



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Governance Procedures for the Liberalised Retail
Electricity Market**

A Response and Decision Paper

CER/05/081

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Table of Contents

	Executive Summary.....	3
1.	Background	6
1.1	Consultation Background.....	6
1.2	Purpose of this paper.....	6
1.3	Acceptance of Decision Paper.....	6
1.4	Next Steps.....	6
2.	Definition of Market Governance.....	8
2.1	Proposed Definition.....	8
2.1.1	Respondents Comments.....	8
2.1.2	Commission’s Decision.....	8
3.	Aims and High Level Principles for Retail Market Governance.....	9
3.1	Proposed Aims	9
3.1.1	Respondents Comments.....	9
3.2.2	Commission’s Decision.....	10
3.3	High Level Principles.....	10
3.3.1	Proposed High Level Principles.....	10
3.3.2	Commission’s Decision.....	13
4.	Objectives of Retail Market Governance.....	14
4.1	Proposed Objectives.....	14
4.1.2	Respondent’s Comments.....	15
4.1.3	Commission’s Decision.....	15
5.	Details of Governance Framework.....	16
5.1	Terms of Reference.....	16
5.1.1	Respondent’s Comments.....	16
5.1.2	Commission’s Decision.....	17
5.2	IGG Chair and Membership.....	18
5.2.1	Respondent’s Comments.....	18
5.2.2	Commission’s Decision.....	19
5.3	Detailed Rules.....	19
5.3.1	Respondents Comments.....	19
5.3.2	Commissions Decision.....	19
5.4	Governance Sub-groups.....	20
5.4.1	Respondent’s Comments.....	20
5.4.2	Commission’s Decision.....	20
5.5	Implementation of Governance Structure.....	21
5.5.1	Respondent’ Comments.....	21
5.5.2	Commission’s Decision.....	21
6.	Development and Implementation of Change Management Process.....	22

6.1	Change Management Process.....	22
6.1.1	Respondent's Comments.....	22
6.1.2	Commission's Decision.....	23
6.2	Appointment of Design Administrator.....	23
6.2.1	Respondent's Comments.....	23
6.2.2	Commission's Decision.....	24
7.	Retail Market Assurance Testing.....	25
7.1	Assurance Strategy for the Liberalised Market.....	25
7.1.1	Respondent's Comments.....	25
7.1.2	Commission's Decision.....	25
8.	Costs and Funding of the Governance Process.....	26
8.1	Proposals in relation to Costs and Funding.....	26
8.1.1	Respondent's Comments.....	26
8.1.2	Commission's Decision.....	26
9.	Conclusion and Next Steps.....	28
9.1	Summary.....	28
9.2	Next Steps.....	28

List of Diagrams

Diagram 1	Development of Retail Market Governance: Interaction of principles, aims and objectives.....	5
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List of Tables

Table 1	Clarifications on Principles of Good Governance.....	13
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Executive Summary

In this response and decision paper, the Commission for Energy Regulation (“the Commission”) sets out its decisions regarding the implementation of a governance regime for the retail electricity market in Ireland. These decisions follow a review of responses received from market participants, following publication of the Commission’s consultation paper on this topic (CER/05/040) on 9 March 2005.

The Commission has decided to implement the structure for governance as outlined in its consultation paper. This structure involves the setting of three key aims out of which seven high level principles for retail market governance are developed. Diagram 1 on Page 5 provides a high level overview of the aims, the principles and the objectives for retail market governance. More detail on the principles is outlined below:

1. Industry Representation and Input

All market participants should have an input to the governance process. It follows that all must also comply with the rules that are put in place following consultation.

2. Efficiency and Cost Control

The procedures should ensure rapid problem solving and facilitate the forming of recommendations. All participants need to be aware of the rules for decision making. The benefits derived from the governance procedures put in place should outweigh the requirements and obligations on participants.

3. Transparency and Accountability

This principle relates to transparency in the process for making a recommendation and the Commission’s decision. This is especially important for new entrants to the market. All participants should be accountable for performance compared to agreed standard.

4. External Involvement and Consultation

Input by consumers, business and commercial representative organisations should be facilitated.

5. Consistency and future direction

Consistency with RMIG (Retail Market Implementation Group) design will help to ensure smooth transition. The process should include defined future work-plans with achievable targets.

6. Impartiality

Participants should represent the interests of the industry as a whole as well as their own individual interests. Independent chair (CER) will ensure impartiality of the group.

7. Evolution of the design

Procedures should aim to allow market design change in a timely fashion and respond to needs of participants, while at the same time maintaining the stability and cohesion of overall governance objectives. Defined change control process is central to this process.

The objectives which were proposed by the Commission in Section 5 of its consultation paper are clarified in this decision paper, and implemented with a number of minor changes.

The Commission has decided to establish an Industry Governance Group (IGG) at which market participants can have an input to the retail market governance process. The details of the establishment and participation in this group are outlined in greater detail in Section 5 of this paper. The terms of reference for this group are also clarified in the paper. The Commission will put in place procedures to ensure that there is no duplication or overlap of roles between the IGG and the Trading and Settlement Code Modification Panel, while at the same time ensuring effective communication and interaction between the two groups.

