

DISCUSSION PAPER ON A PROPOSED LPG SAFETY LEVY

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energysafetyservice
te ratonga whakaruru pūngao

33 Bowen Street, PO Box 1473
Wellington, New Zealand
Phone: 64 (4) 472-0030
Fax: 64 (4) 460-1365
Email: info@ess.govt.nz

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INTRODUCTION

Executive summary

1. This paper sets out the Energy Safety Service's (ESS's)¹ proposal to introduce a levy of \$6 per tonne on Liquefied Petroleum Gas (LPG) sold in New Zealand for use as a non-automotive fuel. The levy would replace the Crown funding the ESS currently receives to carry out its LPG responsibilities under the Gas Act 1992.
2. Four feasible collection methods are outlined. Feedback is sought on a preferred option, although no method is clearly advantageous - the more precise the separation between LPG used for automotive and non-automotive fuel purposes, the higher the collection costs.
3. The paper also discusses options for funding safety activities relating to LPG contained in imported non-refillable canisters. The number of accidents involving canisters reported to the ESS is high in relation to the amount of LPG contained in canisters. The preferred option is to fund canister activities from the proposed levy on general LPG.

Purpose of paper

4. The purpose of this paper is to provide information about the proposed LPG levy and seek feedback on the issues around the introduction of such a levy.
5. A separate discussion paper, considering issues relating to the electricity and reticulated gas levies (including their collection and scope), will soon be drafted.

Making submissions

6. Any comments on the issues raised in this discussion paper should be made by Friday 21 March 2003.
7. Presenting your submission in the following format will assist us in considering it:

Question/ Paragraph number	Issue	Comment/Reason for comment
		I support/disagree with ... because ...

¹ The Energy Safety Service is a part of the Ministry of Consumer Affairs, itself an operating branch of the Ministry of Economic Development.

8. Please ensure that your submission includes your contact details, indicates clearly whether you are commenting on behalf of an organisation and that it lists the names of any other individuals or organisations represented by the submission.
9. We would prefer to receive your submission as a Word document attachment to an e-mail, but also welcome faxed or posted comments. Submissions should be sent to:

blake.shepherd@mca.govt.nz

or:

Blake Shepherd
Advisor, Operational Policy
Energy Safety Service
PO Box 1473
WELLINGTON
Fax: 04 460 1365

Questions to consider when preparing a submission

10. We suggest that you consider the following questions when preparing your submission:
 - i. Are there any activities in relation to the safe supply and use of LPG as a non-automotive fuel that the Energy Safety Service (ESS) should consider carrying out or any activities that the ESS is currently undertaking that it should consider ceasing? If so, why should these activities be undertaken/ceased?
 - ii. Which levy collection option do you prefer, and for what reasons (see 'Summary of Feasible Options')?
 - iii. Are there any additional advantages and/or disadvantages for any of the options considered in this paper?
 - iv. Are there any feasible options that have not been discussed in this paper, and what are the advantages and/or disadvantages of these?
 - v. Are there any activities in relation to LPG in canisters that the ESS should consider carrying out or any activities that the ESS is currently undertaking that it should consider ceasing? If so, why should these activities be undertaken/ceased?
 - vi. How should work relating to the safety of LPG in canisters be funded and why?

Official Information Act 1982

11. Please note that any submissions received by the ESS will constitute 'official information' under the Official Information Act 1982. This Act is designed to give the people of New Zealand access to information, but with exceptions including the preservation of personal privacy and commercial sensitivity.
12. It is the ESS's normal practice to prepare a summary of submissions received, together with the ESS's responses. This summary is intended for circulation to parties who have made submissions.
13. In providing your submission, please advise us if you have any objections to the release of your submission, and, if you do object the parts of your submission that you want withheld, and the grounds, under the Official Information Act, for withholding them. The ESS will carefully consider your reasons when preparing and releasing any summary, and in considering any formal Official Information Act requests that might be received in the future.

Privacy Act 1993

14. Any personal information that you supply to the ESS in the course of making your submission will be used only by the ESS in conjunction with the consideration of matters covered by this consultation paper.
15. Your name may be included in any summary unless you inform the ESS that you do not wish your name to be included.

