



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

# **Natural Gas Safety Regulatory Framework for Ireland**

## **Consultation Response Paper**

***CER/07/173***

***24<sup>th</sup> October 2007***

## Table of Contents

<b>1. Introduction .....</b>	<b>1</b>
<b>2. High Level Summary of Respondents Views .....</b>	<b>3</b>
2.1 <i>Appropriateness of the Overall Approach .....</i>	3
2.2 <i>Adoption of a Safety Case Regime .....</i>	3
2.3 <i>Role of the Customer Safety Promotion and Public Awareness .....</i>	3
2.4 <i>Proposed Structure of the Gas Safety Reporting Regime.....</i>	3
2.5 <i>Proposed Incident Investigation and Reporting Regime .....</i>	4
2.6 <i>Proposed Audits and Inspections Regime .....</i>	4
2.7 <i>Structure of the Proposed Governance Arrangements .....</i>	4
2.8 <i>Proposed Implementation Programme .....</i>	4
2.9 <i>Overall Comprehensiveness of the Commission’s Proposals.....</i>	4
2.10 <i>Other Issues Raised .....</i>	5
<b>3. Specific Views of Respondents .....</b>	<b>6</b>
3.1 <i>Appropriateness of the Overall Approach .....</i>	6
3.2 <i>Adoption of a Safety Case Regime .....</i>	8
3.3 <i>Role of the Customer Safety Promotion and Public Awareness         Function.....</i>	11
3.4 <i>Proposed Structure of the Gas Safety Reporting Regime.....</i>	12
3.5 <i>Proposed Incident Investigation and Reporting Regime .....</i>	12
3.6 <i>Proposed Audits and Inspections Regime .....</i>	14
3.7 <i>Structure of the Proposed Governance Arrangements .....</i>	16
3.8 <i>Proposed Implementation Programme .....</i>	19
3.9 <i>Overall Comprehensiveness of the Commission’s Proposals.....</i>	20
<b>4. Commission’s Views on Other Specific Issues Raised by     Respondents .....</b>	<b>21</b>
4.1 <i>The Safety Regulation of LPG.....</i>	21
4.2 <i>Gas Quality.....</i>	22
<b>5. Conclusions .....</b>	<b>24</b>

## 1 - Introduction

In July 2007, the Commission for Energy Regulation (the ‘Commission’) set out its proposals for discharging its responsibilities to regulate the activities of natural gas undertakings and gas installers with respect to safety. The consultation document “*A Natural Gas Safety Regulatory Framework for Ireland – Proposed Vision*” (ref. CER/07/104) represented the Commission’s first step in fulfilling its new gas safety responsibilities. The purpose of the document was to elicit industry and public comment on the Commission’s high level vision and proposed approach prior to its implementation. The specific aspects of its proposals on which comments were invited were:

- a) The appropriateness of the overall, non-prescriptive approach to regulating gas safety based on licence conditions with the minimum level of regulatory intervention possible subject to achieving the desired safety outcomes;
- b) The adoption of a Safety Case regime that is risk and outcomes based and places responsibility for managing those risks on the undertakings that create them and to a level that is deemed by the Commission to be as low as reasonably practicable;
- c) The role of the Customer Safety Promotion and Public Awareness Function;
- d) The proposed structure of the Gas Safety Reporting Regime;
- e) The proposed Incident Reporting and Investigation Regime;
- f) The proposed Audits and Inspections Regime;
- g) The structure of the proposed Governance Arrangements;
- h) The proposed Implementation Programme; and
- i) The overall comprehensiveness of the Commission’s proposals and any areas which need to be addressed with respect to gas safety and are not described in the Commission’s proposals.

The Commission received 7 responses<sup>1</sup> from the following organisations which have been published alongside this paper:

- Marathon Oil Ireland Limited (07/176);
- Shannon LNG (07/177);
- Bord Gáis Networks (07/178);

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<sup>1</sup> The Commission received a number of other responses where confidentiality was requested.

- Bord Gáis Energy Supply (07/179);
- CORGI (07/180);
- Irish LPG Association (07/181);
- Institute of Domestic Heating & Environmental Engineers (07/182)<sup>2</sup>

It should be noted that the Commission received two requests for a longer period to consider the consultation paper. However, given that:

- the Commission originally consulted on the proposed safety framework in November 2004;
- the Energy (Miscellaneous Provisions) Act 2006 was subject to a significant amount of debate, consultation and consideration; and
- the Commission typically allows a period of 4 weeks for such consultations,

it was decided that the 4 week consultation period was appropriate. Notwithstanding the above, the Commission did accept a number of late submissions. Also during the period between receipt of responses and the publication of this paper, the Commission met with a number of organisations and undertakings on an individual basis to provide further clarity on its proposals and to discuss potential modifications and improvements to the Framework. Issues raised during the course of those discussions are also addressed in this paper.

This Consultation Response Paper provides an overview of the issues and comments received from respondents and the Commission's views on these issues and comments. It specifically sets out:

- a high level summary of respondents views (Section 2);
- the specific comments of respondents on the aspects of the Framework on which comments were invited (Section 3);
- other specific issues raised by respondents (Section 4); and
- a number of conclusions (Section 5).

