



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

CER Business Information Centre

Review of CER Public Consultation Process

A Consultation Paper

CER/07/140

7th September 2007

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Executive Summary

The Commission for Energy Regulation is required under statute to engage in a full public consultation prior to making and publishing its regulatory decisions. This public consultation has generally taken the form of the publication of consultation papers on the CER's website, followed by a review of comments received and the publication of the Commission's final decision. The CER also listens to the views of its stakeholders through more informal methods of consultation such as industry meetings and direct contact with stakeholders through emails, phone calls etc. All of these mechanisms ensure the Commission is fully informed when making its regulatory decisions.

The Commission is now undertaking a review of a number of its services to its stakeholders and to the public. One of its most important services is the public consultation process which affords the energy industry and the public an opportunity to take part in the regulatory decision making process. The Commission now wishes to elicit the views of its stakeholders on the public consultation process in the CER and on the quality of customer service offered to its stakeholders. Respondents to this paper are asked to provide their comments on how well the process works at present and what steps the Commission might take to improve the process.

In addition, a short questionnaire on the public consultation process and quality of customer service is included in Appendix A. Respondents are asked to assist the Commission by completing this questionnaire.

1.0 Introduction

1.1 Background

The Commission for Energy Regulation ('the Commission') is the independent body responsible for overseeing the regulation of Ireland's electricity and gas sectors. The Commission was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the Commission's jurisdiction to include regulation of the natural gas market. The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

The Mission Statement of the CER is as follows:

In a world where energy supply and prices are highly volatile, the mission of the CER, acting in the interests of consumers is to ensure that:

- the lights stay on
- the gas continues to flow
- the prices charged are fair and reasonable
- the environment is protected, and
- electricity and gas are supplied safely

1.2 Legislative Responsibilities

The Commission is required under legislation to carry out a public consultation prior to making its regulatory decisions.

Part 2 (4) of Statutory Instrument (SI) 60 of 2005 requires that 'The Commission shall consult with such persons and public authorities as it considers necessary in relation to the performance of its functions and shall give due consideration to any views given or recommendations made by such persons and public authorities.'

The Commission has complied with this obligation prior to publishing any regulatory decisions. It has therefore been the Commission's policy to publish a consultation paper or a proposed decision paper on its website and review all comments received prior to making its final decisions.

In addition, the Commission has encouraged full industry input at regular meetings, while staff are available between the hours of 9.00 – 17.30 to listen to the views of stakeholders and the public.

1.3 Purpose of this Paper

As will be outlined in this paper, the Commission has now decided that it is timely to undertake a review of the public consultation process and how it consults with its stakeholders. The aim of this review is to ensure that steps are taken, if necessary, to make the public consultation process more efficient, more user-friendly and an even stronger voice for the public in influencing regulatory and energy policy. While this consultation paper primarily refers to the CER's formal public consultation process, stakeholders wishing to provide their input on any aspect of our customer service are welcome to do so.

The Commission now invites interested parties to provide submissions and comments regarding the effectiveness of the CER's present consultation process. Respondents are also asked to suggest ways in which the process can be improved. Appendix A contains a short questionnaire outlining the issues which the Commission wishes to receive comments on. Respondents who wish to remain anonymous may submit their responses via mail. The Commission is also in the process of developing a message box on its website which will allow interested parties to submit a short message. Respondents should refer to this consultation paper when submitting their message.

Comments should be returned by close of business on Friday 12th October 2007 to:

Tara Scully,
Business Information Officer,
Commission for Energy Regulation
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.

Or by email to: tscully@cer.ie

2.0 Public Consultation Process in the CER

2.1 Definition of Public Consultation

For the purposes of this paper, the Commission has decided to use the Government's definition of a consultation. This definition is contained in the Government's guidelines to Public Sector bodies on the Consultation Process¹.

A consultation is, 'A structured public engagement which involves seeking, receiving, analysing and responding to feedback from stakeholders.'

Consultation is about seeking the views of those outside the decision making process, in order to better inform that process.

2.2 Importance of Public Consultation

The Government's White paper on Better Regulation² indicates the importance which is placed upon openness, transparency and consistency in the regulatory process. Six principles of "better regulation" are listed; among these, the principles of transparency, accountability and consistency call on regulatory organisations to fully consider the views of all interested parties and stakeholders when making their regulatory decisions. The Commission has noted the value of carrying out a full public consultation. Not alone does the process ensure that all voices receive an equal hearing but it also helps to ensure that the Commission's decisions remain consistent and are taken following a full review of all sides of the argument. Balanced decision making leads to a better regulatory environment for the energy sector in Ireland.

