

Appendix 1

A. Bord Gáis Energy's Proposed Transmission System Operator Licence changes – re SONI Ltd, 23 January 2017

Licence Condition	Proposed Change	Rationale and Comment
Condition 5 Prohibition of Cross Subsidies	New condition 5(3): Please add a new condition: <u>"The Licensee shall provide all such necessary information as is required to enable the fulfilment of obligations under Condition 23B"</u>	BGE believes it prudent that an explicit obligation to provide data to the level likely required to enable the compliance officer to appropriately meet its duties under 23B, is included here.
Condition 11 Restriction on Use of Certain Information: Condition 11(1)(a):	Condition 11(1)(a): Please re-phrase as follows: "(a) that neither the Licensee nor any other person, <u>including without limitation all subsidiaries, associated or affiliated undertakings, joint ventures or shareholders of the Licensee</u> , shall use that protected information for the purpose of obtaining any unfair commercial advantage in relation to the Transmission System Operator Business or any other business;"	BGE believes that prohibition of disclosure of information that may commercially benefit the business must be avoided across the entire EirGrid group and this addition is with a view to furthering this aim.
Condition 11(3):	<p>Condition 11(3): Please add "... <u>and also</u> take all such other steps as may be specified..." on lines 1 and 2</p> <p>And add at the end of 11(3)</p> <p><u>"Such measures shall include but not be limited to the achievement by the Licensee of ISO27001 certification."</u></p>	<p>BGE considers that this amendment is necessary as otherwise the paragraph may be interpreted as allowing the Licensee to rely on the Authority to determine measures/ steps/ procedures that it should take to comply with preservation and disclosure of commercial sensitive/ advantageous information. To allow the current drafting remain would undermine the importance of the need for the Licensee itself to take all necessary measures needed and would also undermine the extent of compliance steps that should have been taken when being assessed by the Compliance Officer under Condition 23B.</p> <p>To give the market comfort on the security of information, the ISO27001 standard provides assurance that information handling, processes, technologies and assets are protected and supported against unauthorised access, unapproved changes and unplanned outages. It proves an organisation has a developed risk management strategy for dealing with sensitive information demanding assessment of information security vulnerabilities with regard to people, processes and IT systems and the control they can implement to ensure the security of the information they hold and to safeguard against the risk that information may be accessed by unauthorised persons. BGE understands that EirGrid's information policy in this regard is more external rather than internal transfer of information focused. There are significant issues of data sensitivity and confidentiality that cannot be adequately protected if employees have access to information they</p>

		<p>should not be privy to.</p> <p>Notwithstanding the RAs statement that each business unit in EirGrid group has IT access restriction (SEM-16-041 page 37), achievement of ISO27001 standard best proves the quality of such access restriction and alleviates the burden on the RAs to monitor and assess in detail whether such internal ring fencing is as effective as needed to alleviate conflict of interest concerns</p>
Condition 11(6)	<p>Condition 11(6) Please amend as follows:</p> <p>“The Licensee shall ensure that when any member of staff is to be transferred from between the Transmission System Operator Business to—and any Associated Business, <u>or vice versa</u>, and an unfair commercial advantage could accrue to either or both businesses, the Licensee shall inform the Authority of the proposed transfer(s) and shall make the Authority aware of the steps being taken to ensure that no unfair commercial advantage will accrue to either business. In particular (and insofar as is legally possible) the transfer of any member of staff that has been involved in the establishment or operation of the Capacity Market <u>or in the development of the role or function of the Licensees in Ancillary Services</u> to an affiliate to perform activities in relation to an Interconnector (where appropriate) shall be the subject to a cooling-off period of a duration to be agreed with the Authority <u>and may where appropriate and reasonable be subject to additional steps as determined and agreed with the Authority to ensure the prevention of inappropriate internal disclosure of information.</u> The Authority may determine in certain cases that no cooling-off period is required.”</p>	<p>It is critical that these restrictions on use of information provisions extend across all of EirGrid group; the proposals here reflect this aim. Pursuant to SEM-16-041, page 38 the RAs were to strengthen these conflict of interest related conditions due to the new functions, roles assigned to the TSO for I-SEM and system service delivery. The proposal to reference system/ ancillary services (which had been omitted) is to meet this aim.</p> <p>SEM-16-041 also refers to the need to tighten the wording to ensure focus is sufficiently on restricting inappropriate internal access to information as well as stopping inappropriate external release. Given the TSO discretion in the existing drafting to decide if the transfer of a staff member may accrue “an unfair commercial advantage” to either or both businesses, it is critical that regulator oversight and approval of these transfers ultimately occurs. BGE makes the additional wording suggestion in this context - enabling the Authority to stipulate further safeguards around use of certain information reinforces the obligation introduced under this condition.</p> <p>These proposed modifications, together with BGE’s proposal that the Compliance and Assurance Officer (under Condition 23B) cover the reporting of EirGrid compliance with decisions surrounding staff transfers and rationale for deciding whether or not they were going to accrue a commercial advantage and whether that was the correct decision or not, should greatly help alleviate concerns in this regard.</p> <p>BGE would welcome confirmation as to when the licensee codes of conduct to reflect the new functions and conflict of interest obligations will be drafted and come into effect as referred to in SEM-16-041 (p.38)?</p>
Condition 15 Non-Discrimination: Condition 15(1)	<p>Condition 15(1): Please amend this paragraph by adding to the end of it as follows: “<u>In the interests of promoting and facilitating competition having due regard to the</u></p>	<p>SEM-16-041 (pages 38-39) referred to the need for licences to clarify requirements to facilitate competition to cover all areas of competition and between all types of asset. The paper notes the need for EirGrid/</p>