The Commission's Decision Paper (07/172) on the natural gas safety regulatory framework is published in conjunction with this paper and takes cognisance of the issues raised in the consultation.

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<sup>2</sup> It should be noted that the IDHEE response to the consultation paper also relates to the separate consultation paper *"The Regulation of the Gas Installer Industry with Respect to Safety – Proposed Vision"* (ref. CER/07/125). The specific "gas installer" issues raised in that response will be addressed in a separate consultation response paper to be published by the Commission alongside its decision document on the Regulation of Gas Installer Industry with Respect to Safety.

## **2. High Level Summary of Respondents Views**

Generally, the Commission's overall approach to safety regulation of the activities of natural gas undertakings has been welcomed by respondents. The following subsections summarise respondents views on the 9 aspects of the proposals on which comments were sought and identify a number of other issues raised in the course of the Commission's discussions with undertakings.

### **2.1 *Appropriateness of the Overall Approach***

There is broad support for a flexible, non-prescriptive approach to safety regulation based on licence conditions rather than regulations and a regime that is risk and outcomes based. However, there were some concerns regarding the Commission's interpretations of what constitutes a particular safety risk being managed at a level that is deemed to be "as low as reasonably practicable" (ALARP) and how ALARP could be interpreted from a legal perspective.

### **2.2 *Adoption of a Safety Case Regime***

The requirement for a Safety Case was widely recognised as the most appropriate means for undertakings to demonstrate their safety management arrangements for controlling gas safety risks. There were concerns however on the part of some respondents over what constituted a 'material' change to a Safety Case and what is the most appropriate time interval for a full Safety Case review, namely 3 or 5 years.

### **2.3 *Role of the Customer Safety Promotion and Public Awareness***

The Commission's proposals for maintaining a coordinated approach to the promotion of gas safety and public awareness was welcomed by all participants although some respondents felt that the issue of funding of gas safety promotions required further clarity.

### **2.4 *Proposed Structure of the Gas Safety Reporting Regime***

Respondents were in favour of the approach to safety reporting based on requirements for submitting quarterly safety reports although one respondent felt that a three month reporting frequency was too high and suggested a six month reporting cycle. There was a consensus of opinion that the safety-related key performance indicators (KPIs) will need to be agreed with each category of undertaking so as to ensure that meaningful safety performance data is collected and used to assess the performance of the overall framework. In particular, the suite of KPIs for supplier and shipper undertakings will need to be addressed as these are not as obvious as those KPIs for undertakings operating gas infrastructure and managing emergency response.

## **2.5 Proposed Incident Investigation and Reporting Regime**

Respondents were supportive of the approach to incident reporting and investigation, however, some respondents expressed the view that:

- the definition of reportable incidents will require further clarity, particularly with respect to high hazard installations such as LNG and Storage;
- Bord Gáis Network's role of managing and investigating incidents should not extend to upstream facilities such as offshore gas storage and LNG.

The role of the Gas Safety Officer with respect to upstream facilities was raised by one respondent, the concern being that appointed Gas Safety Officers may be able to issue orders with respect to the operation of major hazard facilities.

## **2.6 Proposed Audits and Inspections Regime**

There were few responses to the proposals for an audit and inspection regime, suffice to say that it was evident from subsequent discussions with individual undertakings that a robust audit and inspections regime is widely regarded an essential requirement for any safety regulatory framework. However, in general, respondents required more information on how the audits and inspections regime would work in practice.

## **2.7 Structure of the Proposed Governance Arrangements**

The need for a structured approach to governance arrangements was recognised by all respondents, however, there was some confusion and concerns over the proposed roles of: (i) the Gas Safety Committee; (ii) the Gas Safety Promotion and Public Awareness Group; and (iii) the Gas Safety Advisory Body. Additionally, respondents were not clear on how the Gas Safety Supervisory Body for the safety regulation of gas installers would interface with the other governance groups. Some respondents felt that there was not a satisfactory proportionate representation of undertakings within the various Groups and that decisions may be taken on industry safety matters that did not take account of the views of all participants.

## **2.8 Proposed Implementation Programme**

The proposed implementation programme is regarded by some respondents as "*ambitious but achievable*" whilst other respondents had clear concerns over the practicality of developing and submitting their Safety Case in accordance with the Commission's timetable.

## **2.9 Overall Comprehensiveness of the Commission's Proposals**

Only one respondent commented on the overall comprehensiveness of the Commission's proposals and these comments were favorable and positive.

## **2.10 Other Issues Raised**

One respondent urged the Commission to bring LPG under the regulatory safety framework as soon as possible. A number of other issues were raised as a result of the Commission's discussions with undertakings and respondents, namely:

- The Commission's interface with the Health and Safety Authority over matters concerning gas safety and the need to avoid regulatory and legislative overlap and duplication of reporting;
- The boundary definitions of adjacent undertakings' facilities;
- The management of gas quality from the perspective of gas safety and the need to define the acceptable range(s) of gas quality parameters that take into account both the technical and commercial aspects of gas quality management; and
- The 'materiality' of safety case changes.

