gas retailer mitigates most of the issues identified (ie the balance between interests of parties); it also means that any given retailer cannot hold its customers captive to unreasonable terms and conditions. Consumer choice extends to choosing between a retailer that is a member of the EGCC scheme and one that isn't. Codes of practice under the scheme deal directly with most of the issues identified. 'Retailers' responsibility to explain contractual terms and conditions in simple terms needs to be balanced against consumers' responsibility to understand any contractual obligations that they take on'. Genesis also suggests that 'as work progresses into the 'problem definition' and 'options development' stages, it would be appropriate to focus on specific problems and to develop evidence that is more robust where possible'. This would ensure that regulatory interventions achieve their objectives. Genesis also cautions that GPS objectives and outcomes should influence Gas Industry Co's priority setting and policies, but that it should not override its statutory obligation to analyse the benefits and costs. It prefers non-regulatory means if reasonably feasible.
Mighty River Power	Argues that determining who is responsible for which part of the supply chain can be difficult to establish. In addition, customers have to accept responsibility for their own installation.
Vector	**Contractual terms and conditions** Vector does not support Gas industry Co's following claim: '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'.
Contact Energy	Disagrees with a number of issues. Contact requests that a cost-benefit analysis should be undertaken prior to any changes, and that it also should be demonstrated that the current situation is not reasonable and fair for domestic and small business gas consumers. **Billing and payment** Contact is not aware of an unreasonable number of billing and payment problems. It also notes that, according to the EGCC Commissioner, gas and dual fuel complaints remain a small proportion of total electricity and gas complaints. **Distribution and metering arrangements** Contact is not aware of an unreasonable number of metering problems, saying that such problems occur with larger consumers. **Contractual terms and conditions** Contact is not aware of any significant issues with the complexity of terms, or what model retail contract terms would resolve. It also considers that the case for regulated minimum terms and conditions is weak.
Nova Gas	On gas supply and related services Nova disagrees that it would be appropriate to regulate for minimum service levels. Nova Gas disagrees with Gas Industry Co's assessment on contractual terms and

	conditions. No analysis or evidence is provided that support the position that competition is not delivering effective price/quality outcomes for consumers which seems to be the starting position of the assessment. Nova does not agree that regulated minimum terms are required given the evidence provided.
Q15: 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?	
Wellington Community Law Centre	Agrees. Please also refer to answer on Q10.
EDNZ	Yes. Though EDNZ would be happy to comply with voluntary guidelines, it agrees that regulated minimum terms and conditions are the only way to ensure that all retailers comply. EDNZ would prefer minimum terms and conditions to model contracts.
LPG Association	Disagrees that it is necessary to regulate this issue. It would only increase consumer costs for these niche markets.
Powerco	No comment.
Genesis	Disagrees at this stage. The focus should be on network service arrangements first, with terms and conditions between retailers and consumers to follow. Gas Industry Co and the Electricity Commission are currently deciding about the complaints resolution scheme. 'If the regulators settle on the status quo, then consumers will retain the option of choosing a retailer that participates in a complaints resolution scheme'. Protecting domestic and small business consumers would come at some cost for all gas consumers. Moving to a semi-regulated contracting environment is not without cost. Imperfect regulation can limit innovation, create unnecessary costs or have unintended consequences.
Mighty River Power	Disagrees. Mighty River Power says that if its contractual arrangements were not fair and reasonable, customers would be unlikely to switch/stay with it. Mighty River Power also notes that the Electricity Commission has not had to rely on regulated contract disclosure to monitor compliance; rather, it has simply written to the relevant parties seeking details of their compliance and any reasons for non-compliance. If they do not respond, there are reasons for presuming a mandatory approach. If Gas Industry Co does not consider this to be sufficient, Mighty River Power would not object to the introduction of regulated compliance monitoring requirements, however, it does not believe that the regulatory application has been made. If Gas Industry Co pursues a regulatory approach, the application should include network and GMS operators, retailers and consumers simultaneously (Gas Industry Co has not included GMS operators). 'Mighty River Power believes Gas Industry Co should: A. Introduce mandatory model terms and conditions for gas pipeline access, with variation only allowed if the gas retailers agreed. B. Apply Model Contract Guidelines and not introduce Model Contract terms and