	<p><u>protection and promotion of the interests of consumers, the Licensee shall treat all such subsidiaries, associated or affiliated undertakings, joint ventures or shareholders equally with external competitors. This paragraph will apply to all aspects of the Licensee's ISEM and Ancillary Services roles, in particular where it involves commercial interaction with the Interconnector business."</u></p>	<p>SONI to have an attitude of generally seeking to facilitate competition; equal treatment of related activities who are competing directly or indirectly with external resources; provisions to be sufficiently strong given the new I-SEM and SS roles of the Licensee.</p> <p>While this licence condition is not included in the provisions that the Authority is reviewing for this consultation, given BGE and wider industry's significant concerns as regards the role of the TSO in the market and its affiliated commercial interconnector business, the proposal is deemed critical to give confidence in the effect of ring fencing of EirGrid group and its Interconnector business. The changes here when coupled with the role of the independent compliance officer should go some way to providing the comfort in market outcomes that market participants need.</p>
<p>Condition 22A Central Dispatch and Merit Order:</p> <p>Condition 22A(3):</p>	<p>Condition 22A(3): On line 3 Please amend to "...The merit order so established shall take account of <u>shall meet the following objectives:</u>"</p> <p>(a) minimising the cost of diverging from physical notifications;</p> <p>(b) as far as practical <u>possible, with the only exceptions being risks to safety and security, enabling the Ex-Ante Market to resolve energy imbalances ahead of Gate Closure; and</u></p> <p>(c) <u>minimising the time in advance that early non-energy actions are taken; and</u></p> <p>(d) as far as practical <u>possible, with the only exceptions being risks to safety and security, minimising the cost of non-energy actions by the Licensee in the impact upon the Ex-Ante Market,"</u></p>	<p>BGE requests these changes to Condition 10A(3) as it is necessary for the TSO to more than "take account of" these objectives – the only time the objectives should be departed from is for security or safety reasons. These proposals are considered to make this condition more robust. The changes to (b) and (c) and (d) reflect the importance to BGE and the market of enabling market participants to have as much scope as possible to resolve imbalances without TSO intervention before Gate Closure 2. The order of (c) and (d) as proposed is important as minimisation of the time before the TSO can intervene in the Ex Ante Markets is considered necessary before consideration of the cost element of intervention in the Ex Ante Markets given the paramount role that market participants should have in meeting imbalances before the TSO must intervene.</p>
<p>Condition 22A(5)</p>	<p>Condition 22A(5):</p> <p>(d) Please re-draft as: "technical constraints from time to time..."</p> <p>(f) Please replace "forecast exports of electricity" with forecast <u>flows</u> of electricity"</p>	<p>These proposals are made as:</p> <p>(d) currently reads as if constraints occur now and again – this must be rectified through the proposed deletion to reflect that constraints are effectively continuous;</p> <p>(f) The proposal allows consideration of imports as well as exports, and not just exports of electricity</p>
<p>Condition 22A(9)</p>	<p>Condition 22A(9): Please re-draft line 1 to: "... shall arrange for the carrying out of a periodic audit (<u>at least once annually</u>)..."</p>	<p>BGE considers that it is best practice that the scheduling and dispatch process should be reviewed at least once annually</p>
	<p>Definition of "scheduling and dispatch parameters". Please re-draft to: "means the parameters to be used in</p>	<p>BGE considered the definition to defer to the Ex Ante markets too broad as drafted. The only exceptions when ex ante markets should</p>