The Commission's views on the specific issues raised by the respondents are outlined in Section 3 and 4.

### **3. Specific Views of Respondents**

The following are the specific views of respondents with respect to the natural gas safety regulatory framework proposed by the Commission.

#### **3.1 Appropriateness of the Overall Approach**

The following specific comments were received:

3.1.1 Marathon Oil: *“We believe the proposed safety framework will provide a robust framework for the ongoing safety and integrity of Ireland’s gas network”.*

3.1.2 Shannon LNG: *“We welcome the approach proposed by the CER which places the responsibility for safe operations on the operators of natural gas and LNG facilities”.*

3.1.3 Bord Gáis Networks: *“BGN supports an outcome based assessment of regulatory intervention in safety and the growth in industry participation”.*

3.1.4 Bord Gáis Energy Supply: *“BGES supports the Commission’s proposed guiding principles upon which the framework will be developed and are in agreement with keeping regulatory control at the level proposed which we agree is appropriate to establishing effective and comprehensive control of risks and maintaining the confidence of the public”.*

3.1.5 The Institute of Domestic Heating & Environmental Engineers (IDHEE): *“We note that you use two other Gas Safety Regulatory Jurisdictions as presumably models of good governance:*

- *UK: The UK HSE say that they have 30 deaths a year from gas installations and have gone to tender to change regulatory regime as they appear not to be satisfied with this level of fatalities;*
- *State of Victoria, Australia: Its common knowledge in international gas circles that there was a major problem with networks failure which cost insurance companies in the order of AUS\$1.3 billion dollars.*

*We believe that the Republic of Ireland could not sustain this type of governance. We suggest you look to Europe Energy Commission for advice on possible safer models of governance”.*

**Commission's View:**

The Commission has undertaken a review of the gas safety regimes in the UK and Victoria in Australia as part of the process of developing an appropriate approach to the regulation of gas safety in Ireland. These two jurisdictions were chosen due to their similar gas market characteristics to the evolving Irish gas market and the good gas safety record that is being achieved in these jurisdictions. With respect to the IDHEE's comments on the relative safety records of the UK and Victorian gas safety regimes, the Commission would like to make the following points:

- Statistics on carbon monoxide fatalities in the UK show a reducing trend from a high of 37 fatalities in 1998 to 18 fatalities in 2004 and 17 fatalities in 2005 – i.e. a 50% reduction over a 7-year period. These statistics should be considered in the context of 22 million households being supplied with gas. The downstream gas sector in the UK has widely been regarded as safe, nevertheless, the UK Health and Safety Executive (HSE) has commissioned a report “*Review of Domestic Gas Safety – Report for the Health and Safety Executive*” by Frontline Consultants in an attempt to identify areas where reform of the existing downstream gas safety regime could be undertaken to further improve safety standards for gas consumers. The Commission is closely monitoring the UK downstream gas safety reform process in order to ensure that the experiences of UK gas safety are properly considered when developing the approach to the regulation of downstream gas safety in Ireland; and
- The incident referred to in Victoria in Australia was caused by process operator error which led to an explosion and fire on a heat exchanger at a gas processing plant at Longford in Victoria in September 1998. This incident resulted in 2 fatalities, 8 injuries and the interruption of gas supplies to approximately 1.3 million gas customers in Victoria and parts of South Australia and New South Wales for a period of 19 days. There was no “*network failure*” of the gas transportation system and no fault on the part of the staff and employees of the Victorian gas transmission, distribution or supply undertakings. The efficient and professional response by the local gas network operator(s) to the gas emergency situation has provided valuable lessons on how such unprecedented, large-scale gas supply interruptions can be managed effectively with respect to the isolation and restoration of gas supplies to large numbers of residential customers. Additionally, the learning from the Royal Commission investigation into the Longford gas plant explosion has been applied for risk management and emergency response planning on high hazards installations by safety regulators internationally, including the Commission for Energy Regulation in Ireland.

The Commission's review of the UK and Victorian gas safety regimes has included an analysis of the relative strengths and weaknesses of both regimes and used this analysis to develop, what the Commission believes to be, an appropriate approach to the safety regulation of the activities of natural gas undertakings within Ireland. An important aspect of the Commission's approach to safety regulation of natural gas undertakings is continual improvement based on best safety practice internationally, including Europe. With this in mind, the Commission will continually review other safety jurisdictions governance arrangements with the objective of improving the overall levels of gas safety within Ireland. Therefore, based on the positive and supportive comments received by the majority of respondents on the appropriateness of the overall approach to safety regulation of the activities of natural gas undertakings, the Commission will implement its overall approach as originally proposed and largely unaltered.