	conditions. C. Move to ensure only one regulatory body is responsible for setting minimum contractual standards for gas services, rather than both Gas Industry Co and EGCC as at present. D. Work with the Electricity Commission to see if the electricity and Gas Model Contract Guidelines could be merged. E. Monitor compliance with the Model Contract Guidelines, including the reasons for any non-compliance; and F. Establish a framework (a set of tests) for determining whether voluntary Guidelines or mandatory rules and regulations are more appropriate.'
Vector	Agrees that a central agency setting some contractual standards is more cost-efficient then individuals trying to assess the completeness of contracts themselves, however 'a code or minimum contract terms approach based mainly on disclosure would be preferable'. The benefits of adopting the EGCC scheme would be immediate adoption, a good level of consumer protection, limits in duplication and overall costs, and the ability to further develop with industry input. Published information disclosure on the extent to which each member is compliant with the code would also be beneficial. EGCC should have a dual role: rule maker and rule enforcer. 'Vector does not see the need to create more work in this area, as the code supplies sufficient terms and conditions for the supply of gas to domestic consumers. Therefore, Vector does not agree with adopting another approach'.
Contact Energy	Disagrees. The case for regulated minimum terms and conditions is weak. Contact requests that cost-benefit analysis should be undertaken and the status quo be proven unreasonable and unfair before any regulated terms and conditions are implemented.
Nova Gas	Disagrees. GIC should instead direct its attention to areas of the industry where effort is required to improve competition and reduce barriers to entry.
Q16: In contrast to Gas Industry Co's preferred approach, what comments do you have on the Draft Model Contract Guidelines (published in late 2005) attached as Appendix E to the Discussion Paper?	
Wellington Community Law Centre	The Model Contract should state that the retailer has an obligation to provide a good and consistent standard of gas on continuing basis.
EDNZ	Agrees that the minimum terms and conditions are reasonable. 'Minimum terms should be able to be tailored to cover gas and electricity, domestic and business customers'. Minimum terms and conditions that allow the retailer to personalise the agreement and ensure that it complies with their own supplier arrangements would be preferred.
Powerco	No comment.
Genesis	Guidelines developed for voluntary adoption will not automatically be appropriate for use as regulated minimum terms. It's preliminary comments are:

	• Terms such as 'service standards must comply with the Gas Act 1992' should be avoided. They do not create value but add the need for revision, and cannot cover all of the regulatory obligations on retail contracts. • The term 'good industry practice prevailing in New Zealand' refers to non-measurable and highly subjective standards. • Prescriptive requirements around notifying and explaining price increases could hinder development of dynamic pricing products based on advanced metering. • Stating the physical point at which a customer's responsibility begins may not be straightforward as it varies for customers. • Contractual terms and conditions, point 8 is unworkable in practice for dual fuel customers, as it is not possible to separate the electricity and gas portions of an invoice in the case of non-payment. • 'Unless the EGCC scheme becomes approved, it would not be appropriate for regulations to require retailers to include information on the EGCC in their contracts given that the market is open to competing complaints resolution schemes.'
Mighty River Power	Agrees with Gas Industry Co's voluntary Model Contract Guidelines as long as they remain voluntary and are not converted into Model Contract terms and conditions.
Vector	Supports the EGCC Code of Practice, as, in Vector's view, it has clear benefits to consumers including a timeframe in which responses will be dealt with; a notice to consumers when a change in price or service occurs, and that it is active and well presented across the industry. The specificity in the Code is more beneficial to consumers. 'The EGCC is Vector's preferred complaints resolution scheme, albeit with some issues to be resolved including cost effectiveness, and if chosen as the approved scheme, the code will become mandatory for the whole industry.' Vector also adds that there should be a clear distinction between code development and compliance.
Contact Energy	Sees this as an unnecessary step. 'Contact is supportive of a single reference point of expectations (similar to the EGCC Gas Consumer Code of Practice) set in guidelines together with a compliance disclosure statement by participants, and for compliance to be incentivised by the threat of regulation'.
Nova Gas	They should remain as model guidelines only.
Q17: What other initiatives would you propose to address issues with meeting consumer expectations in the 'business as usual' phase?	
Wellington	None.

