



EG1920-G4a Annual Compliance Report EirGrid TSO 2019

Final Report

20th April 2020

Report sponsored and issued by:

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Head of Internal Audit & Compliance

20th April 2020

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1. Background & Scope

1.1 Background

Condition 21A of EirGrid's Transmission System Operator Licence (the Licence) requires the Compliance & Assurance Officer¹ to report at least annually, to the directors of the Licensee on his activities during the period covered by the report and the investigations he has conducted and shall specifically include the Compliance & Assurance Officer's assessment of the compliance of the Licensee with the requirements of Conditions:

- Independence of the Compliance & Assurance Officer;
- Complaints;
- Compliance with Condition 17 - Duty of Non-Discrimination;
- Compliance with Condition 21 - Restriction on the Use of Certain Information;
- Compliance with Condition 23 - Prohibition of Subsidies and Cross-Subsidies; and
- An explanation of the practices, procedures and systems adopted to effect compliance with such conditions

The Licence also requires that EirGrid shall, following consideration of the Compliance & Assurance Officer's Final report and within one calendar month, or such other period agreed by the Commission, provide a copy of the Compliance & Assurance Officer's Final report, together with its response to that report to the Commission. Following approval of the Compliance & Assurance Officer's Final report by the Commission, EirGrid shall publish it and any part of its response to the report specified by the Commission on its website once directed to do so by the Commission.

1.2 Objectives & Scope

The objectives of this review are to provide assurance over compliance with Condition 21A of the Licence in the reporting period 1st January 2019 to 31st December 2019, specifically:

- Independence of the Compliance & Assurance Officer;
- Complaints;
- Compliance with Condition 17 - Duty of Non-Discrimination;
- Compliance with Condition 21 - Restriction on the Use of Certain Information;
- Compliance with Condition 23 - Prohibition of Subsidies and Cross-Subsidies; and
- An explanation of the practices, procedures and systems adopted to effect compliance with such conditions

1.3 Circulation

Audit Committee (for review and recommend)	4 th June 2020
EirGrid Board	17 th June 2020

¹ The Head of Internal Audit & Compliance is the designated Compliance & Assurance Officer

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2. Detailed Observations & Recommendations

2.1 Independence of the Compliance & Assurance Officer

1. The Licensee shall, in conjunction with the Northern Ireland System Operator, and following consultation with the Commission, appoint a competent person who is a senior member of either its personnel or the personnel of the Northern Ireland System Operator (the "Compliance and Assurance Officer"), acting on behalf of both the Licensee and the Northern Ireland System Operator, for the purpose of verifying the Licensee's compliance with its obligations under Conditions 17, 21 and 23, and to provide independent assurance of such verifications.
2. The Licensee shall ensure that the Compliance and Assurance Officer is independent and has access to such staff, premises, systems, information, documentation, equipment, facilities and other resources as he might reasonably expect to require to fulfil the duties and tasks assigned to him.

The appointed Compliance & Assurance Officer is the Group Head of Internal Audit & Compliance, a role which reports directly to the EirGrid Board via the Audit & Risk Committee, enabling independence.

The Internal Audit Charter as approved by the Audit & Risk Committee specifies the following authority for the Head of Internal Audit & Compliance:

- Unrestricted access to all EirGrid functions, records property and personnel; including those controlled by subsidiaries and associates of EirGrid;
- Full and free access to the Chair of the Audit Committee and other members of the Audit Committee, the Chair of the Board and the Chief Executive;
- Freedom, subject to Audit Committee approval, to allocate resources, set frequencies, select subjects, determine scope of work and apply the techniques required to accomplish audit objectives; and
- Internal Audit will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair its judgment.

2.2 Complaints

1. The Licensee shall provide a copy of any complaints received by it in respect of Conditions, 17, 21 and 23 to the Compliance and Assurance Officer as soon as reasonably practicable and in any event within one month of receiving any such complaint.

No complaints in respect of Conditions 17, 21 and 23 have been received in the reporting period.

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2.3 Condition 17 – Duty of Non-Discrimination

Condition 17

1. In the carrying out of 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.

EirGrid has a number of reporting and monitoring obligations under EU Regulations. The goal is to increase integrity and transparency of wholesale energy markets. This fosters open and fair competition in wholesale energy markets, benefitting final consumers of energy.

With regard to our duty of non-discrimination within the SEM, the Capacity Market Code and Balancing Market Principles Statement require EirGrid to publish a range of reports ensuring transparency, particularly around the capacity market data and scheduling/dispatch processes.

The Independent 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. An element of this framework includes ensuring that the above reporting requirements are honoured, which has been the case during this reporting period.

Furthermore, independent audits of the Market and Scheduling & Dispatch processes are performed on an annual basis (the outcome of the 2019 audits have not yet been concluded) and reported to the Regulatory Authorities². Capacity Market Auctions are also subjected to independent audits and reported to the Regulatory Authorities.

