



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Vision for the Regulation of Electrical Contractors with respect to Safety

**A Response Document further to Consultation
Comments Received**

CER/07/ 204

8th November 2007

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Background and Introduction

On 17th August 2007, the Commission for Energy Regulation (“the Commission”) published its consultation paper, entitled “Vision for the Regulation of Electrical Contractors with respect to Safety” (“the Consultation Paper” - reference: CER/07/127).

The Consultation Paper set out the Commission’s proposals with respect to the introduction of a new regulatory model for the regulation of the activities of electrical contractors with respect to safety further to the provisions of the Energy (Miscellaneous Provisions) Act 2006 (“the Act”).

The objective of the Consultation Paper was to elicit public and industry comment on the proposed approach of the Commission to the regulation of the activities of electrical contractors with respect to safety.

The Commission received a substantial response on its consultation. Further to the conclusion of the consultation process, the Commission has considered the responses received and is now publishing its decision on its Vision for the Regulation of Electrical Contractors with respect to Safety (“the Decision Paper”, reference CER/07/203), confirming the high level design of the new regulatory model.

In conjunction with the publication of the Commission’s Decision Paper, the Commission is publishing this paper (“the Response Paper”). This paper sets out the comments received from the industry further to the proposals set out in the Consultation Paper and the Commission’s response to same.

Comment Received

The Commission received substantial comment on its proposals and submissions were received from 18 parties. These were as follows:

1. Competition Authority;
2. Limerick Institute of Technology;
3. Institute of Technology Tallaght;
4. Dublin Institute of Technology;
5. Kirby Group Limited;
6. Electric Test Services;
7. Surface Power Limited;
8. Electro-Technical Council of Ireland (ETCI);
9. Register of Electrical Contractors of Ireland (RECI);
10. Electrical Contractors Safety and Standards Association (ECSSA);
11. National Standards Authority of Ireland (NSAI);
12. Association of Electrical Contractors of Ireland (AECI);
13. Technical, Engineering and Electrical Union (TEEU);
14. Electrical Contractors Association (ECA);
15. Electrical Industry Federation of Ireland (EIFI)
16. Parties representing the proposed “Institute of Electrical Inspectors of Ireland” (IEII);
17. National Consumer Agency (NCA); and,
18. ESB Networks (Distribution System Operator/DSO).

In addition a number of meetings and phone discussions also provided comments/inputs/clarifications.
The Commission would like to thank all respondents for their valuable inputs.

Document Structure

This document is structured as follows:

- the comments received are presented in summarised form and are organised by topic area as follows:
 - Section 1: General Comments;
 - Section 2: Regulatory Objectives and Scope of Activities;
 - Section 3: Role and Structure of Designated Body;
 - Section 4: Number of Designated Bodies and Term of Designation;
 - Section 5: Certification Process and Completion Certificates;
 - Section 6: Regulation of Registered Electrical Contractors;
 - Section 7: Regulation of Non-Registered Electrical Contractors;
 - Section 8: Promotion and Branding;
 - Section 9: Training;
 - Section 10: Governance, Enforcement and Other Arrangements;
 - Section 11: Other Areas of Comment.

- Within each section, the Commission's response to the comments on a particular topic area is set out.

Notes in reviewing this document:

- In providing a summary of the comments received, the Commission has attempted to represent and convey the key points made by participants.

- Any reference to the National Wiring Rules should be read as including reference to the most current version of the National Wiring Rules and ancillary rules as published and/or approved by the ETCI;

- Abbreviations used in this document:
 - REC – Registered Electrical Contractor;
 - Non-REC – Non-Registered Electrical Contractor;
 - DSO – ESB Networks as the Distribution System Operator
 - 2006 Act – Energy (Miscellaneous Provisions) Act 2006.

Section 1: General Comments

The Commission received a number of general comments concerning its overall proposed regulatory model for the electrical contracting industry with respect to safety. These are noted below with the Commission's response on specific matters of relevance.

Consultation Comments:

- Overall, the Commission received a substantial and positive response to its proposals as presented in the Consultation Paper. A number of respondents welcomed the proposals presented by the Commission and supported the Commission's approach and objectives;
- However, disappointment was expressed by certain respondents that, in spite of having statutory backing, the proposed model does very little to change the existing system, particularly given that the Commission is not proposing to prescribe Restricted Works, which removes one of the most basic clauses of the 2006 Act and which may serve to weaken the credibility of the model in the eyes of the public and the contracting industry.
- One respondent commented that the new regulatory model and the Criteria Document should be clear and transparent and follow the principles of Regulating Better (necessary, effective, proportionate, transparent, consistent) with any requirements to be imposed being no greater than those that are required to ensure that safety standards are met.

Commission Response:

The Commission intends to establish the system as set out in its Decision Document. The Commission has stated that it is using the key elements of the current self-regulatory model as the basis of the design of this new system in order to build on the strengths of the present system whilst addressing its weaknesses. The Commission emphasises that the system will be subject to continuous review and improvement.

Furthermore, with the publication of the Commission's consultation on the Criteria Document and associated documentation in due course, it is hoped that further clarity will be provided to parties with respect to the Commission's main proposals for the operation of the key elements of the current system in the context of the new regulatory system.

In doing so, the Commission is seeking to ensure that, at a very minimum, the current level of protection provided to the public is enhanced and given a statutory basis.

The Commission's objective and priority is to ensure that appropriate measures are in place to protect the safety of the public with respect to the activities of electrical contractors. In doing so, the Commission views it as important that the system is designed and implemented so that it will be appropriate, fit-for-purpose, robust, transparent and will evolve over time to meet the issues and risks to safety identified. The Commission views this as being a continual process and it is important that a reasonable approach is taken to the introduction of any new measures.

The Commission is committed to ensuring that its regulatory system is consistent with the principles of Regulating Better and to ensuring that any requirements imposed are not greater than necessary in order to achieve the overall objective of protecting public safety.

With respect to the specific issue of failing to prescribe Restricted Works at the outset, please refer to the Commission's response in Section 2 of this document.

Consultation Comments:

- One respondent challenged the statements at the start and the end of Consultation Document concerning one of the weaknesses of the current self-regulatory system as being “differences in operating standards/procedures of the existing self-regulatory bodies”.

Commission Response:

The Commission notes the comments concerning the identified weaknesses of the current system including the perceived differences in procedures/standards between the current Regulatory Bodies. The Commission has represented these views in its Vision document as these have been expressed by stakeholders.

It is recognised that there are differences in standards and procedures as applied by the current Regulatory Bodies. It is the Commission's objective that, in the operation of the new regulatory model, the core operational standards will be prescribed and the Commission will prescribe the key requirements for various procedures to be developed, and operated, by any Designated Bodies. Such procedures will be subject to approval by the Commission. Other procedures will be fully prescribed by the Commission (Agreed Procedures under the Criteria Document).

The operation of such procedures shall be subject to oversight, audit and monitoring by the Commission in order to ensure that their application/operation is consistent with those approved and also the requirements of the Criteria Document/Directions of the Commission with respect to the standard of their operation.

The Commission notes other weaknesses raised on particular issues and in this Response Paper has attempted to respond to these, where relevant, under the various categories of comments. Furthermore, the Commission has taken cognisance of these in making its decision as set out in the Decision Paper.

Consultation Comments:

- One respondent stated that it cannot support many suggestions in the interest of public safety. The respondent was of the view that the likelihood of the high standard of safety being achieved could be lessened by some of the proposals in the Vision document.

Commission Response:

It is not fully clear from the respondent's comments and submission which of the “many suggestions” cannot be supported in the interests of public safety.

The Commission is committed to designing, implementing and operating a system that will seek to ensure that high standards of safety with respect to electrical installation work and electrical installations are met. In doing so, the Commission is seeking to ensure that, at the point of commencement of the new system, at a very minimum, the current level of protection provided to the public is enhanced and given a statutory basis.

As stated in the Decision Paper, this system will be subject to continuous review and will be modified in order to ensure that it is meeting, and continues to meet, its objectives. The Commission is committed to stakeholder involvement in this process and it is critical that the industry inputs into these reviews and the process of continuous improvement.