### **3.2 Adoption of a Safety Case Regime**

Marathon Oil responded with a number of comments including:

3.2.1 Definition of Facilities: *"In some cases a storage facility may share common infrastructure with another facility and the demarcation may not be clear, or may not be amenable to the preparation of separate safety management systems. It is suggested that an expanded definitions section is included in the Framework Document, along with some guidance on how to treat "joint" facilities".*

#### **Commission's View:**

The Commission has recognised this issue and has taken the view that it will discuss the issue of "joint facilities" where common infrastructure is shared between undertakings on a case-by-case basis with the respective undertakings. This approach is considered more appropriate than attempting to define rigid rules for common infrastructure in advance. The demarcation between the common infrastructure of adjacent undertakings will be agreed and reflected in the safety management systems for each facility. In the case of Marathon Oil and its offshore gas storage facility at Kinsale, the Commission has agreed that Marathon Oil will develop and submit an 'Interim Safety Case' that provides demonstration of the safety management systems for the combined offshore gas extraction and storage facilities. This will satisfy the Commission's requirements for the safety regulation of the storage facility until such time as the Commission's safety obligations for the regulation of offshore gas safety under the forthcoming Petroleum Exploration and Extraction (Safety) Bill become clearer.

3.2.2 Overlap with Other Legislation: The Seveso II Directive *“expressly excludes transmission through pipelines and hence will not apply to the transmission and distribution undertakings”*

3.2.3 Demonstration of Compliance: *“How is this to be achieved? Consideration should be given to the development of “performance standards for safety critical systems, which would be agreed with the Commission”.*

3.2.4 Review Period: *“We note that the Commission proposes a 3-year review period. Other jurisdictions have longer periods and the UK have recently moved to a 5-year review period, based on the experience of the operation of their regime”*

**Commission’s View:**

Firstly, the Commission agrees with Marathon’s view that the Seveso II Directive applies to major hazard sites which excludes transmission and distribution undertakings.

Secondly, the Commission will seek evidence, or demonstration, that the safety measures described in the safety cases are in place and working via: a) the initial assessment of the undertakings safety case; and b) ongoing audits and inspections of the undertakings activities. The Commission is fully committed to discussing the development of performance standards for safety critical systems.

Finally the Commission is of the view that a 3-year period is warranted as the gas safety framework within Ireland is new and as yet, untested. Depending on the outcomes of the first 3-year review, the Commission may decide to move towards a 5-year review as has happened in other jurisdictions where the safety operating regime has been in place for a longer period of time.

Bord Gáis Networks responded by stating:

3.2.5 Application of ALARP: *“We appreciate the application of ‘As Low As Reasonably Practicable’ criteria but request further review on its application and scope when performing a formal risk assessment based upon the function of the asset and its lifecycle”.*

**Commission’s View:**

The use of “authoritative best practice” in the design, construction, operation and maintenance and modification/refurbishment of gas infrastructure assets is the starting point for assessing if risks are ALARP. Authoritative best practice includes Irish and other European codes, standards and

recommendations. The application of these codes, standards and recommendations on their own may not satisfy ALARP where there are known risks that require additional safety measures.

Bord Gáis Energy Supply responded by stating:

3.2.6 *“BGES already employs a number of the elements proposed & outlined in the safety case regime. BGES will take the opportunity under this process to review, document and update as appropriate the current procedures policies and processes to meet the full requirements .We await the Commission’s publication of the Guidelines”*

**Commission’s View:**

Safety Case Guidelines have been developed to provide guidance to undertakings on the content requirements for safety cases and these will be issued for public consultation in conjunction with the Decision Document (see 07/175).

CORGI made the following comments:

3.2.7 *“Point 2.1.1 regarding best practice in relation to the safe use of natural gas and the operation and maintenance of natural gas fittings; and the detection and reporting of natural gas leaks and other faults in natural gas fittings. CORGI feels that the Gas Safety Supervisory Body (GSSB hereafter) should be an integral part of this process”.*

3.2.8 *“Point 3.2 What is not in scope, with reference to the statement from the Minister. Is there an intention to bring both upstream and downstream under the GSSB?”*

**Commission’s View:**

The Gas Safety Supervisory Body (GSSB) will play an important and integral role with respect to gas safety downstream of the customer’s meter.

There is no intention to bring both upstream and downstream under the GSSB. The GSSB will be appointed to undertake the registration and subsequent regulation of gas installers. The role of the GSSB will be defined in a Criteria Document due to be published as part of the implementation of the regulation of the gas installer industry with respect to safety project.

### **3.3 Role of the Customer Safety Promotion and Public Awareness Function**

3.3.1 Shannon LNG's comments in relation to gas safety promotion and public awareness were *"The proposed approaches to 'Gas Safety Promotion and Public Awareness' seem reasonable as proposed"*.

3.3.2 Bord Gáis Energy Supply responded: *"We agree with the Commission that a co-ordinated approach is required in the promotion of Gas Safety and Public Awareness for the reasons outlined. We note the Commission's comments on funding. Funding is a matter we feel we must discuss further with the Commission particularly in the context of meeting the Commission's requirements of "adequacy" and managing the risk to a level "as low as reasonably practicable". This should be done in the context of the level of promotion carried out by BGN who, we understand, has significant funding for safety awareness campaigns"*.

