

Kevin O'Neill
SONI Limited
Castlereagh House
12 Manse Road
Belfast
BT6 9RT

Ref: NET/E/TH/739

20 October 2023

Dear Kevin,

Re: Condition 42 Compliance Project Definition & Discovery – Final Dt & Et Approval

Thank you for the opex *Dt* submission of the 18 May 2023 regarding costs associated with respect to Licence Condition 42 (LC42) compliance and the SONI demerger project.

Having reviewed the SONI response to the PD, we remain unconvinced that Board costs and their recruitment expenses should be remunerated via the up-to-cap mechanism. This conclusion is based on the following:

- 1) Our guidance states that use of this mechanism should be the exception rather than the rule (See UM [Guidance](#), p10, para 3.22).
- 2) The uncertainty mechanism applied should align with that used within the SONI price control for other similar costs (See UM Guidance, p10, para 3.20).
- 3) As Board expenses are already in the baseline, adjustment to this cost-sharing allowance appears sensible. There does not seem good reason to deviate from this approach within the final approval.
- 4) Whilst the scale of overall programme costs is unknown, this is not the case for this phase where costs are both well-defined and controllable.

However, we are content that other discovery phase costs be treated on an up-to-a-cap basis as per your original request. Please be advised that this excludes the costs associated with Board recruitment.

For confirmation, the total amounts approved are detailed in the table below by tariff year [and in April 2019 prices for ease of comparison with the current price control].

Tariff Year	SONI Claim (April 2023 prices)	UR Allowance (April 2023 prices)	UR Allowance (April 2019 prices)
2022-23	£212.7k	£132.2k	£110.8k

2023-24	£141.4k	£149.0k ¹	£124.9k
2024-25	£92.7k	£90.7k	£76.1k
Total	£446.9k	£371.9k	£311.9k

Unresolved Issues

A spreadsheet detailing our calculations is provided alongside this letter. However, in summary there are two main issues with the current request.

Issue 1 – Organisational Review

We have decided to provide the full allowance sought for the organisational review. However, we should make it entirely clear that this decision is premised on SONI's assurance, provided in your response to the PD, that the scope of this review exercise will be such as to involve a consideration of all options to achieve Condition 42 compliance (regardless of whether SONI's current expectation is that EirGrid will permit an individual option to be implemented).

We expect that the consideration of all options will be evidenced by SONI and that the findings of this review will be shared in full with the UR including all cost information. SONI must be prepared to demonstrate that it has satisfied the assurance you have given and that all options have been properly considered. Doing so will also help support future phases of SONI's project to implement Condition 42.

We must make it clear, however, that while Condition 42 does not prevent a full demerger, it certainly does not mandate it. Accordingly, any choice that may be made after the initial review exercise to continue to pursue the option of full demerger will be treated by the UR as a discretionary exercise in corporate restructuring, which is unrelated to the operation of the regulated business in accordance with the obligations imposed by the licence conditions. As a result, the costs of pursuing that option will fall outside the scope of what the UR considers must be allowed to be recovered through the price control and will not be the subject of any future allowance whether via a *Dt* claim or otherwise.

In short, SONI is entitled to engage in a process of full demerger but is not entitled to do so at the expense of NI consumers.

By granting in full the amount requested for the first phase of the organisational review, we are acknowledging that any initial scoping work carried out for the SONI board will inevitably consider and address full demerger as one high level option. We are satisfied that this is a legitimate part of the initial exercise, so long as that exercise considers all options, as you have assured us it will. Beyond that initial scoping, however, if SONI were to carry on or commission further work in pursuit of a full demerger option, the costs of doing so would not be funded. It is important that we make this clear as part of this decision, so as to avoid any confusion in respect of the future.

¹ The allowance for this year is greater than the request due to reprofiling of costs.

Issue 2 – Project Management

The case which has been made for external project management (PM) support is not well justified. This is particularly true given that activities listed are largely related to a co-ordination and update role.

For this determination we have provided 50% of the resource requested. This decision is made on the basis of the work expected and the fact that separate consultancy is taking forward the different recruitment, legal and organisational workstreams.

SONI has also raised the point that the UR has had a number of engagements with the appointed PM and did not raise any concerns. We would note that the appropriate procedure for both requesting and determining the legitimacy of certain spend is the UM process. It would be inappropriate to raise concerns via any other mechanism.

The separate allowances provided via the *Dt* and *Et* licence terms are set out in the annexes below. I trust this satisfies your requirements at this time. Should you have any comments, queries or issues feel free to contact Ciara Brennan.

Yours sincerely,



Tanya Hedley
Director of Price Controls

Annex A – Condition 42 Compliance Phase I – Dt Allowance

Having reviewed the SONI response to the PD, we have determined that certain discovery costs should be treated on an up-to-a-cap basis. This includes the PM costs, legal expenses and organisational design review. Board recruitment costs are excluded.

Under *Annex 1 – para 8.5 and 8.6* of SONI's licence, we therefore approve an allowance via the *Dt* up-to-a-cap opex mechanism for these costs. For confirmation, the total amounts approved under this mechanism are detailed in the table below by tariff year [and in April 2019 prices for ease of comparison with the current price control].

Tariff Year	SONI Claim (April 2023 prices)	UR Allowance (April 2023 prices)	UR Allowance (April 2019 prices)
2022-23	£151.2k	£97.2k	£81.5k
Total	£151.2k	£97.2k	£81.5k

Annex B – Condition 42 Compliance Phase I – Et Allowance

Having reviewed the SONI response to the PD, we have determined that the Board costs should be treated on a cost sharing basis. This includes the Board salaries, committee chair remuneration and an uplift for the first full year of operation. Board recruitment costs are also included in this allowance.

Under *Annex 1 – para 8.5 and 8.6* of SONI's licence, we therefore approve an allowance via the *Et* opex cost sharing mechanism for these costs. For confirmation, the total amounts approved under this mechanism are detailed in the table below by tariff year [and in April 2019 prices for ease of comparison with the current price control].

Tariff Year	SONI Claim (April 2023 prices)	UR Allowance (April 2023 prices)	UR Allowance (April 2019 prices)
2022-23	£61.5k	£35.0k	£29.3k
2023-24	£141.4k	£149.0k ²	£124.9k
2024-25	£92.7k	£90.7k	£76.1k
Total	£295.7k	£274.7k	£230.3k

² The allowance for this year is greater than the request due to reprofiling of costs.