



**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

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Working Party No. 2 on Competition and Regulation

ABUSE OF COLLECTIVE DOMINANCE

-- Presentation by Markus Lindner --

14 June 2010

The attached document is submitted to Working Party No. 2 of the Competition Committee FOR DISCUSSION under item III of the agenda at its meeting on 14 June 2010.

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Slide 1

OECD 45th Meeting of Working Party No. 2 on Competition and Regulation
Paris, 14th June 2010

Markus Lindner

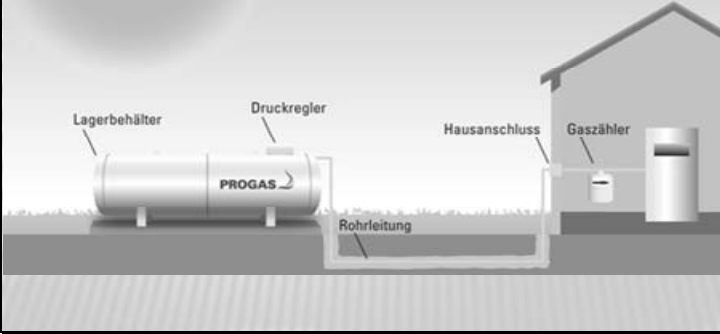
ABUSE OF COLLECTIVE DOMINANCE

Slide 2

CASE INTRODUCTION ₂

× **Market Definition**

- + National Distribution of Liquefied Petroleum Gas ("LPG") for tanks



Slide 3

CASE INTRODUCTION ₃

- × **Collective Dominance**
 - + The 5 major enterprises are collectively dominant
 - + Type 2 of collective dominance: "Interdependence by Customer Division"
- × **Exclusionary Abuse**
 - + Tying Contract: Tank Ownership with Exclusive Purchasing Obligation
- × **Exploitative Abuse**
 - + Price Discrimination
 - + Excessive Pricing
- × **Abolishment of Exclusionary/Exploitative Abuse**
 - + Unbundling Infrastructure and Supply
- × **Link to Structural Separation in Regulated Industries**
 - + Not regulated Industry; Regulation Discussion
 - + Avoiding Regulation by Structural Separation

Slide 4

TWO CUSTOMER GROUPS
(TANK SIZE <=2,2T0; 2007)

TANK OWNERSHIP (<=2,2to; 2007)

Customer Group	Percentage
Tied Customers	26%
Free Customers	74%

MARKET SHARE - QUANTITY
(TANK SIZE <=2,2T0; 2004 - 2007)

MARKET SHARES C4 Quantity (Tank Size <=2,2to)

Year	U1	U2	U3	U4
2004	~25%	~15%	~10%	~5%
2005	~28%	~12%	~10%	~5%
2006	~30%	~10%	~10%	~5%
2007	~32%	~10%	~10%	~5%