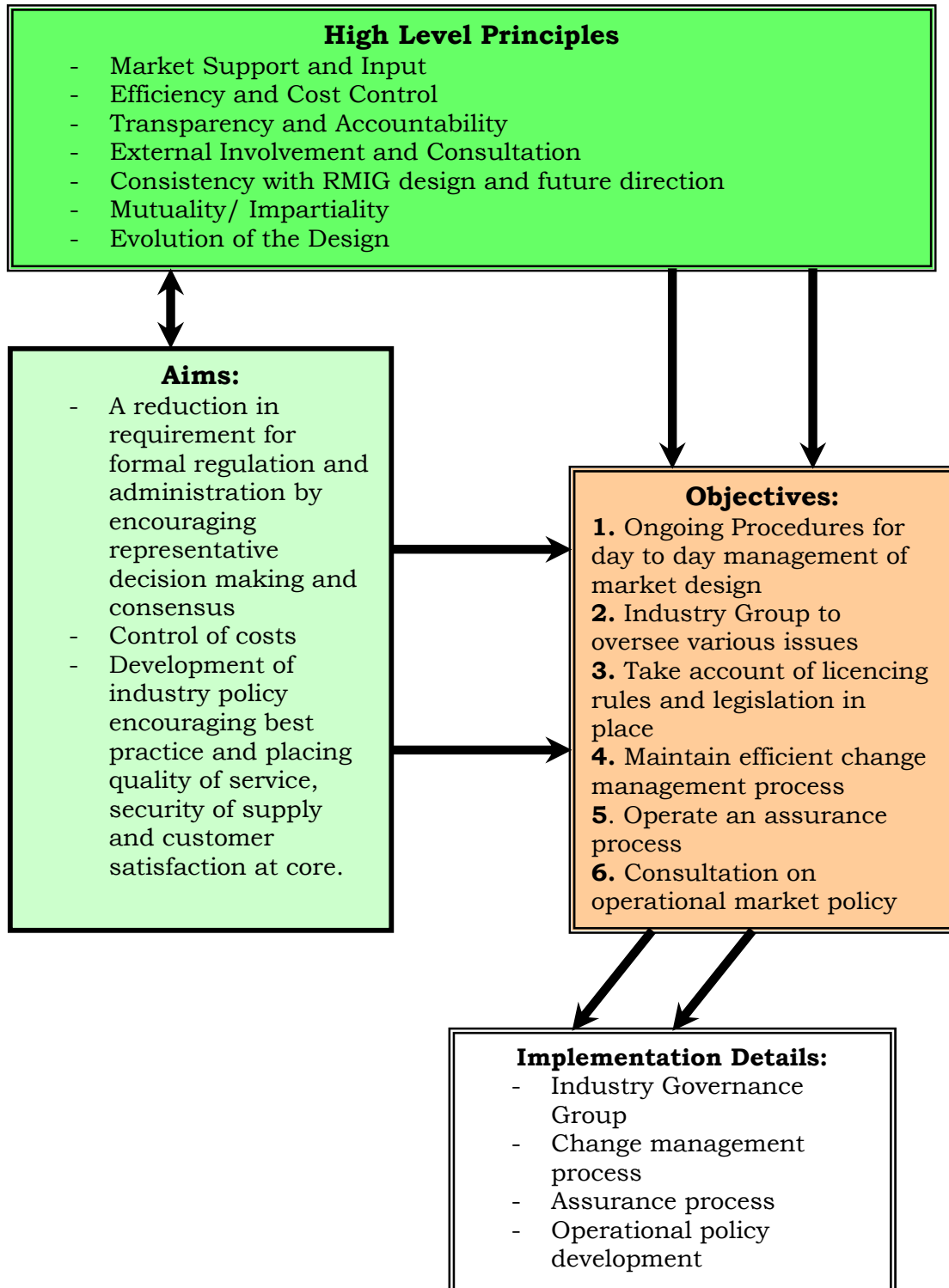
The Commission has decided to proceed with its proposal to invite both a representative of NIAER and one or more representatives of consumer groups to sit as observers on the IGG group. However many of the operational details of the IGG have been left up to the group to decide, including the final name of the group. The Commission has also decided to continue with a technical forum and the process for improved reporting between the technical forum and the IGG, as outlined in the consultation paper, will be implemented.

One of the core purposes of the governance regime is the co-ordination of the change management process. The Commission has decided that ESB Networks will be appointed as the Design Authority for governance of the Irish retail market.

The Commission has decided that there is a need for an assurance process to be in place for the liberalised retail electricity market. An assurance body will be appointed to coordinate this process, while a further consultation on the details of this assurance process will take place.

Finally the Commission highlights the importance of the control of costs throughout the governance process. Value for money is a responsibility on all retail market participants and the intention is that effective control of costs throughout the process will reap benefits for all involved, including final customers. Cost recovery for the governance process will be through DUoS charges, as outlined in the Commission's consultation paper.

Diagram 1: Development of Retail Market Governance: Interaction of Principles, aims and Objectives



1. Background

1.1 Consultation Background

On 9 March 2005, the Commission published a consultation paper entitled “Governance Procedures for the Liberalised Retail Electricity Market” (CER/05/040). This paper set out in detail the background to the development of the retail electricity market in Ireland as well as the Commission’s proposals for future governance arrangements for this market, following full market opening. The consultation period remained open until Friday 1 April 2005.

The Commission received eight responses to the consultation paper and these were published in full on the Commission’s website (www.cer.ie) on 12 April 2005, as outlined in Section 1.5 of the Consultation paper.

Responses were received from the following bodies:

- Airtricity
- Bord Gais Supply
- ESB Customer Supply
- ESB Independent Energy (ESBIE)
- ESB National Grid
- ESB Networks
- Gemserv
- Viridian

1.2 Purpose of this paper

This paper outlines the decision of the Commission in relation to governance procedures for the retail electricity market in Ireland. The Commission’s decision take account of the items raised by market participants during the consultation period. It is appropriate to read this paper in conjunction with the consultation paper (CER/05/040) which was published on 9 March 2005.