Section 2: Regulatory Objective and Scope of Activities

Regulatory Objective

Consultation Comments:

- There was overall support for the approach and general thrust of Criteria Document proposals;
- However, one respondent stated that the objective is stated too narrowly and suggested that it could be more broadly stated as “*To protect the safety interests of customers with respect to electrical installation work through creating a suitable regulatory system that results in compliance with the appropriate safety standards*” and “*inter alia, this will include specifying works that require certification*”;

Commission Response:

The Commission notes the proposals with respect to the drafting of the Regulatory Objective of the Commission and has considered the points made and amended the Regulatory Objective as it deems appropriate. Please refer to the Decision Document for the Commission’s decision on the Regulatory Objective.

Overall Scope of Activities to be Regulated

Consultation Comments:

- Some respondents agreed with the proposal that commercial issues and workplace safety already covered by HSA legislation, should be outside of the scope of activities to be regulated.
- One party commented that, while the HSA deals with Occupational Health and Safety, there is clearly an overlap into the 'public' safety area as the duties of the employer extend not only to employees but also to others who may be affected by the actions of the employer and his/her employees. The integrity of an electrical installation is a good example of how occupational health and safety is important to the public. What is the Commission’s interpretation of Public Safety?
- One party believes that it is incorrect to assume Health and Safety legislation adequately covers MV and HV. It was suggested that the HSA interprets its role as being confined to the health and safety of workers during construction of a building and not the ultimate occupiers of the premises;

Commission Response:

The Commission notes the above comments and agrees that there is an overlap with the HSA in the area of public safety and that compliance with the National Wiring Rules is specified in HSA Regulations. The Vision document has been amended to reflect this.

The Commission is engaging with the HSA in order to ensure that there is co-ordination between the two bodies in their respective and complementary roles

and that there is no duplication of activity in protecting the safety of the public in respect of electrical installation work.

With respect to the request for clarity on the Commission's interpretation of "public safety", the Commission's focus in respect of the safety of the public is to minimise the risk of death and injury to any person or damage to property as a result of the failure of electrical installation work to comply with the National Wiring Rules and other relevant rules or standards.

Accordingly, having considered the responses, the Commission, in applying the scope of the new system, will seek to address aspects of MV and HV installation work in the new system. This will be achieved through the following:

- Firstly, the definition of Controlled Works will include all new connections and reconnections, irrespective of voltage level;*
- Secondly, the ETCI is involved with CENELEC in harmonising the rules to cover MV and HV installations. The Commission is monitoring the progress in these areas and will reflect in the definition of Controlled Works any relevant developments with regard to including certain MV and HV installation works. In order to give effect to any such requirements within the regulatory system, the Commission will consult on the technical requirements for electrical works to be specified through Controlled Works;*
- Thirdly, the process of defining an initial list of Restricted Works will target critical LV installations and relevant MV and HV installation works. Restricted Works will be, as set out in Section 3.5.2, a work item to follow the commencement of the system and the Commission plans to put same in place over the twelve month period following the implementation of the new regulatory model.*

The Commission will confirm the specific aspects of the above scope through, initially, the consultation process on Controlled Works and then, subsequently, Restricted Works.

Consultation Comments:

- One party commented that the electrical contracting industry is covered by the Commission's proposals and the legislation but that commerce, industry and services are not. They request that perhaps this matter can get more attention.*

Commission Response:

It is recognized that there are provisions relating to commercial and industrial electrical works through the provisions of Health and Safety legislation. The new regulatory system is concerned primarily with public safety and, within that context, the safety of electrical installation work concerned primarily with LV and also new MV and HV connections.

Against this backdrop, the Commission's priority in implementing the new regulatory system is to address the lack of statutory-backed regulation of electrical installation work primarily in the domestic (and LV) arena.

The Commission's intention is to get the initial regulatory system in place which will focus on this area of regulation.

Once that system is established, implemented, adopted and operating well, the Commission will consider what other areas and electrical works should be included within the scope of the system.

Consultation Comments:

- There is need for a similar initiative for MV and HV works – it is necessary to formalise these in the way proposed for the LV works;
- The regulation should not be limited to LV – even though the ETCI is working on a more appropriate certificate system for MV and HV, the current arrangement in place is the Industrial Certificate and this should be used – otherwise, it will be a retrograde step;
- Limiting to LV in the first instance is sensible;
- DSO's work on LV should be regulated similar to way of REC;
- Regulation should not be confined to LV installations and MV and HV should be included. Even though the ETCI are still working on a more appropriate certificate for these, current arrangements with respect to Industrial Certificates should be used – to stop this would be a retrograde step;
- One party commented that there is a need for momentum and that there is a concern over the number of consultations required/proposed. The technical scope is one of the core aspects requiring clarification and this requires consultation in its own right;

Commission Response:

The Commission reiterates that MV and HV works will be addressed in the new system and progressed in line with current and future developments in the National Wiring Rules in tandem with ETCI.

The process of defining "Regulated Works" will also help to progress these issues (see response to previous set of comments above).

As stated in the Consultation and Decision Papers, the scope of the system, including the specifications for Regulated Works, will be reviewed at regular intervals in order to ensure that the system is meeting its stated objective.

Shortly after the release of the Decision and Response Papers the Commission will be publishing for consultation its proposals with respect to (1) the Criteria Document and (2) Controlled Works.

Consultation Comments:

- Does the term "any party carry on those activities which are within the scope of the regulatory model" include training organisations? If so, is the Commission going to define this to be the case?

Commission Response:

The Commission is of the view that the focus of the new regulatory system is on activities in the electrical contracting industry which impact on the safety of the public, that the Designated Bodies will register enterprises and contractors engaged in these activities, that the qualifications/training requirements for membership will be specified for key personnel, and that the activities of organisations involved purely in training will not be regulated within the new regulatory system.

However, it is important to recognise that training is a critical support service in delivering on the objectives of the new system and the Commission will engage with the industry and training providers in order to seek to ensure that the appropriate training framework is put in place to support the new regulatory system (see further response on training issues in Section 9).

Application of Standard**Consultation Comments:**

- The National Wiring Rules are appropriate standard but should refer to more than just ET101 – other ETCI Codes of Practice are also relevant;
- Many parties endorse the standing of the ETCI and the National Wiring Rules as a significant strength;
- The National Wiring Rules should not be undermined by granting derogations from certification for Non-RECs;
- One party asked if compliance with the National Wiring Rules for non-Regulated Works, where a Registered Electrical Contractor issues a Certificate, will be a condition for their on-going registration? If so, how will this be policed?

Commission Response:

The Commission, in implementing the requirements of the 2006 Act, will ensure that compliance with the National Wiring Rules is required further to the Criteria Document (which will have statutory backing under the 2006 Act).

Hence, the Commission will ensure that the National Wiring Rules are given full support through the new regulatory model.

In addition, through defining “Controlled Works”, the Commission will specify installation work for which Completion Certificates and reports must be provided, with “self-certification” confined to Registered Electrical Contractors with these rights.

Therefore, the objective is not to grant derogations to Non-RECs from certification but rather, to seek to ensure that all Controlled Works are certified in accordance with the requirements of the regulatory system, regardless of whether such work is carried out by an REC or a Non-REC.

With respect to the requirement for all works of RECs to be in compliance with the National Wiring Rules, the Designated Body will be charged with putting in place a risk-based monitoring, inspection and audit system that will seek to monitor compliance of an REC with all obligations placed on it under the new regulatory model.

