



**Annual Compliance Report
2014**

June 2015

Introduction and Background

EirGrid is separately licensed as Transmission System Operator (TSO) and Market Operator (MO) by the Commission for Energy Regulation (the Commission). These licences both contain Conditions respecting the Duty of Non Discrimination – Condition 17 of the TSO licence and Condition 9 of the MO licence respectively.

Licence Condition - Duty of Non Discrimination

- 1. In carrying out its functions under this Licence, the Licensee shall not discriminate unfairly between persons or classes of persons, or between system users or classes of system users, particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders.*
- 2. The Licensee shall establish a compliance programme on the measures taken to ensure that discriminatory conduct by it or its employees is prevented, which shall include specific obligations imposed on its employees to prevent discrimination.*
- 3. The Licensee shall report to the Commission at intervals of not more than one year, in such form as the Commission determines, specifying the measures taken and the level of compliance in relation to paragraph 2. The report shall be published by the Licensee in such manner as shall be determined by the Commission.*

This short document is in fulfilment of paragraph 3 of the above Conditions for the year 2014. It follows a format which was the subject of discussion with the Commission for Energy Regulation (CER) and which has been employed in fulfilment of this Condition in previous years.

EirGrid has prepared this report in the context of the nature of its activities as a fully regulated business and in the recognition that:

- It is engaged in little or no competitive activity.
- It is not a vertically integrated entity with neither generation nor supply interests.
- There is a Licence requirement for the sharing of information between its System Operator and Market Operator roles.

Approach 2014

EirGrid takes seriously its obligation to ensure that it complies with all relevant statutory requirements and regulatory obligations. The Board and Executive of EirGrid are fully committed to ensuring that EirGrid has appropriate and effective procedures to ensure that it meets all its legal and regulatory obligations. EirGrid has in place a compliance framework which clearly defines roles and responsibilities with regard to compliance. It recognises that it operates in a highly regulated environment and that there are ever increasing legal requirements. EirGrid has empowered its managers to be responsible for ensuring that it meets its obligations and that they take corrective action when they become aware of any non compliance issues.

In EirGrid an independent Internal Audit & Compliance Function continually assesses whether the compliance framework operates as intended. An annual programme of compliance audits is completed including a review of Licence obligations to keep commercial information confidential and to ensure that it does not discriminate unfairly/unduly in operating its business. The resulting reports are discussed and agreed with the relevant managers with the aim of improving the processes and procedures for ensuring EirGrid is compliant. These reports are also presented to the Compliance Board which reviews progress of any associated actions on an on-going basis. A summary of the report findings and progress of the audit programme is discussed with the Executive and Board via the Audit Committee. The compliance audit programme and reporting process therefore help to ensure that EirGrid meets all of its obligations.

During 2013, the Compliance Steering Group was reconstituted as the Compliance Board which is tasked with monitoring the established EirGrid Group Compliance Process and in particular, to ensure that it continues to be consistently applied throughout the Group and is fit for purpose. The Compliance Board meets quarterly and has ensured that there is a consistent and effective approach to compliance with all statutory and licence requirements. The duty of non-discrimination is one of the obligations that is managed by this process.

EirGrid has satisfied its obligations under these licence conditions in the following ways.

Regulated Processes

EirGrid is a regulated business by statute and licence. EirGrid is subject to regulatory rules and oversight regarding contractual terms, Trading & Settlement Code, Grid Code, Transmission Planning & Security Standards, Statement of Charges, and Connection Offer Process etc.

In 2014 EirGrid's independent Internal Audit & Compliance Function completed audits of compliance with the requirements of the Grid Code and compliance with the requirements of its operating licenses – in particular the specific Licence requirements in regard to the duty to hold confidential and commercially sensitive information securely. The Internal Audit & Compliance Function also confirmed that the recommendations made in compliance reports completed in 2012/2013 had or were in the process of being actioned as previously agreed with management.

A summary of the work completed was presented by the Head of Audit and Compliance to the EirGrid Executive Team and the Audit Committee. A further programme of compliance audits will be completed in 2014/15 which will include follow up reviews to ensure that management have addressed the points raised in the previously completed reviews.

Details of a number of audits and review carried out in 2014 are set out below.

Audits & Reviews

As part of the annual review of Licence obligations to keep commercial information confidential and to ensure that it does not discriminate unfairly/ unduly in operating its business, a number of audits and process reviews were conducted, *inter alia*;

- **Duty of Non-Discrimination Audit** – the aim of this compliance review was to determine how the non-discriminatory obligations are adhered to in the business processes established by EirGrid in the operation of the system and access to the East West Interconnector (EWIC). Based on the agreed scope and tests performed it was concluded that established business processes are operating in a non-discriminatory manner;
- **Trading & Settlement Code (SEMO)** – based on an agreed scope and tests performed it was concluded that the enduring process of monitoring SEMO compliance to the TSC obligations and maintenance of the TSC Compliance Register is operating in a consistent manner;
- **Market Non-Discrimination (SEMO)** – the aim of this compliance review was to determine how the non-discriminatory obligations are adhered to in the business processes established by SEMO in the carrying out of its functions of Single Electricity Market Operator. It was concluded that established business processes are operating in a non-discriminatory manner and do not distinguish between the users or classes of users;
- **Transmission Use of System (TUoS) Billing Process Audit** – based on an assessment and testing of the controls currently in operation, the findings of the review concluded that **Full Assurance** can be provided over EirGrid and SONI TUoS Billing; and
- **SEMO Bank Account Management & Credit Cover** – the aim of this audit was to provide independent assurance that there are adequate and effective controls over the payments made by SEMO to market participants and that there are adequate processes in place for the calculation, collection and return of credit cover. Overall, the findings from this review provided **Full Assurance** over the system of internal control for these processes.

