


From: [REDACTED] 
Subject: FS 2019 – 1 – Consultation
Date: August 6, 2019 at 1:13 PM
To: consultations@ofreg.ky

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Question 8: Please provide your views on any other matters you consider relevant to this Consultation.

I was wondering if there are any regulations regarding the calibration of equipment of all metered utilities such as Gas stations, Propane, Water meters. What measures are OfReg doing to ensure we are getting what is advertised? What would stop a company to simply tell you that you are getting 4 gallons and only give you 3.5 gallons for the same price? My suggestion would be regular checks of metered services.

Tropical Regards,

[REDACTED]





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CAYMAN ISLANDS
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September 13, 2019

Utility Regulation and Competition Office
PO Box 10189
Grand Cayman KY1-1102
CAYMAN ISLANDS

Re: FS 2019 - 1 - Consultation on Proposed Consumer Protection Regulations (Fuels Sector)

We refer to the FS 2019-1-Consultation on Proposed Consumer Protection Regulations (Fuel Sector) launched by OfReg on July 30, 2019. Please find below the subject consultation response from Caribbean Utilities Company, Ltd (“CUC”).

Question 1: What are your views on Parts 1 and 2 of the draft Regulations? And specifically, please share your views on whether the Office should insert the alternative definition of “consumer” in the proposed draft Regulations (i.e. “Consumer” means a person or entity who utilises a product or service from a Sectoral Provider for direct consumption).

No comments.

Question 2: Please share your views on whether the current regime of random fuel testing conducted by OfReg is satisfactory to address fuel quality concerns until the FSC fully implement National Fuel Quality Standards by Q4 2019.

No comments.

Question 3: What are your views regarding the means by which the Sectoral Providers will be obligated to ensure the provision of information under Part 3 of the proposed draft regulations?

No comments.



Question 4: What are your views on Part 4 of the draft Regulations? Will the proposed regulations, in your view, enable Sectoral Providers to address and resolve consumer complaints efficiently and expeditiously? If not, please explain in detail the changes required to achieve this objective.

No comments.

Question 5: What are your views on Part 5 of the draft Regulations? Will the proposed regulations, in your view, ensure consumers and Sectoral Providers and participants will benefit from clear, simple and fair terms and conditions for the provision of service? If not, please explain in detail the changes required to achieve this objective.

We believe that Part 5 of the proposed regulations will benefit consumers, sectoral providers and participants.

However, we would suggest an amendment to Section 25 (1)(b) that would allow for a contract term in excess of 24 months for commercial or industrial consumption, if agreed to by the commercial or industrial consumer.

Question 6: What are your views on Part 6 of the draft Regulations? Will the proposed regulations, in your view, ensure consumers and Sectoral Providers will benefit from clear, accurate, timely and easy-to-understand invoices, will reduce the frequency of erroneous bills, or reduce the number of consumer complaints regarding billing issues? If not, please explain in detail the changes required to achieve this objective.

No comments.

Question 7: What are your views on Part 7 of the draft Regulations? Do you think additional regulations relating to equipment ownership and maintenance, switching between suppliers, price tiers, should be considered by the Office in relation to the Fuels sector? If yes, please explain.

No comments.

Question 8: Please provide your views on any other matters you consider relevant to this Consultation.

No comments.

Yours faithfully,

Letitia T. Lawrence
VP Finance & CFO

RUBIS

Cayman Islands

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CAYMAN ISLANDS

Proposed consumer protection regulations

September 13th, 2019

Dear Ofreg,

We wish to thank you for giving Rubis Cayman Islands Ltd the opportunity to submit comments about the draft consumer protection regulations in relation to the fuel sector.

Our permanent investment in our infrastructure, our daily operations and our staff are dedicated to serve our customers with quality products in the safest possible manner. We therefore value the Ofreg initiative for enhanced customer protection in the fuel sector.

Please find below our comments in the format of answers to the 8 questions raised.

Question 1

What are your views on Parts 1 and 2 of the draft Regulations? And specifically, please share your views on whether the Office should insert the alternative definition of “consumer” in the proposed draft Regulations (i.e. “Consumer” means a person or entity who utilises a product or service from a Sectoral Provider for direct consumption).

We agree that the above alternate Consumer definition makes better sense.

