TTEP Response to Consultation on the publication of Utility Regulation Compliance and Enforcement Annual Report

TTEP welcomes the opportunity to respond to this consultation paper. In general, TTEP questions the usefulness of the proposed report and requests that the Utility Regulator ('**UR**') further expand and explain how this information promotes the interest of consumers. The consultation paper notes transparency as a consumer benefit, but it is noted that much of the content of the proposed annual report is likely to be immaterial and not of interest of benefit to consumers.

Similarly, one of the stated objectives of the report is to enable the UR to be a best practice regulator. TTEP considers the proposed report to have the opposite effect, as it is an inefficient use of the UR's resources, when greater priorities such as cost and infrastructure delivery would be more beneficial.

1. Do you agree with our proposed compliance data providing detail of both our routine and annual compliance monitoring?

It is unclear whether there is any value or benefit to consumers or licensees in the compliance report giving details on both the routine and annual compliance monitoring given the significant overlap in these areas. If the UR has identified a breach of a licence obligation through its routine monitoring, there is no clear value in repeating this information within the context of the annual compliance monitoring. Similarly, it is not sure whether there is merit in reporting on minor or inconsequential instances of compliance which have not been investigated and determined as a breach by the UR. This would place additional reporting obligations on licensees and is not in the interest of the consumer.

The consultation paper states that the UR wish to "*ensure the information within the report remains valuable to the reader".* It is not clear whether there is any value in publishing information relating to the annual compliance monitoring. The compliance report should be limited to information that provides transparency to consumers, such as where the UR has identified and confirmed an instance of non-compliance with a licence condition, and what the outcome(s) of any determination of non-compliance has been.

2. To what extent would it be necessary or desirable to have the published data anonymised / pseudonymised?

TTEP considers it necessary to anonymise all data which is published in the annual compliance report which has not been published elsewhere. Failure to anonymise information contained within the compliance report may result in reputational damages to licensees. Licensees should only be named in the report where the UR has separately investigated, confirmed, and publicly identified a breach of license.

3. To what extent do you agree with our proposal to include relevant detail by licence type to ensure the data remains of value to the reader?

TTEP does not believe that the proposed report will provide value to the reader.

4. Should information about cases closed at the Initial Enquiry Stage through an agreed alternative resolution also be published in our Compliance and Enforcement Annual Report?

The annual report should only include information relating to where the UR has identified a breach of licence obligations. As such, information on cases closed at Initial Enquiry stage, where no breach has been identified, should not be included. Including such information in the annual report increases the time and resources required to prepare the report, while offering limited benefit to the reader. TTEP considers that the interests of consumers and licensees could be better served through a more efficient use of regulatory resources.

There may be disadvantages to publishing information around the Initial Enquiry Stage given its characterisation as an information-gathering exercise in the Enforcement Approach and Procedure document. Paragraph 4.8 of the procedure document also notes that the Initial Enquiry Stage may include "*informal discussions".* TTEP has concerns that if information gathered during the Initial Enquiry Stage can be published, it may prejudice a party's ability or willingness to engage in information discussions. This would consequently mean that routine queries and discussions which are currently closed at Initial Enquiry Stage may be more drawn out, which would be an inefficient application of the UR's resources.

The UR, when considering the information to include within the report, should review and consider whether or not similar information is published in other regulatory jurisdictions. This will help to ensure that the UR's reporting is aligned with best regulatory practice, and that resources are not expended on developing reports which serve no purpose and offer limited benefit to stakeholders.

5. Do you have any additional comments on the proposed annual report in relation to how the publication of the proposed information is in the interests of consumers?

TTEP does not consider that the information published in the annual report would offer any tangible benefit to consumers. The consultation paper frames the report as offering greater transparency and ensuring that stakeholders are suitably informed on the UR's activities. However, it is noted that information proposed to be published in Annex 1 and Annex 2 is already available on the UR's website.

It is not clear who is the intended reader of the information proposed in the report. For example, information on potential compliance issues, breakdown of common issues by licence type, and details on Statement of Licence Compliance submission are unlikely to be of practical use or interest to stakeholders or consumers. This is particularly the case where the report refers to "*potential compliance issues"* which may not constitute an actual issue of consequence. The publication of this information within the proposed Annual Compliance Report could actually undermine transparency by providing information on trivial or non-material issues, making it challenging to discern where real compliance issues exist.

It is likely that many instances which the UR refer to as "*potential compliance issues"* are unlikely to be of any consequence or material impact to consumers. The reporting on such issues therefore offers limited to no transparency benefit to customers.