#### **Commission's View:**

The Commission will discuss the issue of funding of gas safety promotion and public awareness with all undertakings via the Gas Safety Promotion and Public Awareness Group once established.

CORGI's comments were as follows:

3.3.3 *"Point 6.4 Gas Safety Promotion and Public Awareness. To confirm, CER would be responsible for the overall co-ordination of gas safety promotion and awareness activities"*

3.3.4 *"Would the GSSB be expected to fund promotion and awareness campaigns, via installer levies, in addition to the consumer levies via the gas tariff?"*

3.3.5 *What involvement would the GSSB be expected to have in the gas safety promotional activity?"*

#### **Commission's View:**

Gas safety promotion and public awareness will be undertaken at two levels:

- Individual undertaking's will undertake gas safety promotion and public awareness activities at a 'sector-specific' level; and
- The Commission will coordinate gas safety promotion and public awareness at an industry-wide level.

It is not anticipated that the GSSB would be expected to fund the wider safety promotion and awareness campaigns via installer levies, but it is

expected that the GSSB will have a key role to play. This role will be defined more clearly as the implementation of the system for the regulation of gas installers progresses.

### **3.4 Proposed Structure of the Gas Safety Reporting Regime**

3.4.1 Bord Gáis Energy Supply commented: *“Monitoring and reporting is a key part of risk management. BGES recommends that one of the working groups suggested by us in an earlier communication 30<sup>th</sup> July should be on setting key performance indicators. This will establish ownership of the KPIs by the industry which can be critical to success”.*

#### **Commission’s View:**

The Commission intends to discuss the development of ‘undertaking specific’ KPIs with individual undertakings and not via working groups. It is recognised that there will be different KPIs required for supplier and shipper undertakings than those required for asset operating undertakings.

### **3.5 Proposed Incident Investigation and Reporting Regime**

Shannon LNG’s responses were as follows:

3.5.1 *“In general, the proposed ‘Incident Reporting and Investigation Regime’ appears reasonable for the most part as proposed. However, there is one area that may require further clarification:*

*“The interaction between the “Emergency Procedures” as implemented by the Network Emergency Manager (NEM) and the gas suppliers may need some amplification and clarification (page 29). In many instances, gas suppliers may have commercial agreements between themselves and their customers which address, for example, instances of force majeure resulting in an unexpected interruption in gas supply. In such circumstances the supplier may have the contractual right to interrupt deliveries to its customer(s) independent of the NEM. It will be important to ensure such arrangements are properly coordinated through the NEM to ensure that commercial arrangements are not disrupted by the actions of the NEM”.*

#### **Commission’s View:**

The instructions and directions of the NEM to interrupt customers for reasons of safety, such as during a gas supply emergency, must take precedence over contractual conditions agreed between suppliers and customers as provided for in Part H of the Code of Operations.

3.5.2 *“As previously described in section 2.2.2, Bord Gáis Networks is currently required to investigate natural gas related incidents and report to the Commission on the outcomes of the investigation. We would appreciate if the Commission could clarify whether Bord Gáis Networks will continue to investigate natural gas incidents, where the incident relates to infrastructure belonging to another natural gas undertaking”.*

**Commission’s View:**

It is not the intention that Bord Gáis Networks will undertake investigations of incidents that relate to infrastructure belonging to another natural gas undertaking. The Commission will appoint its own independent experts in these circumstances.

3.5.1 Bord Gáis Energy Supply responded by stating: *“We accept the proposals on incident reporting .We would however request clarity on role for Supplier/Shippers in general and also clarity on which gas undertaking will be responsible for reporting. While the code of operations covers some aspects of reporting incidents, more detail will be required in establishing comprehensive procedures”.*

**Commission’s View:**

The requirements for incident reporting by the various undertakings will be clearly defined in later documentation and through dialogue with undertakings. It is not anticipated that there will be onerous incident reporting requirements for supplier and shipper undertakings.

## 3.6 **Proposed Audits and Inspections Regime**

3.6.1 Shannon LNG submitted the following response: *“The proposed ‘Audits and Inspection Regime’ also appears reasonable for the most part as proposed. However, there are two aspects which may require further clarification:*

- *“It is unclear how ‘new’ or ‘changed’ safety risks (page 32) are to be identified. It appears that these perhaps should follow from major alterations or expansions of facilities, or other identifiable operational considerations (such as uprating pipeline operating pressures), and some clarity in this aspect would be helpful”.*
- *“The role of the Gas Safety Officer (page 33) is not clear. In Shannon LNG’s case it is not clear if the Gas Safety Officer could enter the LNG terminal premises and order the company to undertake certain operations which in the Gas Safety Operator’s view are necessary for safety. In this instance, what redress does the company have if it feels the Gas Safety Officer’s orders are inappropriate or even dangerous? If the company follows the erroneous prescriptions of the Gas Safety Officer, who will be held liable for any damages (physical and monetary) arising as a result of the Gas Safety Officer giving poor, or incorrect orders? It appears the intent of these provisions may be intended to be more directed towards the physical protection of small end consumers, but if this is the case the proposed regulations might benefit from some additional clarity in this regard”.*

### **Commission’s View:**

Firstly, the Commission has prepared a Guidance Note on ‘material changes’ and included this as an Appendix to the Safety Case Guidelines Consultation Document (07/175).

