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Tara Scully  
Business Information Officer  
Commission for Energy Regulation  
The Exchange  
Belgard Square North  
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Dear Tara,

**RE: REVIEW OF CER PUBLIC CONSULTATION PROCESS**

Thank you for the opportunity to comment on the above consultation process and approach, and please find attached VPE's response to the CER Questionnaire.

VPE acknowledges the Commission's inclusive consultative style and its use of various processes to effectively engage with the industry and public, including public meetings and stakeholder committees. In particular, we find the style of written documents and the use of language professional, the prose clear and precise, such that all should be able to comprehend the matter being consulted upon (e.g. avoiding industry jargon). That said, we have outlined below a number of aspects where we believe the Commission's consultation process could be further enhanced, and these fall under the following areas.

- Increased dialogue with industry
- Timing and burden
- Evidence
- Layout
- Appeal of decisions

**Increased Dialogue with Industry**

The consultation process, to be effective in informing the regulators decision making process, should be constructed to allow affected stakeholders to make the regulatory authorities aware of all the various components impacting on a given regulatory decision.

To this end VPE would welcome increased dialogue, both informal and structured, with industry so that the impacts of a given regulatory decision are understood before the Commission gives its final decision.

A consultation paper should thus be a formal structured record of informal discussions with industry about the various aspects and implications of a given decision to allow the Commission as much information and debate as possible in advance of the Commission's final decision. It is important for market confidence that the consultation process is a meaningful debates of the issues so that the Commission has as much information as possible at their disposal before making a decision.

## **Timing and Burden**

Contributions from the people and groups the Commission consults can improve, sometimes transform, initiatives that are embarked upon. It can help reinforce or challenge policy proposals to ensure policy tools are effective, and perhaps most importantly, it delivers feedback from a first hand experience of those operating or exposed to an emergent competitive energy market in Ireland. But we need to ensure that the burden on them is kept to a minimum as many of the people being consulted, in business, in the voluntary sector or wherever else, have increasing demands on their time.

It also means giving long enough for a response, albeit VPE accepts that occasionally being a responsive body means acting quickly, because it is clearly in the public interest to do so. But much more often, it means organising time and effort so that people and organisations have a real opportunity to contribute.

*We therefore suggest that consultation periods should generally be a standard 28-day period (more if warranted), unless there is matter of serious public concern or market failure that needs to be urgently addressed. We would also encourage the Commission to make increasing use of a "one stop shop" consultation approach under the All Island Project where every possible to reduce multiple consultations on the same issue. We would also suggest that the Commission seeks initial view from affected parties in advance of a given consultation.*

## **Evidence**

Analysing responses is never a matter of simply counting votes, and where matters are complex great care should be taken when drawing attention to groups that are monopolising the debate. In particular, care should be exercised where such groups submit evidence on key market issues that are not adequately challenged, or where counterfactual evidence is not present. Under such circumstances, it may be prudent to weight such evidence or if significant new evidence emerges from consultation, it may be right to consult again, albeit a shorter time scale may be justified.

Decisions should always be justified, and where necessary, underpinned by data and/or robust regulatory risk assessments. This evidence should be presented as annexes to the consultation so that others may have the opportunity to challenge or reinforce a particular view point. For

complex matters, or those with significant market consequences, the Commission might consider including as part of the consultation process, 'comments on comments', thus enabling respondents to challenge those groups that have set out a particular viewpoint. The quality of data and analysis is more important than slavish adherence to a formalised Regulatory Impact Assessment although there is a time and place for the latter.

*We therefore suggest that the Commission makes available more of the evidence that underpins its consultation and decision making process. For example, 'calling for evidence' prior to consulting, greater use of industry seminars, allow within the process for 'comments on comments' for key issues, and encourage greater transparency through further disclosure by respondents where written responses have been deemed confidential.*

## **Layout**

As stated above, we find the written consultation style engaging and easy to read. However, organisations need time to circulate internally, to gather and consolidate views, and to draft and publish their responses. Any measures that help aid internal organisation circulation would be welcomed.

*VPE therefore suggests that written consultations would benefit from an upfront single cover page setting out:*

- *Document title and reference*
- *Date and target audience*
- *Very brief, one paragraph summary*
- *Timetable, and to whom to respond.*

VPE note that in some consultations the Commission publish responses from all the respondents (provided they are not confidential) while in others a summary of responses is provided. VPE prefer the former approach as it increases transparency in the market.

## **Appeals**

VPE note that current legislation is silent on the appeal mechanisms to CER decisions, particularly in relation to the SEM. VPE would welcome further clarity on what appeals mechanisms will be available for the joint regulation of the SEM and the role of the independent member of the SEM Committee.