Process

16. Government has not yet considered the introduction of the proposed levy. Cabinet approval is required prior to making any legislative amendments. Cabinet approval will be sought once submissions on this discussion paper have been considered and any final proposal prepared.

Preliminary consultation

17. The ESS has spoken informally to the LPG Association and other sectors of the LPG industry during the preparation of this paper. These discussions have focussed on the structure and nature of the LPG industry.

PROPOSED LEVY

Background

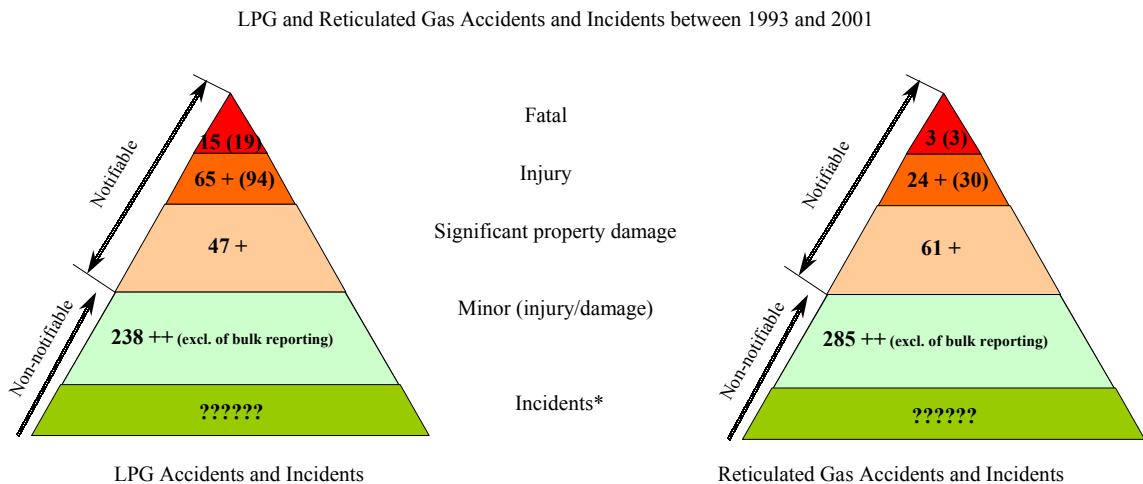
18. The Energy Safety Service (ESS) is the government agency that oversees the safety, supply quality and measurement requirements of the Electricity Act 1992, the Gas Act 1992 and the Petroleum Products Specifications Regulations 2002. From 1 April 2004 the ESS will be required to enforce the Hazardous Substances and New Organisms Act 1996 (HSNO Act) for fuel gases. The ESS is a part of the Ministry of Consumer Affairs, itself an operating branch of the Ministry of Economic Development.
19. The electricity, and reticulated gas, safety and regulatory activities and petroleum fuels monitoring work carried out by the ESS are funded through levies on the respective products. The Ministry of Energy (Abolition) Act 1989 (MoE Act) provides for the levies and specifies maximum levy rates, while the Ministry of Energy (Levies) Regulations 1989 prescribe actual rates. Since being established, the reticulated gas levy has been increased twice and the electricity levy has been reduced once. Levies are collected quarterly and any levy monies remaining at the end of the financial year are rebated to those who paid them.
20. The electricity levy is paid by generators and is currently set at 1.05 cents per 100 kilowatt hours sold. The maximum rate is 2 cents per 100 kilowatt hours. Generators who sell less than 500 megawatt hours during any quarter are not required to pay any levy for that period.
21. The reticulated gas levy is paid by distributors and is currently set at 2 cents per gigajoule sold, the maximum rate specified by the MoE Act. Gas sold for use as a feedstock and the generation of electricity and LPG are exempt from the levy. Distributors who sell less than 10,000 gigajoules during any quarter are not required to pay any levy for that period.
22. The petroleum fuels monitoring levy is set at 0.025 of a cent per litre of petrol or diesel sold for use in New Zealand (the maximum rate specified by the MoE Act). Oil companies are required to pay the levy, which funds a number of monitoring activities including the petroleum fuel quality work undertaken by the ESS.
23. Under the Gas Act 1992, the ESS is responsible for the safe supply and use of LPG as a fuel. The ESS is not responsible for LPG that is used for automotive purposes (including the use of LPG in forklifts) or as a feedstock. The ESS receives Crown funding for its LPG work as the difficulty in distinguishing the amounts of LPG used for automotive and non-automotive purposes led to the exclusion of LPG from the energy levy regime when it was established in 1987. Since the early 1990s a significant increase in LPG use and the number of