1.3 Acceptance of Decision Paper

The decisions outlined in this paper and implemented through the retail market governance code will be binding on all retail market participants.

1.4 Next Steps

The Commission will now proceed to publish a Code of Governance for the Retail Electricity Market in Ireland which will incorporate the decisions that are documented in this paper. The Commission will also convene the first meeting of the new retail market governance group in July 2005. From the date of this

meeting, the responsibility for the change management process will transfer from the present RMIG structures to the new governance structures, as outlined further in this paper. The Commission will contact market participants individually to invite them to nominate their representatives for the governance group.

2. Definition of Market Governance

2.1 Proposed Definition

The Commission had proposed the following definition for retail market governance in CER/05/040:

Market governance involves the systems and structures for defining policy, providing leadership and establishing and monitoring the long-term direction of the retail market. In general, it should ensure consistency of policy and direction, comprise the institutions and processes that determine how participants are given a voice and define how decisions are made on issues of concern to market participants and to market customers. It must operate within the appropriate legislative framework and should be guided by industry regulations.

2.1.1 Respondents Comments

The definition as had been proposed was largely acceptable to most of the respondents. One respondent suggested that the definition should include a reference to the achievement of cost benefits for the market as a whole through the development of efficient systems to allow interoperability between participants in the market. The Commission agrees that value for money is extremely important. However this issue is covered in the aims outlined for the governance regime in Section 4.0 and the Commission believes that it is not necessary to repeat it in the definition for retail market governance.

Other respondents requested that the Commission clarify some details of the definition.

2.1.2 Commission's Decision

The Commission has decided to revise its proposed definition for retail market governance in order to make the definition more clear. The following definition will apply for a governance framework for the Irish Retail Electricity market:

Retail Market governance involves the systems and structures for implementing market policy and establishing and monitoring the long-term direction of the retail market in accordance with established policy. It will ensure consistency of policy and direction and comprise the institutions and processes that determine how participants are given a voice and define how decisions are made on issues affecting both market participants and customers.

3. Aims and High Level Principles for Retail Market Governance

3.1 Proposed Aims

The Commission had proposed the following aims for retail market governance:

- A reduction in the requirement for formal regulation and administration by facilitating representative decision-making and consensus amongst market participants.
- Cost effectiveness and the control of industry costs over the long term.
- The continued development and implementation of market policy that encourages best practice and places quality of service, security of supply and customer satisfaction at its core.

3.1.1 Respondents Comments

One respondent suggested that the responsibility which rests with each supplier towards their fellow suppliers should be outlined explicitly in the aims for retail market governance. Effectively this means that accountability would be built into the aims of the Governance framework. However the Commission believes that this is a control which is more appropriate to the principles underlying the Governance framework rather than an aim for retail market governance.

Another participant suggested a restructuring of the Commission's proposals at this stage, stating that rather than developing the framework for a governance regime through aims and high level principles upon which realistic objectives are set and the detail of the process based, that a list of obligations for market governance be developed instead. This list would include all responsibilities which must be covered by the governance regime. Market participants could refer to this list of obligations and measure their performance against them.

However the Commission is of the view that without clearly set out aims, principles and objectives, the opportunity for confusion, indecisiveness and inefficiency is greater. A list of obligations may serve a purpose as a reference point for market participants as it would be a simple way of outlining all issues covered by the framework. However it would not in itself outline how the framework is developed, implemented and controlled. A list of obligations also does not indicate the importance of some issues relative to others or the links between these issues.

One respondent suggested an additional aim; that of ensuring that the market operates in a manner that delivers the highest degree of accuracy in the data used for settlement. This specifically relates to data collection, aggregation and supply of accurate data to the SSA. The Commission agrees that accurate data is of fundamental importance to the governance process but considers that this

is an integral part of good corporate governance and does not comprise an aim of the governance process.

3.2.2 Commission's Decision

The Commission has decided to implement the structure for retail market governance which has been outlined in its consultation paper and is of the view that this is an appropriate structure for the implementation of governance processes for the Irish retail market. The three aims as outlined earlier in this section are confirmed as the aims for governance processes for the retail electricity market in Ireland.

3.3 High Level Principles

3.3.1 Proposed High Level Principles

The following is a summary of the seven high level principles for retail market governance which were proposed by the Commission in its consultation paper. Each principle is followed by a brief outline of the comments received in relation to that principle, with the Commission's response on each point raised.

(i) Industry Representation and Input

All market participants should have an input to the governance process. It follows that all must also comply with the rules which are put in place following consultation.

One respondent warned of the risks of over-representation of any particular body throughout the governance process. They also argued that bodies that provide services in the market such as ESB Networks as the DSO and MRSO, and ESB National Grid as the TSO and SSA, should be treated differently in the governance process than active suppliers in the marketplace. The rationale was that these bodies provide a service to the market, rather than participate in the competitive activity of supplying electricity to customers. These bodies should be consulted with and obliged to provide performance reports but not regarded as participants.

The Commission considers that the DSO, MRSO, TSO and SSA roles are of fundamental importance to the market and are essential to ensure the effective operation of a competitive market. To reduce or remove the representation of these groups at the retail market governance group would reduce the group to a supplier forum which could not effectively perform the market governance role. A reduction in representation from ESB Networks in particular would be counter-productive as it would not benefit the suppliers if issues for discussion had to be deferred because the relevant functions of ESB Networks were not represented at that particular meeting.