	the Licensee's scheduling and dispatch support systems which shall be designed to defer, <u>(with exceptions only related to system safety and security)</u> , central dispatch instructions to enable the maximum use by participants of the Ex-Ante Markets and shall include a Long Notice Adjustment Factor and a System Imbalance Flattening Factor;"	not be maximised by market participants seeking to meet imbalances is if the TSO obligations regarding safety and security are undermined.
Condition 22B Balancing Market Principles Statement: Condition 22B (1)(i)	Condition 22B (1)(i) Please amend to: " <u>accurately and transparently</u> describes the Licensee's scheduling and dispatch process within the Balancing Market; and"	BGE believes the stronger wording is required such that the TSOs are explicitly obliged to produce and maintain a document on BMPS that provides clarity and certainty for market participants in terms of the timing and nature of TSO actions as described in the BMPS
Condition 22B(2)	Condition 22B(2) Please add to the end of (2) as follows: " <u>...as soon as possible on approval by the Authority of the original and any subsequent version. All versions of the Balancing Market Principles Statement shall be numbered and dated</u> ".	It is critical that any BMPS updates are made known to market participants as early as possible on their update and entry into force given the potential internal system impacts and wider market impacts of changes. BGE also suggests that for administrative purposes, any revised BMPSs published are given a version number and include a date of entry into force.
Condition 22B(3)	Condition 22B(3) Please amend line 2 to "... the <u>published</u> Balancing Market Principles Statement..."	BGE believes that requiring the published BMPS to be as accurate and up to date as possible will better encourage the Licensee to meet the publication of BMPS in as timely a manner as possible and provide certainty to market participants as to what BMPS is in force and being applied at any one time.
Condition 22B(5)(b)	Condition 22B(5)(b) Please allow a period of "... 28 <u>working days</u> ..." in line with reasonable periods for consultation with market participants	28 working days as opposed to 28 days is more in line with reasonable consultation periods
Condition 23 Single Electricity Market Trading and Settlement Code Condition 23(1)	Condition 23(1): Please add a subsection (e): "and any other obligation that arises thereunder that is clearly applicable to the Licensee."	BGE believes that this addition is necessary to avoid inadvertent exclusion of the obligation on the TSO to comply with aspects of the SEM Trading and Settlement Code that may be interpreted as being outside the capacities noted in this provision
Condition 23A Capacity Market: Condition 23A(2)	Condition 23A(2) Please add to the end of sub paragraph (2), the following: " <u>... including but not limited to an obligation to provide relevant assumptions regarding the calculation of the capacity requirement in line with timelines outlined in the Capacity Market Code but no later than three months before the relevant capacity auction</u> ."	Assumptions regarding the capacity requirement can have a critical impact on capacity market outcomes and should be made known to market participants in advance to enable informed bidding. As the Capacity Market Code (CMC) is not yet finalised, BGE would welcome confirmation that the stipulations outlined in SEM-16-041 (pages 30-31) that the de-rating factors and volume calculation methodologies for the Capacity Market which have been consulted on and approved by the RAs will be codified in the CMC?