Community Law Centre	
EDNZ	The 'business as usual' phase is adequately covered.
Powerco	No comment.
Genesis	Gas Industry Co should progress its work on network service agreements ahead of any work on retail contracts.
Vector	Considers that it may be inefficient to have a regulated solution in place. 'Vector would expect considerably more substantive work to be carried out for the Minister prior to any decision to increase regulation in gas retailing… this work is more suitably within the jurisdiction of MED or the Commerce Commission'.
Contact Energy	No further comments.
Nova Gas	No comment.
Q18: 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?	
Wellington Community Law Centre	Yes.
EDNZ	Agrees that the consumer expectations for the 'dealing with problems' phase are reasonable.
Powerco	The expectations align with Powerco's approach to complaints resolution.
Genesis	Agrees; they are appropriate for use as an initial screening tool to identify areas for further investigation.
Mighty River Power	Yes.
Vector	Agrees that the expectations are appropriate.
Contact Energy	Agrees that the expectations are reasonable. Contact also points out that the EGCC and internal complaints resolution scheme is easily accessible from its webpage. 'We urge the GIC and the Electricity Commission ('EC') to choose the EGCC as the preferred scheme for the joint consumer complaints resolution system. We believe that the EGCC has been effectively resolving customer complaints for some time and we see no need to move away from it or its established processes'.
Nova Gas	Agree with the proposed set of expectations.
Q19: What comments do you have on the issues identified in meeting consumer expectations in the 'dealing with problems' phase?	
Wellington Community Law Centre	No comments.
EDNZ	Agrees that a single complaints scheme that covers electricity and gas and that all retailers must be members of is preferable.

	Also agrees that information must be provided by both the retailer and consumer so that complaints can be resolved.
Powerco	Gas Industry Co suggested a role for consumer advocates in the complaints resolution process. Powerco believes that the Electricity and Gas Complaints Commission provides an excellent forum to support small consumers. 'If the GIC wishes to consider introducing consumer advocates, quantitative evidence of the issue should be provided'.
Genesis	Argues that most energy retailers have an incentive to retain individual customers, while network companies have less reason to be wary of reputation risk since they operate in a less competitive market.
Mighty River Power	'Any complaints resolution scheme must be fair and equitable for all parties'.
Vector	Agrees that a single consumer complaints scheme would be beneficial for both electricity and gas consumers and that information should be readily available to consumers on accessing this information. Gas Industry Co should explore collaboration with other organisations.
Contact Energy	The existing EGCC is an effective resolution scheme, and should be chosen as the preferred joint scheme by Gas Industry Co and the Electricity Commission. Information is already readily accessible for consumers about how to resolve a complaint, either through an internal process or externally through the EGCC. Cost-benefit analysis should be undertaken and the status quo be proven unreasonable and unfair before any major changes are made.
Nova Gas	We disagree that 'it is arguable whether effective competition is an appropriate vehicle for delivering good contracting outcomes'. No evidence is provided on this. Also disagree with comments made on the limitations of switching as a remedy. Retailers have sufficient incentives to ensure they respond to customer complaints effectively or risk losing customers.
Q20: 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?	
Wellington Community Law Centre	Yes.
EDNZ	Agrees with the assessment against consumer expectations for the dealing with problems phase.
Powerco	Agrees. Powerco also mentions that it stated in its submission to the Electricity and Gas Complaints Commission in August 2008 that it supported the existing scheme saying it would be more efficient to adapt it than to establish a new one through rules and regulations.
Genesis	Disagrees, because • Gas Industry Co should be wary of 'manufacturing complaints'; and • the Consumers Advice Bureaux, the Community Law Centre and the Commerce Commission's fair trade branch already provide consumers with help in identifying whether they have a complaint.