There are three main octane rating measurement methods used in the fuel industry: AKI, RON and MON. AKI is the method commonly used in the Cayman Islands (by the sectorial providers bringing this information to their customers) due to the country's proximity with the USA. Failing to precise in Part 2

RUBIS CAYMAN ISLANDS LIMITED

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Section 6 (1) what method is required to be used could lead to customers receiving information which cannot be compared.

The obligation made in Part 2 Section (1) for the vendor to display information on its webpage forces vendor to have a webpage.

The empirically proven benefits as referred to in Part 2 Section (1) can refer to any type of benefit (mechanical, financial, environmental,..) which are subject to interpretation. You can find nowadays all sorts of studies which can say one thing and its opposite. Taking the example of bio content in fuels, mechanics could argue that car engines are designed for running biofuels and at the same time no educated boat owner would consider biofuels for their engine. Some would argue that they reduce emissions when it is now a fact that bio content production emissions are worse than the benefit they generate when being used.

The color-coding scheme as described in Part 2 Section 6 (2) is questionable for the following reasons:

- A serious, long and costly education should take place for customers to acquire the reflex of identifying a product by its color code.
- A vast majority of customers leave the duty of picking-up the nozzle to trained pump attendants.
- The grade tags in the car gas caps vary in color from one manufacturer to another, and don't always match with the proposed black and blue color coding.
- The nozzle color coding will not help reducing the main source of wrong fuel being selected which is the driver not being aware of what grade is the car running, especially with rental cars.
- A single color for different products of the same grade is rather confusing than informative.
- The difference in color between gasoline and diesel could be more distinct than black and blue, like yellow and green.
- The nozzle color coding is part of an overall retail visual identity which is different from one brand to another. Bringing unity as the standard reduces the marketing capabilities. Choosing a color scheme which already belongs to one brand gives this brand a competitive advantage.

We strongly object with the requisitions of Part 2 Section 7. The object of a licensed product is for its holder a permission to sell such grade, certainly not an obligation to do so.

The provision of assistance as stated in Part 2 Section 8 is unlikely to be delivered unless dedicated response teams and infrastructure are put in place for that purpose. Can vendors like Marinas or Retail sites reasonably provide assistance to a vessel at sea or a car on the road? Emergency situations are placed under the control of the emergency services (mainly health and fire response for fuels) which can themselves call vendors for any kind of assistance they feel they may require and possibly find from vendors.

Question 2

Please share your views on whether the current regime of random fuel testing conducted by OfReg is satisfactory to address fuel quality concerns until the FSC fully implement National Fuel Quality Standards by Q4 2019.

The current regime of random fuel testing is seen as a consistent approach and we cannot see any reason why the Ofreg should consider introducing an alternative and interim regime before the national Fuel Quality Standards are introduced by year-end.

Question 3

What are your views regarding the means by which the Sectoral Providers will be obligated to ensure the provision of information under Part 3 of the proposed draft regulations?

Part 3 Section 10. (1) (c): restructuring a website to fit such design requirements is in the region of CI\$20,000.

Part 3 Section 10. (2) (b): talking about fuel specifications and qualities does require to go technical.

Part 3 Section 10. (3) (b): we suspect we don't have many drivers refuelling at our stations who can only read Braille. Although we strongly value the access of information to visually impaired customers, we would suggest for practicality reasons that any information can be made available upon request via an audio recording instead.

Part 3 Section 10. (4) (a/b/c): It is not our intention to implement and manage a price section in our webpage and the running cost would go against the goal of more affordable fuel prices. The Ofreg webpage is already providing fuel prices on an agglomerated basis to the consumer.

Part 3 Section 11. (2): We can't think of any other spoken communication than radio campaigns. In such context we would find it extremely difficult to implement the proposed elements in a radio message.

Question 4

What are your views on Part 4 of the draft Regulations? Will the proposed regulations, in your view, enable Sectoral Providers to address and resolve consumer complaints efficiently and expeditiously? If not, please explain in detail the changes required to achieve this objective.

Rubis has an existing customer complaint procedure in place. However, the proposed complaint handling procedure can come as a replacement with the only reserve of the cost associated with training a significant number of industry staff and numerous physical and digital publicity.

We are not readily in position to assess how efficient and expeditious can the proposed complaint handling procedure be before we experience it. However, these two qualifiers are not the ones which we would use spontaneously given the procedural regime it introduces.