Condition 23A(4)(f)	Condition 23A(4)(f) Please re-phrase to: “to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code <u>particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders; and</u> ”	BGE believes that the additional wording proposed here is necessary to explicitly strengthen the obligation on EirGrid group to ensure no favouritism towards its interconnection business materialises given the importance of this concern from a market participant perspective considering that the interconnector will be competing against other I-SEM market participants unrelated to the TSO.
Condition 23A(4)(g)	Condition 23A(4)(g) Please amend the paragraph as follows: “through the development of the Capacity Market, to promote <u>and protect</u> the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the Island of Ireland.”	BGE submits that the additional words are necessary to underline the importance of protecting the interests of consumers in terms of capacity procurement in this instance, and that the addition of these words goes further in ensuring the TSO carries out its obligations bearing in mind the impact its decisions will have on consumers. It also indirectly strengthens the obligation of the TSOs to avoid any potential bias in favour of its commercial interconnector arm (as this could have consequential impacts of capacity market costs for consumers)
Condition 23A(6)	Condition 23A(6) Please re-phrase to “The Licensee shall provide to the Authority such information as the Authority may request concerning the Capacity Market Code or any aspect of its operation, <u>including but not limited to technical information regarding the execution of its tasks in line with any agreed methodologies</u> ”	SEM-16-041 (page 33) makes explicit reference to the need for “external scrutiny of outcomes” with a view to increasing the likelihood of EirGrid Plc/ SONI Ltd being discovered if they acted on a conflict of interest. Part of the proposed mitigation measures therein include independent technical ex post audits of the execution of tasks in line with agreed methodologies as opposed to whether the methodology is correct. BGE believes it pertinent that the TSO has a obligation to provide such information as the weight/ influence of such audits in terms of providing market participants with confidence in market outcomes being free from undue discrimination by the TSOs in EirGrid group’s favour, is dependent on the quality of the information/ inputs provided
Condition 23B Compliance and Assurance Officer: Condition 23B(1)	Condition 23B(1): Please add the following underlined words: “...the Licensee shall, in conjunction with the Republic of Ireland System Operator, and following consultation with the Authority, appoint a competent person who is a senior member of its personnel (the “Compliance and Assurance Officer”) for the purpose of verifying the Licensee’s compliance with its obligations under Conditions 5, 11 and 15, <u>23A and 29</u> , and to provide independent assurance of such verifications.”	BGE’s key concerns around possible conflicts of interest relate to the TSO’s role in operating the balancing market, capacity market and ancillary services procurement. BGE believes it necessary to require that the Compliance Officer monitor, assess and report on the Compliance by EirGrid group with its duties pursuant to Condition 23A (capacity market) and 29 (system services)
Condition 23B(1)	Condition 23B(1) Please delete the words “who is a senior member of its personnel” Please change the last line to “... and to provide independent <u>objective</u> assurance of such verifications.”	BGE welcomes the introduction of a Compliance and Assurance Officer to report on EirGrid activities. The importance of this role being held by an entirely objective and independent party cannot be overstated. BGE’s preference is for an independent objective party outside of EirGrid group to fulfil this role. Regardless of whether an independent appointee is appointed, BGE submits that an independent

		audit of compliance occur annually as is the case with Elexon in GB
Condition 23B(3)	Condition 23B(3) Please change “one month” to “ <u>one week</u> ”	BGE does not understand why the Licensee should be permitted to wait more than one week before provision a copy of complaints received by it to the Officer
Condition 23B(4)(a)	Condition 23B(4)(a) Please add to the start of (a): <u>“Without prejudice to its duty to report annually on the Licensee’s compliance with Condition’s 5, 11, 15, 23A and 29”</u>	It is critical that regardless of any advice the Officer may give the Licensee regarding ensuring its Compliance under Conditions 5, 11, 15, 23A, 29 the Officer must not be affected in its need to report on any non compliance no matter how trivial even where that compliance has since been rectified. This proposed addition helps provides this protection in BGE’s view
Condition 23B(4)(b)	Condition 23B(4)(b) Please re-phrase to “ <u>monitoring and assessing...assurances around this together with the establishment of a risk management plan.</u> ”	<p>It is insufficient for the Officer to merely “monitor” the Licensee’s compliance. An assessment of such compliance in order to enable an informative, clear report on what processes/ steps have been taken to prevent conflicts of interests arising and what evidence there is of having ensured avoidance of conflicts has occurred, is needed.</p> <p>BGE sees the role of the Officer as ensuring that EirGrid activities are compliant with their licence obligations and any other conditions of operation set out by the RAs in the I-SEM documentation. Ideally a risk management plan would be implemented where all obligations and risks arising from non-compliance are listed in a risk management register. From the register, controls could be developed to ensure all Trading and Settlement Code (T&SC) and Licence obligations relating to potential conflict of interest within EirGrid group are being adhered to. The Compliance Officer would report to the RAs regularly throughout the year against these controls.</p> <p>In terms of sanctions for breach of any licence condition, BGE requests confirmation as to the sanctions applicable? Such sanctions should be sufficiently strict that they act as a deterrent for breaching any licence conditions</p>
Condition 23B(4)(e)	Condition 23B(4)(e)Please amend to read “reporting annually <u>(or more often where reasonably requested by the Authority)</u> to the directors of the Licensees on its activities <u>and findings</u> during the period...”	<p>BGE believes that it is important for the RAs to retain an element of discretion which they may or may not exercise as regards how often this report is required.</p> <p>BGE believes that a report on monitoring and activities conducted during the period without details of actual assessments of conduct and findings on those assessments is insufficient- these changes are deemed critical to ensure a report of sufficient insight is provided to ensure confidence for industry participants and the RAs in TSO activities and market outcomes</p>