LPG users has led to an increase in the amount of LPG work carried out by the ESS.

24. The excise duty refund system administered by the Transport Registry Centre of the Land Transport Safety Authority allows the more accurate separation of LPG used for automotive and non-automotive purposes.
25. It is, therefore, appropriate to consider bringing the funding of LPG activities into line with the electricity and reticulated gas regimes.

LPG safety in New Zealand

26. The diagrams below show the numbers of LPG and reticulated gas accidents (covered by the Gas Act 1992) between 1993 and 2001 that are known to the ESS. The numbers of fatalities and injuries resulting from the accidents are provided in brackets. The diagrams indicate that some accidents may not be reported to the ESS and that the numbers of incidents involving LPG and reticulated gas are unknown. Although, there are about twice as many LPG users as there are reticulated gas consumers, the numbers of LPG fatalities and injuries are higher than for reticulated gas.



27. The ESS ensures the safe supply and use of LPG by:

- Investigating accidents
- Auditing and surveying distribution and measurement systems, appliances and LPG quality
- Analysing accident, audit and survey data to identify safety issues requiring attention
- Carrying out proactive safety work, for example, assessing the need for compatible fittings for refillable cylinders
- Developing and enforcing relevant legislation

- Participating in and providing funding for the development and maintenance of Standards
- Developing and maintaining Codes of Practice
- Progressing Trans Tasman Mutual Recognition Arrangement issues, for example, the mutual recognition of a substantial proportion of portable gas appliances sold in New Zealand
- Providing advice on safety matters
- Carrying out general, and issue-specific, publicity
- Participating in industry discussions and fora, for example, strategic safety planning.

28. A diagrammatic representation of the structure of the LPG industry is provided in Annex One.

Cost recovery principles

29. An analysis of an output, the outcomes² to which it contributes and their beneficiaries determines how an activity should be funded³. Generally, activities that benefit the community as a whole are funded by general taxation and activities that benefit a group of people are funded by the beneficiaries. Goods and services that benefit one individual only, are in general, paid for by that person and activities that the community desires more of than would be likely if they were charged at full cost are often subsidised by general taxation or local government revenue.

30. The LPG safety work carried out by the ESS is an example of an activity that principally benefits a group of people (LPG users) and should, therefore, be funded by that group.

Proposal

31. It is proposed that a levy be introduced on LPG (any 'substance composed predominantly of propane or butane or a mixture of the two'⁴) sold in New Zealand for use as a non-automotive fuel. Exported LPG is not covered by the Gas Act 1992 and would not be levied.

32. The levy would be based on mass as non-automotive LPG is sold by mass, which varies less with composition changes than energy value. The proposed levy would replace the reticulated gas levy currently payable on reticulated tempered LPG. Consideration will be given to levying LPG used as a non-automotive fuel by producers, should the collection method allow.

33. A payment threshold may be set, depending on the collection option chosen, to ensure that the costs incurred in paying and collecting the levy would not outweigh the amount payable. This may mean that

² An output is a good or service produced, for example, providing safety advice; outcomes are results, for example, safer behaviour.

³ The Treasury 'Guidelines for Setting Charges in the Public Sector'

⁴ NZS 5435 Specification for liquefied petroleum gas (LPG)

those using LPG imported in small amounts for particular purposes, for example, would not contribute to the cost of the LPG safety work done by the ESS.

