

Roisin McLaughlin  
The Utility Regulator  
Queens House  
14 Queen Street  
Belfast  
BT1 6ED

2<sup>nd</sup> March 2022

**Re: SONI TSO Governance: Consultation on modifications to SONI TSO Licence**

Dear Roisin,

I am writing in regard to the consultation on modifications to SONI TSO Licence, the third stage of Utility Regulator's (UR) governance review of the System Operator for Northern Ireland (SONI TSO).

**The Consumer Council**

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland (NI).

The Consumer Council has specific statutory duties in relation to energy, postal services, transport, water and sewerage. These include considering consumer complaints and enquiries, carrying out research, and educating and informing consumers.

**The role of SONI in delivering for Northern Ireland Consumers**

Prior to EirGrid's acquisition of SONI in 2009, the Consumer Council wrote to the Utility Regulator (UR) in Northern Ireland (NI) and the Commission for Regulation of Utilities (CRU) in Ireland to highlight<sup>1</sup>:

*"The overriding issue arising from the proposal is to ensure that consumers in NI are treated on a fair and equitable basis with their counterparts in the Republic of Ireland."*

Since 2009, SONI's role and influence on NI's electricity market has grown, taking over the planning of the transmission network in 2014, being central to the design and management of the Single Electricity Market (SEM) and now helping to inform the development of the Energy Strategy for NI<sup>2</sup>.

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<sup>1</sup> [https://www.consumercouncil.org.uk/sites/default/files/original/The\\_proposed\\_acquisition\\_of\\_SONI\\_Limited\\_by\\_Eirgrid\\_plc.pdf](https://www.consumercouncil.org.uk/sites/default/files/original/The_proposed_acquisition_of_SONI_Limited_by_Eirgrid_plc.pdf)

<sup>2</sup> <http://www.soni.ltd.uk/about/strategy-2025/>

In June 2021 the Consumer Council responded to the SONI TSO Governance Consultation Proposals (June 2021 Consultation) published by the UR. In that response we stated:

*“NI consumers are entitled to robust governance arrangements that can ensure SONI’s strategies, policies and projects:*

- *Are fully aligned to the needs of NI consumers.*
- *Help consumers across NI meet future challenges by delivering a just, affordable and secure energy transition.*
- *Are acting in the best interests of NI consumers through transparent and accountable governance and evidence-based decision-making.*
- *Enable and facilitate an integrated, flexible and reliable energy system that supports the ambitions of the Energy Strategy for NI.*

*As a regulated company, SONI is ultimately accountable to the citizens of NI. This accountability must be underpinned by transparency in respect of its operational activities, and the activities of its staff and Board. This consultation process is a welcome step in providing the assurances required to ensure SONI is operating in the public interest of NI.”*

### **Proposed licence modifications to give effect to governance changes**

The Consumer Council has the following high-level comments regarding modifications to SONI TSO Licence:

#### **SONI Board composition**

In response to the June 2021 Consultation, the Consumer Council noted that the best outcome for Northern Ireland consumers would be the establishment of a fully independent SONI Board, supported by independent management and staff. We did so, given that there appeared to be no delineation of leadership and accountability between the responsibilities, governance arrangements and strategic priorities of the SONI Board and its Senior Management Team and the EirGrid Board.

It remains our belief that, to best serve NI consumers, SONI should adopt a more transparent and accountable organisation structure, that better balances proportionate alignment between subsidiary and parent company, with a clear delineation of responsibility, assurance, accountability and strategic focus between SONI and EirGrid leadership.

This belief is in line with the UK Corporate Governance Code (UKCGC) principles for the division of board responsibilities which set out:

*“There should be a clear division of responsibilities between the leadership of the board and the executive leadership of the company’s business.”*

However, we accept the rationale articulated by the UR in the Consultation on modifications to the SONI TSO Licence that it is right and appropriate for EirGrid, in its capacity as the sole shareholder of SONI, to be represented on the SONI Board.

### **SONI Board independence**

While acknowledging the appropriateness of the sole shareholder being represented on the SONI Board, we welcome the proposal that the SONI Board will need to consist of a majority of sufficiently independent non-executive directors and the representative of the EirGrid on the SONI Board must not be the Chairperson of the SONI Board, nor can they be an individual that has an executive or managerial role in EirGrid.