(ii) Efficiency and Cost Control

The procedures should ensure rapid problem solving and facilitate the forming of recommendations. All participants need to be aware of the rules for decision making. The benefits derived from the governance procedures put in place should outweigh the requirements and obligations on participants.

One participant suggested that cost-benefit analysis should not be the only criterion for justifying change. For example, customer services changes may well fail cost justification but be essential to deliver accurate bills or more regular meter readings.

The Commission wishes to clarify that the principle as set out in the Consultation paper did not suggest that such issues should not be taken into account, merely that every decision made must take account of the cost of the change. Also this principle is more targeted at ensuring that costs are not incurred in implementing spurious changes which may deliver a benefit for one participant but not for the market or for customers in general.

(iii) Transparency and Accountability

This principle relates to transparency in the process for making a recommendation and the Commission's decision. This is especially important for new entrants to the market. All participants should be accountable for performance compared to agreed standards.

One respondent asked for clarification of the principle relating to accountability, while another participant suggested that accountability should be considered the most important of the principles. A clarification in relation to the issue of poor market behaviour was requested by another respondent.

These clarifications are provided at the end of this section.

(iv) External Involvement and Consultation

Input by consumers, business and commercial representative organisations should be facilitated.

Some suppliers had concerns regarding the proposal to invite representatives of consumer groups to sit as observers on the retail market governance group, as it could lead to commercial issues relating to supplier businesses being discussed in an open forum. One respondent suggested that a more appropriate approach might be to have a separate forum. However other respondents agreed that the proposal could aid the process of transparency and also would highlight to these consumer bodies, the complex cost issues which are an aspect of the market.

The Commission considers that it would be a useful exercise to invite consumer representatives to the governance group and does not believe that there will be

significant issues of a commercial nature discussed that would prevent such attendance. The detail of which groups will be invited and other operational details will be worked out at the first meeting of the Industry Governance Group.

(v) Consistency with RMIG design and future direction

Consistency with RMIG design will help to ensure smooth transition. The process should include defined future direction (work-plans) with achievable targets.

One respondent suggested that while a forward plan would very useful, the governance group should initially focus on the work programme set out by MOIP.

The Commission stresses however that it is not the function of the governance process to disrupt plans for future development which are in the process of being worked on. It should instead seamlessly take-over co-ordination of these issues.

(vi) Mutuality / Impartiality

Participants should represent the interests of the industry as a whole as well as their own individual interests. Independent chair (CER) will ensure impartiality of the group.

Some respondents asked for further clarification on this principle. This principle refers particularly to an aspiration that the governance group and all its participants will take a broader view when making any proposals to the group, that will lead to the group as a whole operating as efficiently as possible. They should not just take into account the impact on their own business of a proposed change request.

(vii) Evolution of the design

Procedures which will allow market design to change rapidly and respond to needs of participants, while at the same time maintaining the stability and cohesion of overall governance objectives. Defined change control process is central.

One respondent has argued that this principle encourages the appointment of an external non-ESB Design Administrator for the change management process. This will be returned to in Section 6.0 of this paper. Another respondent suggested that reference to the development of the all-island market should be included in this section as it will be a key driver of market developments in the near future.

The Commission does not accept that fulfilment of this principle would explicitly require the appointment of an external non-ESB Design Administrator. Instead, the Commission believes that in order for the market design to evolve in the manner described in the principle, the Design

Administrator must be a body which is familiar with the operation of the market and with the development process prior to full liberalisation.

3.3.2 *Commission's Decision*

The Commission has decided to implement the principles as outlined in the consultation paper, with the following clarifications and additions:

Table 1: Clarifications on Principles of Good Governance

Principle	Clarification/ Amendment
Principle 3: Transparency and Accountability	Accountability refers to the requirement that each participant bringing a proposal for discussion to the retail market governance group will provide supporting evidence to back up their position and will be accountable to the group and to the Commission for actions they take which may affect the retail market design. Poor market behaviour in this instance, can be explained as deliberate actions by participants which may cause a risk to the market design or operation, or the failure of participants to commit to any procedures (such as assurance) that are put in place by the Commission.
Principle 6: Mutuality / Impartiality	The Commission will retain responsibility for all final decisions regarding retail market design. However the Commission's preference is that the retail market governance group will be able to provide a recommendation which the group has reached a consensus on.
Principle 7: Evolution of the Design	The development and implementation of the all-island market will be a key driver of the retail market design. All participants need to be aware that any proposals which they make, can be analysed in an all-island context. The retail market design may also undergo changes which will be necessary to prepare for the launch of the all-island retail electricity market at some date in the future.

4. Objectives of Retail Market Governance

4.1 Proposed Objectives

The following principles were proposed by the Commission in its consultation paper:

- To establish and maintain ongoing procedures for the day to day operation of the competitive retail market design. This will set out the details of the decision making process.
- To operate an industry governance group (IGG), as a successor to the RMIG, to implement and oversee all issues relating to retail market governance. A core function of the group should be to put in place procedures to ensure all participants maintain a tight rein on factors that will add costs to the industry as a whole.
- To review all outstanding issues from the RMIG and ensure a smooth handover of RMIG issues.
- To put in place and operate a framework to review the ongoing performance of market participants in terms of their understanding of their responsibilities and their ability to use the market design implemented by the RMIG. It shall be the responsibility of the appointed governance group to develop the details of this function, subject to various licensing provisions and the agreement of the Commission.
- To establish a formal change management process for the retail market, which is comprehensive yet structured in a user-friendly and efficient way. The Group should be responsible for the on-going maintenance and evolution of this process.
- To put in place, monitor and maintain an assurance procedure for new market participants and for existing participants in the case of changes to their systems or processes as a result of internal enhancements or driven by market design changes. This process should be framed to deliver value for money.
- To address any other issues that arise regarding market design and operation, Codes of Practice and retail market policy. All these issues must take into account relevant market legislation and licensing rules.
- To report annually to the Industry and the Commission.