In closing, VPE also recommends the Commission undertake an optimisation review of how documents are stored on the Commission's web site to help improve retrieval by subject matter and any corresponding associated documents (including all responses).

It is hoped these observations are helpful to the Commission, and please do not hesitate to contact me if you require any further information.

Yours sincerely

A handwritten signature in blue ink, appearing to read "G. Blaney". The signature is fluid and cursive, with a long horizontal stroke at the end.

Garrett Blaney  
Strategic Development Director

## 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	Overall, the CER consultation process compares favourable with other regulatory bodies. That said, we would like to see standard 28 day consultation periods, and greater disclosure of underlying evidence.
1.2	Are you satisfied with the CER's consultation process in its present format? If not state the reasons why?
Response	Yes. However, we would like to see a more structured approach to the storage and therefore accessibility of consultations on The Commissions web site.  We would also encourage a minimum 4 week response time, any less and there is a danger of limiting discussion. Three week (or less) consultations should be avoided.
1.3	What do you consider to be the key strengths and weaknesses in the current consultation process?
Response	The engagement is good with a diverse approach to seeking views. Documents clear and easy to read.  However, some consultations would benefit from greater use of ad-hoc forums to allow issues to be debated during consultation periods, for key issues consider making calls for evidence before formally consulting.
1.4	Are you satisfied with the CER's written consultation papers with regard to: <ul style="list-style-type: none"> <li>• Structure / layout of paper</li> <li>• Level of detail provided</li> <li>• Language used</li> <li>• User friendliness</li> </ul>
Response	We are pleased that The Commission has adopted a consistent

	format, this helps respondents to quickly get to the heart of the issues being consulted upon. However, a number of further refinements could be made: (1) adopting a front cover sheet, which sets out the title/reference, date, target audience, very brief summary, and timetable all in one place would assist respondents; (2) The language is easy to understand, however we would encourage greater disclosure of the underpinning data on which decisions are to be made; (3) we would encourage greater use of an appendix to list the consultation questions that have been posed. (4) publish all responses to the consultations.
1.5	Are the executive summaries provided, clear, concise and useful?
Response	Yes. However, it would also be useful to signpost the larger consultations with an upfront document structure and associated headings; for example: Section 1: covers abc, Section 2 covers XYZ etc.
1.6	Should consultations/ decisions be accompanied by short information sheets or press briefings?
Response	As appropriate for consultations, and always for decisions.
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	An upfront single page to enable effective internal targeting (See comment to question 1.4, and a summary list of relevant questions posed during the consultation would help with internal circulation and consolidation of answers.

## **A 2.0: Communication of consultations and decisions**

Question Number	
2.1	What is your overall impression of external communications from the CER?

Response	Acceptable.
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	Broadly yes. However, greater use of the rationale by the Commission in arriving at its decisions would be welcomed.
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	Sometimes they are too short. A 4 week consultation period should apply. However, longer of larger or major consultations i.e. up to 3 months.
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	We agree that Open Forums could have a place, however we are concerned these could result in protracted consultations and should be limited to where there are particular consumer protection issues at stake, e.g. affecting vulnerable customers.

## 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	We would like greater accountability. This can be achieved via better information transparency; for example, presentation of underpinning data and rationale on which decisions have been made.
3.2	Are decision papers clear, well structured and easy to follow?
Response	Yes, but more information transparency would be appreciated.
3.3	Do decision papers respond in sufficient detail to all the issues raised during the consultation process?
Response	No. They can on occasions be too light. We appreciate a balance must be struck between readability and justifying a course of action, however the detail is sometimes lacking.
3.4	Is the link between the consultation process and the decision making process clearly outlined in decision papers?
Response	Yes, but subject to our evidence requirements noted above
3.5	Is it easy to refer between the two papers?
Response	Yes
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	Use of more evidence and Risk Assessments would give greater comfort that views have been properly considered and not unjustifiably dismissed.
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	Challenge respondents where responses are marked confidential, and request more use of confidential appendices where data is

	commercially sensitive. All responses to consultations should be published where they are not confidential.
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## **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	Yes
4.2	Was your query dealt with promptly and comprehensively?
Response	Yes
4.3	If you made a complaint, do you feel it was dealt with fairly? Were you happy with the outcome?
Response	Yes.
4.4	Have you ever experienced any Customer Service difficulties when dealing with the CER?
Response	No
4.5	What steps can be taken to improve the level of customer service the CER offers?
Response	No comment

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?

VPE would welcome clarification on the routes of appeal to CER decisions, particularly in the context of joint decisions as part of the all-island SEM regulation. A clear definition of the role of the independent party in the SEM committee would also be welcome.

Best regards,

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Garrett Blaney  
Strategic Development Director