Regulated Works

Consultation Comments:

- The critical issue is the requirement to specify Controlled and Restricted Works;
- There is a concern that failure to introduce Restricted Works at the outset weakens the credibility of the system;
- With respect to Controlled Works, the Commission should remain consistent with National Wiring Rules but also needs to be practical;
- One respondent asked if it would be appropriate to have all electrical work that requires a network connection classified as 'designated' works, thus ensuring that such work is undertaken by registered contractors only?
- One respondent stated that the pool of restricted works should be as small as possible consistent with ensuring maintenance of best practice safety standards;
- One respondent stated that it is understandable that the Commission may need a separate consultation process on Restricted Works but is of the view that two things should happen immediately: (1) the Commission should publish a statement of intention concerning the introduction of Restricted Works and the timescale for same and (2) declare some works as Restricted Works from the outset of the new system being established (for example: all new LV connections in excess of 30kVa – this would exclude all normal domestic connections but would include commercial/industrial connections);
- One respondent stated that all electrical work that requires the installation of a new electrical circuit (either three or single phase) should be restricted works and should be carried out by RECs or Non-RECS who are competent, fully qualified and insured. A certificate should then be issued for this work. The reason this is so important is that the addition of circuits may result in the fuse board becoming overcrowded and overloaded – this and poor connections are often the cause of fire;
- One respondent stated that Restricted Works should, at a minimum, cover all installation works associated with new connections to the network.;

Commission Response:

The Commission will, further to publishing this Response Paper and the Decision Paper on the Vision, embark upon a separate consultation, as required under the 2006 Act, on its proposals for the specification/definition of electrical installation works which are to be deemed “Controlled Works” (referred to as “Specified Works” in the 2006 Act).

Through this consultation process, the Commission will also lay out its approach to progressing the issue of “Restricted Works”.

Notwithstanding that, the Commission is of the view that it is appropriate that the definition and application/enforcement of Restricted Works is a work item to follow the commencement of the system and the Commission plans to put same in place over the twelve month period following the new system going live. As stated in the Consultation Paper, the Commission is of the view that it

is important that the new regulatory system is fully operational, well understood and adopted by the industry, including a suitable training framework being operational, prior to implementing “Restricted Works”.

The Commission is of the view that this “due process” is considered necessary to provide industry participants the opportunity to understand the new system and the requirements to be imposed through the Criteria Document and requirements for and obligations further to being a Registered Electrical Contractor. This may be achieved only further to a reasonable period of operation which would allow them the opportunity to comply with such requirements. It is only then considered reasonable to impose Restricted Works whereby it will become illegal for a party, other than a Registered Electrical Contractor, to engage in such works constituting Restricted Works.

In addition, the consultation process will elicit the impact of including works/activities in the definition of Restricted Works on various Manufacturing, Industrial, Utility, and Commercial operations so as to avoid “unintentional consequences”

In the period to that, the Commission will prescribe “Controlled Works” which are deemed to be of such significance in terms of safety that they require certification and control. The eventual definition of Restricted Works will come from this initial scope of Controlled Works.

In carrying out the above work, the Commission will consider the comments received above and will also elicit further comment on its specific proposals concerning Controlled Works and Restricted Works, when it consults on same, prior to making its decision.

Section 3: The Role and Structure of a Designated Body

Requirements on Body – Service Quality

Consultation Comments:

- Operating to a quality management standard (such as ISO 9000) would be desirable in contributing to confidence in the work of a Designated Body;
- One respondent welcomed the Commission’s proposals concerning the requirement on the Designated Body to prepare and publish a Customer Charter;
- The Designated Body should be required to keep a record of problem areas when carrying out audits and inspections and these should be highlighted to the industry;

Commission Response:

The Commission welcomes the comment concerning a requirement for a quality management system to be employed by a Designated Body and will consider the requirement for a Designated Body to operate to ISO 9000 or similar standard. This requirement, and other requirements relating to standards to which a Designated Body will be required to operate to, and any other requirements concerning certification/accreditation of the Designated Body, will be specified in the Commission’s upcoming consultation on the Criteria Document.

With regard to comments on customer focus and awareness functions of the Designated Body, the Commission will require the Designated Body to prepare a Customer Charter for the Commission’s approval. This will be required to deal with the level of service provided by the Designated Body to the general public, customers of RECs and RECs themselves.

Furthermore, the Designated Body will be required to engage in both public and industry awareness activities concerning the regulatory system and electrical safety matters. These general requirements will be set out in the Criteria Document and will be specified from time-to-time by the Commission by direction. The Commission would envisage that a key influence in these public and awareness activities will be the Commission’s proposed “Electrical Installation Safety Review Panel”.

Structure of Body – Corporate Governance

Consultation Comments:

- One respondent stated that there is no justification for board membership on the Designated Body by either the ETCI or the ESB, as is currently the case with respect to the board structure/representation on the boards of RECI and ECSSA;

- Representatives of RECs and their associations should have a working arrangement with a Designated Body and the Commission but should not be directly represented on the board of the Designated Body. This respondent cited the HSA as an example;
- One party proposed that the Commission should give consideration to including mandatory provisions for consumer representation on the Designated Body. They commented that, in particular, the Designated Body's complaints/appeal procedure would significantly benefit from consumer representation. They stated that there is precedent for consumer representation in this area, with federal electrical licensing authorities in both Australia and Canada having consumer representatives at Authority board level. They posited that, in order to function successfully, it is vital that the role, requirements and mandate of consumer representation at Authority level are clearly defined by the Commission in the Criteria document.
- A party commented that the Commission may also wish to consider if there is merit in having representatives of the Health and Safety Authority and/or the National Standards Authority of Ireland included as members of the Designated Bodies. Given their respective roles in setting safe standards and issuing certification on the quality and safety of goods and services, both independent authorities may have useful experience and expertise in safeguarding consumers interests.

Commission Response:

The Commission is to consider what requirements will be imposed concerning the organisational and corporate governance arrangements of any Body to be designated as part of the Designation Process and such requirements will be specified and enforced through the Designation Conditions which will apply to any party to be designated.

The Commission is now considering what requirements it should impose on the board structure of any body to be designated under the new regulatory system. It is the broad view of the Commission that, given the role of a Designated Body will be to register and monitor the activities of electrical contractors registered with it, and to take any appropriate disciplinary actions, it is important that any contractor representation on the Board is not unduly influential such that it may conflict with the role and purpose of the Body.

It is furthermore the view of the Commission that requiring board representation from relevant parties is worth further consideration and debate.

The Commission will develop this matter through its work on the Criteria Document, the Designation Process and Designation Conditions over the coming period.

Financial Structure of Body

Consultation Comments:

- It was agreed by one respondent that a strict not-for-profit basis is best way to operate;
- Another party stated that there is a need to ensure that there is “cost plus” entitlement to recovery in order to build up funds for peaks and

troughs in revenues over the years and other non-operational costs (such as IT investments etc.). The party stated that a Designated Body should be allowed enough latitude in terms of building up such reserves;

Commission Response:

The Commission is to consider the requirements with respect to the economic and financial aspects of the new regulatory system – both in terms of the financial structures to be imposed on any Designated Body and also on the methodology/approach for the regulation of fees and charges applied by any Designated Body. These aspects of the system will be confirmed through the Designation Conditions.

However, the Commission is minded to require that any Designated Body operate on a not-for-profit basis and is to give further consideration to imposing a requirement for any Designated Body to be a company limited by guarantee.

Notwithstanding the intention to impose a not-for-profit requirement on a Designated Body, the Commission does recognise that provisions should be made to allow any Designated Body to accumulate funds in excess of its costs in any single year. Reasonable funds should be available, through the accumulation of a reasonable level of income in excess of costs, to the Designated Body to cover exceptional expenditures, unanticipated costs and to balance revenue recovery over the natural peaks and troughs to be experienced in revenue streams within a year and over the years.

However, it will be the Commission’s objective in regulating the financial aspects of this new regulatory model that the costs of regulation to the customer and the industry are kept to a reasonable level and efficiency in the operation of any Designated Body is seen as a key objective and requirement in their on-going performance.

Consultation Comments:

- One party commented that the Commission should seek to not set common fees for all Designated Bodies as this would negate benefits to consumers of competition in provision of certification services;
- Other comments raised the fear that price competition in this area would negate the thrust of the Regulatory system and result in low standards of enforcement and a “race to the bottom”

Commission Response:

Further consideration will be given by the Commission to these matters and also the proposal that the fees and charges of any Designated Bodies should not be required to be equal.

In its decision on the current Criteria Document, the Commission removed the requirement for a common fee to be applied by the present Regulatory Bodies (reference: Commission/06/247) and the Commission is minded to seek to ensure that equivalent provisions are made in the new regulatory model on the basis of reasons set out in that decision document.