We would like to highlight that in the interest of the customer, a complaint should be made in written in order for the parties to keep a record of the time when it was submitted and the description of the event leading to the claim. The time frame is also a critical element as investigation is barely impossible after a few days.

Question 5

What are your views on Part 5 of the draft Regulations? Will the proposed regulations, in your view, ensure consumers and Sectoral Providers and participants will benefit from clear, simple and fair terms and conditions for the provision of service? If not, please explain in detail the changes required to achieve this objective.

Generally speaking, we find it difficult to understand why a commercial contract between a professional vendor and a professional buyer should be ruled by a regulation rather than mutual agreement formed after commercial discussions.

The provision of services under our existing contracts is simple and clear, as it has to be for the benefit of both parties.

Question 6

What are your views on Part 6 of the draft Regulations? Will the proposed regulations, in your view, ensure consumers and Sectoral Providers will benefit from clear, accurate, timely and easy-to-understand invoices, will reduce the frequency of erroneous bills, or reduce the number of consumer complaints regarding billing issues? If not, please explain in detail the changes required to achieve this objective.

We have no record of experiencing any billing complaint from a customer and are therefore reserved about the benefit of such proposed billing regulation.

A fuel sale bill is made of fuel quantity (recorded on a contradictory basis through a calibrated meter) times a unit price (communicated to the customer before the delivery). The date of the invoice is the transaction date. The other elements such as credit terms and late payment interest charges are those of our T&C's or alternatively those agreed by contract with the customer.

We strongly object to the 30-day minimum period of time before we can charge late payment penalties, as this would result in making the late payment a usual practice.

Question 7

What are your views on Part 7 of the draft Regulations? Do you think additional regulations relating to equipment ownership and maintenance, switching between suppliers, price tiers, should be considered by the Office in relation to the Fuels sector? If yes, please explain.

As for Question 5, commercial contracts are formed between a professional vendor and a professional buyer within a competitive environment. The provision of services or equipment are part of the commercial negotiation between the parties before they agree to enter into a contract.

We don't feel that any further regulation is necessary.

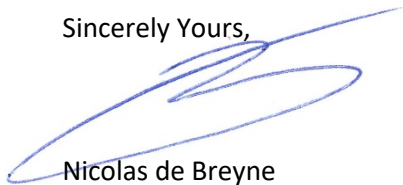
Question 8

Please provide your views on any other matters you consider relevant to this Consultation.

We fully understand the purpose of the proposed regulation for the retail customers being a heteroclite population with supposed limited technical knowledge and in case of poor information about made available for them to forge their opinion about the product they buy.

We are very sceptical about the need for regulating the B2B segment which is ruled by contracts established between discerning professional parties advised by lawyers when the importance of such contracts make it necessary.

Sincerely Yours,

A handwritten signature in blue ink, consisting of a large, stylized 'N' followed by a horizontal line and a small flourish.

Nicolas de Breyne
Managing Director

Sol Petroleum Cayman Limited ("Sol")

**Response to OfReg Consultation Paper: Proposed Consumer
Protection Regulations ("Regulations")**

13 September 2019

1. INTRODUCTION

- 1.1 We refer to the Consultation Document numbered FS 2019 – 1 – *Proposed Consumer Protection Regulations* (“**OfReg Document**”)
- 1.2 The Utility Regulation and Competition Office (“**Office**” or “**OfReg**”) relies on the following provisions as authority to propose and implement regulations (“**Regulations**”) affecting the fuel sector in the Cayman Islands:-
- Section 6(1)(c) Utility Regulation and Competition Office Law (“**URC Law**”);
 - Section 5 Fuels Market Regulation Law (“**FMR Law**”);
 - Section 6(2)(d) URC Law; and
 - Section 7(1) URC Law.