4.1.2 Respondents Comments

Most respondents have accepted the objectives as outlined. However one respondent suggested an alternative wording for Objective 6, in relation to the establishment and maintenance of an assurance process for the retail market. It was suggested that the detail of the assurance process needs to be outlined in more detail in the objectives.

4.1.3 Commission's Decision

The Commission has decided to implement the objectives as outlined in the consultation paper, with the exception of Objective 6. In relation to this objective, the alternative wording suggested by a respondent has been considered. It has been decided to amend Objective 6 from the consultation paper to take account of some of the issues raised. It is important to put in place a system which will allow regular monitoring of participants systems, especially in the case of significant schema updates and/or when they have made changes to their systems on foot of re-qualifications etc. However it is equally important not to place a significant extra level of bureaucracy on participants from which the benefits to the market may only be minor. To try to reconcile these positions, the following re-wording will be implemented:

- To put in place and maintain an appropriate assurance process, both for new entrants to the market and for existing participants, when the Commission decides appropriate. This process may involve audits of live operation and testing of systems in the case of upgrades or re-qualifications. It may also involve monitoring of assurance from time to time.

5. Details of Governance Framework

In this section of the consultation paper, the Commission proposed the establishment of an Industry Governance Group (IGG) as a successor to the RMIG. The terms of reference for the proposed group was also set out as well as the chair and membership, operational procedures for the group, the establishment of any relevant sub-groups, the decision making procedures and the method through which this IGG structure should be implemented.

5.1 Terms of Reference

The Commission proposed ten Terms of Reference for the IGG group. The Commission also indicated that the final decision on all IGG issues would be made by the Commission. This will ensure amongst other things that all decisions are consistent with market legislation and licence rules.

5.1.1 Respondent's Comments

Respondents indicated their acceptance of the proposal to replace the RMIG with an Industry Governance Group, although some respondents were concerned about the proposed name. However, the Commission believes that this is an issue that can be resolved by the Group itself and so for the purposes of this paper, the group shall continue to be referred to by the generic term of IGG.

The proposed terms of reference for this group were broadly accepted by respondents. One respondent suggested an additional bullet point that would outline the responsibility which the IGG group would have for the development and implementation of agreed messaging standards for the liberalised electricity market, subject to necessary controls by the Commission. This is a worthwhile suggestion and may help to clarify one of the key roles of the Industry Governance Group. The Commission has decided to include this point in the Terms of Reference for the Group.

Another respondent was concerned that there may be potential for duplication and overlap in the roles of the Industry Governance Group and the Trading and Settlement Code Modifications Panel. First, the Commission does not expect this to happen given the differing roles of the two different groups; The IGG is a retail market forum only and as such has no jurisdiction in the wholesale market while the Trading and Settlement Code Modification Panel in contrast is responsible for governance in the wholesale market. Second, the IGG is primarily a discussion and recommendation forum and has no decision making power – the Commission will make all decisions regarding retail market governance, thus ensuring no overlap with wholesale market decisions. The Commission agrees however that close interaction between the two groups is required in order to ensure the market as a whole develops in as efficient a

manner as possible. This is because it is accepted that a change in one market may impact on certain procedures in the other market. The Commission will ensure the correct level of interaction exists, which will ensure that each group operates independently of each other but is also aware of the impacts of each change on the other market.

5.1.2 Commission's Decision

The Commission has decided that the terms of reference for the IGG will therefore be as follows:

- Development and implementation of Commission agreed messaging standards for the liberalised electricity market.
- Development and implementation of agreed procedures, codes of practice and draft operational policy to govern the liberalised retail electricity market.
- Over-seeing performance reporting, monitoring and discuss and develop forward planning.
- Development of industry sub-groups, where necessary, to over-see and advise the IGG on relevant issues such as the Change Management Process and technical issues. Any such groups will be appointed by the Commission.
- Recommendation on change requests to the Commission based on input from IGG members.
- Develop an agreed work programme for the implementation of agreed market design changes. This will involve the scheduling of agreed changes as appropriate and the production of annual work-plans.
- Communication to the industry of changes to agreed baseline market design, testing procedures and upgrade and cutover issues.
- Input into drafting of assurance processes for the market going forward.
- Input into development of processes for compliance checks and regular audits for market participants already operational in the market if the Commission deems this necessary.
- Encouraging best practice and co-operation between all market participants.
- Interacting with the Trading and Settlement Code Modification Panel and also with the Distribution Code Modification Panel.

The Commission will put in place procedures to ensure that the correct level of interaction exists between the new Industry Governance Group and the Trading and Settlement Code Modifications panel, so that any possible impact which a proposed change in one market may have on the other market is identified. The Commission reminds market participants however that there is a responsibility on them to ensure that their own representatives on each group communicate effectively to ensure that they are aware of the impacts of various changes in each market.

5.2 IGG Chair and Membership

Section 6 of the consultation paper included the proposal that the Commission would fill the role of chair of the Industry Governance Group. The Commission's position as chair would ensure impartiality throughout the governance process. The Commission also had proposed a structure for the IGG where each of the ESB Networks functions within the market would be represented, as well as representatives of each supplier, TSO and SSA. It was suggested that it might be useful to include other agencies as observers on the Group; the appointed assurance body, NIAER and other interested parties such as consumer groups were proposed.