Section 4: Number of Bodies & Term of Appointment

In its Consultation Paper, the Commission proposed that it intended to designate a maximum of two bodies at the outset of operations of the new regulatory model. The Commission invited specific comment on the number of bodies to be designated. The Commission received a substantial amount of comment on this matter and summarises below the various views on the number of bodies which should be designated.

Number of Designated Bodies

Consultation Comments:

- *In support of One Body:*
 - The best arrangement to ensure safety is not to have competition for members among Designated Bodies and optimum solution is to have one single body;
 - Where safety is the issue, the benefits of a single Designated Body outweigh any competition advantages of more than one body – as is the case for gas and NCT;
 - The existence of two bodies has always being a cause for concern and it is unclear why there is provision for more than one for electricity while there is specific provision for only one equivalent body for the gas industry. It is the view of this respondent that there should not be competition in electrical safety;
 - Only one body should be designated on basis of safety, not competition, being the priority issue (factors which do not complement each other) and may introduce commercial aspects which distract from the primary function;
 - the principle of having one Designated Body to regulate industries and sectors is generally most beneficial in terms of setting common standards and procedures, thereby facilitating greater consumer recognition, awareness and confidence;
 - it is imperative that the Commission has regard to the likely cost burden as well as any safety considerations on the consumer in designating a Body or Bodies to regulate electrical contractors on its behalf. A clear demonstration of the benefits deriving from the appointment of multiple Designated Bodies should be provided.
 - Where a decision may be taken to designate more than one body, the Commission should endeavour to avoid a situation whereby Designated Bodies set unilateral standards that may confuse consumers as to the status and role of multiple Designated Bodies.
- *In support of More than One Body:*
 - Should the Commission decide for more than one, there should be a minimum of three and a maximum of five bodies designated;
 - If event of there being more than one body, there should not be more than two bodies designated;

- There may well be regulatory best practice grounds for preventing a proliferation of an unlimited amount of Designated Bodies and branding efforts of limited number more likely to be successful. However, it is not clear that competition should be limited to just two – given two bodies currently, could this be viewed as consolidating the incumbency advantages enjoyed by RECI and ECSSA.
- If more than two bodies were sufficiently qualified, it is unclear what criteria would be used to appoint Designated Bodies in such circumstances (i.e. selecting two bodies from three).
- There may be merit in allowing for three Designated Bodies – a small but manageable number whilst allowing at least one new entrant;

Commission Response:

In considering the number of bodies to be designated, the Act expressly provides that the Commission shall have regard to the costs likely to be incurred by the Commission in carrying out its functions (i.e. monitoring the Designated Bodies) and by final customers.

The Act provides that these costs would include any amounts provided by the Commission to a Designated Body following its appointment to facilitate that body in establishing and carrying out its functions. Costs to final customers are relevant because the Commission may impose a levy to provide the relevant funding.

In determining the appropriate number of Designated Bodies, the Commission considers that the key considerations are both (i) ensuring safety and (ii) cost. However, it is clear that ensuring safety must always take priority.

There are several factors which are in favour of the appointment of more than one body. For example:

- *In the event that one Body should lose its designated status (either further to a decision by the Commission or voluntarily), the remaining Designated Body would be required to assume the regulatory function for electrical contractors registered with the now de-Designated Body, thus providing continuity, support and assistance to the industry in such circumstances;*
- *Having more than one Designated Body would provide for a level of competition between the two parties acting as Designated Bodies in terms of the costs and delivery of services. A level of competition may assist in maintaining the quality of services of the Designated Bodies and minimising costs to the industry.*

On the other hand, having a large number of Designated Bodies could be counterproductive to the proper regulation of electrical contractors and this could have negative implications for safety. This designation of bodies pursuant to the Act is essentially a delegation of a regulatory function. The more Designated Bodies that are appointed, the more substantial and complex the measures and efforts that may be required in order to control, monitor and regulate the Designated Bodies.

Also, the costs to the Commission and possibly end users (if the Commission funds the establishment of bodies through a levy) would, most likely, increase proportionately to the number of bodies appointed. For these reasons, the Commission is not proposing to allow an unlimited number of Designated Bodies.

The additional cost burden of regulating more than one Designated Body could be restricted by limiting the number of Designated Bodies. In doing so, and providing for more than one body, the benefits of having more than one can be exploited and the costs managed. The Commission's objective would also be to facilitate efficiency in terms of co-operation, co-ordination and ensuring consistency of standards across a smaller number of organisations.

The Commission is to engage in a competition for selection of a limited number of Designated Bodies. The Commission is minded to enter into the process with the option to designate a minimum of two bodies. In doing so, the Commission will, further to the operation of the designation process, consider the costs associated with designation and determine (1) the number of bodies which meet its set criteria for designation and (2) the maximum number of bodies to designate in light of cost.

It should be noted that, regardless of the number of parties to be Designated (at the point of commencement of the operation of the regulatory model or subsequently), all Designated Bodies will be required to co-operate with each other as specified under the Criteria Document or as may otherwise be required by the Commission.

Notwithstanding the above, the Commission would reserve the right to designate less than or more than two bodies. The Commission is to keep the number of bodies under review and to ensure that at any time, the number of designated bodies assists in giving effect to the Commission's obligations under the Act.

Consultation Comments:

- One party commented that emphasis and enforcement needs to be placed on the requirement for the Bodies to co-operate and communicate with each other irrespective of the final number.

Commission Response:

The Commission will provide further detail on the role of the Designated Body in enforcing the requirements of the new regulatory system in its upcoming consultation on the Criteria Document. This will also specify an obligation for any and all Designated Bodies to co-operate and communicate with one another on relevant matters. The Commission sees such co-ordination as being a critical matter and one of the conditions on which maintenance of designation status is contingent.

Term of Designation

Consultation Comments:

- One party commented that the term of designation should be 5 years initially, with 3 years thereafter.
- It was stated that a term of appointment should not be so long as to allow a Designated Body to become complacent, but not so short as to place additional costs/burdens. 5-7 years seems right;

Commission Response:

The Commission is minded to specify that the initial period of designation should be seven (7) years and should be subject to renewal every five (5) years thereafter. The Commission will specify the precise requirements concerning this in the Designation Conditions.

Section 5: Certification Process and Completion Certificates

Certification Process

Consultation Comments:

- One respondent raised the issue of the current Completion Certificate not being a “complete” record as Completion Certificates with test results included are not currently returned to the Designated Body after Post-Connection tests have taken place. They stated that there is a need to re-engineer this process, particularly as certificates are to be documents of public record, such that the full certificate should be returned to a Designated Body for recording (and final validation). It was furthermore suggested that connection granted on the basis of an initial certificate should be a “provisional” connection and full connection should not be confirmed/granted until post connection tests have been completed, the certificate finalised, returned to the Designated Body and validated;
- One party commented that, if it is accepted that 'certifiable works' are those covered by the National Wiring Rules, then the certification process should be as described within these Rules. The party concluded that the Decision Paper and especially the Criteria Document should support the Rules and the Certification systems contained there-in;
- With respect to the Commission’s proposals regarding “Other Certification”, one respondent disagreed with the proposal that only the certificate requirements enforced by the DSO are returned to the Designated Body – they contended that this may strengthen a perception that certificates are needed for the ESB connection and not for safety per se. While they felt that this would increase the administrative burden on a Designated Body, the return of all certificates and validation of same by the Designated Body would provide for certain safety benefits and that the oversight role of the Designated Body would be consequently enhanced;
- One party commented that the return of the Completion Certificate to the Designated Body is a positive step;
- One respondent stated that it was important to make very clear to customers that a Completion Certificate from Third Party Inspection gives comfort but not a guarantee – responsibility lies with person doing the work and the owner;
- Some parties stated that there is a significant loophole in the current certification system relating to pods and subsystem certificates – it is contended that this is a significant weakness that needs to be addressed;
- One party commented that, to date, no effort has been made to set out the Connection Procedure of the DSO. The party is of the view that it is essential that the precise requirements concerning ESB’s requirements for connecting a premises (concerning safety) need to be set out. They proposed that this should be part of the Criteria Document and approved by the Commission;
- It was the view of one respondent that the critical role and importance of the Designated Body’s involvement in the validation of Completion Certificates is not sufficiently highlighted. Clarification should also be

- provided that, where certification is required, it must be the “Registered Electrical Contractor” who energises an installation following connection/re-connection of the premise by ESB Networks;
- One party commented that the arrangements made with ETCI should include the requirement for all parties to use ESB Networks “ECIS service” in order to support the Certification and New/Re-Connection industry processes.