The OfReg Document specifically states that: *It is the position of the Office that it retains the right to propose amendments to the Regulations when appropriate but not so frequent as to render the consumer protection framework arbitrary, but in any event only after consultation.*

2. SPECIFIC RESPONSES TO CONSULTATION QUESTIONS

- 2.1 **Question 1: What are your views on Parts 1 and 2 of the draft Regulations? And specifically, please share your views on whether the Office should insert the alternative definition of “consumer” in the proposed draft Regulations.** We refer to the specific comments we have made concerning various Regulations in Parts 1 and 2 at paragraphs 4.1 to 4.10 below. In terms of the definition of “consumer”, please see our observation at paragraph 3.2 below and our specific comment at paragraph 4.1 below.
- 2.2 **Question 2: Please share your views on whether the current regime of random fuel testing conducted by OfReg is satisfactory to address fuel quality concerns until the FSC fully implement National Fuel Quality Standards by Q4 2019.** Sol is not aware of any market concerns insofar as the quality of the fuels it supplies. Sol does not have any record in the recent past of any complaints having been received concerning the quality of its fuels. Every time a Sol ship berths in Cayman to discharge fuels, those fuels are tested prior to and during discharge and verified to meet Sol’s fuel specifications and the refinery Certificates of Quality which are delivered to OfReg. Therefore, OfReg is made aware of the quality and specifications of the fuel to be sold by Sol long before it is dispensed to the consumer. Obviously, all fuel industry sectoral providers should be subject to the same quality assurance regime both as a matter of fairness to industry participants and to afford protection to consumers. Sol suggests that testing of fuel quality should be conducted principally at the dispensing point of supply to the consumer (petrol service stations being the most obvious location at the nozzle of the dispenser/pump) and on a truly random basis as this will provide the most effective enforcement of quality standards, and therefore the greatest degree of protection for the consumer.

- 2.3 **Question 3: What are your views regarding the means by which sectoral providers will be obligated to ensure the provision of information under Part 3 of the proposed draft Regulations?** Sol refers to its observation at paragraph 3.3 below and our specific comment at paragraph 4.11 below.
- 2.4 **Question 4: What are your views on Part 4 of the draft Regulations? Will the proposed Regulations, in your view, enable sectoral providers to address and resolve customer complaints efficiently and expeditiously? If not, please explain in detail the changes required to achieve this objective.** Sol does not have a problem with receiving and handling complaints from consumers. Sol rarely, if ever, receives a complaint at all. Sol considers that this issue must be addressed in the proper context. How many complaints does the Office receive in connection with fuel industry sectoral providers? How many of these complaints require the Office to contact the retail business owners or Sol? The draft proposals which the Office makes will increase the administrative burdens associated with operating Sol's and the retail station operators' businesses and will lead to increased costs, but seemingly with little or no additional benefit being created for consumers. The cost of implementing new requirements must be weighed against the value which these new requirements are to bring to the consumer and Sol suggests that a lot of extra regulation is being imposed on fuel industry sectoral providers by the Regulations, without any real anticipated benefit to the consumer. Sol refers to its observation at paragraph 3.3 below and our specific comments at paragraphs 4.12 to 4.14 below.
- 2.5 **Question 5: What are your views on Part 5 of the draft Regulations? Will the proposed Regulations, in your view, ensure consumers and sectoral providers and participants will benefit from clear, simple and fair terms and conditions for the provision of service? If not, please explain in detail the changes required to achieve this objective.** It is not clear why the question relates to a service only as the provisions of Part 5 relate equally to products as to services. Sol assumes that this is a typo. Sol refers to its observation at paragraph 3.3 below and Sol's specific comments at paragraphs 4.15 to 4.20 below.
- 2.6 **Question 6: What are your views on Part 6 of the draft Regulations? Will the proposed Regulations, in your view, ensure consumers and sectoral providers will benefit from clear, accurate, timely and easy-to-understand invoices, will reduce the frequency of erroneous bills, or reduce the number of customer complaints regarding billing issues? If not, please explain in detail the changes required to achieve this objective.** Sol's existing billing arrangements have worked very well for a number of years and continue to work well. Sol does not receive complaints about its billing practices. Nearly all of Sol's customers are repeat customers and therefore have a prior course of dealings to rely upon as much as anything else.
- 2.7 **Question 7: What are your views on Part 7 of the draft Regulations? Do you think additional regulations relating to equipment ownership and maintenance, switching between suppliers, price tiers, should be considered by the Office in relation to the fuels sector? If yes, please explain.** These proposed Regulations amount to interference in the internal decision-making processes of a private business and also operate to

significantly interfere with parties' freedom to contract on terms of their choosing and are therefore antithetical to the free market which Cayman seeks to maintain. Sol refers to its observation at paragraph 3.1 below and Sol's specific comments at paragraphs 4.22 and 4.23 below.

