

Review of CER Public Consultation Process - Questionnaire

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	Our overall impression is very positive. We believe that views are sought and well considered in the consultation process. In general CER's consultation schedule is very comprehensive; CER's intentions and decisions are transparent, with an appropriate mix of written papers and open meetings.
1.2	Are you satisfied with the CER's consultation process in its present format? If not state the reasons why?
Response	Yes. In our opinion the format is appropriate to the written consultation process. Publication of generally well structured papers on the CER web-site followed by a 4 week response time aids transparency and time for a well considered response. Decision papers articulate their consideration of different points of view submitted and usually reach a clear and reasonable conclusion.
1.3	What do you consider to be the key strengths and weaknesses in the current consultation process?
Response	Strengths are comprehensiveness and transparency. Notwithstanding the legislative requirement for the Commission to consult, consultation scale and detail could be more tailored to the level of impact of the subject. We would suggest a structured use of impact assessments for consultations (see 1.6)
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	Yes

	<p>See comment 1.3 with respect to level of detail provided</p> <p>We would suggest a more structured and consistent ‘context’ section that states whether the consultation is a stand-alone issue or whether part of a wider suite of consultations around a particular policy. In case of the latter, hyperlinks to each associated paper would be very useful.</p>
1.5	Are the executive summaries provided, clear, concise and useful?
Response	Yes. The Executive summary should always include a ‘next steps’ paragraph outlining the fuller timeline for the consultation; response due date, associated consultation times, decision date.
1.6	Should consultations/ decisions be accompanied by short information sheets or press briefings?
Response	<p>We would also suggest that consultations are preceded by a brief Impact Assessment and statement of intent to consult.</p> <p>This will help the Commission to determine the level of detail required in the consultation, and respondents to determine the level of resources required and priority to place on responding to the consultation.</p> <p>For medium to high impact subjects, a short information sheet accompanying the consultation would be helpful, and a press release would ensure that a wide section of the public are made aware of the consultation.</p>
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 summary list of key questions posed within the consultation would be helpful, and would ensure that the subsequent decision answers each question precisely. In addition, a full timeline of all associated publications (related consultations and decision dates) should be included.

A 2.0: Communication of consultations and decisions

Question Number	
2.1	What is your overall impression of external communications from the CER?
Response	n/a
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	n/a
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	<p>The length of time allowed should depend on the impact of the subject being consulted and the number of related items being consulted on. In general four weeks is a reasonable response time.</p> <p>From an industry perspective, where the consultation is part of a wider programme, eg SEM, the amount of notice given prior to consultation is relevant. If three or four related consultations are published together, or within a short timeframe, it is important to publish a programme ahead of time so that sufficient resources can be allocated to the analysis and response.</p>
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	<p>In our view, for the majority of consultations the most appropriate form of response is through email or written comments. This ensures that all responses are carefully thought through, responses can be made public immediately, and it aids the Commission in giving equal weight to responses.</p> <p>For wide ranging consultations, where a number of very specific questions are being asked, online response forms could be used to generate a greater number of responses from the public. Open fora might be helpful for the early stages of discussion where issues still</p>

	need to be flushed out and different stakeholder perspectives obtained prior to a specific consultation. However for most consultations it is not an appropriate method for obtaining all views on which to base a decision: there is a risk of misrepresentation or exclusion.

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	Decisions are well reasoned and include commentary on responses received – this is helpful to respondents who can tell what degree of influence they have had.
3.2	Are decision papers clear, well structured and easy to follow?
Response	Decision papers on the whole are clear and easy to follow
3.3	Do decision papers respond in sufficient detail to all the issues raised during the consultation process?
Response	The best decision papers have a very clear link from decision to key underlying questions. Each key underlying question is then analysed, bringing in the most relevant comments from respondents and commenting upon them.
3.4	Is the link between the consultation process and the decision making process clearly outlined in decision papers?
Response	See answer to 3.3. For the best decision papers, each underlying question analysed was raised specifically as part of the consultation process. No new issues were introduced in the decision paper. CER's decision papers generally stack up well against these principles.
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	In general we do. It is helpful that all responses are published as soon as possible
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	In general we find it difficult to justify confidential responses and consider that this should not be allowed. Parties views should be open to others to challenge.

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	We find CER staff accessible and have appreciated their willingness to enter into conversation to address any queries that might arise.
4.2	Was your query dealt with promptly and comprehensively?
Response	See 4.1
4.3	If you made a complaint, do you feel it was dealt with fairly? Were you happy with the outcome?
Response	See 4.1
4.4	Have you ever experienced any Customer Service difficulties when dealing with the CER?
Response	See 4.1
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?

The following comments relate to our recent experience with the single electricity market ("SEM") component of the All-Island Project.

The majority of SEM consultations were issued by the Regulatory Authorities (CER/NIAUR). Our comments are intended to provide constructive feedback that could be helpful both post SEM go-live to the RAs, and to CER in its own consultations for Republic of Ireland market issues.

In general, we would be pleased if the openness and transparency typical of a CER consultation is adopted as the benchmark for further RAs consultations. Our key comments refer to the programming, scope and clarity of the SEM consultations.

Programming

Participants need to be able to plan their resources and governance processes to ensure that they can respond to the consultation in sufficient detail and accommodate its decision. Given the complexity of the SEM programme, many of the decisions were interdependent and companies' internal programmes and approvals processes depended on decisions being made in the right order at the right time. On occasions staff were overstretched responding to several delayed consultations published together, on other occasions internal governance processes were severely stretched. We therefore suggest that a clear and consistent timetable for consultations is essential. This applies not only to complex programmes such as SEM but for any policy decision subject to a consultation process.

Scope

A good approach to a complex policy area can be seen from the early market power consultations, where an initial paper outlined the overall market power issues and context, together with scope of areas to be covered. Key issues were identified and then further targeted consultations and decisions were published for each key issue. A breakdown in this approach introduces the risk that new issues are introduced half way through the overall consultation process and a set of decisions can be taken that are not completely aligned. For example, market power mechanisms include day ahead bidding, bidding principles and directed contracts. However, the final decision on directed contracts did not recognise the limitations on market power placed by the bidding behaviour restrictions.

There are also some decisions required from the RAs where the impact on the overall market, or on the licensee itself is very limited. Therefore the full consultation process does not appear to be appropriate, for example for a technical amendment to a licence.

In order to determine the scope of the consultation and to flag to industry participants and the public the criticality of the policy, we would recommend that more use is made

of Impact Assessments. CER/RAs could publish an impact assessment for a particular policy, together with its intention either to go to full consultation or to direct a change (contingent on no substantial objection)

Clarity

From a market participant perspective, regulatory certainty is essential. There were cases in the SEM programme where a lack of clarity in policy (eg Regulation of PES / Power Generation) or decisions meant that participants could not take timely action, either with respect to commercial governance or programme implementation. However, we would note that a major contributing factor to reducing uncertainty in the SEM programme was CER's openness and willingness to discuss issues bi-laterally and in open meetings.