Indicative levy rate

34. Assuming that around 98,000 tonnes⁵ of LPG is sold for use as a non-automotive fuel annually, a levy rate (prescribed by regulation) of approximately \$6 per tonne (excluding GST) would allow the ESS to continue its current LPG safety activities.
35. Furthermore, additional resources will be required for the ESS to carry out its enforcement responsibilities under the HSNO Act when new controls for hazardous substances come into force on 1 April 2004. However, the full set of controls has yet to be produced, and the role of territorial authorities under the HSNO Act remains unclear. Territorial authorities may be unable, for example, to continue to assist the ESS. Territorial authorities currently advise the ESS of a number of gas-related accidents and equipment failures, preserve evidence, investigate and report on some accidents and failures and take action when cylinders have been over-filled. Territorial authorities will be approached to confirm their role and associated costs.
36. The annual revenue generated by a levy of \$6 per tonne (about \$588,000) would exceed the Crown funding currently received. The allocation for 2002/03 is \$249,000. The proposed levy rate, however, reflects:
- the full cost of LPG safety-related work, including the costs of new safety initiatives; activities such as a review of compatible, safe fittings; and the introduction of HSNO requirements
 - the potential for annual fluctuations in LPG sales
 - possible costs incurred by the ESS in collecting the levy.
37. A rate of \$6 per tonne represents between 0.4% and 0.5% of the retail price of LPG sold for use as a non-automotive fuel (5.4 cents for a 9 kg cylinder and 27 cents for a 45 kg cylinder). The reticulated gas levy currently represents approximately 0.1% of its retail price.
38. With new fields coming on-stream, the amount of LPG available for sale within New Zealand and to offshore buyers may increase. The drivers for choosing LPG (environment concerns, lifestyle reasons) will change and influence the volume of LPG sold and its use, as will the evolution of distribution systems and LPG compatible appliances. It is proposed, therefore, that the maximum levy rate (fixed within statute) would be set at \$9 per tonne to allow for flexibility in the activities the ESS may need to undertake to ensure the ongoing safety of LPG used as a non-automotive fuel. Any proposal to increase the regulated levy rate would be discussed with the LPG industry.

⁵ The LPG Association estimates that of the 123,000 tonnes of LPG sold during the 2001 calendar year, 98,000 tonnes was sold for use as a non-automotive fuel.

Collection of levy

39. It is preferable that the:

- levy is paid only by, or on behalf of those, who benefit (directly or indirectly) from the LPG work carried out by the ESS. It is expected that the payer of the levy would recover it from downstream purchasers
- compliance costs⁶ for industry and administration costs for the ESS are minimised
- any incentives to avoid paying the levy are minimal.

40. A number of options for the collection of the levy have been evaluated against these considerations. The most feasible options along with their advantages and disadvantages are set out in the following table.

41. Changes to energy legislation would be required to implement all options. The Transit New Zealand Act 1989 and the Transit New Zealand (Apportionment and Refund of Excise Duty) Regulations 1998 may require amendment should the Transport Registry Centre be engaged to collect the levy.

⁶ Compliance costs are the costs to business of meeting government requirements (for example, administrative and paperwork costs) and are distinct from the direct costs of any requirement (such as the levy itself).

Summary of feasible collection options

	COLLECTION POINT	ADVANTAGES	DISADVANTAGES
A	Collect a levy on LPG sold for use as a non-automotive fuel		
1	<p>Producers and bulk importers (wholesalers)</p> <p>Producers and any wholesalers that had imported LPG would estimate the amount of LPG that had been sold for use as a non-automotive fuel and pay any levy to ESS quarterly. Any levy monies remaining at the end of the year would be rebated to those who paid them.</p>	<ul style="list-style-type: none"> • Low administration costs for ESS (\$10,000)⁷ • Unlikely to be any non-payers 	<ul style="list-style-type: none"> • Moderate compliance costs for industry (\$500 per payer)⁸ • Levy may be passed onto all LPG users as producers and wholesalers are unable to differentiate between LPG used for automotive and non-automotive fuel purposes • Producers and wholesalers would need to obtain information about the amount of LPG used as a non-automotive fuel from downstream suppliers, who may be reluctant to provide what could be considered commercially sensitive information • Incentive for payers to underestimate the amount of LPG used for non-automotive fuel purposes; difficult to audit