5.2.1 Respondents Comments

Most respondents were in favour of the Commission chairing the new IGG group. However, a number of respondents stated that in their view the proposal for membership of the IGG contains a large ESB representation, with four ESB Networks representatives, one from TSO, one SSA and ESB Customer Supply representatives. They state that the governance procedures should take the opportunity to give independent suppliers a greater say than heretofore and address perceived ESB dominance. It is the Commission's view that it is not the purpose of the industry forum to address dominance concerns in itself; its purpose is to put in place a forum which facilitates representation of all participants in the market.

One respondent argued that the proposal for a number of ESB representatives based on their various roles within the market would tilt the perspective at meetings and would compromise the possibility of achieving the principle of transparency and accountability. However the Commission is of that view that, given the structure of the market and the wide range of retail market issues which are affected through the market messaging system, it would compromise the efficiency of the forum if a representative of each area of ESB responsibility (e.g. MRSO, data collector etc) was not represented at IGG meetings. The Commission does not favour a situation where debates are not held at meetings because the appropriate ESB function is not represented.

There is broad acceptance of the proposal to invite NIAER to sit in an observer capacity on the IGG. Respondents were split over the proposal to invite representatives of consumer groups to attend, with some market participants believing that these representatives could have a valuable input in providing more direct customer feedback to suppliers. Other participants are fearful that commercially sensitive issues, which may not be appropriate for discussion with consumer representatives could be raised at the forum. Another respondent suggested that there should be a position for a representative of generators on the IGG. The Commission believes that it is not necessary to have a representative of generators present at IGG meetings as the IGG is a retail market forum, primarily concerned with processes for the operation of competition within the retail market.

5.2.2 Commission's Decision

The Commission has decided that the IGG structure as outlined in the consultation paper will be implemented. The Commission will chair the group. In order for the IGG to operate efficiently, it will be necessary for a representative of each ESB function to be present, despite the concerns of some respondents. However a mechanism to review representation could be built in. The Commission will invite a representative of NIAER to sit as an observer at the IGG as well as inviting representatives of consumer groups to also attend meetings. The operational details of this aspect of the membership of the Group will be developed by the Commission following discussion of this issue at the first meeting of the IGG.

5.3 Detailed Rules

The Commission had proposed that ESB Networks would provide secretariat services to the IGG. Agenda would be forwarded at least five working days before and minutes five working days following the meeting to which they pertain. The Commission also proposed that the IGG meet once a month but that this could change if the group decided.

5.3.1 Respondents Comments

One respondent stated that ESB Networks should not be secretariat to the Group, for reasons of transparency, dominance and perception. The Commission does not agree with this viewpoint as the fact that the Commission will chair the group will ensure complete impartiality. Furthermore the role of the secretary by its very nature is not a decision making position and therefore the concerns of this respondent are unfounded.

Another respondent requested that more details be provided on specifics of the operating rules of the IGG. This relates to voting rights and quorum for meetings. The Commission does not believe that this level of detail is necessary. The IGG will operate primarily as an advisory and discussion forum and is not a decision making forum in itself.

5.3.2 Commission Decision

ESB Networks will act as secretariat to the IGG. Timeframes for preparation of agendas and minutes will be as outlined in the consultation paper. IGG meetings will be held at CER offices.

With regard to decision making, the IGG shall not be a decision making body and so it is not necessary to outline formal voting procedures. The Commission will take account of all opinions raised at the IGG when making its decision on a particular topic and also of the recommendation of the Group as a whole, if the Group reaches a recommendation.

5.4 Governance Sub-groups

The Commission had proposed that it would be necessary for a technical forum to continue, with an improved system of reporting to the main business group (IGG). It was suggested that other groups could be convened as the Commission deemed appropriate or necessary, to discuss specific issues.

5.4.1 Respondent's Comments

One respondent has proposed that re-convening the Supplier Forum would be a worthwhile exercise as this forum was useful for suppliers. The Commission can accommodate this proposal although the consultation paper did not at any point rule out a return of the Supplier Forum. The Commission does not envisage that a Supplier Forum would meet regularly at this time, rather that it would be re-convened to discuss specific relevant issues, as the Commission decides appropriate.

Another respondent suggested that it may not be necessary to have a separate technical forum. As the role of the governance group post implementation will relate primarily to change management, the requirement for a technical group is not clear. Technical issues could be resolved by having a technical focus within the IGG. Also technical representatives could be invited to IGG meetings to improve the effectiveness of change management process. However, in contrast, another respondent suggested that a technical forum is absolutely essential but one that is more than just an advisory body. It was suggested that a technical sub-group should be appointed to progress decisions on messaging standards and protocols.

5.4.2 Commission's Decision

The Commission has not ruled out the possibility of the Supplier Forum being re-convened and will take the necessary steps to call this group together whenever necessary to discuss supplier related issues. However the Commission does not believe that there is a need at present for the group to meet on a regular standing basis.

The Commission has decided that it will be necessary to continue with a technical forum. It can meet at less frequent intervals after full opening of the un-metered supply market, unless when the IGG decides an issue should be dealt with in detail at the technical group or in the run-up, say, to schema changes. The Commission believes that a standing agenda item should be created on the IGG agenda for a report from the last technical group meeting. The aim will be to improve communications between the two groups and eliminate situations where the same discussion occurs at both fora. Market participants are also reminded that there is an onus on them to ensure where possible, that their representatives on each group keep each other informed and updated on developments at each forum.