Commission Response:

The Criteria Document will specify the requirements for both RECs and any Designated Body with regard to the standards and procedures to be adhered to, and will be enforced, in the new system.

The Criteria Document will specify that the National Wiring Rules will be the required rules for electrical works and, in doing so, will require certification of works to take place in accordance with the requirements set out therein.

Furthermore, as part of its work programme for the Criteria Document, the Commission will engage with the industry and publish an “Agreed Procedure” for the certification process. This will set out any additional requirements for certification which are not covered by the National Wiring Rules. This Agreed Procedure may include, among other things, requirements relating to the completion of certificates, their submission to the Body and control/validation of same by the Designated Body and determining what constitutes a “valid and complete” certificate for the purposes of the new regulatory system (including the requirements for post-connection tests to be completed on the certificate in order for it to be fully validated).

The Commission will shortly publish its consultation on the Criteria Document and, further to this and once a decision on this has been confirmed by the Commission, the Commission will embark on the process of prescribing any Agreed Procedures to apply under the Criteria Document.

It is important that, in determining the Agreed Procedure for the certification process, adequate consideration is given to, and provisions made to address, any matters in the process which may serve to undermine the principles of the new system and the process. One such matter is the issue of subsystem certification as raised by one respondent. The Commission is to give this due consideration in the development of the Agreed Procedure on certification and will liaise with the industry stakeholders on this.

The Commission is of the view that it is important, in arranging for certification further to Third Party Inspection, that such certification should include explicit information confirming that the responsibility for the installation work lies directly and exclusively with the contractor carrying out the works and that no liability shall arise for the Designated Body who carried out the inspection, save for the liability arising from its carrying out of the inspection. It is critical that the customer is informed of the meaning and role of the certificate in the new regulatory system.

It is anticipated that any Agreed Procedures will not be finalised until after the designation process is complete. This will specify the critical role of, and the requirements for, the Designated Body in the validation process. It will also

address the interaction between the Certification and Validation Processes and the Connection/Energisation Process/Procedures of the DSO and ensure that the role of each party (be it the DSO, the Customer, the REC and Body) is clearly identified.

Note: *The Commission has requested a response from the DSO with respect to the comments raised relating to the “Connection Procedure/Policy” and this will be addressed through the upcoming work on the Agreed Procedure for the Certification Process, further to the release of the Criteria Document.*

Completion Certificates

Consultation Comments:

- One party commented that the current ETCI certificates are badly designed and various ones are not wholly fit for their respective purposes – they concluded that there is a need to embark on a blank-page exercise for determining what certificates should be used in the new regulatory system;
- It was furthermore suggested by another party that a review of all CENELEC implementations should inform future designs of any certificates for the new system;
- One party felt that formalising of the 'Periodic Inspection Report' is long overdue and that the costs of 'Periodic Inspection Report' should be kept down;
- One party, however, commented that there is a difficulty with the 'Periodic Inspection Report' being included under "certification". They argued that giving it a status within the system is appropriate but that having it as a certificate is an issue. They also commented that the regime for audit and inspection of this could prove difficult;

Commission Response:

The Commission notes that several comments received related to the need for the Commission, in specifying the form of certificates to be used in the new regulatory model under the 2006 Act, to consider the design of the current ETCI certificates and how these may be amended to enable them to be more suitable for their intended purposes.

The Commission is intending to consider the requirements for certificates in the new system and determine any requirements for changes to the current ETCI certificates in that regard. This will include consideration of the role and treatment of the "Periodic Inspection Report". The Commission is to engage with ETCI on this matter and will also seek to consult with key industry stakeholders on any review of the certification requirements for the new system.

Consultation Comments:

- One party suggested that it would be best to specify the ETCI Certificates as the appropriate form, as to do otherwise would most likely prove very difficult to manage and would undermine ETCI's role;
- Another commented that the Commission indications that it will do the 'specifying' of certificates in conjunction with ETCI is a very positive indicator;
- It was proposed that, if the Commission envisages changes/additions to the existing certification system, then it would be best to do this in partnership with ETCI's Technical Committee 2;
- It was suggested that the proposed Memorandum of Understanding between the Commission and the ETCI could be used to provide definition on the above matters;

Commission Response:

The Commission has stated that it is its intention to build on the strengths of the current regulatory model. It is clear that the ETCI certificates have

operated well to date and the Commission has confirmed that it intends to approve the form of certificates to be used and will work with the ETCI in the development of these. The current ETCI certificates will be used as the starting point for this work.

As stated, the Commission will also seek to consult with key industry stakeholders on any review of the certification requirements for the new system.

Consultation Comments:

- One general weakness commented on is that there is a lack of standard documentation for domestic installations with respect to what documentation is required in order to support certification;
- It was stated that, currently, most domestic installations are in breach of ETCI rule 610.2 – it was suggested that this can add to the cost of testing and cost of any periodic tests. One solution suggested to this is to insist that a training module in CAD drawing is recommended for electricians;

Commission Response:

In specifying the ETCI's National Wiring Rules as being the rules to be applied to electrical installations, and recognising the ETCI as being the competent body for specifying the technical rules, any technical requirements relating to certification of the installation are to be specified therein. The Commission therefore considers that these matters are for consideration by the ETCI and should be raised directly with that body.

Completion Certificates as Documents of Public Record

Consultation Comments:

- Some respondents endorsed the concept of the Completion Certificate as a document of public record;
- One respondent commented that making the Completion Certificate a document of public record emphasises the need for all certificates to be returned to a Designated Body;
- It was commented that the lack of legal standing of the Completion Certificate is an issue – if it had a legal standing, awareness would follow or could be created more readily;
- It was also commented that there is a challenge that the Completion Certificate is not currently seen as a statement of quality or safety of an installation. It was felt by the respondent that this is a weakness of the current system and should be addressed;

Commission Response:

The Commission notes the comments received above. In approving the certificates for the new system, the Commission will give consideration as to how the certificates can be best used to support the regulatory system and its adoption by the industry. It will also consider how the certificates can be best used to support the goal of public safety with regard to electrical installations and also how they can be best used to support public awareness of the regulatory system and its benefits.

In making the Completion Certificate “a document of public record”, a copy of the certificate, or confirmation concerning the issue of a certificate for an installation, may be provided to parties requesting same. However, in achieving this, due consideration will have to be given to, and provision made for, the requirements concerning personal privacy and Data Protection legislation concerning the release of such information.

The comment that a key weakness currently is the lack of legal standing of the certificates will be addressed in implementing the provisions of the 2006 Act. The Commission will require a valid completion certificate to be issued for all regulated works and, in doing so, the certificates will be given a legal status.

Section 6: Regulation of RECS

Consultation Comments:

- One respondent stated that there is a need to ensure that needless barriers to entry to the registered electrical contractor market are not erected;

Commission Response:

The Commission is committed to ensuring that the requirements of the new regulatory model will not impose any inappropriate barriers to registration. Rather, the requirements will seek only to address what are considered core and significant issues in determining the suitability of a party to become a registered electrical contractor.

Any such requirements will be assessed against their contribution to the delivery of the key objective of the new regulatory model – that being the protection of the safety interests of customers with respect to their interaction with the electrical contracting industry and providing for electrical works to be carried out, tested and certified in compliance with the appropriate safety standard by parties deemed to be competent and insured for carrying out such activities.