⁷ Rounded indicative annual cost (\$1, \$2, \$5, \$10, \$20, \$50, \$100 etc)

⁸ Rounded indicative annual cost assuming a rate of \$40 - \$50 per hour (including overheads)

	COLLECTION POINT	ADVANTAGES	DISADVANTAGES
2	Wholesalers See above	<ul style="list-style-type: none"> • Very low administration costs for ESS (\$5,000) • Unlikely to be any non-payers 	<ul style="list-style-type: none"> • Moderate compliance costs for industry (\$500 per payer) • Levy may be passed onto all LPG users as wholesalers are unable to differentiate between LPG used for automotive and non-automotive fuel purposes • Wholesalers would need to obtain information about the amount of LPG used as a non-automotive fuel from downstream suppliers, who may be reluctant to provide what could be considered commercially sensitive information • Incentive for payers to underestimate the amount of LPG used for non-automotive fuel purposes; difficult to audit
B	Charge a flat fee (either same fee for all or roughly scaled fee)		
	Wholesalers Wholesalers would pay fee to ESS quarterly and any levies remaining at the end of the year would be rebated to them.	<ul style="list-style-type: none"> • Very low compliance costs for industry (\$200 per payer) and administration costs for ESS (\$5,000) • Unlikely to be any non-payers and likely that all payers would pay the correct amount 	<ul style="list-style-type: none"> • Levy may be passed onto all LPG users as wholesalers are unable to differentiate between LPG used for automotive and non-automotive fuel purposes • Industry changes could affect revenue (e.g. Mergers could reduce revenue, new companies entering the market could increase revenue) • Flat fee could be a barrier to companies entering the market • May be seen as less 'fair' than a levy based on amount of LPG sold

	COLLECTION POINT	ADVANTAGES	DISADVANTAGES
C	Collect a levy on all LPG and refund annually the levy paid by retailers and bulk users on LPG used for automotive purposes		
1	<p>Producers and bulk importers (wholesalers)</p> <p>Producers and any wholesalers that had imported LPG would pay any levy to ESS quarterly. Any levies remaining at the end of the year would be rebated to those who paid them.</p> <p>Retailers and bulk users would claim a refund for any levy paid on LPG used as an automotive fuel annually.</p>	<ul style="list-style-type: none"> Unlikely to be any non-payers and likely that all payers would pay the correct amount 	<ul style="list-style-type: none"> High compliance costs for industry (\$500 per payer + \$50 per automotive retailer/bulk user) and administration costs for ESS (\$200,000) (up to 800 retailers and bulk users may apply for a refund, although the number of applications could be reduced significantly by accepting one claim per company/group rather than requiring a separate return from each retailer and bulk user) Issues around the administration of a refund system including whether to make refunds available when the costs incurred in doing so outweigh the amount payable and how to manage any unclaimed refunds
2	<p>Wholesalers</p> <p>See above</p>	<ul style="list-style-type: none"> Unlikely to be any non-payers and likely that all payers would pay the correct amount 	<ul style="list-style-type: none"> High compliance costs for industry (\$500 per payer + \$50 per automotive retailer/bulk user) and administration costs for ESS (\$200,000) (up to 800 retailers and bulk users may apply for a refund, although the number of applications could be reduced significantly by accepting one claim per company/group rather than requiring a separate return from each retailer and bulk user) Issues around the administration of a refund system including whether to make refunds available when the costs incurred in doing so outweigh the amount payable and how to manage any unclaimed refunds