Mighty River Power	'Yes, so long as the process is even handed'.
Vector	Agrees and supports the progression of the identified initiatives.
Contact Energy	Please refer to Q18 and Q19.
Nova Gas	Disagree with assessment. Assessment that approval of a mandatory joint electricity and gas complaints scheme is appropriate is fundamentally flawed because it reduces competition and increases costs.
Q21: In addition to Gas Industry Co's participation in the Joint Gas Industry Electricity Commission Project, do you consider there are further initiatives Gas Industry Co should pursue relating to complaints resolution?	
Wellington Community Law Centre	The EGCC regime is an industry scheme and consumers are funding it. The joint Gas Industry Co and Electricity Commission project is commended. However, expectations should be kept at a realistic level to maintain costs and encourage industry cooperation so that the end result is not to the detriment of consumers.
EDNZ	'Supplying information relating to a customer's complaint could be made mandatory as a condition of membership to the complaints scheme'.
LPG Association	Consumer complaints are adequately handled under current company arrangements and there is no need to include the small number of LPG reticulated consumers in a national gas/electricity system. 'The majority of domestic consumers are supplied through sub-division-sized reticulated networks in the South Island. The costs of bringing these limited schemes under a regulatory and complaints process would far outweigh the benefits, and would simply add unnecessary bureaucratic costs to such projects'.
Powerco	No comment.
Genesis	No.
Mighty River Power	No.
Vector	Supports a single complaints resolution scheme (EGCC scheme). EGCC is currently working on improvements to the scheme to ensure it is efficient at resolving complaints. Once this scheme is gazetted, Gas Industry Co should work together with other organisations to help consumers understand the process, eg through a nationwide public awareness campaign.
Contact Energy	Considers that participation in the joint scheme is sufficient.
Nova Gas	No
Q22: Do you agree with Gas Industry Co's proposed initiatives to enhance information provision to support complaint identification and resolution? If so, what information would you consider would be most useful?	

Wellington Community Law Centre	Yes.
EDNZ	Agrees.
LPG Association	Please refer to answer Q21.
Powerco	Believes that it already provides the information required by complainants and that consequently, there is no need for this.
Genesis	No. As per Q19 and Q20, this has the feel of a solution looking for a problem.
Mighty River Power	No. Gas businesses that are members of a complaints resolution scheme should make information on the scheme available to their customers, including when a complaint has arisen.
Vector	Please refer to answer to Q21. Vector also emphasises that a nationwide public awareness campaign could increase consumer awareness about the benefits of gas and its efficiency when compared to other fuels.
Contact Energy	Disagrees. 'The information already provided to consumers is sufficient.'
Nova Gas	No
Q23: What other initiatives would you propose to address issues with meeting consumer expectations in the 'dealing with problems' phase?	
Wellington Community Law Centre	None.
EDNZ	The phase is adequately covered.
Powerco	No comment.
Genesis	None.
Mighty River Power	None.
Vector	No further comment.
Contact Energy	None.
Nova Gas	None
Other comments from submitters	
Wellington Community Law Centre	Reticulated gas as an energy source has become increasingly expensive, and the benefits of using gas instead of electricity are diminishing. Most of the submitter's clients live in rental accommodation and their energy source is dictated by what is installed in the properties. If gas is installed they are required to pay the gas retailer and the electricity retailer separately. Wellington Community Law Centre believes that no matter what energy source a consumer is left with, they should be able to rely on a safe and reliable supply.