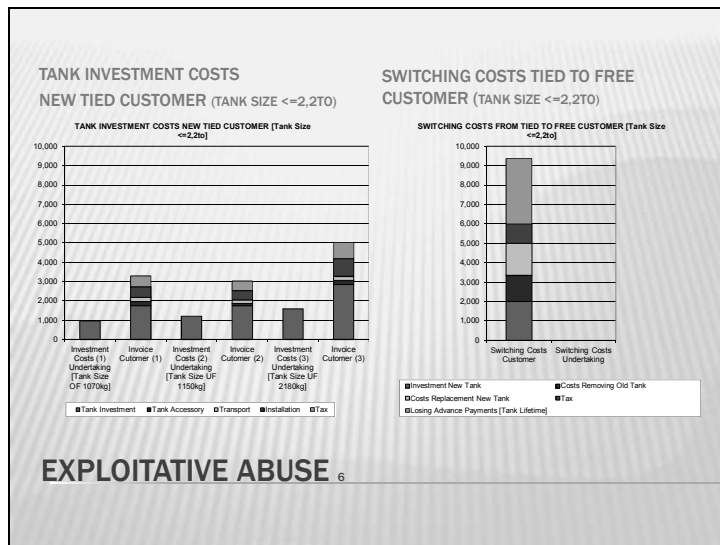
EXCLUSIONARY ABUSE / MARKET FACTS ₄

Slide 5

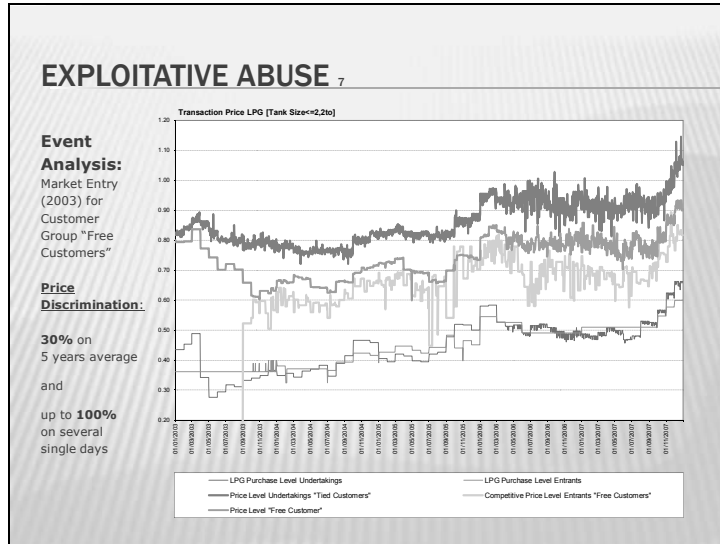
EXPLOITATIVE ABUSE ₅

- × **No Price Difference Justification by Tank Ownership**
 - + Homogenous Product LPG
 - × ÖNORM C1301
 - + Costs covered by tied customer payments outside the LPG price
 - × **Tank Investment:** Rent Payments
 - × Tank Maintenance and Service: Separate Contract
 - × Tank Safety: TÜV, KKS
 - × Tank Insurance: Separate Insurance
 - × Tank Guarantee: Tank Producer Guarantee
 - + Costs covered by LPG price
 - × Supply Guarantee
 - × No Difference to Free Customers
 - × Inefficient Storage (Monopolist) vs Efficient Storage (Competition)

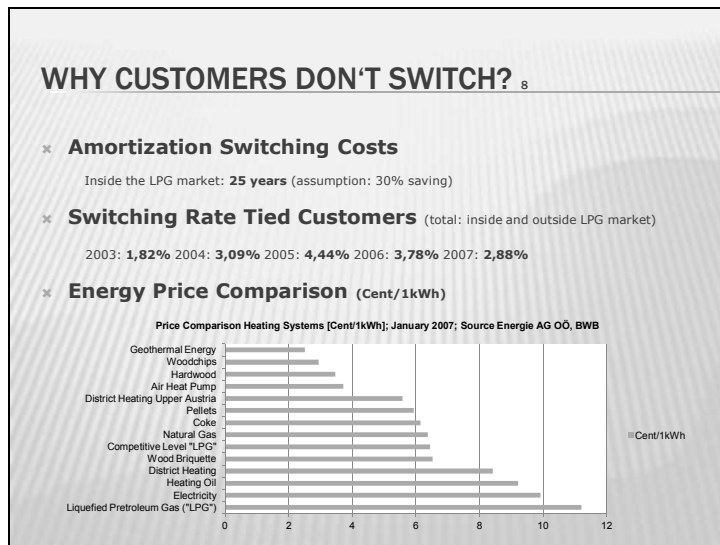
Slide 6



Slide 7



Slide 8



Slide 9

SUMMARY ₉

- × Customer Group **“Free Customers”** (Market Share: **26%**):
 - + Market Entrants (2003) are identified “Mavericks”
 - + Competitors prices are constraint by the Mavericks since 2003
- × Customer Group **“Tied Customers”** (Market Share: **74%**):
 - + Mavericks are not able to constrain undertaking prices for tied customers
 - + Reason: Switching costs 4,5x new tank price or 3x costs of a new customer (incl. tank transportation costs, tank installation, etc.)
 - + Low switching rate
 - + LPG most expansive energy source
- × **Abolishment of Exclusionary/Exploitative Abuse**
 - + No justification for price difference between tied and free customers
 - + Unbundling infrastructure (tanks) and LPG supply
 - + Avoiding regulation by structural separation

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END OF PRESENTATION ₁₀

THANK YOU FOR YOUR ATTENTION

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