	COLLECTION POINT	ADVANTAGES	DISADVANTAGES
D	Engage the Transport Registry Centre (TRC) of the Land Transport Safety Authority (LTSA) to collect a levy from the excise duty refund paid on LPG used for non-automotive purposes ⁹		
	<p>Those applying for a refund of excise duty paid on LPG used for non-automotive purposes would continue to do so.</p> <p>The TRC would effectively hold a portion of each refund paid and pay the total withheld to ESS periodically.</p> <p>Any monies remaining at the end of the year would be placed in a memorandum account, a notional account to record the accumulated balance of surpluses and deficits incurred for outputs operating on a full cost recovery basis.</p>	<ul style="list-style-type: none"> • Negligible compliance costs for industry • No incentive to avoid paying the levy by not applying for the excise refund (refund would be significantly larger than the levy taken from it) 	<ul style="list-style-type: none"> • High administration costs for ESS (\$50,000 per annum) • TRC's ongoing ability to collect the levy is dependent on the continuation of the current or a similar excise duty refund system • Issues around the administration of the system including how to manage any difference between the amount of levy that should be paid and the amount that is (in practice, the difference would be very small)

⁹ The excise duty collected by the New Zealand Customs Service on all LPG sold for use in New Zealand (along with other revenue) is paid into a dedicated land transport fund. The fund meets the costs of road safety enforcement and roading. The TRC is responsible for refunding the excise duty paid on LPG, currently 11.7 cents per litre (including GST), used for non-automotive purposes. Refunds are paid, on application, at the close of each quarter. Refunds are reduced by 10% if they are applied for more than three months after the close of the quarter. Claims lodged later than two years from the close of each quarter are not accepted unless the TRC is satisfied that special circumstances exist.

Comment on collection options

42. The ESS considers that it is important that the levy apply only to LPG used as a non-automotive fuel and that the collection of the levy involves minimal compliance costs for industry and administration costs for the ESS. The more precise the separation between LPG used for automotive and non-automotive fuel purposes, however, the higher the collection costs.
43. The ESS would appreciate feedback on which option offers the preferred balance between targeting LPG used as a non-automotive fuel and collection costs.

LPG CANISTERS

Background

44. Approximately 0.1% of the LPG sold for use in New Zealand annually is contained in imported non-refillable canisters, used mainly with camping stoves and lamps¹⁰. Around ten companies share the canister market in New Zealand. They import approximately 500,000 LPG canisters annually and generally sell and distribute directly to retailers. There is currently no clear market-leader, with a number of companies selling the majority of the product. Canisters are available in a variety of sizes ranging between approximately 50 and 450 grams. They can be purchased from between five and six hundred outlets including tramping/camping, sporting goods, BBQ and hardware stores and service stations. Some of these outlets, however, may carry and sell few canisters.
45. Between 1992 and 2001 12% (16 out of 134) of the LPG accidents reported to the ESS involved canisters. Two of the 17 LPG accidents involving fatalities reported during this time involved canisters. These accidents comprise two of the three multiple fatality LPG accidents reported to the ESS between 1992 and 2001 (one double fatality in 1996 and a triple fatality the following year).
46. Some of the ESS's general LPG work also relates to the safe use of canisters and the appliances that are used with them. In addition, the ESS carries out specific activities in order to improve canister safety. For example, the ESS distributes publicity material outlining the dangers associated with LPG canisters and how they can be used safely. The ESS also continues to monitor participation in the voluntary safety-labelling regime and liaise with suppliers in relation to it. Between 10% and 15% of the ESS's LPG work either relates to or focuses on canister safety.

¹⁰ Estimate obtained from a small survey of LPG canister importers.

47. The number of accidents involving canisters reported to the ESS is high in relation to the amount of LPG they contain. It is appropriate, therefore, that consideration be given to whether the funding of canister activities should be separated from the funding of LPG work generally.

Funding mechanism

48. It is preferable that the funding of canister activities:

- is sourced from those who benefit from the canister safety work carried out by the ESS
- allows an appropriate amount of safety work to be undertaken
- does not distort commercial behaviour (by changing the price, and attractiveness, of LPG canisters in relation to competing products)
- involves minimal compliance costs for industry and administration costs for the ESS.