3. OVERARCHING OBSERVATIONS

- 3.1 The Office is not a legislative body and should not be creating new law (in the sense of introducing significant legal concepts hitherto not part of Cayman Islands law) but instead should be building on existing law. The Office cites section 6(2)(d) URC Law and it should be noted that this provision empowers the Office to *make administrative determinations, decisions, orders and regulations*. In drafting the proposed Regulations, the Office has gone well beyond administrative matters and seeks to create new law. The proposed new law created will have consequences which it appears the Office has not considered. For example, it is highly unlikely that any wholesaler of fuels will be willing to make significant investments in service stations owned by Caymanians if the wholesaler's power to enter into contracts with such Caymanian owned businesses is limited to one or two years, as the Regulations presently provide. It seems to Sol that the purpose of a lot of the Regulations appears to be aimed at seeking to increase competition rather than protecting consumers and therefore out of step with the stated purpose of the Regulations.
- 3.2 The ambit of the proposed Regulations, particularly in terms of the proposed definition of "Consumer" is too wide. The generally understood concept of a "consumer" in terms of consumer protection is something like: "the average person in the street". As a matter of UK law, from which many Cayman Islands laws derive, businesses are usually not covered in consumer protection legislation on the basis that such consumers are generally considerably more sophisticated than the "average person on the street" and do not generally require protection, and because the imposition of consumer protection regulations inhibits the ability of sophisticated parties to contract on their terms. The imposition of those of the Regulations which have this affect is contrary to the free market principles which Cayman embraces.
- 3.3 The imposition of regulation inevitably creates extra work for participants of the industry affected and therefore costs can arise in terms of complying with new regulation. The more extra work to be created by new regulations, the more likely that extra costs will arise. The cost of performing significant extra work will have to be passed on to the customer. Another cost which will arise in connection with the Regulations should they be enacted in their current proposed form, is to operate a free telephone service in the Cayman Islands, which cost will also have to be passed onto customers. Sol does however have a programme which offers customers \$15 for comments of their experience and therefore sees no need for this to be regulated.
- 3.4 It is noted with some concern that the proposed Regulations appear to create a Fuel Standards Committee ("FSC") with the responsibility for setting standards for the specifications for the various grades of fuel sold on the Island. Whilst Sol can see a useful purpose in having such a body (such as in terms of setting the necessary minimum

standards to ensure, for example, that car manufacturers are willing to sell models which require specific attributes in the fuel to operate properly), there is insufficient expertise in the Cayman Islands to make an independent determination of fuel quality standards and any such body must generally only endorse generally available grades (i.e. no “boutique” grades) and must follow internationally recognised standards promulgated by qualified and recognised organisations such as the American Petroleum Institute and the American Society for Testing and Materials.

- 3.5 It is noted with some concern that Sol has been designated as a party with Significant Market Power and *Refuel* has not been so designated. In Sol’s view, *Refuel* with their company owned and operated service station is the only market participant who is able to capture both the wholesale as well as the dealer margin, which in our view gives them a significant advantage over the other its competitors.

4. SPECIFIC COMMENTS

Sol offers the following specific comments on the text of the proposed Regulations:-

- 4.1 **Definition of “consumer”:** The definition of “consumer” in the Regulations needs to be narrowed for the reasons set out in paragraph 3.2 above. The alternative definition of “consumer” which has been proposed is even more unsuitable than the definition which is in the text of the Regulations. Specifically, certain of Sol’s customers, namely:- industrial and wholesale customers, aviation customers, US Coast Guard, Cayman Islands Port Authority, Royal Navy and other military customers should not be covered by the Regulations. Sol suggests that the definition of consumer should be related to the quantity of fuel purchased per transaction. Any party consuming more than two hundred and fifty Imperial gallons will not be a normal consumer in the sense in which consumer protection is usually regarded. Sol suggests that the following definition is used:-

““Consumer” means a person who enquires about, requests, receives, acquires, uses or subscribes to a Service or a Product from a Sectoral Provider primarily for personal, domestic or other non-commercial consumption and not for further resale, resupplying or trade. For the avoidance of doubt, any person contracting for Products in quantity in any single transaction in excess of two hundred and fifty Imperial gallons or in value above five thousand dollars and any person contracting for Services in value in any single transaction in excess of ten thousand dollars, fuel retailers, energy and water utility providers shall not be a Consumer under these Regulations;”