Secondly, it is not the intention that Gas Safety Officers will be able to independently issue orders with respect to the operation of major hazard facilities. The Commission agree with Shannon LNG’s views that the intent of this provision is directed towards residential consumers. However, Gas Safety Officers will have rights of entry to all gas facilities, including LNG terminals, but these rights will be exercised under properly controlled circumstances with due regard to the safe operation of gas facilities.

3.6.2 Bord Gáis Energy Supply responded: *“BGES will not be in a position to comment until detailed proposals are available. Notwithstanding this BGES accepts in principle that an audit and inspection regime will be required. Again depending on the detail, the aspect of funding is something BGES will wish to discuss with the Commission.*

3.6.3 CORGI responded: *“Under point 2.1.2 paragraph 4, Section 13 provides for powers of entry onto land for gas safety related reasons by Gas Emergency Officers and Gas Safety Officers. Although they will be appointed by the Distribution System Operator and the Commission, will the officers be employed directly by the GSSB?”*

**Commission’s View:**

The Commission may exercise its powers by requiring the GSSB to appoint a Gas Safety Officer to enter onto land for reasons of gas safety. The detail of the arrangements surrounding the appointment of Gas Safety Officers will be determined at a later stage.

### **3.7 Structure of the Proposed Governance Arrangements**

3.7.1 Marathon Oil responded: *“We note the provision for safety governance groups and, in particular, the Gas Safety Committee. This committee should specifically include representatives of all types of licenced entities (i.e. LNG, Storage, Transmission, Distribution & Shipping) and not just the parties mentioned in the document (BGN Transmission, BGN Distribution, DCENR and CER). This is essential to ensure a balanced input from all licencable entities. Similarly, the Gas Safety Advisory Body should include for participation by representative industry bodies such as IOOA, IBEC etc.”*

3.7.2 Bord Gáis Networks responded as follows:

- *“BGN endorses the generic concepts for promotion, awareness, reporting, investigation, audit and inspection”.*
- *“We would also seek further discussion on the ongoing governance and maintenance of the subsequent systems with particular emphasis on the levels of endorsement and the significance of amendments”.*

3.7.3 Bord Gáis Energy Supply: *“BGES welcomes a structured approach to the Governance arrangements. We note however that the Commission does not propose any Shipper / Supplier involvement in the Gas Safety Advisory body. We again reiterate our recommendation to the Commission on industry participation in this critical activity given the expertise in this area over a long period of time”.*

3.7.4 The Irish LPG Association submitted the following comments with respect to governance arrangements: *“With regard to the proposed governance arrangements, the ILPGA believes that it has a role to play in the committee structure. It is our intention to send a further correspondence specifically addressing this issue. However, we note the intention to set up a body to advise on strategic gas safety issues - i.e. the Gas Safety Advisory Body (GSAB). We appreciate your requirements in the setting up of this body and the proposed composition. We also note your requirement to have input to this body from other external experts. The ILPGA would be quite prepared to become involved by offering the services of experts in the LPG industry to the GSAB”*”.

3.7.5 Marathon Oil also submitted comments for the governance of gas quality by stating: *“We note the reference to Gas Quality in Section 5.3. As this is a significant issue affecting both safety and operability of the network, we believe it should be given more emphasis. It is suggested that a dedicated Gas Quality Advisory Group is established to include*

*representatives from all licenced sectors. We are particularly concerned that a clear distinction is made between technical and marketing aspects of gas quality and that potential commercial impacts do not overly influence technical decisions”.*

**Commission’s View:**

The Commission has revised its proposals with respect to the Gas Safety Committee and proposes to establish two separate safety groups comprising:

- a Hazardous Installations Safety Group comprising LNG terminal operators and gas storage operators (offshore and onshore). It is proposed that the transmission system operator will form a part of this group as there are important safety interface arrangements between the operators of LNG and storage facilities and the operators of the transmission pipeline system; and
- a Transportation and Supply Safety Group comprising the transmission system operator, the distribution system operator, the shipper and supplier undertakings and the Gas Safety Supervisory Body.

The Commission will chair both of these groups.

These groups will convene on a six-monthly basis to provide industry insight on the effective functioning of the Framework and to provide advice and make recommendations to the Commission for making improvements to the Framework. Terms of Reference for the operation of these groups will be developed by the Commission through consultation with the relevant undertakings. There will also be bi-lateral meetings with individual undertakings and other relevant stakeholders to discuss safety issues regularly. It is proposed that the Gas Safety Committee will continue on a temporary basis in its current guise until such time as the new governance arrangements are put in place.