Proposed new Condition 23B(4)(f)	New Condition 23B(4)(f) Please add: <u>"The content of the report shall cover <i>inter alia</i>, the list of all practices, procedures and systems adopted in relation to separation safeguards including but not limited to those safeguards concerning physical access, information and staff transfer; specific evidence of practical compliance capable of being verified in a compliance audit; a description of any breaches detected internally and any remedial actions; a description of the review of and response to any complaints received from external parties and remedial actions taken."</u>	Page 41 of SEM-16-041 explicitly refers to the licence condition needing to cover certain aspects which we have listed in this proposal. BGE believes that not only will inclusion of this list (which is non-exhaustive and therefore does not prevent the RAs from adding to it) assist the appointment of an appropriately qualified Compliance Officer but will also make for an informed report which industry participants can have confidence in in terms of conflict of interest concern mitigation.
Proposed new Condition 23B(7)	New Condition 23B(7) Please add <u>"Following approval of the Compliance and Assurance Officer's report by the Authority the Licensee shall conduct its business in line with the approved Compliance report."</u>	Reference is made in SEM-16-041 (pages 42-44) to the need for the licences to capture the fact that business should be conducted in line with the approved compliance statement. This proposed change here gives full and proper effect to this and to the value that the role of the Officer and its report will bring to the market in terms of mitigating conflicts of interest
Proposed new Condition 23B(8)	New Condition 23B(8) Please add: <u>"An external audit of the Licensee's compliance under Conditions 5, 11, 15, 23A and 29 is required annually in which case the Compliance and Assurance Officer and Licensee shall make available all information as necessary to enable such audit to be executed. The outcome of such audit will be published respecting commercial sensitivity of information."</u>	<p>Regardless of whether an EirGrid senior personnel member or independent party is to fulfil the role of the Compliance Officer, BGE believes that it is essential the risk management strategy is audited by an external party annually to assure the credibility and effectiveness of steps taken within EirGrid group in order that market participants can have confidence in the group's activities. In GB, Elexon is externally audited annually which provides the market with reasonable confidence of market operation and outcomes. Non-confidential details of such an audit should be published.</p> <p>This proposal complements also the RAs' objective of increasing the likelihood of EirGrid plc/ SONI Ltd being discovered if they act on a conflict versus the status quo, (SEM-16-041, p.33).</p> <p>Separately, BGE supports the audit process and would like continued involvement in the determination of the Terms of Reference for audits of the balancing and capacity markets as well as ancillary services procurement particularly with regard to the technical elements of such.</p>
Condition 29 Economic Purchasing System Services: Proposed of Support new	New Condition 29(10) Please consider a new sub condition as follows: <u>"The Licensee shall provide to the Authority such information as the Authority may request concerning the procurement of Ancillary Services, including but not limited to technical information regarding the execution of its tasks in line with any</u>	SEM-16-041 (page 33) makes explicit reference to the need for "external scrutiny of outcomes" with a view to increasing the likelihood of EirGrid Plc/ SONI Ltd being discovered if they act on a conflict of interest. Part of the proposed mitigation measures include independent technical ex post audits of the execution of tasks in line with agreed methodologies as opposed to whether the methodology is correct.

Condition 29(10)	<u>agreed methodologies</u> "	BGE believes it pertinent that the TSO have a obligation to provide such information as the weight/ influence of such audits in terms of providing market participants with confidence in market outcomes being free from undue discrimination by the TSOs in EirGrid group's favour is dependent on the quality of the information/ inputs provided
Proposed new Condition 29A	New Condition 29A: Please add a new condition as follows: <u>"The Licensee shall facilitate the compliance by market participants with obligations pursuant to Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency through the provision and operation of a central publication platform, which platform shall come into effect on direction of the Authority."</u>	BGE understands that consideration of the TSOs' facilitation of reporting obligations under REMIT is ongoing but believes that this proposed obligation covers the need for the TSO to legally comply with the outcome of the process. It does not come into effect until the Authority so directs therefore it does not yet place an obligation on the Licensee to comply with something which it cannot yet do.