This package of proposals is in line with the UKCGC principles which set out:

- “D. In order for the company to meet its responsibilities to shareholders and stakeholders, the Board should ensure effective engagement with, and encourage participation from, these parties...”*
- F. The chair leads the board and is responsible for its overall effectiveness in directing the company. They should demonstrate objective judgement throughout their tenure and promote a culture of openness and debate.*
- G. The board should include an appropriate combination of executive and non-executive (and, in particular, independent non-executive) directors, such that no one individual or small group of individuals dominates the board’s decision-making.”*

The package of proposals will allow for better consideration of the needs of SONI’s largest stakeholder group; NI consumers. It should also help facilitate the appointment of a Chairperson with objective judgement, and help prevent no one individual dominating the Board’s decision-making.

### **SONI Board expertise**

We welcome the proposal to stipulate the requirement that at least 50% of the sufficiently independent directors will need to have requisite knowledge and experience of the regulated energy sector and of this 50%, at least 50% need to have recent experience relating to transmission system operation matters.

This expertise will be invaluable to SONI, and consequently to NI consumers, over the coming decades as the organisation makes crucial strategic decisions that relate to the development, operation, and management of the Northern Ireland transmission network, including in respect to the transition to a low carbon economy.

## **Ratification of the SONI Board**

The Consumer Council welcomes the retention of a right of veto for Board appointments where the UR determines that the relevant appointment criteria is not met in any individual case. This is in line with proposal in response to the June 2021 Consultation that the UR independently ratify SONI Board appointments.

## **Responsibilities of the SONI Board**

Reinforcing the independence of the SONI Board by stipulating its responsibilities will provide clarity and transparency. The Consumer Council agrees with the UR that it is necessary that the SONI Board make decisions on and/or approves matters relating to:

- Delegation schemes
- Derogation applications under Part B
- Proposed changes to associated service legal agreements and the system operator agreement
- The SONI Conflict of Interest Policy
- The SONI Whistle-Blowing Policy

Derogation applications, a service level agreement and the system operator agreement are fundamental to providing greater transparency and accountability for the services provided from across the EirGrid Group to SONI TSO, or from SONI TSO to the EirGrid Group.

Whistleblowing policies are critical to: (i) protecting customers and staff by addressing fraud and misconduct, and (ii) promoting a culture of trust, openness, transparency and good governance. While a conflict of interest policy will assist in increasing the level of trust that consumers, businesses and the energy sector in NI, have in SONI.

## **Managerial and Operational Independence**

The Consumer Council agrees with the UR proposal to encourage greater SONI independence from EirGrid so to provide greater transparency and accountability in relation to SONI decision making and costs. It is imperative that SONI, as a regulated subsidiary of EirGrid, must act, make decisions and meet legal requirements that are in the full and best interests of NI consumers.

## **Derogations**

The Consumer Council acknowledges the importance of enabling SONI to benefit the operation of the Transmission System in NI, and as a consequence, its consumers by being permitted the opportunity to share technical knowledge and staff expertise with Eirgrid.

This sharing of technical knowledge and staff could present opportunities for efficiency savings and help address the scarcity of the highly specialist technical staff SONI and EirGrid are required to employ.

However, in our response to the June 2021 Consultation we agreed with the UR that the sharing of staff and/or service resources should only be undertaken with UR approval.

Therefore, we support the proposal to enable an initial and future derogation applications by SONI. The scrutiny of derogation applications by the UR should serve to increase transparency regarding resource allocation, thereby providing additional, independent assurance to NI consumers that resources are being correctly prioritised, and deployed and managed effectively and efficiently.

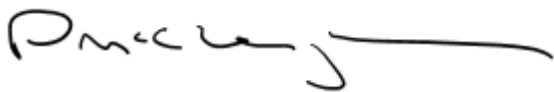
The initial derogation period should provide the UR sufficient time to scrutinise SONI's proposals and determine whether SONI has been able to justify the necessity and desirability for joint working with the EirGrid/group.

### **Compliance plan**

The Consumer Council supports the proposal for a specific published Compliance Plan in respect of the other requirements provided for in the licence modifications. This Compliance Plan, and the subsequent review thereof by an independent Compliance Officer, are important assurance mechanisms both for the SONI Board and UR in regard to compliance with the new Licence conditions and will assist in embedding the new corporate structures, achieving transparency and promoting trust.

The Consumer Council looks forward to on-going collaboration with UR regarding the protection of NI consumer interests.

Yours sincerely,



**Peter McClenaghan**  
**Director of Infrastructure & Sustainability**