The role of the Gas Safety Advisory Body is strategic in nature and will assist in identifying and developing policy issues over a wide range of gas safety related matters. With this in mind, there will be a core membership of the GSAB comprising the NSAI/GTSC, the Department of Communications, Energy and Natural Resources, other international safety regulatory agencies, the Commission and other expert bodies as deemed necessary by the Commission. The Commission’s view is that other parties will be invited to make representations at the GSAB on an as-needed basis when expert input is required, for example the ILPGA in relation to the extension of the Framework to include LPG in the future.

With respect to the governance arrangements for gas quality, the Commission recognises that this is a strategically significant issue and that there are important technical and commercial aspects that need to be taken into account when developing a regime for the management of gas quality. The Commission will ensure that there is a transparent and open consultation process on all matters associated with gas quality such that all parties have the opportunity to input their views.

The Commission is committed to achieving participation by all undertakings and participants in decision-making matters in respect of gas safety.

3.7.6 CORGI: *“Point 3.14 Responsibility to promote. How will the HSA fit in to the governance process?”*

**Commission’s View:**

The Commission and the HSA are currently in the process of identifying and agreeing the boundaries of their respective safety responsibilities.

### 3.8 **Proposed Implementation Programme**

3.8.1 Marathon Oil's comments with respect to the implementation timetable were: *"Timing for Submission – We note that it is planned that completed safety cases should be submitted by end Q1-2008. We believe that this timescale is far too short, given that the consultation process is only now underway and the framework is not yet finalised. Six months may be sufficient lead time for a simple undertaking but it is long enough for a technically complex facility. A minimum of 1 year should be allowed from the date of final publication of the Safety Case Framework."*

#### **Commission's View:**

The Commission has met with representatives of Marathon Oil to discuss the safety regulation of Marathon's offshore gas storage facility at Kinsale. Given the nature of Marathon's shared extraction and storage facilities at Kinsale and the fact that the Commission does not currently have safety responsibility for offshore safety with respect to natural gas, the Commission has agreed that:

- Marathon Oil will develop an 'Interim Safety Case' that provides demonstrations of its safety management systems for the combined gas extraction and storage facilities offshore at Kinsale and submit this to the Commission during Q3-2008;
- Following publication of the Petroleum Exploration and Extraction (Safety) Bill during 2008 and the offshore safety responsibilities of the Commission are known with more clarity, Marathon Oil will develop and submit a 'Final Safety Case' in accordance with future legislative requirements and a timetable to be agreed with the Commission.

However, given that the transmission and distribution undertakings have substantial safety frameworks already in place, the Commission's view is that BGN Transmission and BGN Distribution will be required to submit their respective safety cases by the end of Q1-2008 for assessment and acceptance by the Commission by mid Q2-2008. This deadline for submission also applies to supplier and shipper undertakings.

3.8.2 Shannon LNG views on the Implementation Programme are as follows: *"As to the 'Implementation Programme", Shannon LNG notes that the implementation schedule does not presently refer specifically to LNG, but the question of when the safety case assessment process for LNG is to be completed appears unanswered. Perhaps the schedule could make specific reference to the expected timetable for the LNG project"*.

**Commission's View:**

The Commission has met with representatives of Shannon LNG to discuss the timing of the Shannon LNG project. Given the early stage of development of this project, the Commission's safety case requirements, which will include the 'pre-construction' and 'pre-operation' aspects, will be developed through discussion with the safety representatives of Shannon LNG according to a timeline that is mutually convenient to both the Commission and Shannon LNG.

3.8.3 Bord Gáis Energy Supply responded: *"BGES notes the programme outlined. We believe that this is an ambitious but achievable programme"*

**3.9 Overall Comprehensiveness of the Commission's Proposals**

3.9.1 Bord Gáis Networks: *"BGN finds the Commission's proposals to be comprehensive and inclusive of all industry participants"*.

#### **4. Commission's Views on Other Specific Issues Raised by Respondents**

This section sets out the Commission's views on other issues that have been raised by respondents in consultation responses and during the Commission's meetings with organisations and undertakings over the last number of months.

##### **4.1 The Safety Regulation of LPG**

Section 14 of the Energy (Miscellaneous Provisions) Act 2006 allows for the extension of the Commission's natural gas safety responsibilities to cover liquified petroleum gas (LPG) in the future. With this in mind, the Commission has held a number of meetings with the Irish LPG Association (ILPGA) to discuss the current arrangements for the safety regulation of the LPG industry in Ireland. Meanwhile, the ILPGA has responded to the consultation document with comments regarding the safety regulation of LPG in Ireland as follows:

*"...the elements of the LPG industry which take place in the Transportation System are well regulated, monitored and controlled by the appropriate enforcing authority. In fact, under S.I. 74 of 2006, a Safety Report must be prepared for every top tier [EC Seveso II Directive] site, detailing the company's Major Accident Prevention Policy and outlining risk and consequence of a major accident. It also details the systems and procedures to mitigate that risk. Note that it is the responsibility of the Health and Safety Authority to assess and sign off on the Safety Report. The comment above regarding control/enforcement is also true for the elements of the industry which take place in the non-domestic arena, within the End User system. However, there is an obvious gap when it comes to the domestic sector. For this reason the ILPGA strongly proposes that the initial focus of the CER should be primarily in this sector".*

##### **Commission's Views:**

The Commission's meetings with the ILPGA and the ILPGA's comprehensive consultation response has been extremely helpful in allowing the Commission to develop a better understanding of the current safety regulation of the LPG sector. In anticipation of the Commission's natural gas safety responsibilities being extended to cover LPG under Section 14 of the Act, the Commission will undertake and implementation study into the most appropriate approach for discharging any new responsibilities. This work will commence at the end of Q4 2007. Based on the outcome of that study, the Commission will develop its proposals for the safety regulation of LPG and issue a public consultation document requesting industry and public comment. The comments of the ILPGA above will feed into that process.

