

Commission for Energy Regulation
Regulation of the Gas Installer Industry wrt Safety
Proposed Vision – Consultation Document (CER/07/125)

Introduction

BGES welcomes the opportunity to comment on CER/07/125 "Regulation of the Gas Installers Industry with respect to Safety ,Proposed Vision – Consultation Document , August 07 "

Our comments relate to specifically Section 6 & 7 of the consultation document .While we have comments on other sections these are largely in support of the Commissions proposals. We feel however that we need to make some recommendations to the Commission relating to proposals in sections 6 & 7 .These sections are critical to the success of the Supervisory Body & by restricting our comments to these sections we hope this emphasis will have the requisite impact on the Commission .

Summary

In our view the financial structures of the Supervisory body is paramount to success of this independent agency .We strongly recommend the non for profit approach .Notwithstanding this ,whatever model is chosen we believe that the Commission would be well advised to consider carefully the funding of the capital investment necessary to set up the first Supervisory Body. Critically, we believe, this should be funded from central sources as a fixed /agreed sum .Savings from these operations in BGN could be used to offset this .This approach is risk adverse for all stakeholders , provides for greater control/certainty for the Commission on the delivery of systems/ structure/procedures to a high quality & greater flexibility to manage ongoing funding.

BGES recommends an initial appointment of 2- 3 years should be set .This could be achieved by accepting our recommendation on capital investment funding for initial set up .The type of organisation (in terms of skills, competency & knowledge)needed to set up the Supervisory Body will be greatly different to the type of organisation needed to manage the operations of the Supervisory Body on an ongoing basis following initial set up. This proposed initial length of contract is far less risky for the Commission & the industry.

Detail comments

1) Section 6 -“Criteria Documents”

We will participate in this public consultation .We hope to offer our views on the nature, type & necessary for criteria covering such items as

- frequency of inspection ,
- inspection criteria & classification of same ,
- audits (operational & independent) ,
- Non conformances & consequences for non conformance including such items ,as concern for life & property , repeated infringement of code etc.,
- Disputes ,dispute management appeals , & escalation,
- Structure dealing with disputes & consequences for non conformance
- How are non registered installers issues to be managed & under what procedures & structures.

2) Section 7-” Designation, Operation & Monitoring “

2.1 Introductory statement

We agree with the introductory statement .In our view the Financial structures of the Supervisory body is paramount .Whatever model is chosen (& we have comments on the models below), we believe that the Commission would be well advised to consider carefully the funding of the capital investment necessary in the set up of the first Supervisory Body to cover key areas such as:

- Systems development ,
- supervisory & industry structures,
- procedures/policy /process/practice
- & general set up arrangements

Critically, we believe, this should be funded from central sources as a fixed /agreed sum say over a 3 to 4 year period decreasing year on year .Savings from BG Networks operations which will accrue from the transfer of role to the supervisory body could be used to offset these costs over this period .This is much preferable approach to, what we would consider, a possibly unworkable situation.

Set up costs can be funded from revenue from registration, certificates & other activities .However by its nature there is a mismatch in financial management & funds flow .We accept that recovery of capital costs from revenue over a period is common / normal business practice .But we believe our recommendation ,in this case, is less risky ,provides for greater certainty for industry, provides some degree of certainty around financing operations , gives better control of development & therefore more appropriate given the critical nature of the role of the first appointed supervisory body .What clearly must be avoided for the first supervisory body is any early confusion , lack of systems or fragmentation of structure & process which can could lead failure or failure in some key element of arrangements .Building confident of the industry will be a key element in success .

The financial options might well therefore benefit from a risk assessment process as is proposed in the Safety Framework case regime .This would allow assessment of the inherent & residual risk. They would also benefit in doing preliminary & early financial modeling to allow assessment of the suitability of each of the financing options. As it stands it would seem that there is no indication of what level of revenue per annum might be available or what the set up cost might be.

2.2 Ref 7.1 (items 1 to 4)

We agree & support the Commission on this approach but suggests that some additional consideration needs to be given to the structures for intervention on safety issues & how this might work in practice .For example what are the roles & responsibilities for stakeholders for these situations given requirements of licence conditions for suppliers, for BGN & for other parties .What in particular are the responsibilities of customers & landlords? Clear & careful delineation is needed.