Consultation Comments:

- One party agreed that the Commission's proposals that only the competency and training of a Qualified Certifier will be prescribed, rather than the individuals carrying out the electrical works and that this is a workable, pragmatic approach;
- It was commented that the current Criteria Document specifies minimum competence for people carrying out the work in addition to those who certify the work¹ – to change this would diminish existing safety standards and increase the potential for substandard work – particularly where any tests carried out would be in circumstances where most of the installation would be concealed;
- It was commented that this would also undermine the standard-based apprenticeship which is co-ordinated by FAS and certified by FETAC;
- It was stated by one respondent that the ETCI National Wiring Rules must be the basis for regulation and all electrical work must be carried out according to these rules and all electrical contractors must be fully familiar with them and always up to date with current editions;
- One party stated that there should be no more grandfather clauses provided for in establishing the new regulatory model – the credentials of each party should be checked and verified etc. The party stated that every REC should be competent and that some system should be put in place to verify the competency of the person carrying out the actual works. Also, the party felt that an REC should be required to produce mandatory confirmation of same upon request;

¹ Reference: Clause 9.1.7.3 of Current Criteria Document (CER reference: CER/06/248)

Commission Response:

The Commission will specify, through the Criteria Document, the key requirements for any party seeking to be registered with a Designated Body as an REC and, subsequently, to maintain registration.

This will include specifying the requirements for key personnel and the minimum qualification and training requirements for such personnel within the REC's organisation.

The Criteria Document will include obligations on the REC with respect to the competency of any and all staff/personnel/parties engaged by them in carrying out installation and/or those certifying such works on its behalf. This will be complementary to the requirements placed on RECs, as employers, under the Health and Safety legislation.

The Decision Paper reflects this.

The matter of "grandfathering" is to be given consideration as part of the Transitional Arrangements. It had been indicated in the Consultation Paper that this work relating to Transitional Arrangements would be dealt with in the Decision Paper. However, the Commission is now of the view that this work cannot be fully considered and scoped until such time as the Criteria Document has been decided upon and the Designated Body/Bodies have been appointed. Hence, the Commission will publish further information on the matter of Transitional Arrangements as progress is made in moving towards the implementation of the new regulatory model.

Consultation Comments:

- One party commented that the training records of a contractor may have to be made public, in the sense that if a contractor is registered, that a prospective customer can quickly ascertain, from an internet search, if he or she is qualified for a particular job. This is very pertinent when considerations of Specified Works and Designated Electrical Works are to be decided on;

Commission Response:

The Commission will give further consideration to this proposal for the implementation stage of the new regulatory model.

However, it is the objective of the Commission that it will implement a system that places and enforces specific, and appropriate, requirements on a party seeking registration and operating as a registered electrical contractor. In doing so, the registered status of any electrical contractor should be adequate confirmation to the customer/public that the contractor meets the regulatory requirements with respect to competency, training, qualifications and insurance, and would therefore have the required capabilities to carry out the required works.

Further consideration will be given as to whether or not there shall be different types of registration and that a party must comply with different requirements for different types of electrical installation work and therefore would only have entitlement to carry out such works as their registration provides. The Commission will consider if this "distinction of registration and work" system

should be in put into place at the point of commencement of the new regulatory model or should be implemented once the basic model has been implemented and is well understood by the industry and the public and is operating successfully.

Section 7: Regulation of Non-RECS

Principle of Regulation of Non-RECs

Consultation Comments:

- One party commented that the inclusion of Non-RECs is of concern – the REC pays insurance and complies with the requirements for registration and yet the Commission’s document seems to copper-fasten the rights of the non-REC without giving them responsibilities – at a very minimum, a Non-REC should be/employ qualified electrician(s) and should be required to have the necessary insurances in place.
- The party went on to state that, in order to fulfil the Safety of the Consumer aspirations, as the legislation set out to do in the first place, the Non-RECs must be included in the legislation .
- One party commented that the ETCI National Wiring Rules should not be undermined by granting derogation from certification for Non-RECs;
- Another party commented that it seemed, from the Consultation Paper, that Non-RECs were being treated as the equivalent of RECs, save that they have not to be registered. It was stated by the party that no inspection, no matter how thorough, can guarantee the safety of an installation by a Non-REC.
- One party expressed its dissatisfaction that the proposed regulation seemed to place a burden on RECs and none on Non-RECs. However, it was appreciated that this matter would be greatly influenced by the definition of Controlled Works;
- The Commission was requested to provide statements to confirm the status to be given to unregistered parties;
- The Commission’s Consultation Paper mentions the Designated Body’s role as including “arranging for the inspection of work by Non-RECs...”. One party commented that this implies a level of responsibility beyond what is reasonable and that the function of the Designated Body is solely to provide a service upon request;
- One party commented that registration is open to all competent contractors and that there may be very, few genuine contractors operating outside the current registration system. It was suggested that if a party is competent and insured, there is no restriction placed on their registration currently. The party suggested that it should be the aim of the Commission to ensure that all contractors are insured, registered and monitored by the Designated Body;

Commission Response:

The Commission notes the above comments.

The legislation clearly provides for recognition of works which are not carried out by Registered Electrical Contractors and in designing the new regulatory model, due consideration needs to be given to, and provision made, for such works.

The Consultation Paper did not specify what the requirements for certification of works by Unregistered Parties would be as this is an inappropriate level of

detail for the Vision Document, the focus of which is the high-level design and principles of the new regulatory system and not the detailed rules for the operation of same.

However, notwithstanding that, the new Criteria Document will specify the requirements to be imposed for Unregistered Parties to qualify for the entitlement to a Third Party Inspection Service as provided by a Designated Body in respect of “Controlled Works”.

It is the Commission’s intention that such requirements will include, as is similar to those set out under the current Criteria Document, provisions relating to the competency of the Unregistered Party who carried out the work, insurance cover for such work, and the attendance at the Third Party Inspection by the Unregistered Party responsible for the work concerned.

Any such requirements will be consulted on through the Commission’s upcoming consultation on the Criteria Document.

The Commission’s intention is to make a clear distinction between the various categories of parties who carry out electrical works, as follows:

- **Registered Electrical Contractors** who meet all of the requirements of the Criteria Document and the regulatory system with respect to competency of personnel, insurance, equipment etc. and who are entitled to self-certify works;
- **Unregistered Parties** being those parties who carry out electrical works but who are not registered with a Designated Body. This category is made up of the following:
 - **Non-Registered Electrical Contractors or Non-RECs** who have demonstrated, through the application procedure for a Third Party Inspection, that they meet the requirements with respect to competency and insurance and who shall be entitled to certify works (Controlled Works only) further to passing the Third Party Inspection (as carried out by the Designated Body) and with the Designated Body countersigning (responsibility for the work lies with the contractor) such certification; and,
 - **Other Unregistered Parties** who do not meet the criteria to qualify for the Third Party Inspection service to be provided by a Designated Body and the works of whom will not be recognised as being valid by the regulatory system.

The Decision Paper, in Section 3.4.4 and Section 5.2, confirms the Commission’s treatment of these broad categories of parties undertaking electrical installation works.

Through the Criteria Document, Non-RECs will be recognised on the basis that their compliance with the criteria for Third Party Inspection is established (particularly, the competency criterion). Upon such compliance being established, their work will be entitled to be inspected by a Designated Body, as per the 2006 Act provisions for such inspections.

The work of Other Unregistered Parties, who, by definition, do not meet the criteria for the Third Party Inspection Service operated by a Designated Body, will not be recognised by the new regulatory system.

In such instances, where such work is a Controlled Work, it shall not be entitled to an inspection by the Body and therefore cannot be certified. Consequently, the installation concerned will be in breach of the requirements of the 2006 Act, the new regulatory system and the National Wiring Rules.

Requirements for Non-RECs

Consultation Comments:

- One party asked for the Commission's confirmation on the treatment of Non-RECs with respect to the competency and insurance requirements to be placed on them. Without imposing such appropriate requirements, the party commented that Designated Body's inspectors would have to be present not just for the final inspection and testing of an installation by a Non-REC, but also during the installation work itself (to verify, for example, that the correct cabling is used throughout the installation (most of which should not be visible when the building work is completed));
- One party commented that the vast majority of Non-RECS are unqualified and do not carry insurance. This party stated that there is not currently an instrument that can detect bad workmanship once covered up – test instruments do not guarantee a safe installation – and that, therefore, an installation cannot be deemed safe if carried out by untrained people. The party concluded that this enhanced the argument for the need for all contractors to be properly qualified and carry adequate insurance;
- One party commented that one key weakness of the existing system is that unqualified and uninsured people may carry out electrical installation work. The party stated that it is critical that appropriate requirements are imposed on the person who carried out the work and that it is essential that they are required to attend any inspection provided by the Designated Body;
- One party commented that the competent employer, with competent employees adhering to relevant regulations and leaving the installation safe, should not have to compete with Non-RECs;

Commission Response:

The Commission, as stated in the previous response, will specify in the Criteria Document, the conditions and requirements that Unregistered Parties will have to comply with in order to be entitled to Third Party Inspection by the Designated Body.