Additionally, EirGrid has established a comprehensive suite of policies and procedures in relation to ethics which are applicable to all employees, third parties and contractors, specifically:

- **Information Security** (Acceptable Use Policy, Access Control Policy, Document Control Policy, Information Security Incident Management Policy, Information Security Policy, Internet and Email Security Policy, Third Party Security Policy). The Head of Internal Audit & Compliance/Compliance & Assurance Officer is an independent member of the Cyber Security Forum which oversees Information Security related risks; and
- **Ethics** (Directors Code of Conduct, Employee Code of Conduct as approved by the Commission, Disclosure of Interests Policy & Procedures, Ethics in Public Office Act Policy).

EirGrid is not aware or been advised of any incident/ occasion where it has been accused of or found to have acted in a discriminatory fashion.

² As the Market and Scheduling & Dispatch processes and Capacity Auction arrangements are carried out jointly by EirGrid plc as licensed TSO for Ireland and SONI Ltd as licensed TSO for Northern Ireland –single reports in respect of these activities are submitted to the Commission for Regulation of Utilities in Ireland and the Utility Regulator Northern Ireland (together the 'Regulatory Authorities').

2.4 Condition 21 – Restriction on the Use of Certain Information

Condition 21

1. The Licensee shall preserve the confidentiality of commercially sensitive information held and/or obtained by it in the discharge of its functions as transmission system operator in accordance with SI 445 of 2000, SI 60 of 2005, the Act, the System Operator Agreement, the Infrastructure Agreement and this Licence.
2. The Licensee shall prevent information about its own activities which may be commercially advantageous being disclosed in a discriminatory manner.
3. The Licensee shall implement such measures and procedures and take all such other steps as it shall reasonably consider and/or shall be specified in directions issued by the Commission from time to time to be necessary for the purpose of securing compliance by the Licensee with its obligations under paragraphs 1 and 2.
4. The Licensee shall ensure that confidential information is only disclosed to authorised recipients, classes of authorised recipients or authorised advisors.
5. Paragraphs 1, 2 and 4 shall not apply to:
 - (a) any confidential information which, before or after it is furnished to the Licensee's employees, is in the public domain; or
 - (b) the disclosure of any confidential information:
 - (i) in compliance with the duties of the Licensee under the Act, SI 445 of 2000, SI 60 of 2005, the Single Market Regulations, the System Operator Agreement the Infrastructure Agreement or any other requirement of a competent authority; or
 - (ii) in compliance with the Conditions granted in this Licence or any document referred to in this Licence with which the Licensee is required by virtue of the Act, SI 445 of 2000, SI 60 of 2005, the Single Market Regulations, the System Operator Agreement, the Infrastructure Agreement or this Licence to comply; or
 - (iii) in compliance with any other requirement of law; or
 - (iv) pursuant to any judicial or other arbitral process or tribunal of competent jurisdiction; or
 - (c) any confidential information to the extent that the Licensee is expressly permitted or required to disclose that information under the terms of any agreement or arrangement (including the Grid Code, the Distribution Code, the Metering Code and the Single Electricity Market Trading and Settlement Code) with the relevant person to whose affairs such confidential information relates.
6. Without prejudice to the other provisions of this Condition, the Licensee shall procure that any additional copies made of the confidential information, whether in hard copy or computerised form, will clearly identify the confidential information as confidential.
7. The Licensee shall take all reasonable measures to prevent (so far as the Licensee can so require) any person who is or ceases to be employed by the Licensee, whether that person is or was employed part-time or full time in the Transmission System Operation Business, from disclosing confidential information.
8. The Licensee shall take all reasonable steps to ensure that every authorised adviser, consultant, director or member of staff to whom the Licensee discloses confidential information does not use that confidential information for any purpose other than that for which it was provided and does not disclose that confidential information otherwise than in accordance with the provisions of this Condition and pursuant to Regulation 49 (Prohibition on unauthorised disclosure of information) of SI 445 of 2000.
9. This Condition is without prejudice to the duties at law of the Licensee towards outside persons.

General

EirGrid has established a comprehensive suite of policies and procedures in relation to the protection of information and ethics which are applicable to all employees, third parties and contractors, specifically:

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- **Information Security** (Acceptable Use Policy, Access Control Policy, Document Control Policy, Information Security Incident Management Policy, Information Security Policy, Internet and Email Security Policy, Third Party Security Policy). The Head of Internal Audit & Compliance/Compliance & Assurance Officer is an independent member of the Cyber Security Forum which oversees Information Security related risks;
- **Ethics** (Directors Code of Conduct, Employee Code of Conduct as approved by the Commission, Disclosure of Interests Policy & Procedures); and
- **Anti-Corruption** (Protected Disclosures (Whistleblowing) Policy, Fraud Policy & Response Plan). The Head of Internal Audit & Compliance/Compliance & Assurance Officer owns these policies which are reviewed and approved by the Audit & Risk Committee and Board.