- BGES supports the concept of promotion of safety but clearly funding, roles & responsibilities of each of the stakeholders, specific funding objectives (& responsibility for delivering these objectives) are issues. Funding needed to directly link to objectives & designation of terms & conditions associated with funding.
- Ref 7.1 (Item 5.)The critical item in disciplinary action is clarity of procedures, roles & responsibilities of agencies & individuals & a transparent approach coupled with appeal & escalation facilities. Previous experience in this role is critical to success.

2.3 Ref 7.2 Financial structures.

A General comment on the proposed Financial Models: Conceptually, the Commission needs at the outset to be clear if the supervisory body is "for profit" or "not for profit" Organisation. This principle will influence all aspects of design, development work, and implementation & on going operations of the supervisory from the outset. Our clear advise is that this is NOT suitable to a "for profit" arrangements given particularly the nature & also extent , complexity & implications of the supervisory body role .Any decision of the supervisory body cannot be influenced by net / gross margin objectives .In reality despite best endeavours by all concerned this can & will happen as in all for profit organisations .However this in not to suggest that the supervisory body should not be accountable for &/or required to strictly remain within defined budgets & resources .

Ongoing operational costs for the supervisory body must & should be variabilised (linked to level of activity) .This is a well known & understood concept & clearly will be operated here .However set up of systems, structure, office, procedures etc must have up front capital .In order to ensure that the set up of the supervisory body is done expertly & smoothly & to an agreed timeline & level ,BGES is very strongly of the view that this should be funded from central funds over a period of 3 to 4 years. This can be a fixed sum based on an agreed scope controlled by the Commission .Progress should dictate the release of funds .We would urge the Commission to review this recommendation .

There are a different set of conditions that are necessary for the set up of operations then that for on going management of operations .BGES proposal recognises these differences both in terms of appointments to the role, skills, funding & duration of contract.

2.4 Comments on models

1. Non for profit.

We favour this approach but with the proviso of capital investment from central funds to feed set up as mentioned earlier .BGES suggests that further advantages need to added to this model as it fundamental to the vision/mission of the supervisory body namely; management of the supervisory body will not be guided in their decisions by profit making but strictly by their reason d'etre & terms & condition as set out in their designation.

-We agree that membership fees should the lowest possible

-Rate of return should not be a guiding principle in terms of supervisory body

Operations – it's inappropriate to its role

2. Non for profit – optional revenue services.

For reasons mentioned earlier we do not believe this model is workable. Clearly offering revenue generating services is not an issue & should be part of any financial arrangements .However this should not be in the context of making this arrangement the only means of balancing the books for a supervisory body over a 7 year period

3. Regulated Return

Comments earlier on rate of return/profitability apply. Unlike the two previous models we cannot see how this would finance the full operation

4. Regulated Return plus other revenue

Our earlier comments on rate of return /profit apply.

5. Incentives.

The concept is good one, in our view, but in the context of achieving the key objectives set for the supervisory body in its terms & conditions but certainly not to manage their profitability /rate of return

- The detail of how this would operate should, in our view, be carefully Worked out
- For these activities the length of validity of certs (& thus the responsibility of Agents) will need to established including dealing with issues such as Warranty, call back etc.

2.5 Ref 7.3 .Financial Regulation

The regulation of the supervisory body from a financial perspective by the Commission is the correct & proper approach to financing this agency given the nature of the role of the supervisory body .However careful consideration must be given as to how the revenue is raised & the concept of self financing .Self financing for example could be considered ,in the context ,of operating within approved budgets (both capital & revenue) as regulated by the Commission from a variety of revenue sources .

2.6 Ref 7.4 .Designation

We agree strongly with this approach & these key principles .However the manner as to how this agency is financed might possibly be at variance with these principles , in our view .The number of unknown variables are significant .When the obligations are sufficiently detailed , then the Commission may be in a better position to consider finally the issue of financing .

The initial period of 7 years is too long in our view & influenced by the nature of the proposed financing of this agency .An initial period of 2- 3 years should be set .This could be achieved by accepting our view that capital investment from central funding for initial set up of systems , process , structures etc. The type of Organisation (in terms of skills, competency & knowledge) to set up the supervisory body will be greatly different to the type of organisation needed to manage the operations of the supervisory following set up. This proposed initial length of contract is far less risky for the Commission & the industry in the early years of the first supervisory body.