49. The funding options along with the advantages and disadvantages of each are set out in the following table.

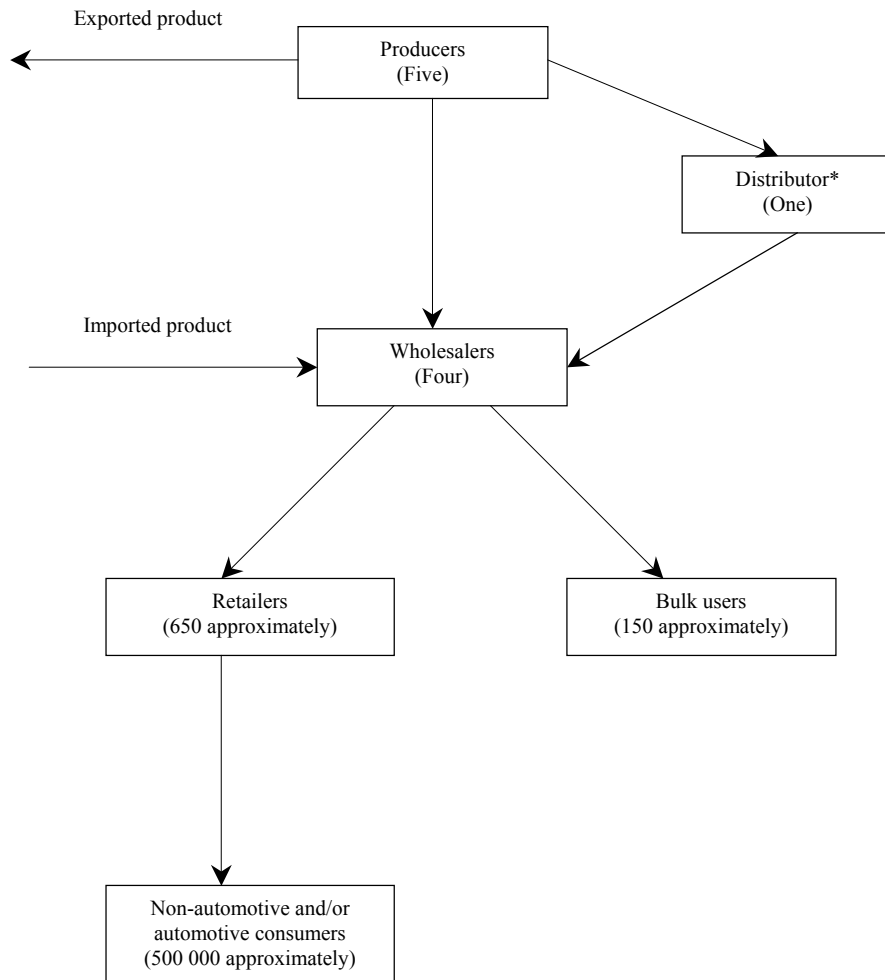
Summary of funding options for LPG canister safety work

	OPTION	ADVANTAGES	DISADVANTAGES
A	Collect a levy from those who benefit from ESS's canister safety activities. Levy could be set on a per canister basis or a fee charged to importers/wholesalers.	<ul style="list-style-type: none"> • Can be set at a level that allows an appropriate amount of safety work to be carried out • ESS's canister safety work would be funded by those that benefit directly • Unlikely to distort commercial behaviour • Existence of levy may highlight risks associated with, and encourage safe, canister use 	<ul style="list-style-type: none"> • Significant compliance costs for industry and administration costs for ESS in relation to the amount of levy collected
B	Fund canister safety activities from levy on general LPG	<ul style="list-style-type: none"> • No additional compliance costs for industry or administration costs for ESS • Can be set at a level that allows an appropriate amount of safety work to be carried out • Wouldn't distort commercial behaviour 	<ul style="list-style-type: none"> • ESS's canister safety work would not be funded by those that benefit directly

Preferred option

50. The ESS's preferred option is to fund canister activities from the proposed levy on general LPG (option 'B'). The ESS favours this option because it would involve no additional compliance costs for industry or administration costs for the ESS and would allow an appropriate amount of LPG canister safety work to be undertaken. This option does not allow those that benefit directly to fund the ESS's canister safety work. The ESS believes, however, that the general LPG industry benefits significantly from the safe use of all LPG.

ANNEX ONE - STRUCTURE OF LPG INDUSTRY



* The distributor handles a portion of the LPG purchased by wholesalers.