In addition to the above internal independent reviews, the annual Market Audit of SEM for 2014 was performed on behalf of the Regulatory Authorities under the Trading and Settlement Code requirement (Section 2 of the Code paragraphs 2.131 to 2.143). The opinion provided by the Market Auditor for the period 1st January 2014 to 31st December 2014 was that “SEMO has, **in all material aspects, complied with the Code and relevant Agreed Procedures** as set out in the Terms of Reference for the 2014 Market Audit published by the Regulatory Authorities on 7th August 2014”.

Human Resource Related Approach

EirGrid sets out and reinforces the obligation of all staff in regard to their duty to not discriminate unfairly through a number of HR policy documents and procedures;

- **Code of Conduct**

EirGrid maintains a Code of Conduct document, within which an obligation in regard to the duty of Staff to not discriminate unfairly is set out. This document has been approved by the Commission in accordance with the licence. It applies to all employees irrespective of level or location and forms part of the contractual arrangements for EirGrid staff.

- **Anti-Bribery Policy**

In addition to the Code of Conduct EirGrid has in place an Anti-Bribery Policy for both directors and employees. This policy both bolsters and makes transparent EirGrid's position in this important area which is key to ensuring that EirGrid acts in a transparent and non discriminatory fashion.

- **Staff Induction & Ongoing Awareness**

The need for compliance with the licence requirements to both protect commercially sensitive and confidential information and to not unfairly discriminate is reinforced at induction to all staff. EirGrid continues to ensure staff are aware of their obligations through the normal company communication channels.

Establishment of principle and practice

EirGrid has further kept the CER updated in respect of situations which have arisen during the period where the possibility might exist that EirGrid could be perceived as acting in an unduly discriminatory manner. This, recognising that the very nature of EirGrid's role means it must from time to time employ subjective judgement in analysing complex technical matters. In a number of instances where such situations have arisen EirGrid has engaged with the CER and sought to put in place underlying frameworks where that judgement may be exercised. Examples of such instances in 2014 include, *inter alia*;

- **Contestability and Lead Developers in subgroups with TSO & DSO customers**

In March 2014, the SOs (EirGrid and ESBN) sought confirmation from the CER of their interpretation of the Contestability and Lead Developers framework applicable in subgroups TSO and DSO customers. On review of the contestability framework it was noted that while CER/10/056 explicitly allowed for distribution parties to contest transmission assets, there is no reciprocal explicit statement in respect to transmission parties' rights to contest distribution assets. It appeared that the situation was simply an unintended consequence, arising from the sequential introduction of contestability at transmission and distribution level. As such, the SOs outlined that they believe it is appropriate that;

1. the rights to contestably construct transmission and distribution assets be treated as equal between TSO and DSO applicants, and

2. there should be no impediment to a TSO or DSO applicant being nominated as the lead developer, and a TSO or DSO applicant being contracted to construct TSO and/or DSO connection assets, where requested and appropriate to do so.

The CER confirmed that the approach outlined *“is a reasonable interpretation of the intent of the contestable framework”*.

- **Capacity Bonds and FSP**

In April 2014, EirGrid raised a query in regard to the Capacity Bond requirements, as set out under CER/09/138, for a subset of the customer base, on foot of a number of queries from affected customers. The matter relates to customers who elect to construct their connection on a contestable basis and where there is no (or very little) connection costs payable to the SOs. For such customers at offer acceptance the First Stage Payment (FSP) required is calculated as €10k per MW and the direction sets out that where such a FSP is not required by the System Operator for connection costs, it would be offset against the [capacity] bond required at a later date (ref: footnote 48 page 82). Transmission customers that fall into this category advised EirGrid that their preference is not for one to be offset against the other, but rather a Capacity Bond be provided for the full amount (€25k per MW of MEC), in a form of their choosing from that allowed for under Condition 24 of the General Conditions, and the balance of the FSP not required by the SOs to be refunded to them.

No issues were identified that would arise from setting aside the portion of footnote 48 in CER/09/138 that sets out the requirement to “Offset” the bond. As such it was proposed that the following approach be taken where a customer falls into the category set out in footnote 48 page 82 of CER/09/138, and where the full value of the FSP is ultimately not required by the System Operator for connection costs; as is the case for all other connecting parties, the Customer will be required to put in place a Capacity Bond, in accordance with Section 5.8.3 (4) of CER/09/138 in a form as provided for under the General Conditions. Post energisation and once the final out-turn connection costs have been finalised, EirGrid will refund the balance, if any, of the FSP not required by the System Operator to cover the cost of the connection.

The CER confirmed that the approach proposed was reasonable.

- **Interconnector Countertrading as part of Reserve Constrained Optimisation**

In March 2014, the TSOs (EirGrid and SONI) wrote to the CER and NIAUR setting out the TSOs proposed approach on countertrading as part of Reserve Constrained Optimisation a means to manage dispatch balancing costs. Further to engagement on same the TSOs published an information note¹ on the Extension of TSO counter-trading facilities.

¹ [Extension of TSO counter-trading facilities for DBC management](#)