- 4.2 The **definition of “Force Majeure”** is not wide enough and does not include all of the circumstances which are usually part of such a definition. Sol suggests that the following definition is used in place of the definition set out in the Regulations:-

“Force Majeure” means an unforeseen event outside the reasonable control of the party affected by that event, including but not limited to one or more of the following:- war, riot, civil commotion, disorder, insurrection, exercise of emergency powers of a governmental authority; acts which hinder the course of or stop, hinder, prevent, interrupt or breach the

supply and/or provision and/or distribution of any material and/or power and/or required resource; any hazardous, dangerous, perilous, unsafe chemical, substance, material, property, use or adaptation of which threatens or poses a risk to health, safety or liability to the general public; flood, fire, arson, storm, lightning, tempest, acts of terrorism, hijacking, sabotage, vandalism and other criminal acts which cause destruction; damage of equipment, machinery, master material or property; accident; death, injury or illness of key personnel;”

- 4.3 The **definition of “Restrict”** needs to be modified to accommodate the circumstances where for reasons outside the control of a sectoral provider, sectoral providers are themselves subject to supply restrictions and therefore must ration supplies. Sol therefore suggests that the definition is amended as follows:-

“Restrict” means any action taken by a Sectoral Provider to limit temporarily a Consumer’s access to a Product or Services provided to that Consumer by the Sectoral Provider and “Restriction” shall be construed accordingly PROVIDED THAT any action taken by a Sectoral Provider caused by Force Majeure or by any other reason beyond the control of the relevant Sectoral Provider shall not be considered to be a Restriction for the purposes of these Regulations.”

- 4.4 Sol considers that the **definition of “sectoral provider”** is unclear.

- 4.5 **Regulation 4:** the end of this Regulation does not make sense. It looks like it was intended to add more words to the end of that Regulation but that those words were not added when the document went to print. This Regulation needs to be reviewed again and the missing words inserted at the end.

- 4.6 In **Regulation 6(1):** The Office is seeking to impose requirements for a lot of information to be displayed which is not normally displayed. In particular, the requirement to describe particular fuel properties in the manner set out is at odds with how fuel specifications are quoted i.e gasoline octane index rating is specified as minimum, ethanol content as maximum, diesel cetane index as minimum . Sol suggests that the Office should stick to present conventions in terms of the provision of information to consumers,. Sol suggests that the words “vending area” should be replaced by the word “forecourt”, which is more accurate. Sol further suggests that the same information required to be displayed at service stations is also prominently displayed on all mobile refueller trucks used to serve consumers.

- 4.7 In Regulation 6(2), the Regulations refer to certain **types of fuel** marketed for sale in the Islands but not all of them. In particular, and as a matter of consumer protection, any petroleum product which has ethanol or any other so-called “bio” fuel in it should be clearly marked in a way which distinguishes it from non-“bio” fuel grades so that consumers know what is being dispensed into their motor cars or other equipment. Therefore, definitions need to be provided for “Ultra Low Sulphur Diesel” and all types of bio-fuels marked for sale in the Cayman Islands.

