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Response to UR Consultation

CONSULTATION ON THE PUBLICATION OF UTILITY REGULATOR COMPLIANCE AND ENFORCEMENT ANNUAL REPORT

Electricity Association of Ireland

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A decarbonised future powered by electricity.

Electricity Association of Ireland
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The Electricity Association of Ireland (EAI) is the representative body for the electricity industry and gas retail sector operating within the Single Electricity Market (SEM) on the island of Ireland.

Our membership comprises utilities that represent 90% of generation and retail business activities and 100% of distribution within the market. Our members range in size from single plant operators and independent suppliers to international power utilities. Our members have a significant presence in Ireland, Northern Ireland and Great Britain across the sector value chain. We represent the interests of the all-island market in all relevant jurisdictions, including the EU via our membership of the European electricity representative body Eurelectric.

We believe that electricity has a fundamental role in providing energy services in a decarbonised, sustainable future, in particular through the progressive electrification of transport and heating. We believe that this can be achieved, in the overall interest of society, through competitive markets that foster investment and innovation.

We promote this vision through constructive engagement with key policy, regulatory, technology and academic stakeholders both at domestic and EU levels.

Our ambition is to contribute to the realisation of a net-zero GHG emissions economy by 2050 or sooner, in order to limit the impact of rising temperatures. Electricity offers opportunities to decarbonise the Irish economy in a cost-effective manner.

Introduction

EAI welcomes the opportunity to respond and supports the publication of an annual Compliance and Enforcement Report, provided it strengthens customer confidence in the market without distorting competition, and is clear, proportionate and properly contextualised.

The report should be transparent for its reader and clearly distinguish confirmed non-compliance from potential issues, ongoing investigations and matters resolved without formal enforcement, to avoid misleading conclusions or unnecessary reputational harm.

Anonymisation will be important in the small Northern Ireland market, and any published information should include appropriate context on impact, consumer harm and remediation.

Consultation Questions

Question 1. Do you agree with our proposed compliance data providing detail of both our routine and annual compliance monitoring? Please provide clear reasoning and examples where possible evidencing the impact of your views.

EAI supports the principle of providing a single annual report which summarises the work completed by UR and licensees, this evidences the ongoing collaborative approach to compliance which is foundational to market operation and should provide comfort to customers of supplier integrity regarding regulatory matters.

To deliver this customer benefit, it is important that the report is transparent, comprehensible and contextualised for the reader. When crating the report, the UR should be mindful of the reader's awareness of the SOLC annual process and therefore ensure that sufficient context is provided so that the reputation of suppliers is not inadvertently affected. For example, we understand that Compliance Issue is the status in SOLC returns or throughout the year, however this is not a definitive indicator of non-compliance as suppliers are encouraged to report any potential occurrence out of an abundance of caution and transparency with UR. Reporting the number of these instances in a year could be misinterpreted in a public report

as an indicator of systemic supplier issues and cause harm in the market. Further, reporting the number of potential compliance issues does not take into account customer harm, duration or extent.

There will also be a wide variety of scale between instances and across suppliers; some may have a potential compliance issue which causes no customer harm vs another which affects the market or customer base at large. Any report should either pre-filter these unconfirmed compliance issues and/or clearly explain the scale of impact, so the issues are not over exaggerated in the customer's perception. It should also explain any remediation or preventative steps taken by suppliers, so that the report reflects not only the issue identified but also whether consumer harm was avoided, mitigated or remedied.

The context of any reporting should be considered so as not to cause damage to the reputations of suppliers and therefore undermine confidence in the market for all.

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

Anonymisation or pseudonymisation of supplier data will be necessary in this report particularly in relation to potential compliance issues, ongoing investigations, or cases where there has not been a confirmed finding of wrongdoing.

This is especially important in Northern Ireland, where the market is relatively small and suppliers may be identifiable even where names are removed. The report should therefore apply a cautious approach to publication and should not identify, directly or indirectly, individual suppliers unless the relevant threshold for publication has been met under the existing Enforcement Policy and procedures. Where information is anonymised, the report should still provide appropriate thematic information, for example by licence type, issue category, scale of impact, consumer harm and remediation taken.

The UR should ensure the report does not undermine market confidence or distort competition.

Question 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. Stakeholders should outline and explain (where applicable) their rationale for the views expressed and include examples where appropriate.

EAI members agree that including relevant detail by licence type can help maintain the value of the report for consumers and stakeholders, provided it is not used in a way that allows individual suppliers to be identified where anonymisation is intended. Licence-type reporting may help readers understand whether issues are sector-wide, specific to particular activities, or reflective of broader compliance themes.

However, this information should be accompanied by appropriate context. For example, the report should distinguish between isolated administrative issues with limited or no customer impact and more material issues involving customer detriment, market impact or systemic issues. Without this context, a simple count of issues by licence type could be misleading and could create misleading comparisons between suppliers.

Question 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? Please provide the rationale for your position including how it represents the consumer interest.

We do not believe that cases closed at the Initial Enquiry Stage through agreed alternative resolution should automatically be published in the Compliance and Enforcement Annual Report. Alternative resolution can be appropriate where the matter has been addressed without formal enforcement, where harm has been remedied, or where proportionate steps have been taken to prevent recurrence.

Publication should therefore be carefully considered on a case-by-case basis and should not imply that a supplier has been found to be non-compliant where no such determination has been made. This extends to instances where voluntary contributions have been made, as these should not be presented as equivalent to a finding of non-compliance or as a penalty.

If such cases are included, the report should explain why alternative resolution was appropriate, the consumer benefit delivered, and the status of the matter, while avoiding unnecessary reputational harm where wrongdoing has not been established.

Over-arching Question 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? If you have any additional comments, please provide clear rationale for these.

We support the objective of increasing transparency and demonstrating how compliance and enforcement activity protects consumers. However, it should be recognised that the report will serve two purposes; evidencing the volume of regulatory activity undertaken by both the UR and Licensees and; sharing relevant information of confirmed non-compliance where it is in the customer's interest.

In relation to compliance issues, SoLC and audit findings, the report should focus on the nature of issues identified, the extent of any customer or market impact, the actions taken to remedy issues, and the steps implemented to prevent recurrence.

It should also be clear about the reporting period and the timing of publication. Where an issue occurred in a previous period and has since been resolved, the report should make this clear so that historic matters are not interpreted as reflecting current supplier practice.

We would also welcome a pre-publication fact-checking process for any supplier that may be named or identifiable, to ensure accuracy and fairness before publication.