

Public/Industry Discussion Paper on Fuel Dispensing Requirements



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Fuel Dispensing Requirements

A. Introduction and Background/Overview

The Utility Regulation and Competition Office (**'OfReg'**, or the **'Office'**), is the independent multi-sector regulatory body, with responsibility for the information & communication technology (**'ICT'**), energy, electricity, water, wastewater and fuels sectors. The Office was established by section 4(1) of the Utility Regulation and Competition Law, 2016 (the **'URC Law'**) and commenced operation on 16 January 2017.

In the fuel sector and market(s), OfReg monitors competition and has wide powers to take such action as it deems necessary, to promote and sustain. The Office is also responsible for compliance with, and enforcement of, the Dangerous Substances Law (**'DS Law'**) to ensure the safety and wellbeing of the public. In addition to its function of regulatory oversight for all utilities providers in the Cayman Islands, the Office's mandate includes the promotion of innovation and ensuring market efficiency and competitiveness, in the sectors it regulates.

B. Legislation and Obligations

The Office derives its powers, functions and obligations from the URC Law, the Fuels Market Regulation Law, 2017 (**'FMR Law'**), and the DS Law. To supervise the Fuel Sector and exercise its powers under the various Laws, section 6 of the URC Law authorises the Office, among other things, to "*establish technical standards for the provision of covered services*" and to "*establish and enforce quality of service standards applicable to covered services*", while section 10 of the FMR Law authorises the Office to make recommendations to Cabinet regarding Regulations, including matters related to "*measures for the protection of consumers or the general effectiveness of the fuel sector*" to be instituted.

The Office recognises that the way it functions, makes decisions and acts in accordance with its jurisdiction under the various laws, will affect persons and entities in various ways and to varying degrees. In order to facilitate further discussions on approaches to the standardisation of product information displayed on fuel dispensers, colour coding and sizing of fuel delivery nozzles by product and grade, and other touchpoints to adequately inform consumers, this discussion paper lays out the initial consideration of the Office in these areas. In the spirit of dialogue with the industry and the public, the Office is hereby seeking your input which will be used, where relevant, to inform a formal consultation and

ultimately, the Office's determination on the adoption of a final position in the foregoing area.

C. Discussion Consideration/ What we are proposing?

Across the various brands of fuel marketed in territory, there are no consistent set of information provided such as relevant equipment marking, colour-tag coding system, or nozzle sizing system in place, especially at consumers self-serve fuelling facilities. This inconsistency can lead to confusion among drivers which in turn leads to consumers requesting or dispensing incorrect product into their vehicle tank. The effect can be damaging, costly, dangerous and time-consuming to correct. It is therefore the aim of the Office to ensure safe, honest, and efficient delivery of fuel to the consumers in the Cayman Islands, under the following categories:

C.1 Minimum Product Information Display

Publicly available or access to product information available on or near a fuel dispenser differs among the various brands of fuels sold across the Islands. In some cases, the (brand) marketing names or titles assigned to the fuel products do not speak to the grade of the fuel in anyway. Typically for consumers who require a specific grade of fuel for their vehicle, or for visitors to the island not familiar with the individual company branding, this can lead to confusion, potentially resulting in costly mistakes. It should be noted that while the aim is to ensure minimum product information at fuel dispensing facilities¹ (FDFs), standardisation in this area is not intended to restrict or stymie the marketing programs of the companies.

In order to equip consumers with all of the information they need to make an informed decision, including the type and grade of fuel offered at a specific station, the Office considers the following minimum information must be displayed at all FDFs in a conspicuous area on or immediately close to the dispensing equipment:

Gasoline

- Minimum Octane Index Rating
- Maximum Ethanol Content, if any

¹ In this document, Fuel Dispensing Facilities (FDFs) refers to Gas Stations, Marina, Mobile Fueling Equipment, Fleet Fueling Facilities including government and Own-use fueling equipment used by commercial entities.

Diesel

- Minimum Cetane Index Rating
- Maximum Bio-diesel Content, if any

Additives

- Broad Name or Type (marketing name is acceptable)
- Empirically Proven Benefits

Product Name Tag

This is proposed to be a permanent tag with the name of the product secured to the hose or a suitable alternative placement, from which the specific product is dispensed. The minimum requirements for the tag would be to state whether the product being dispensed from the nozzle is:

- Gasoline; or
- Diesel
- Any other discrete fuel type if/when introduced as a motor fuel on a commercial scale such as LPG or LNG.

Operators will have the option to add additional information should they so wish, as long as it does not obstruct the required wording. Such additional information would include the specific brand name or grade of the product or the required information listed above.

C.2 Fuel Product Colour Coding

Based on research the Office has conducted, colour differentiation standards are in place to prevent consumers from mistaking gasoline for diesel and vice versa, with a lesser focus on differentiation between different grades of the same product, for instance premium versus regular grade of gasoline. In setting of the minimum standard for the Cayman Islands, the Office will adopt a similar approach and as such, is recommending the following system that would provide for colour coding of dispensing nozzles by way of a nozzle cover (scuff guard) including the splash guard/shield to be of a consistent colour:

- **Unleaded Gasoline:** Blue
- **Ultra-Low Sulphur Diesel:** Black

This colour coding scheme would be applied only at FDF for consumer and end users benefit. In an effort to protect consumers, while ensuring the (regulatory) cost associated with this phase transition does not significantly impact them, this colour coding will not extend upstream to bulk fuel terminals or tank fill points.