The many benefits of consultation include:

- It assists the decision making process by ensuring that interested parties can express their views on a policy;
- It helps to gather useful information to inform the evidence base for making regulations, including the identification of alternatives;
- It helps to inform decisions on strategic planning or investment;
- It strengthens the focus of public bodies on the needs of the public;

¹ Reaching Out: Guidelines on Consultation for Public Sector Bodies was published on 9th August 2007.

² Regulating Better: A Government White Paper setting out six principles of Better Regulation was published in January 2004.

- It contributes to a shared understanding of issues and work towards agreed solutions;
- It can identify the likely pitfalls or possible unintended consequences of a proposal.

The Commission has always encouraged as many respondents as possible from a wide variety of backgrounds (public and industry) to take part in its consultations. This helps to ensure that the Commission's decisions are fair and impartial and continue to be taken in the national and public interest. Regrettably, however, many consultations receive few comments. It is fundamentally important that full participation is achieved in all public consultations, as the public consultation process is the key method by which regulatory decisions can be influenced.

2.3 Types of Public Consultation

There are a number of different methods of consultation; each has its own particular strengths and weaknesses and is suitable to different situations. The main types of consultation are identified below. However, common to all consultation processes are three distinct stages which must be completed. These are as follows:

- Consultation planning
- Execution of the consultation
- Analysis and evaluation

Planning is essentially an internal issue for the body undertaking the consultation. However, the agency should try to take account of the needs or resource deficits of its stakeholders when planning the consultation. The execution of the consultation refers to the methodologies used to gather the viewpoints of stakeholders. This paper refers in the main to the CER's execution of the public consultation process. The final step involves analysis of responses received, evaluation of their input and development of the next steps taking into account the viewpoints received.

The key methods of public consultation are outlined below. Each can be evaluated based upon its cost, its representativeness and the quality of information which is gained. A comparison of the different types of consultation methods is contained in Appendix B.

- Written consultation;
- Advisory/ stakeholder committees;
- Questionnaire based surveys;
- Focus groups;
- Public meetings;

- IT/ web based consultation.

2.4 Structure of the Present Public Consultation Process

The Commission publishes a large number of consultation documents and draft or proposed decisions each year. In 2006 alone, the Commission published approx 36 consultations or proposed decision papers, followed by final decision papers.

At present, the CER's written consultation process follows the following structure:

- Following approval of a consultation paper by the Commission, the paper is published on the CER's website (www.cer.ie).
- Consultation papers are structured in such a way as to summarise the issue which is being consulted on, followed by detailed outline of the topic, followed by the Commission's proposals or favoured option. In addition, alternative options and their pro's and con's may be discussed. Consultation papers generally conclude with a summary of the items which the Commission wishes to receive comments on and details of the consultation process itself. This includes the length of time for submission of comments and contact details for the "owner" of the consultation.
- In addition, the Commission circulates details of the consultation and the link to the paper to its distribution lists. Interested parties can register to receive the CER's email alerts by subscribing on the CER website or alternatively by contacting the CER directly.
- Typically the Commission allows three to four weeks for comments on consultation papers, depending upon the length and complexity of documents published. On some occasions, the Commission will also extend the time period for receipt of comments.
- On some occasions the Commission will also publish an information paper. This is a high level overview of the issues being discussed in the consultation paper and is generally prepared for larger, more detailed consultations, e.g. Revenue Reviews.
- Some consultations or proposed decision papers will be accompanied by a Press Release. These are prepared for consultations which in the view of the Commission are of most interest to the public or the media. It is hoped that by generating more attention, the consultation will receive additional comments from the public, who may not otherwise have contributed. On some occasions a Press Notice will also be published in the national newspapers.

- Submissions to the Commission are typically sent by email, although written submissions will also be accepted. In order to ensure that comments are fully considered, respondents should always highlight the particular consultation which they are responding to.
- During the consultation period, the CER encourages queries on the topic of relevance to be directed to the “owner” of the consultation.