B. Bord Gáis Energy's Proposed Market Operator Licence changes - re SONI Ltd, 23 January 2017

Licence Condition	Proposed Change	Rationale and Comment
Condition 9 Restriction on Use of Certain Information: Condition 9(1)(a)	Please re-phrase as follows: "(a) that neither the Licensee nor any other person, <u>including without limitation all subsidiaries, associated or affiliated undertakings, joint ventures or shareholders of the Licensee</u> , shall use that protected information for the purpose of obtaining any unfair commercial advantage in relation to the Market Operation Activity, the NEMO Activity or any other business;"	For robustness in terms of potential conflicts of interest within EirGrid group, BGE believes that prohibition of disclosure of information that may commercially benefit the business must be avoided across the entire EirGrid group and this addition is with a view to furthering this aim. Codes of conduct should ensure any internal discussions as between business areas be that the Interconnector with the MO or SO and vice versa are prohibited from conveying any potentially commercially advantageous information – BGE would welcome confirmation that this will occur?
Condition 9(3)	Please add "... <u>and also</u> take all such other steps as may be specified..." on lines 1 and 2	BGE considers that this amendment is necessary as otherwise the paragraph may be interpreted as allowing the Licensee to rely on the Authority to determine measures/ steps/ procedures that it should take to comply with preservation and disclosure of commercially sensitive/ advantageous information. To allow the current drafting remain would undermine the importance of the need for the Licensee itself to take all necessary measures needed and would also undermine the extent of compliance steps that should have been taken when being assessed by the Compliance Officer (a condition BGE believes should also be applied in MO licences).

	<p>And to the end of the paragraph 9(3) please add <u>"...Such measures shall include but not be limited to the achievement by the Licensee of ISO27001 certification."</u></p>	<p>To give the market comfort on the security of information, the ISO27001 standard provides assurance that information handling, processes, technologies and assets are protected and supported against unauthorised access, unapproved changes and unplanned outages. It proves an organisation has a developed risk management strategy for dealing with sensitive information demanding assessment of information security vulnerabilities with regard to people, processes and IT systems and the control they can implement to ensure the security of the information they hold and to safeguard against the risk that information may be accessed by unauthorised persons. BGE understands that EirGrid group's information policy in this regard is more external rather than internal transfer of information focused. There are significant issues of data sensitivity and confidentiality that cannot be adequately protected if employees have access to information they should not be privy to.</p> <p>Notwithstanding the RAs' statement that each business unit in EirGrid group has IT access restriction (SEM-16-041 page 37), achievement of ISO27001 standard best proves the quality of such access restriction and alleviates the burden on the RAs to monitor and assess in detail whether such internal ring fencing is as effective as needed to alleviate conflict of interest concerns</p>
Condition 11 Prohibited Activities: Condition 11(1)		Please consider whether the NEMO function should be referenced here especially if the NEMO is expected to register an assetless unit under the Trading and Settlement Code?
Condition 14 Market Operator Agreement: Proposed new Condition 14(1)(c)(iii)	Please add a new sub condition 14(1)(c)(iii): <u>"when carrying out the functions in paragraphs (c)(i)-(ii) at all times have regard to the need to protect the interests of consumers of electricity in Northern Ireland and Ireland"</u>	Protection of consumer interests should be a key objective in the Market Operator Agreement
Condition 15 Single Electricity Market Trading & Settlement Code: Condition 15(4)(f)	Please re-phrase to "to ensure no undue discrimination between persons who are parties to the Single Electricity Market Trading and Settlement Code; and <u>particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders;</u> "	BGE believes that a robust approach to licensing of entities within EirGrid group is required from a conflict of interest perspective. Parties must also have confidence in settlement outcomes and BGE believes that this addition adds weight to EirGrid group's obligations regarding conflicts of interest
Condition 15(6)	Please re-phrase as follows: "The Licensee shall provide to the Authority such information as the Authority may request concerning the Single Electricity Market Trading and Settlement System or any aspect of its operation, and the <u>execution of the Licensee's objectives and compliance with</u>	BGE suggests this addition to assist the RAs in their objective of ensuring technical audits can be carried out from time to time assessing compliance with methodologies where applicable. The role of the MO in market settlement is considered critical as is the ability of the Authority to request information necessary to enable proper technical audit thereon