5.5 Implementation of Governance Structure

The Commission had proposed that it may require market participants to sign a legally binding document, indicating their agreement and compliance with the provisions of the governance framework. The Commission also indicated that it would develop a formal governance code, which would tie together all governance decisions.

5.5.1 Respondent's Comments

One respondent suggested that in order to implement the governance structure, there is a need for a legal agreement as basis for market governance. They stated that this should be more than just a letter for signing, similar to that which was used for Inter-participant Testing (IPT). Market agreement must be detailed and set out obligations of governance group.

Another market participant has questioned the need for a legally binding document. They have argued that the guidelines laid out in the governance document may not be sufficiently detailed to form a basis for a legally binding document. Furthermore it would delay the process as participants would have to have the proposals reviewed by its own legal representatives. They suggest just a simple sign up to the governance decision paper.

5.5.2 Commission's Decision

The Commission has decided that it is not necessary to require market participants to sign further documentation on retail market governance. The Commission decision as outlined in this paper is final and participants are bound by the decisions outlined in this paper. Operational aspects of the governance regime may be altered through a consultation process and through discussion of these issues at the IGG group.

As already outlined in Section 1.4, the Commission will publish a Code of Governance for the Retail Electricity Market in Ireland. This will provide a clear outline of the implementation of all of the decisions in this paper, as well as the interaction between each part of the governance process. Market participants will be expected to abide by this Code.

6. Development and Implementation of Change Management Process

This section outlined the Commission's detail on the proposals for the operation of the change management process for the liberalised market. It outlined the Commission's proposed objectives for the change management process, the proposed objectives for change management and the process for managing a change request. This section also outlines the Commission's proposals for the Design Administrator for the retail market in Ireland.

6.1 Change Management Process

Seven objectives for the change management process were proposed by the Commission, as well as the actual step by step methodology for treating each change request.

6.1.1 Respondent's Comments

Respondents were favourable to the approach to the objectives of the change management process as proposed by the Commission. One respondent stated that the role of the IGG should explicitly be to direct and control the change management process. However the Commission suggests that the role of the IGG has already been outlined and specifically one of its functions is to manage the change control process rather than having control over the process. The Commission will remain as the deciding body, with clear control over the process.

Another respondent suggested that objective 5, which ensures the correct assessment of all proposed change requests, should be widened to take into account the cost benefit and process costs of all parties. However it is not the duty of the change management process to take account of this. Participants are responsible for their own cost benefit analysis and if they believe that the cost to their business is too great, then it is up to them to make the case for rejection of the change proposal to the IGG.

The proposed process for managing a change request from the initial submission of the request through to formal closure is agreeable to market participants. However one participant has suggested that the establishment of the detail of the change management process should be solely the responsibility of the IGG group. While in reality, the IGG group will have a significant input to the shaping the detail of the change management process, it would neither be practical or prudent to allow control over this detail to rest solely with the IGG. As outlined throughout the paper, it is in the best interests of the market as a whole, if the Commission retains control over these issues.

6.1.2 Commission's Decision

The objectives of the change management process will be implemented as outlined in the consultation paper as will the details for the process for managing a change request.

6.2 Appointment of Design Administrator

The Commission had proposed two options for the position of Design Administrator for the liberalised Irish retail electricity market. The Commission's preference was for the appointment of ESB Networks as Design Administrator. The other option involved the appointment of an external agency to be appointed following an open tendering process. The perceived advantages and disadvantages of each option were set out in the consultation paper along with the Commission's reasons for favouring ESB Networks for appointment as Design Administrator.

6.2.1 Respondent's Comments

Three respondents agreed with the Commission's proposals stating that ESB Networks offered the best usage of existing skills, systems and expertise, as well as this being the most cost effective option. However other respondents voiced their opposition to this proposal. Some expressed concern over perceived market dominance; however this is not accepted by the Commission. The Commission will remain in control of all decisions thereby ensuring impartiality. The Design Administrator will not be in a position to implement any proposal unless the "go-ahead" is received from the Commission.

One respondent suggested that costs could be controlled more effectively by an external non-ESB body. Another respondent suggested a hybrid solution for the position of Design Administrator. They suggested that ESB MOIP should evolve into a separate legal entity from ESB and this new independent body would be responsible for filling the role of Design Administrator within the Irish market.

However the Commission believes that this proposal is separate to the market governance and change management procedure which is being proposed throughout the consultation paper. Rather it involves the separation of one part of ESB from another and would require a completely different approach, which lies outside the Commission's remit. Furthermore, it is difficult to see at this time, how this proposal would be more cost effective, as the establishment and running of such a separate body would be substantial.

One respondent has suggested that the role of the Design Administrator for the Irish retail market should be expanded to include management of market documentation updates in line with approved changes and providing a helpdesk function for participants and new entrants. This is a worthwhile and useful suggestion.

Another respondent suggested that the control of market change costs should be explicitly built into the role of the Design Administrator.

6.2.2 Commission's Decision

The Commission has decided that ESB Networks will be appointed as Design Administrator for a fixed term, after which their performance in this role will be reviewed. Furthermore in the interests of confidence from independent suppliers, the ESB Networks Design Administration project team should be established as a separate group within ESB Networks. All financial and other activities undertaken by this Design Administrator will be recorded separately as well as clearly identified within ESB Networks accounts. This group shall meet monthly with the Commission to review progress and oversee activities. The Commission will be in contact formally with ESB Networks to make this appointment as Design Administrator.

The role of the Design Administrator will be expanded to include management of retail market documentation updates in line with approved changes and providing a helpdesk function for market participants.