	Consumers have little bargaining power in this arena and therefore need the government and its agents to promote and lobby for their interests but this should not be to their detriment by way of increased costs.
EDNZ	Noted that there is a focus in the consultation paper on ensuring that network, metering and retail contracts are aligned. EDNZ believes it is essential to also consider wholesale and transmission agreements. Wholesale and transmission contracts contain a number of terms and conditions that cannot be passed on to domestic and small business customers, including take or pay commitments and capacity reservation overruns, which affect competition. EDNZ believes that it would be appropriate to consider these arrangements alongside the distribution and metering agreements.
Powerco	'Consumer expectations should be aspirations rather than targets.' Making these a set of explicit targets would be unrealistic and raise consumer expectations. The distributor, rather than Energy Safety is responsible for the safety of a disconnection. Energy Safety has responsibility for policing the regulations around gas safety (eigth bullet point on page 57). The consultation paper states that local councils are a key party as they issue resource consents for gas pipelines. Gas distribution does not (typically) require resource consent from any territorial local authority, reducing the interactions with local councils (last bullet point on page 57). The meter owner and supplier of a meter reading are also key parties (page 67 under 'Key Parties').
Genesis	Gas Industry Co should not develop a set of regulated minimum terms and conditions for retail contracts. The 'reasonable expectations' methodology is a useful way for screening issues. It needs to be followed up with further work to progress to well-defined problems; develop robust supporting evidence and a range of options for addressing problems; and analyse the costs and benefits of any promising options. This is a statutory requirement. Genesis also prepared an analysis of governance arrangements and attached it to its submission. Suggestions for further work on minimum terms and conditions: • Addressing any deficiencies in network service agreements before moving to address retail contracts; • There should be a stronger presumption in favour of regulating natural monopolies over competitive-sector firms; • Intervening to set minimum terms may convert a risk of market failure into a risk of regulatory failure; and • Imbalances in bargaining power between retailers and consumers shouldn't be overstated. Regarding the uncertainty of the outcome of the complaint resolution scheme it would be premature to regulate retail terms and conditions within the next 12 months. If Gas Industry Co is to progress work on the information availability to consumers, it

	should keep it in mind that: • regulatory approach might not be better or more cost-effective than a market driven approach; • there are a range of information services already available; • the cost of sub-optimal decisions may be outweighed by the cost of providing improved information in some cases; and • reputation risk and competition to gain customers motivate retailers to meet customer information needs.
Mighty River Power	Regulatory focus should be on the (natural monopoly) distribution/transmission part of the industry rather than on the competitive retail sector. Regulation of network access arrangements (including terms and conditions) of gas distributors should be given a higher priority by Gas Industry Co than domestic and small business customer Model Contract Guidelines. Fuel substitutability and competition can and should be relied on to discipline gas retailers' practices. Domestic and small business consumers have discretion as to whether they use gas rather than electricity. Mercury Energy has no gas incumbency as it only started its gas retailing operations in 2003/04. Mighty River Power does not believe that Gas Industry Co has demonstrated that current practices fall short of reasonable consumer expectations and/or are unfair. The number of gas complaints received by the EGCC is substantially lower than for electricity, even when adjusted to reflect the size of the market. Mighty River Power also questions whether consumer forums genuinely represent the views and interest of residential and small business customers. Mighty River Power does not see the merit in Gas Industry Co developing model contract terms and conditions in addition to the Model Contract Guidelines. If there is not enough specificity in the existing guidelines, Gas Industry Co could simply make them more prescriptive (eg by adopting clause CA10.1 of the EGCC Gas Consumer Code of Practice which prescribes that this period is no less than 30 days). Mighty River Power specified the outcomes they believe are appropriate in their submission (section 2.1). Mighty River Power further describes a number of issues in its submission: • The inappropriateness of wording voluntary Guidelines with 'must' rather than 'should' (section 4.1). • Duplication of responsibilities with the EGCC and its Consumer Code of Practice (section 6.1). • Problems can arise if Gas Industry Co and the Electricity Commission's Model Contract arrangements conflict, particularly for gas-electricity retailers wanting to offer domestic customers a single set of terms and conditions for both gas and electricity (section 6.2). • The tests Mighty River Power recommends be used to determine whether voluntary or mandatory regulatory arrangements should be put in place are equally relevant to Gas Industry Co and the Electricity Commission.
Vector	Gas Industry Co needs to be more specific in identifying and quantifying problems.