## **4.2 Gas Quality**

Marathon Oil and Shannon LNG submitted responses concerning the management of gas quality issues and, as previously stated in section 3.7 of this response paper, the Commission recognises that this is a strategically significant issue and that there are important technical and commercial aspects that need to be taken into account when developing a regime for the management of gas quality.

To put the gas quality debate into context, gas imported into Ireland via the Scottish interconnectors currently complies with the gas quality specifications as determined by the UK Health and Safety Executive (HSE) and as defined in the Gas Safety (Management) Regulations 1996. These gas quality specifications are based on the quality of gas from the UK Continental Shelf (UKCS). Changing sources of gas supply into GB, including LNG, means that gas flowing into GB (and ultimately onto Ireland via the Scottish interconnectors) will not comply with GB standards. Gas quality standards within GB are not likely to change until 2020 on the basis of cost as a broader gas quality range would require the replacement or adaptation of all gas appliances in Britain. Therefore, it is likely that gas processing facilities will be constructed at those entry points to the GB network that might receive gas that does not comply with the current GB gas quality specifications. The current gas quality specifications within Ireland are broader in their limits than the GB gas quality specifications, as is the case for many other European countries. Currently, Ireland imports approximately 91% of its gas through the Scottish interconnectors with the remaining 9% being sourced from indigenous production – i.e. the Marathon Oil offshore facility at Kinsale. This supply scenario may change significantly as the Corrib gas field currently being developed off the west coast of Mayo begins production and, potentially, the proposed Shannon LNG terminal is constructed and begins importation of LNG. In future, Ireland may receive its gas supplies from a diverse range of sources – i.e. Russian, Norwegian and other mainland European gas via the Scottish interconnectors, Marathon Oil gas at Inch, Corrib gas at Bellanaboy and LNG from an increasing number of LNG suppliers worldwide.

Within mainland Europe, there are a number of gas quality initiatives currently being undertaken. These include:

- The European Association for the Streamlining of Energy Exchange GAS (EASEE – gas), has proposed the adoption of gas quality specifications that will differ (and be wider) from current GB specifications. Although the EASEE – gas proposal is not legally binding, a large number of transmission system operators (TSO's) on the continent are already using its gas quality specifications. It is not

clear at this stage whether legally binding requirements for gas quality specifications will be developed and what form they might take;

- The EC is also currently working on an “Interoperability Project” with respect to the gas markets in Europe. This is intended to gain a better understanding of the interoperability issues between connected EU gas networks and includes the issues of differences in gas quality specifications and day-to-day operational issues; and
- The European Regulators’ Group for Electricity and Gas (EGREG) taskforce has also been formed with the objective of looking into issues associated with interoperability. The main focus of this work will be to develop a framework for effective and non-discriminatory access to gas blending and conversion services (and facilities).

**Commission’s View:**

Gas quality issues are currently being extensively debated within GB and mainland Europe and the Commission is of the view that it is an appropriate time to develop proposals for and consult on the regime for the management of gas quality issues within Ireland. This will occur in 2008.

## **5. Conclusions**

This Consultation Response Paper sets out the Commission's views on the range of issues that respondents have raised in correspondence and during individual meetings with the Commission. Confidential responses are not discussed in this paper but the Commission has attempted, as far as possible, to provide a degree of clarity on its' intentions and views with respect to the Framework during discussions with all respondents on an individual basis. The Commission is grateful for the level and detail of the responses received and regards that the meetings and discussions held with the various organisations and undertakings has proved productive and served to clarify the Commission's intentions and views in a number of key areas.

Based on the responses received, the Commission has made modifications to the proposed Framework as outlined in the consultation paper (07/104), primarily with respect to the governance arrangements and the structure of the safety groups that will replace the Gas Safety Committee. Additionally, there are a number of safety related issues that have been raised during the course of the consultation process that will require further study and development of proposals and these include: (i) the potential extension of the Commission's responsibilities for natural gas safety regulation to cover LPG; and (ii) the management of gas quality issues in a way that takes into account both the technical and commercial aspects of gas quality. The Commission will ensure that there is a transparent and open consultation process on all matters associated with the safety regulation of LPG and the management of gas quality such that all parties have the opportunity to input their views.

Notwithstanding the above, the Commission's proposals for the implementation of the natural gas safety framework remain largely unchanged from that presented in the consultation paper. The Commission's Decision Paper (07/172) is published in conjunction with this Consultation Response Paper.