In operating the new regulatory model, it is an objective of the Commission that all parties meeting the regulatory requirements are registered and therefore subject to regulation by the Commission. Furthermore, it is a prime objective that electrical works are undertaken by such parties and that customers should seek that works are undertaken only by such parties.

Section 8: Promotion and Branding

Promotion

Consultation Comments:

- One party agreed with the Consultation Paper's statements relating to the critical role of promotion in contributing to the success of the new regulatory model. The party commented that whether such promotion is done by the Commission or via funds made available to a Designated Body for same is worthy of further discussion;
- One party commented that a targeted public information campaign to promote awareness and understanding of the new regulatory system is critical;
- It was commented that, in promoting the new system, it is critical that the customer should be made fully aware of their entitlement to a copy of a Completion Certificate;
- In commencing promotion of the new system, one respondent stated that it is vital that Controlled Works and Restricted Works are defined in order to inform the public;
- It was commented that it is important to have the insurance industry on board in order to support the promotion of the new regulatory system and that insurance providers should be encouraged to require Completion Certificates and 'Periodic Inspection Report's as part of their conditions for the provision of insurance cover and that, ideally, uncertified premises should invalidate insurance cover;
- One party commented that marketing should be supplemented by an Identification Card provision detailing an REC's competency and registration details;

Commission Response:

The Commission welcomes the comments received concerning promotion. It is clear that all parties consider promotion as being a critical consideration in the launch and operation of the new regulatory model. The Commission notes that clarity is required with respect to certain issues, such as Controlled and Restricted Works.

The Commission is proposing that promotional activities will not commence until all of the other critical elements of the new regulatory system have been confirmed – the Criteria Document, Controlled Works, any Bodies designated and branding decided. Only once these have been decided upon will the promotion of the new regulatory model commence in order to support its launch and raise public and industry awareness. This may entail significant promotional activities and the involvement of all stakeholders.

As part of the promotional process, there will be several key messages to be communicated to the customer in order to emphasise the requirements for customers choosing Registered Electrical Contractors and the importance of certification, its role, and, overall, the benefits to the customer in choosing a Registered Electrical Contractor.

The Commission notes the proposals concerning the insurance industry. The Commission is of the view that involvement of the insurance industry, construction, surveying and real-estate sectors may be of great benefit in promoting the new regulatory model and raising awareness among customers of the importance and benefits of engaging RECs. As we move toward implementation, the Commission will seek to engage with the relevant stakeholders as part of its work on the promotional aspects of the new regulatory model.

Consideration will also be given to the requirements of the REC in presenting themselves to the customer and providing proof of registration.

Branding

Consultation Comments:

- One party commented that one brand is appropriate and suggested that the Commission should consider if the branding could also be used to support other activities – for example, energy efficiency ratings;
- One respondent stated that if there is to be one body, then one brand is suitable. However, if there is to be more than one body designated, it would be unacceptable that the bodies could not compete on brand. This party stated that if a common brand is required, then the logic is that there should be just one body;

Commission Response:

The Commission is of the view that it is important that one clear brand message is established and that this is critical to the success of raising public awareness of the new regulatory system.

However, there may be several options in this regard and on how the brand might be operated. On one extreme, it may be that the brand co-exists with the brand of the designated bodies who would operate under that brand. On the other, there may be one single brand and no public awareness identity for a Designated Body operating under that brand.

The Commission will give this matter, and the comments received, further consideration in preparing for the launch of the new regulatory system, after completion of the Designation process.

Section 9: Training Issues

Requirements for Training/Monitoring

Consultation Comments:

- There does not appear to be Irish statutory training and certification requirements for electricians and others engaging in construction, maintenance and commissioning of MV/HV works, similar to what applies in UK where Senior Authorised Person certification is required;
- The key principle to demonstrate competence should be the attainment of an appropriate certified qualification;
- One party stated that consideration needed to be given to the level of competence, demonstrated through certified qualification, which should be required for a Qualified Certifier (the party proposed a graduated approach with continuous professional development required). If certification of buildings for energy consumption and intruder alarms require qualification, then the question of what qualification level is appropriate for someone certifying safety of an installation must be considered;
- The Commission was requested by one party to define the context of a competent person pertinent to the requirements of an REC prior to implementing the new system;
- It was commented that most sectors undergo “continual professional development” and that a similar approach should be pursued and also that requirements relating to periodic retraining in testing and inspection should be imposed;
- One party commented that training is an important issue and that the Designated Body should be able to provide facilities/provisions related to training;
- If Designated Body is to monitor training, interface with FAS, ETCI and Institutes of Technology should be carefully thought out;
- One party proposed that there was a need for there to be an Irish version of inspector exams;
- It was suggested that the Commission should liaise with FAS and educational providers in the designing of new and appropriate syllabi relevant to new model at earliest opportunity;
- It was commented by one party that there is currently no official standard training course, syllabus, duration, content in place by Bodies or ETCI for enhancing REC skills. It was proposed that the entire system requires fresh thinking and that this matter needs to be looked at from the start of apprenticeship onwards – the ETCI, the Designated Bodies, the Commission, FAS and independent training organisations need to have real input into course contents;

Commission Response:

The Commission is to further consider the requirements for training once it has embarked upon its consultation on the Criteria Document. The Criteria Document will specify the competency, training and qualification requirements to be required of parties seeking registration and what requirements in that

regard will be placed on RECs to ensure that their registered status is maintained.

The Commission does recognise the critical importance of training. It is essential that, in specifying the qualification and training requirements to be imposed on parties seeking registration or maintaining registration, the appropriate framework for the delivery of such training is put in place.

In doing so, it is important that the requirements for training and qualification are confirmed and that a standardised framework for the delivery of such training (and qualifications further to same) is put in place.

It is furthermore clear that, in devising standardised training and qualifications, provision needs to be made to allow for such training to be delivered by a variety of training providers. Consideration needs to be given as to how this may be achieved and what accreditation is required for same in order for there to be an assurance in terms of the quality and consistency of the training (and assessment) delivered, and qualifications that result from same, in meeting the specified requirements.

The Commission anticipates that this issue of training will require significant further input from industry stakeholders. The Commission will seek to engage with stakeholders on these matters further to the publication of its Criteria Document consultation paper. The Commission will also give consideration to the formation of an Industry Training Advisory Panel to help develop an agenda and forum for discussion and an action plan for addressing this important matter.

The Commission does welcome the input received from the various parties concerning training and notes in particular the proactive and supportive comments received from potential training providers and institutions.

Section 10: Governance, Enforcement and Other Arrangements

ECCRP/EISRP

Consultation Comments:

- One party commented that the involvement of the main stakeholders in industry is crucial to success and transparency. Additional bodies proposed for representation on ECCRP are AECI, ECA, FAS, HSE, HSA, TEEU and independent contractors;
- It was stated by one respondent that it is critical that the roles of EISRP and ECCRP are different and that it is essential to ensure that there is no duplication of roles/discussion;
- One party commented that it firmly believes that consumer representation on the EISRP is warranted.

Commission Response:

The Commission notes the above comments and will consider the constitution of the relevant industry fora in advance of the implementation of the new regulatory model and will engage with key stakeholders in that regard.

The Commission is of the view that it is important that there is appropriate representation of RECs at the ECCRP as these will be a key stakeholder in the operation and review of the Criteria Document. However, it is recognised that the Registered Electrical Contracting community in the new regulatory model will be large and further consideration must be given as to how the interests of this group may be best represented at the ECCRP. In doing so, consideration must be given to ensuring that there is appropriate representation on behalf of all RECs.

The Commission will ensure that there is a clear distinction between the roles and scope of the two industry panels proposed and that duplication is avoided. However, the Commission views it as equally important that the complementary role of these two proposed industry panels are recognised and the potential for each to support the functioning of the other in the achievement of their respective objectives is recognised and utilised.