Restrictions Regarding Personnel & Advisors

A protocol for staff movements is in operation which applies to all staff movements into or out of the EIDAC business operations to ensure that the above licence condition is met in the context of the management of conflicts of interest.

Specifically, prior to the appointment of any EIDAC resource (recruitment process, internal transfer or agency staff selection) an independent panel shall determine if Condition 21 has been satisfactorily met.

The independent panel comprises:

- Group Regulation;
- Head of Internal Audit & Compliance;
- SONI Legal; and
- HR.

Three from the above shall constitute a quorum.

To facilitate the decision-making process, the panel shall be furnished with:

- CV of proposed candidate;
- Role profile of relevant EIDAC post; and
- Role profile of relevant TSO post.

If required, the panel may also request the attendance of the relevant EIDAC or TSO recruiting manager.

The panel will seek to determine:

- i. Could the transfer result in an unfair commercial advantage or what may be perceived an unfair commercial advantage to either or both businesses?
- ii. Does the transfer involve a member of staff that has been involved in the establishment or operation of the Capacity market?

If the panel determines that the response to both the above questions is "no", then Condition 21 has been met and HR shall be notified to progress the recruitment/transfer.

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If the panel determines that the response to either the above questions is “yes”, then Condition 21 has not been met and two options shall be offered by the Panel:

Option 1 – the recruitment/transfer of the proposed resource is cancelled; and

Option 2 – in line with Condition 21, Group Regulation notify the Regulatory Authorities of the proposed recruitment/transfer and provide details of steps/mitigations being taken to ensure that no unfair commercial advantage accrues or in the case of Capacity market involvement, a request for the determination of an appropriate cooling-off period.

The role of the panel is to ensure an independent assessment of licence compliance specifically in relation to Condition 21 further to a decision being taken by the business. Should the panel consider the decision taken by the business to result in breach of Condition 21 the panel shall recommend the transfer not be progressed. Should the business dispute the panel’s recommendation, the issue shall be escalated to CE.

During the reporting period two staff transfers were proposed and in both cases, the Independent Panel concluded that these met Condition 21.

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2.5 Condition 23 – Prohibition of Subsidies and Cross-Subsidies

Condition 5

1. The Licensee shall procure that the Transmission System Operator Business shall not give any subsidy or cross-subsidy (direct or indirect) to any Separate Business of the Licensee and/or any affiliate or related undertaking of the Licensee.
2. For the purposes of this Condition, the Commission shall determine whether or not subsidisation or cross-subsidisation is taking place. Where the Commission determines that a subsidy or cross-subsidy is taking place, the Commission may issue a direction to that effect and require the cessation of same.
3. Nothing which the Licensee is obliged or permitted to do or not do pursuant to this Licence shall be regarded as a subsidy or cross-subsidy for the purposes of this Condition.

EirGrid Plc is structured on a group basis and contains a number of business units, operating under different licencing arrangements. To ensure that costs are appropriately incurred by each licence and business unit, EirGrid allocate costs to the correct business units and licences on a monthly basis.

The methodology for the reallocation of costs is outlined in the Cost Allocation & Recharge Policy, established in April 2014. The policy identifies four overarching principles, which apply to initial cost allocation:

1. Where costs are clearly incurred on a licensee basis, they are charged directly as such;
2. Where costs are incurred in providing for more than one licensee, cost allocation arrangements apply, as detailed in the policy; and
3. Market Operator costs are split 75:25 EirGrid MO:SONI MO, as per Specified Proportions in the Market Operator Agreement.

On an annual basis an Internal Audit is performed to assess the application of the corporate recharging policy operating within the Group, as documented in the Implementation of Cost Allocation & Recharge Policy. Substantive testing is performed on a sample of recharges across the six categories identified in the policy:

- Corporate Centre
- Executive Directors
- Managers & Staff
- Specific Items
- Legal & Other Items
- EWIC

Internal Audit EG1819-G4 Application of Corporate Recharging Policy issued in October 2019 applied an overall rating for the report as **FULL**, which means there is a sound system of control designed to achieve the audited system objectives that adequately manage the risks associated with the system, with sufficient controls being consistently applied and operating effectively.

The following key control activities were noted to be in place at the time of the internal audit:

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- An established Implementation of Cost Allocation & Recharge Policy is in place outlining the key principles for recharges and detailing the charges that must be applied to each licence and business unit.
- The Implementation of Cost Allocation & Recharge Policy is updated at least annually for each financial year.
- A review of all recharges takes place by Finance on a quarterly basis.
- All recharges tested by Internal Audit were posted in line with the Implementation of Cost Allocation & Recharge Policy.