- 4.8 **Regulation 7:** the requirement to ensure that all grades of fuels typically marketed for sale in the Cayman Islands are always available is impractical. If this Regulation is imposed and an exception is not granted by the Office, sectoral providers will be forced to seek supply from whatever source is available and at whatever price is available and any increase in price from procuring supplies from an unusual source would have to be passed on to the customer. Sol always seeks to keep all grades of fuel in stock but cannot guarantee that there will not be periods in which a particular grade of fuel is unavailable and this must be reflected in the proposed Regulations.
- 4.9 In **Regulation 8:** the term “Vendor” is introduced as a defined term but there is no definition provided. A definition needs to be provided.
- 4.10 **Regulation 9:** Sol does not object to the concept of a consumer providing its own container for fuel to be dispensed but that container must be fit for its intended purpose and must be used in a proper manner and this should be reflected in the proposed Regulations.
- 4.11 **Regulation 10:** Sol does not have the capacity to print its materials in Braille. If Sol is required to transcribe its documentation into Braille, that cost will have to be passed on to consumers. Similarly, and particularly given how few actual “Consumers” that Sol sells to, it is uneconomic for Sol to fund a free complaints hotline. It should be public facing businesses only, if any, which are required to maintain a free complaints hotline. It should be noted that funding a free complaints hotline will be a significant expense for service station operators and the cost will almost certainly be passed on to the consumer.
- 4.12 **Regulation 13(1)(a):** This Regulation will require service station operators to create a website and generally conform to the various administrative requirements. Complying with these requirements will create additional costs which are likely to be passed on to consumers.
- 4.13 **Regulation 22(3)(i):** The reference to “licence” in this Regulation is erroneous. Sol operates under a **permit** issued under the Dangerous Substances Law and this Regulation needs to be amended accordingly.
- 4.14 **Quarterly reporting of complaints:** Sol comments that the requirement to submit quarterly reports of complaints appears to be unnecessarily burdensome in light of the obligation in Regulation 17 to report all significant complaints within 5 Business Days of arising.
- 4.15 **Regulation 24(p):** As a matter of Cayman Islands law, penalties are unlawful and will not be enforced by the Cayman Islands Courts. Sol suggests that the word “penalty” was used in error in the drafting of the Regulations and the draftsman actually intended to use the words “agreed damages” or “agreed compensation” instead, as a provision for agreed damages or agreed compensation is lawful.
- 4.16 **Regulation 25:** Sol objects in the strongest possible terms to Regulation 25 which seeks to create new law. As stated above, the Office is not a legislative body and should not be

creating new law, which is the purpose and purview of the Legislative Assembly of the Cayman Islands. This Regulation significantly interferes with the freedom of sophisticated parties to contract on such terms as they choose which is contrary to the way in which sophisticated parties are usually treated under Cayman law. The Office should expect that sectoral providers will not be willing to make significant investments unless a sufficient period of return is granted in exchange. Limiting the term of contracts to one or two years is likely to stifle the making of significant investments by sectoral providers. In such circumstances, a sectoral provider would likely be forced to significantly increase prices in order to assure a return and these additional costs would inevitably have to be passed on to the consumer. It should also be noted that turning over service station operators every 1-2 years is time consuming, will create additional legal consultancy fees for both parties, will be expensive and may lead to service station closures if suitably qualified personnel cannot be found in a timely manner. Importer, wholesale/ retailers like *Refuel* do not have these regulatory constraints as owner operators.

- 4.17 **Regulation 26:** Sol objects to Regulation 26. The imposition of a mandatory “cooling off” period is highly unusual for the fuels sector and is typically only imposed where (a) there is a wide disparity in the sophistication of the parties to a contract, (b) the contract is for a long duration and (c) the amounts involved are significant. The only sectors of which Sol is aware where a cooling off period is typical is in connection with the sale of pension plans and in hire purchase contracts. The goods and services supplied by Sol do not practically lend themselves to a cooling off period.
- 4.18 **Regulation 27:** Sol objects to Regulation 27. This Regulation seeks to impose new law.
- 4.19 **Regulation 28:** Again, Sol objects to the creation of new law by the Office. Cayman Islands law is sufficiently developed to deal with a situation where the performance of an obligation under a contract is delegated to a third party. The Office should not be interfering with settled principles of Cayman law as this is more likely to inhibit economic activity than protect consumers.
- 4.20 **Regulation 29:** Sol objects to Regulation 29 which again imposes new law and restricts the ability of parties to contract on terms of their choosing and the ability of a party to determine the criteria upon which it is willing to enter into a contract with a counterparty. This is contrary to the free market that Cayman has sought to create.
- 4.21 **Regulation 42:** Sol objects to Regulation 42 in the strongest possible terms as wholly unworkable. The implications of providing such a long period of credit have clearly not been properly considered. In the case of the sale of fuel to a service station operator, at today’s prices, a credit period of 30 days could mean that Sol has approximately US\$455,000 in product at risk in connection with a single service station. If all of the service stations availed themselves of a 30 day period of credit under Regulation 42, that would entail Sol having more than US\$5M at risk at a given time, which is commercially unacceptable. Additionally, service station operators negotiate their own credit arrangements with their customers and will undoubtedly be unable to accept the imposition of the credit terms as envisaged by Regulation 42.

- 4.22 **Regulation 49(2):** This Regulation does not make sense and needs to be reviewed again.
- 4.23 **Regulation 51:** Sol objects to Regulation 51 which involves the creation of new law and which appears to single out the sectors regulated by the Office.