Inspection/Audit & Overall Enforcement

Consultation Comments:

- One respondent agreed with the proposals for annual audits and plans, and the proposed risk-based approach to inspection and audit of RECs. It was commented that the integrity of the process is dependent on the quality of risk-assessment and was suggested that, as part of the annual plan, it should be incumbent on the Designated Body to justify its risk-based approach to the programme;
- It was commented that, currently, the REC dictates what installation is visited and when. It was stated that this should not be the case and that, as a small number of inspectors can only visit a small number of

installations, the resourcing of this function of the Designated Body should be carefully considered. It was pointed out that inspections by the Private Security Authority are obligatory and that equivalent measures should be imposed for the inspection of the work of RECs;

- The general proposals concerning audit and inspection were welcomed – however, one party cautioned on the practicalities of random inspection – particularly in relation to work-in-progress;
- One party provided a number of comments concerning the need for appropriate provisions to be put in place to protect the customer. Their proposals included:
 1. appropriately robust monitoring and enforcement criteria should be set out to support and protect the consumer;
 2. A clear disciplinary and complaints procedure, enforced by the Designated Body, should be prescribed;
 3. Where more than one Designated Body may be appointed, clear protocols as regards regulatory status, standards, co-operation and information sharing between the Bodies and the Commission should be established;
 4. Membership applications in respect of contractors whose membership status has been revoked by one Designated Body or who are the subject of numerous complaints, should be subject to appropriate investigation and liaison between the Designated Bodies;
 5. The consumer’s right to independent information on the membership status of any electrical contractor should be clearly set out.

Commission Response:

The Commission welcomes the proposals regarding the operation of the risk-based Audit and Inspection system.

These matters will be given further consideration during the preparations for implementation and the Commission will engage with any Designated Body concerning the requirements in this regard. The Commission views a risk-based Audit and Inspection system as being a critical element of enforcement in the new regulatory model. The Commission is considering implementing through the Criteria Document, a standardised “penalty points” type system to be imposed by any Designated Bodies such that any RECs that are discovered to be performing below standard are subject to more frequent Inspection and Audit.

The Commission is of the view that, in implementing an Audit and Inspection system, the works of an REC should be fully available for inspection and audit, which may be either planned or unannounced (random). However, it is recognised that there may be difficulties/challenges in implementing an unannounced inspection system.

The utilisation of the provisions of the 2006 Act concerning Authorised Officers should assist in overcoming such challenges.

With respect to the suggestions relating to the protection of consumers, the Commission will be incorporating provisions such as those proposed into the Criteria Document.

Consultation Comments:

- One party requested clarification with respect to the appointment of Authorised Officers as it was unclear from the Consultation Paper if there would be standing appointments for same or if this would be done on an “as needed basis”;
- The Commission should indicate that it will appoint Authorised Officers in each Designated Body at the outset in order to enable the Bodies to carryout inspections unhindered for the purpose of validating certificates both prior to and after connection as appropriate.
- One party recommended that the Authorised Officer should be given the power to lock-off electrical circuits up to and including the customer’s main isolator where safety hazards are identified during inspections.

Commission Response:

The provisions of the 2006 Act concerning Authorised Officer is a significant tool to the Commission and any Designated Body with respect to the enforcement of the requirements of the new regulatory model.

However, the Commission does recognise that bestowing such rights, as those bestowed by the provisions of the 2006 Act, is significant and such powers should only be applied in specific circumstances where other avenues of enforcement/compliance are not available to the Commission or the Designated Body. It is on this basis that the Commission anticipates that the appointment of an employee of a Designated Body as an Authorised Officer shall be on an “as needed basis”, rather than a party being appointed as an Authorised Officer on a standing/enduring basis.

The Commission will give further consideration to the powers of the Authorised Officer with respect to the locking off of electrical circuits.

Consultation Comments:

- One party commented that there is currently no system in place to inspect the inspectors and that this should be addressed in implementing the new system;

Commission Response:

The Commission will be specifying, through the Criteria Document, the requirements to be placed on the Designated Body with respect to the appointment of inspectors. In doing so, the Commission is to give consideration to what requirements should be imposed for such appointments, with respect to the training, qualifications, competency and monitoring (by the Designated Body) of inspectors.

The Commission will ensure that the operations of any Designated Body are subject to full scrutiny, assessment, audit and review in order to ensure that the Designated Body is discharging its functions in accordance with the requirements of the Commission, as specified through the legislation, the Criteria Document, the Designation Conditions and such other directions as the Commission may issue.

As part of that oversight role, the Commission will consider putting in place a system of auditing the work of Inspectors to ensure that they are operating in accordance with the requirements of the Designated Body and its plans/procedures as approved by the Commission.

Consultation Comments:

- One respondent commented that there needs to be a willingness on the behalf of the DSO to threaten and enforce disconnection in the supply to premises which are not in compliance with National Wiring Rules and certification requirements;

Commission Response:

The Commission recognises that there needs to be an appropriate range of enforcement provisions and steps in place to support the operation of the new regulatory model. These should include the appropriate provisions and procedures to provide for the de-energisation of an installation which does not meet the safety requirements of the regulatory model as specified by the Commission. However, it is clear that such de-energisation should be a last resort and that all other avenues of enforcement should be applied first. Detailed procedures concerning enforcement are to be developed prior to the implementation of the new regulatory model.

Consultation Comments:

- One party commented that a critical gap in the current proposals is the lack of any mechanism for resolving any day-to-day disputes between the Designated Bodies, ETCI, Customers and ESB Networks in relation to application of any of the provisions of the new regulatory model.

Commission Response:

The Commission recognises that there needs to be the appropriate mechanisms in place to resolve disputes between parties. The Commission has proposed a range of measure to support such matters and these will be further specified in the Criteria Document. These include:

- *the requirement for interaction, communication and co-operation between any Designated Bodies;*
- *the formation of the EISRP and ECCRP to facilitate communication and, in the case of the ECCRP, propose modifications to, and seek clarifications on, the requirements of the Criteria Document;*
- *appeals mechanisms for parties to appeal the decisions of a Designated Body;*

The Commission does recognise that there may need to be further mechanisms introduced in order for any disputes which may arise to be dealt with expeditiously. This precise aspects of such a facility will be further considered and specified as the new system is implemented. It is the Commission's view that disputes are addressed between industry participants in the first instance and that the majority of issues which arise should be successfully dealt with in this way, given the common objective of all stakeholders with respect to public safety.

Section 11: Other Areas of Comment

Commission-ETCI Arrangements

Consultation Comments:

- One party agreed that there is a need to formalise the role between ETCI and the Commission. It was commented that, whilst the fees and charges of the Designated Body are to be regulated, the Designated Body will be relying on certificates which are provided to them at an unregulated price. It was suggested that appropriate protocols for charging for Certificates by ETCI need to be put in place and that there should be oversight and control of same;

Commission Response:

As stated in the Decision Paper, the Commission will be formalising arrangements with the ETCI through a Memorandum of Understanding. This will be published once agreed. The Commission is of the view that this Memorandum of Understanding should include consideration of the “wholesale” price/costs of certificates to any Designated Body.

Consultation Comments:

- One party commented that the Private Security Authority has arrangements with Revenue Commissioners concerning the requirements for tax clearance for registered members and that it was surprising that this requirement is not included in the Commission’s proposals as set out in the Consultation Document;

Commission Response:

The Commission notes the requirements for parties licensed with the Private Security Authority (“PSA”) to provide tax clearance certificates. However, the requirement for same is clearly established in the primary legislation concerning the PSA. This Act, the Private Security Services Act 2004, does specify under Section 24 that a party is required to have a tax clearance certificate in force in order to be licenced by the PSA.

The 2006 Act, bestowing the function for the regulation of the activities of electrical contractors with respect to safety upon the Commission, does not make an equivalent provision concerning tax clearance certification. The function bestowed upon the Commission is exclusively in relation to safety and, therefore, the Commission is of the view that it cannot enforce any other non-safety and consumer-protection related requirements, such as any requirements relating to tax clearance.