C.3 Fuel Delivery Nozzle Sizing

Nozzle sizing is an important feature that can prevent misfuelling especially at self-serve gas stations. Conventionally, gasoline dispensing nozzle tips/spouts are smaller in diameter than nozzles used for dispensing diesel fuel. Additionally, gasoline vehicle fuel tanks are typically fitted with restrictor mechanism to prevent the larger diesel nozzle into filler neck of the tank, as a fool proof mechanism to alert consumer of such mistakes. The Office acknowledges that certain types of (used) vehicles imported to the Islands are not usually fitted with these restrictor mechanism, but research shows it can be retrofitted if necessary. The Office is proposing the following standard nozzle sizes as follows:

- Gasoline: 13/16-inch Outer Diameter (O.D.)
- Diesel: 15/16-inch O.D.

D. Why This is Being Proposed and Fit into OfReg's Regulatory Agenda

Keeping in line with the Office's "Truth in Advertising" guidelines, as well as its competition mandate, the Office believes that a more educated and informed consumer is an empowered consumer. Acknowledging the marketing efforts by fuel providers are aimed at attracting customers and increasing their consumer base, this at times requires regulatory agencies to intervene in areas to balance consumer interest. Although it may not be the intention of any company to mislead the public, vague claims about fuel quality and the lack of key publicly available information which is easy to substantiate can lead to unintended consequences.

By requiring certain minimum information, systems and equipment be available at all FDF across the three Islands, the Office is fulfilling its role of consumer advocacy, supporting competition among brands by bringing consistency to costing in this area of their operations, reducing the instances of misfuelling which ensures good stewardship of fuel products, and equally important, assures the education of the public for a safer fuelling experience.

E. Treatment of Outcomes of this Process

Any and all feedback related to this discussion paper will be taken into consideration for the release of a formal consultation document. The formal consultation document will set out the Office's substantial position on the determination it wishes to implement which will include a draft of rules and an implementation plan for the ideas presented here. Comments received from any person or entity on the content of this discussion paper, will be confidential.

G. *High Level Implications Considered*

G.1 Consideration 1: Cost of Implementation

The Office is aware that these requirements will have an impact on cost in the sector. However, it should be noted that most of the requirements outlined here are already current costs borne by the sector and difference in cost will be moderately incremental. In order to ensure the financial impact on the fuel providers hence consumers is minimal, a phased implementation will be considered to allow consumable spares which are held in stock are depleted. As far as practical, existing marketing and informational materials and hardwares at the FDFs will be adapted to meet any new requirements emanating from this process.

G.2 Consideration 2: Contractual Requirements

Commercial and contractual branding and franchise requirements may restrict the use of certain colours and/or equipment by some fuel marketing companies across the network. Although the Office is aware that each brand chooses their colours and equipment as part of their marketing and competitive strategies, we consider these potential changes to be moderate which will derive greater benefit for consumers across the jurisdiction. The Office is obligated to have regards to legitimate restrictions or other considerations which may require it to consider alternative approaches, however any regulatory measure is intended to provide the greatest benefit to the greatest number of consumers and the industry.

G.3 Consideration 3: Adjustment Period

The changes being proposed in this discussion paper will require a transitional period which may vary among brands. This may likely cause some confusion for customers, wholesalers and retailers alike as they adjust to the new colour schemes, etc. Consideration will be given to selecting a neutral colour so that no one single network/brand of suppliers is advantaged but this may not be practical. A significant public education and awareness effort prior to implementation would be required to minimise this impact, and the Office will be integrally involved in supporting such a campaign.

H. Seeking your Views/ Broad questions For Consideration

The Office invites comments, reactions and suggestions within the context of the following:

- a) Do you or do you not support the proposed changes and why?
- b) What are your thoughts on the suggested colouring code scheme for nozzles, fill points, piping and valves, etc. as outlined in the foregoing?
- c) For existing FDFs, your assessment on the extent to which your facility is already in broad compliance with the proposed requirements to be intended?
- d) What implementation timeline(s) do you consider reasonable for items C1, C2, and C3 above?
- e) As a member of the public, are there other specific information you would like to see posted in and around FDFs?
- f) Do you consider any of the information that the Office is requesting to be posted on the dispensers as commercially sensitive?
- g) Are any of the recommendations in this discussion paper considered unnecessary by your station/brand?
- h) Are there any aspects of Section C or any other section which you consider may have unintended consequences not addressed in this document?
- i) Other comments?



I. How to Respond to this Discussion Paper

1. Respondents are asked to provide input and comments on this document. All submissions on this document should be made in writing and should be sent to the Office by **5:00 p.m. on 18 April 2019**.
2. The Office will provide feedback on the input and comments received. The Office expects to do so via email, or follow-up meetings within 2 – 3 weeks after the submission date above.
3. Submissions may be filed as follows:

By e-mail to:
fuels@ofreg.ky

or by post:
Utility Regulation and Competition Office
P.O. Box 2502
Grand Cayman KY1- 1104
CAYMAN ISLANDS

or by courier:
Utility Regulation and Competition Office
3rd Floor, Alissta Towers
85 North Sound Rd.
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