	Vector agrees that consumers are likely to suffer from a degree of information asymmetry and be in a relatively weak negotiating position. Vector considers that Gas Industry Co should build on the existing and planned policies to address this issue rather than creating new work streams. The proposed competition assessment needs greater clarity: market definition, market competition level, and inter-fuel competition issues have not been adequately considered. Expensive ongoing monitoring could duplicate the roles of other competition regulatory bodies (Vector points out that all gas pipelines will be subject to price control from 2010 under the Commerce Act). Vector recommends the following steps be taken before additional work streams are introduced in this area: • existing work streams reviewed or implemented and fully operational; • assessment of retail competition at an appropriate time; • adequate mechanisms exist to address market failures; • once the need for intervention is established, all solutions are identified; • cost-benefit analyses; and • selection of the option with the greatest net benefit. **Consideration of issues related to market failure** Vector says that market failures exist even in a fully competitive market, and no case has been made for significant additional intervention or new work streams. Only low-cost targeted measures are justified to protect consumers. In the case of intervention, Vector considers that three policy areas have the potential to improve the overall effectiveness of the gas industry by lowering costs that consumers face: • information disclosure; • minimum contents requirements for contracts; and • a low-cost complaints resolution scheme. Future work needs to be focused on developing the existing mechanisms; if these are shown to be inadequate, all other options should be considered when considering a new mechanism. **How to proceed?** Vector suggests Gas Industry Co consider the work done by the following organisations: • The Ministry of Consumer Affairs o Consumer.org o Gas Switch • Gas Association of New Zealand (GANZ) o Disconnection and reconnection protocol

	o Benefits of the Direct Use of Gas • Electricity and Gas Complaints Commission (EGCC) o Complaints Resolution Scheme o Code of Practice A good level of information disclosure and a low-cost complaints resolution scheme would adequately resolve any issue and the lack of consumers' bargaining power. Expanding Powerswitch to cover all energy consumers would be an improvement (similar to the Victorian 'Energy Comparator' and 'U-Switch' in the UK). Vector supports Gas Industry Co in making the EGCC scheme mandatory. **Assessment of competition, performance indicators** Vector is concerned that this would duplicate regulatory functions. The costs of any additional functions need to outweigh the benefits. Identifying cost-effective solutions to improving competition and bringing long-term benefit to gas consumers would be more effective. In Vector's view, the focus when collecting information to assess competition should be on the following issues: • wholesale market, including balancing and reconciliation arrangements; • ease of access to essential infrastructure; • effectiveness of switching arrangements; and • consumers' access to low-cost information. Many of the Allen Report's indicators fall outside the core functions of Gas Industry Co, eg to monitor collusion and exclusive dealing. Careful analysis of their role (and jurisdiction) should be undertaken vis-à-vis other regulators and agencies in determining what competition indicators Gas Industry Co should report on. The broader energy context should also be taken into account as the market is dominated by electricity.
Contact Energy	Gas Industry Co needs to carefully weigh up the cost and time involved to implement the initiatives proposed against any benefits that customers could potentially gain. Any substantial changes away from the status quo should be implemented only if it can be demonstrated that the current situation is not meeting the expectations of small business and domestic consumers, and is demonstrably unreasonable and unfair. Contact expects Gas Industry Co to adopt a pragmatic approach and to not pursue changes simply to comply with the letter of the GPS. Existing available information should not be duplicated. If Gas Industry Co considers that the information available from other sources is deficient in some way, Contact would prefer that the existing resources are improved upon rather than new resources created.