2.5 Other Forms of Consultation

In order to ensure that input is captured from as many interested parties as possible the Commission regularly holds a number of stakeholder committee meetings, focus groups and on occasion public meetings on a variety of topics. The following are some examples of advisory / stakeholder groups that meet on a regular basis:

- Retail Electricity Market Industry Governance Group (IGG);
- Supplier forum;
- Trading & Settlement Code modifications panel;
- Gas Code of Operations modification panel.

The terms of reference for each of these groups vary. However, they all act as useful settings through which industry stakeholders can express their views to the Commission and their market colleagues in a less formal, discussion based manner. Minutes and action items are recorded at all meetings.

In addition the Commission listens to views put across by stakeholders over the telephone or via email. However, in order to ensure the integrity and transparency of the consultation process, it is important that stakeholders submit official views in writing in response to consultation papers.

All of the above consultation methods allow for increased transparency and balanced decision making. Comments are now welcome on all of the above forms of consultation.

2.6 Government White Paper on Energy³

At this point, the Commission wishes to review its consultation process and to take steps to ensure the most appropriate, user friendly and efficient service is in place. This review is part of the Commission’s commitment to continually improving its services to stakeholders. It is also being carried out in response to Government’s commitment in the White Paper on Energy to reach out to stakeholders in the implementation of strategic energy goals. In section 4.4.2 of

³ The Government’s White Paper on Energy, *Delivering a Sustainable Energy Future for Ireland*, was published on 12th March 2007.

the White paper, the Government invites the CER to review its own consultation and communication processes and to develop proposals to enhance them. This paper is one of a number of steps being taken by the CER in this review process.

2.7 Improvement of Customer Service

The Commission is continually seeking ways to improve the quality of service offered to its customers and to energy market stakeholders. Recently the CER re-launched its website (www.cer.ie) which provides detailed information on all areas of the CER's regulatory activities. Furthermore, the CER's website is designed to ensure user-friendliness and usefulness for the public and market stakeholders.

The Commission recently undertook a review of its Customer Charter and will continue to take steps where necessary to improve any areas of customer service. Details of the CER's Customer Charter can be found on the CER's website, at <http://www.cer.ie/en/about-us-customer-charter.aspx>.

The Commission is now also seeking comments from interested parties with regard to the public consultation process. Comments are also welcome with regard to the level of customer service the Commission offers. Section 4, Appendix A of this paper contains a questionnaire relating to the quality of Customer Service offered by the CER. Commission staff are also available to meet with respondents to discuss the Commission's Consultation Process and Customer Service should respondents' request.

2.8 Comments on the Consultation Process

The Commission wishes to invite comments with regard to all aspects of its consultation processes and external communications methodology. Comments are invited from the public with regard to the following aspects:

- Overall opinion of CER's consultation and communication processes;
- Structure and user-friendliness of consultations;
- Format of consultation papers;
- Detail provided in consultation papers;
- Length of time for responses;
- Draft decision and final decision papers and communication of decisions;

- Other issues associated with external communications.

A questionnaire which covers a number of these areas can be found in Appendix A. Respondents are asked to provide general comments on the areas listed above or to use the questionnaire in order to provide more specific answers to each aspect of the CER's consultation process. Comments should be designed to assist the Commission in enhancing its public consultation and communication process.

2.9 Next Steps

In order to ensure a balance of view points the Commission would encourage responses from as many stakeholders as possible. Comments in relation to the issues raised in this paper should be returned to the Commission by close of business on Friday 5th September 2007.

The Commission will then review all of the comments received, with a view to putting in place a number of steps to improve its consultation process and its quality of service to customers. Respondents should be aware that the Commission may publish all comments received, on its website. For this reason, any comments which respondents view as being confidential should be included in a separate appendix and should be clearly marked as confidential.

