



**CHEMICAL INDUSTRIES
ASSOCIATION**

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**RESPONSE TO CONSULTATION ON THE
PROPOSED TREATMENT OF GAS STORAGE
FACILITIES WITH SPLIT OWNERSHIP**

Dear Sonia

The CIA welcomes the opportunity to respond to this important consultation. We recognise the difficulties that have arisen due to the Aldbrough storage facility exemption applications. The CIA is aware that joint ownership facilities will need to be treated on a case-by-case basis. We believe that a facility with joint ownership should not be penalised because of its ownership arrangements, but also recognises that an incentive should not be created for storage facilities to set up separate legal entities to potentially take advantage. Therefore, we believe that Ofgem should develop a two-stage approach whereby the impact of the whole facility on the gas market is assessed, and then only if this test fails should the individual owners be assessed.

In particular the CIA is of the view that:

- If a facility with joint ownership applies for Regulated Third Party Access (RTPA) exemption, then a single application should be made and so the first test should be whether the whole facility meets the requirements for exemption. If the whole facility passes this initial test then RTPA exemption should be granted. If the whole facility fails the test, then Ofgem should assess the relationships between the two owners, for example, the contractual arrangements between them, and the original development plans for the facility.
- In the case of the Aldbrough facility, given the legal separation and the clear original intention to develop two individual facilities this demonstrates an adequate level of separation. The CIA encourages Ofgem to scrutinise contractual arrangements between parties in these instances to ensure they encourage competition. Contractual arrangements between two parties will have an impact on how they operate their storage, which in turn will impact on the market overall, and so we believe that two similar facilities with different contractual arrangements could be treated in a different manner.
- There could be a potential incentive for storage operators to create two legally separate entities to take advantage of the de minimis test. The CIA would therefore urge Ofgem to carry out a stricter test than mere legal separation. The joint owners of a storage facility could be viewed as separate if this is extended to total ownership separation, i.e. there should be no common company throughout any part of the ownership chain, as is the case for the Aldbrough facility. We recognise that this is pre-empting an unlikely scenario, but would observe that creating a transparent regime that plans for all eventualities will provide comfort to potential gas storage developers that should encourage further gas storage development.



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- Treating jointly owned storage facilities in the above manner does raise the issue of data transparency and asymmetrical access to information. We would note that having a jointly owned storage facility will mean that these parties will be aware of the other's operational intentions prior to the rest of the market. This is an issue that we believe needs to be addressed to ensure no parties have an advantage to the rest of the market, and the approval of modification 006 would address our concerns.

If you have any comments about any of the points raised in this response please contact me.

Regards

A handwritten signature in black ink, appearing to read 'Stefan Leedham', written in a cursive style.

Stefan Leedham,
Business Analyst