The Commission has also decided to outline a description of the submission which the Design Administrator will have to make to the Commission as part of its role in reporting the recommendation of the IGG and cost impacts of the change to the Commission. This submission should contain the following:

- description of the change
- description of impact on central systems
- description of supplier analysed impact on their own systems
- report from technical group
- costing report
- risk to systems represented by the change
- level of assurance recommended by the group and the Design Administrator for the change
- recommendation to the Commission

7. Retail Market Assurance Testing

7.1 Assurance Strategy for the Liberalised Market

In this section of the consultation paper, the Commission outlined the readiness assurance testing regime which was operated by Gemserv for go-live of market systems and retail market opening. The need for an enduring assurance strategy for the market was also described as well as the Commission's proposals for what this strategy should cover and the approach to assurance it should take. The Commission also proposed that ESB Networks would tender for and employ the services of an assurance body. The appointed organisation would report to the Commission.

7.1.1 Respondent's Comments

Respondents agreed with the necessity for an assurance strategy to be in place, particularly for new entrants to the market. However the level of assurance required going forward and the occasions when an assurance process is required was subject to dispute. The Commission believes that it is prudent to ensure that an assurance strategy is in place for any significant market process changes (such as XML Schema releases) as well as for new market entrants and internal system changes relevant to individual businesses.

One respondent was concerned at the proposal for a mechanism to monitor assurance from time to time in the market place. However the Commission believes that this would be a worthwhile control for the market.

7.1.2 Commission's Decision

The assurance strategy as outlined in the consultation paper will be implemented. ESB Networks will be responsible for employing an assurance body, in accordance with the requirements of the Commission. Following the appointment of an assurance body, the detail of the enduring assurance strategy will be developed. This will involve a full consultation with market participants. The Commission is of the view that the requirements for testing under any assurance process should reflect the risk involved in the changes being implemented.

The Commission has also decided that it will be necessary to apply sanctions to market participants that fail to achieve the required level of assurance within the explicit time-lines which will be developed. Also participants who do not display the required commitment to the assurance strategy may also face sanctions. One approach would be to prevent market participants from signing any new customers if they have not achieved market assurance by the required date. This would provide an incentive for participants to ensure that they achieve assurance in the timeframes set out.

8. Costs and Funding of the Governance Process

8.1 Proposals in relation to Costs and Funding

The Commission proposed that control of costs was a responsibility which rested with all market participants. However costs for the central retail market systems and the change management process would be monitored and controlled through ESB Networks who would be responsible for preparing a budget for the following year, for presentation to the Commission.

With regards to funding of the governance process, the Commission proposed cost recovery through DUoS charges.

8.1.1 Respondent's Comments

All respondents agreed that control of costs is central to the success of the governance regime. They agreed that the costs incurred by the Design Administrator need to be monitored closely and that control could best be achieved through annual budgeting for the change management process, submitted by the Design Administrator and approved by the Commission.

One market participant suggested that this budget, which is to be presented to the Commission, should also be presented to the IGG. The Commission agrees with this proposal; it may be useful for all participants if the change management budget is presented to the IGG for discussion prior to finalisation.

Most respondents were in favour of cost recovery through DUoS. One respondent, however, stated that DUoS was a convenient catch all and that DUoS charges should be disaggregated to the greatest possible extent separating out data collection, aggregation and settlement costs from wires charges. The Commission notes this point but is of the view that it would be better approached through a review of the DUoS tariffs rather than through retail market governance. Therefore this issue is not up for discussion in this consultation process.

8.1.2 Commission's Decision

The Commission has decided that costs can best be controlled through accurate monitoring of system change costs and the preparation of an annual budget. The Design Administrator will be responsible for preparing the annual budget and presenting it to the IGG group, prior to finalisation and submission to the Commission for approval.

The Commission will approve the level of costs in advance and review when the out-run becomes available. In addition exceptional costs over a pre-agreed threshold will go to the Commission for approval during the year.

Retail market governance costs will be recovered through DUoS charges. In the case of ESB National Grid, costs for their system changes required as a result of changes in the retail market systems can, once approved by the Commission, be recovered through TUoS charges.

9. Conclusion and Next Steps

9.1 Summary

The Commission has decided to implement the retail market governance structure as outlined in its consultation paper published on 9 March 2005 (CER/05/040). The aims of retail market governance for the liberalised Irish market as outlined in the consultation paper will be implemented. The principles of retail market governance will also be implemented and they serve the purpose of a standard against which market participants can measure their performance under the governance rules. Control of costs associated with the change management process in particular has been highlighted as a key issue, while at the same time ensuring that the market design and systems in place operates in a manner which delivers high quality data to participants and is in line with Commission policy.

The Industry Governance Group as outlined in the consultation paper will be convened by the Commission, while its terms of reference have been clarified.

The Commission has decided to appoint ESB Networks as Design Administrator for the retail market change control process, while the details of the change control process as outlined in the consultation paper will be implemented, with a number of clarifications and additions.

An assurance process will be put in place, following the appointment of an assurance body. The detail of this assurance process will be the subject of a separate consultation process.

Cost recovery for retail market governance processes will be through DUoS charges.

9.2 Next Steps

The Commission will convene the first meeting of the new IGG group in July 2005. As soon as a date is decided upon, market participants will be invited to nominate their representatives for this group. Further details of this meeting will be sent to participants closer to the date of the first meeting.

The Commission will publish a Code of Governance for the Retail Electricity Market in Ireland. This Code will effectively incorporate the decisions of this paper into a structure which clearly sets out the obligations and responsibilities of all retail market participants under the governance framework.