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2.6 Additional Assurance Related Activities

The Internal Control Framework in operation within the business is subject to an annual review of effectiveness by the Head of Internal Audit & Compliance.

The scope of the internal control framework operating within EirGrid comprises of but is not restricted to:

- Governance framework;
- Internal Audit activity;
- External Audit activity;
- Group Risk Management Framework;
- Control Self-Assessment (CSA) of Internal Financial Controls;
- Mid-Year and Year-End Executive Governance Statements;
- Operation of the Control Bank;
- Quarterly Substantive Assessment of Internal Controls; and
- Corporate Policy suite.

Controls Monitoring

The Head of Internal Audit & Compliance (HIAC) maintains the Control Bank which is populated with key controls from a number of sources including ongoing Internal Audit Activity, existing documented Group-wide and local procedures and the Group Risk Management System.

The Control Bank holds key data as follows:

- i) Key controls;
- ii) When each control was reviewed;
- iii) Control assessment (in place, operating, partially in place, not in place, not operating);
- iv) Associated observations and actions; and
- v) Control categorisation (preventive, detective, directive, corrective).

During 2019, quarterly substantive testing of a sample of controls was undertaken by Internal Audit with the status of the key data at each assessment being reported to the Audit Committee.



The key benefit of the Control Bank monitoring process is that a wider range of controls are being monitored and assessed i.e. not just individual Internal Audit engagements.

Consequently, Executive Management, the Audit Committee and the Board have visibility over the effectiveness of this wider range of controls and can build up a cumulative assessment of the control environment throughout the year.

Internal Audit Assurance

The Annual Internal Audit Plan is created to ensure maximum value is driven from the assurance process and each individual engagement links directly to strategic objectives and key risks facing the Group. HIAC reported on all issues arising from engagements to each Audit Committee and provided a summary of key issues within the quarterly progress reporting process. Each individual internal audit report was uploaded to the Diligent Boards platform Resource Centre enabling visibility to all Board Members throughout the year.

External Audit Assurance

External Audit assurance relates specifically to the annual report and financial statements of EirGrid and its subsidiaries. During the 2018/2019 financial year, Deloitte attended all Audit Committee meetings and provided updates on key matters as follows:

- 2018/2019 Audit Plan;
- Update on key financial regulations; and
- Audited consolidated financial statements for 2018/2019.

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Group Risk Management Framework

The Group Risk Management Framework has been developed to ensure that risks are identified, assessed and managed effectively and in line with risk appetite. Effective reporting of risk throughout the Group is a fundamental element of the Risk Management Framework. The diagram opposite presents the standard reporting process in operation within the Group. The Risk Specialist administers the risk reporting framework within EirGrid consolidating data captured within the Group Risk Management System (Pentana).

During the year all managers reported on a monthly basis their current top and trending risks within their areas and reported these to the Risk Specialist. The Risk Specialist attended all monthly Directorate Management Team meetings where the controls and mitigations required to manage these risks were identified.

The Risk Specialist also captured the reported data within the Group Risk Management System (Pentana) enabling ongoing monitoring of control effectiveness.

- On a six-monthly basis each Directorate Management Team held a workshop enabling these and any other risks to be formally assessed thereby ensuring that the Directorate Risk Registers remain up to date and relevant.
- Risks with higher assessment scores were captured within the Group Risk Register which was reviewed monthly by the Executive Management Team, quarterly by the Risk Committee and every six months by the Board ensuring that risks and controls relating to these risks are monitored across the Group in line with best practice and Section 7 of the Code of Practice.



Management Attestation of Controls Effectiveness

Whilst 3rd line assurance provision (Internal Audit Assurance) is vital due to its independent nature, an additional and as important assurance source is that which is received from management (2nd line). During the year the following management attestation of controls effectiveness were performed:

Mid-Year & End-of-Year Governance Statements

Each individual Executive submitted a mid-year (to end of March 2019) and year-end (to end of September 2019) governance statement confirming the effectiveness of a range of governance standards including, business plan objectives, operation of internal controls, policies/procedures, risk management and compliance obligations.

The purpose of the governance statements is to allow the Chief Executive to give a positive affirmation to the Chairperson that the highest standards of governance have been attained during the period and to enable any deficiencies to be captured and addressed as necessary in a timely manner.

Corporate Policy Suite

During the year, the Group's core corporate policy suite continued to be reviewed which included assessment of the following aspects:

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- **Policy existence** – confirming that policies are in place;
- **Policy format** – confirming that the format of existing policies is in line with corporate templates; and
- **Policy review** – confirming that the review process for each policy is being applied.

The review confirmed the existence of key policies and identified the need for consistency of format to be applied. This exercise shall be performed on an ongoing basis and reported to the Audit Committee.

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