	approved methodologies related thereto”	
Condition 15A Nominated Electricity Market Operator (NEMO): Condition 15A(2)		Please consider whether provision needs to be made here for the NEMO to become party to the Single Electricity Market Trading and Settlement Code or is that sufficiently covered under Condition 3
Condition 15A(3)	Please add at the end of 15A(3) <u>“These NEMO Exchange Rules shall be subject to consultation with industry before their adoption and on any subsequent amendment.”</u>	Industry insight/ notice of possible changes is required as is input from affected parties before changes to NEMO should occur
Condition 15A(6)	Please add to the end of (6) <u>“... and shall consult as appropriate and provide reasonable notice of proposed and actual changes to industry.”</u>	Consultation on NEMO charges and notice thereof is critical considering the potential impacts on tariffs and notice of tariffs required to be given to customer’s
Condition 15A(8)	Please amend as follows: “The Licensee shall, in conjunction with the Republic of Ireland Market Operator Licensee establish and maintain a web-site for the NEMO Business <u>which shall be sufficiently separate from the SMO Business</u> ”.	Clarity on rules and related costs etc applicable as between SEMOpX and SEMO is necessary – this condition makes it clear that no confusion as to which entity certain documentation applies will exist
Condition 15B Agent of Last Resort: Condition 15B(4)	Please re-phrase to: “In providing AoLR services, the Licensee shall not undertake any energy trading on its own behalf and shall not assume any market risks, <u>and shall not make profit in providing AoLR services.</u> ”	BGE believes it critical that the AoLR function does not indirectly introduce the potential for SEMO to being commercial driven and give rise to conflict of interest concerns
Condition 15B(9)	Please add the underlined words as follows: “Following the review of its activities under paragraph 8, the Licensee shall prepare an annual report (in respect of the preceding year) and submit it to the Authority <u>outlining its assessment and findings....</u> ”	The report should contain tangible detail to be effective
Condition 15B(10)	Please add to the start of the paragraph 15B(10): <u>“Without prejudice to paragraph 8...”</u>	Developing, administering and maintaining the AoLR procedures should be subject to the amendment process outlined in sub-paragraph 8 and not permit unilateral changes
Condition 15B(10)	Please amend the last 2 lines as follows: “...shall include a modification process that includes consultation by the Licensee with AoLR Participants and any parties that propose to become AoLR Participants <u>Industry.</u> ”.	Wider industry must have sight of proposed modifications and changes to this document given potential wider market impacts of changes
Condition 19 Procurement of Assets and Services: Condition 19(4)(c)	Please amend to “...facilitating the participation of electricity undertakings in the Single Electricity Market in a manner that does not unduly disadvantage any person or class or classes of	As the MO is part of EirGrid group with the TSOs, given the concerns over potential conflicts of interests, and to align with the TSO licence changes this proposal offers weight to the obligation on the MO to maintain objectivity in carrying out the tasks in questions

	persons when compared with any other person or class or classes of persons <u>particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders</u>	
Condition 19(5)	Please re-phrase as follows: "... any assets or services of a material nature provided by the Market Operation Activity and / or the NEMO Activity to any other business of the Licensee, or to the Market Operation Activity and / or the NEMO Activity by any other business of the Licensee, shall (insofar as possible given that they are a single legal entity) be undertaken on arms-length terms (or such other terms as may be approved in advance by the Authority); and"	This proposed deletion is suggested as the affected words give significant scope to the MO to determine that arms length agreements may not be required simply due to being part of the same company group. The deletion does not disadvantage the Licensee as it still holds sufficient scope to maximise synergies given that the Authority can agree "in advance in writing" that it does not need arm's length in certain instances. The proposal in BGE's view strengthens the obligation for agreements to be at arms length
Proposed new condition re Compliance and Assurance Officer	Please include the condition for the Compliance and Assurance Officer function for the MO licence also. A transfer of the Condition as outlined in the TSO licence together with the proposed changes as noted for Condition 23B in the TSO licence above should be included in the new Condition in the MO licence	BGE deems the addition of the Compliance and Assurance Officer provision (as required in the TSO licence) necessary such that a holistic view of group compliance is obtainable by the RAs and industry. This approach would give market participants significant confidence in the processes and procedures applied across EirGrid group and BGE believes that the Compliance officer condition should be reflected in all group licences including the SO, MO and interconnector. The role should cover for e.g. compliance against conditions 9, 11, 15, 15B and 19 from a conflicts of interest perspective.