However, for this consultation, the Commission will accept comments submitted anonymously. These can either be submitted in writing or through using a special online message facility which is presently being developed. This facility will be available on www.cer.ie

Appendix A

A.1.0: Overall Impression of CER's Public Consultation Process

Question Number	
1.1	What is your overall impression of how the CER carries out its consultations with the public before making its regulatory decisions?
Response	
1.2	Are you satisfied with the CER's consultation process in its present format? If not state the reasons why?
Response	
1.3	What do you consider to be the key strengths and weaknesses in the current consultation process?
Response	
1.4	Are you satisfied with the CER's written consultation papers with regard to: <ul style="list-style-type: none">• Structure / layout of paper• Level of detail provided• Language used• User friendliness
Response	
1.5	Are the executive summaries provided, clear, concise and useful?
Response	
1.6	Should consultations/ decisions be accompanied by short information sheets or press briefings?
Response	

1.7	Please suggest appropriate amendments to the structure or format of written consultation papers which would assist respondents in understanding the issue and preparing their response.
Response	

A 2.0: Communication of consultations and decisions

Question Number	
2.1	What is your overall impression of external communications from the CER?
Response	
2.2	Are you satisfied with how the Commission communicates its proposals and decisions to you? If not why? Suggest amendments which could be made to improve external communications?
Response	
2.3	Are you satisfied with the length of time allowed for receipt of comments to consultation papers? What is the most appropriate length of time which should be allowed?
Response	
2.4	Are there other methods by which the Commission could receive comments from the public, apart from email or written comments (e.g. open forum, online response form)?
Response	

A 3.0: Decision Making Process

Question Number	
3.1	What is your overall impression of the decision making process in the context of public consultation in the CER?
Response	
3.2	Are decision papers clear, well structured and easy to follow?
Response	
3.3	Do decision papers respond in sufficient detail to all the issues raised during the consultation process?
Response	
3.4	Is the link between the consultation process and the decision making process clearly outlined in decision papers?
Response	
3.5	Is it easy to refer between the two papers?
Response	
3.6	Do you feel your views are listened to and considered throughout the consultation process, even if the ultimate decision does not reflect your views? Is this reflected in the Decision paper?
Response	
3.7	What steps can be taken to provide more openness and transparency without affecting the confidentiality of parties involved in the decision making process?
Response	

A 4.0: Overall Impression of CER's Customer Service

4.1	Are you satisfied with the Quality of Customer Service you have received from the CER? Please state what method you used to contact the CER.
Response	
4.2	Was your query dealt with promptly and comprehensively?
Response	
4.3	If you made a complaint, do you feel it was dealt with fairly? Were you happy with the outcome?
Response	
4.4	Have you ever experienced any Customer Service difficulties when dealing with the CER?
Response	
4.5	What steps can be taken to improve the level of customer service the CER offers?
Response	

Have you any other comments which you wish to submit to the CER in relation to any aspect of its public consultation process or the quality of customer service which we offer?

Appendix B

B. 1.0: Comparative chart of consultation methods.

Method	Description	For	Against
Written Consultation	The submission of comments based on a published consultation document or request for comment notice in the press.	<ul style="list-style-type: none"> • Good for communicating detailed or technical information • Good way to get views on complex issues from interested parties • Views submitted are likely to be based on common understanding of the issue • Allows time for considered responses to be prepared. 	<ul style="list-style-type: none"> • Some groups may lack the resources for full analysis and response • Time consuming • Can be difficult to analyse.
Advisory / Stakeholder Committees	A semi-permanent or permanent committee established by an organisation to act as a source of expert advice on complex issues.	<ul style="list-style-type: none"> • Good source of expertise to help inform the decision-making process for complex social or technical issues. 	<ul style="list-style-type: none"> • Balance of representation can be difficult to achieve • Time consuming.
Questionnaires	Quantitative research which provides answers and statistics in response to set questions.	<ul style="list-style-type: none"> • Allows specific audiences to be targeted • Allows audience to take time to complete longer and more complex questions. 	<ul style="list-style-type: none"> • Response rates are unpredictable • Unsuitable for subjective or opinion-based questions.
Focus Groups	Consists of a small number of people led by a trained facilitator in a one-off discussion focused on a particular topic.	<ul style="list-style-type: none"> • Issues can be explored in considerable depth • Useful way of finding out what specific groups of people think about proposals • Allows for a well-defined objective and structured discussion. 	<ul style="list-style-type: none"> • Group membership requires careful selection • Time consuming • Risk of biased conclusions.
Public Meetings	Meetings that are arranged for members of the public to find out about and express their views on a specific issue. Meetings are held in public and attendance is usually open to anyone.	<ul style="list-style-type: none"> • Excellent method of capturing opinions • Transparent process. 	<ul style="list-style-type: none"> • Attendance can be unpredictable. • Possibility of domination or disruption. • Time consuming. • Can lack focus.