VIRIDIAN

Power & Energy

Response by Viridian Power & Energy to Single Electricity Market Consultation Paper SEM-10-084

SEM Market Power & Liquidity – Report by Cambridge Economic Policy Associates Ltd

March 2011

1. Introduction

Viridian Power & Energy (VPE) welcomes this further opportunity to respond to the Single Electricity Market (SEM) Regulatory Authorities' (RAs') consultation paper on the issue of market power and liquidity in the SEM, this time in response to the report prepared by Cambridge Economic Policy Associates Ltd (CEPA).

This response is structured so as to provide some general comments in the following section with the subsequent section providing VPE's views on the specific questions contained in the consultation paper.

2. General comments

The issue of market power and liquidity in the SEM is a very important one and VPE welcomes this consultation and the ongoing work being done by the RAs in this regard. As noted from the summary of responses accompanying the CEPA report, and indeed from the SEPA report itself, there are considerable market power and liquidity issues outstanding in the SEM. It is imperative that the RAs understand these issues, the reasons they exist (particularly with respect to liquidity), and seek to remedy, where appropriate, these issues through modification of or addition to the existing SEM market design features. In light of this it is wholly regrettable that reintegration proposals forwarded by ESB have, for the most part, appeared to hijack this important consultation and deflect necessary attention, resources and effort from addressing the outstanding market issues as identified.

It is appropriate that identified and outstanding market power and liquidity issues in the SEM are addressed by the RAs through consultation with market participants. These issues, on their own merits, require investigation by the RAs and consultation with industry. It is VPE's considered view that ESB's proposals are both premature and should not have been allowed deflect attention away from the important issues to be considered as part of this consultation.

Furthermore it is regrettable that the context within which this important consultation is framed has been further cast into doubt over the possible removal of an important source of liquidity in the market, PSO backed CfDs. The fact that this issue was first presented to market participants through a series of veiled references and necessary inference before final vague admission of the issue in the workshop associated with this consultation is considered to be a further, albeit unrelated, problem with this consultation.

Finally, VPE calls on the RAs to ensure that the information presented to the market is both accurate and reflective of the issue such information is attempting to capture. Unfortunately, with respect to the average HHI and average RSI values presented in the CEPA report, these values are neither accurate nor correctly reflective of the average presence and prevalence of market power in the SEM. As elaborated on further within this response, CEPA's failure to apply load weightings to the average figures presented should render them inappropriate to advise policy formulation and policy determination. This simple average approach is similarly used by the RAs in their determination of DC volumes for respective products and quarters.

The remainder of this response deals specifically with the questions posed within the consultation paper.

3. Response to specific consultation questions

1. Do the objectives and criteria for the Market Power Mitigation Strategy remain appropriate today and for the foreseeable future?

The high level design of the SEM and the embedded market power mitigation strategy were purposeful steps on behalf of the RAs to, where possible, introduce competition into the all-island electricity market. The nature of that competition is restricted by the continued presence of the previous electricity monopolies in both Northern Ireland and the Republic of Ireland. In terms of this consultation, the focus is on the wholesale market within which the continued dominant position of ESB in the market is of particular relevance.[1] Not only does this provide a strong basis for the market power mitigation strategy today, but given likely future changes in the SEM its retention is also considered to be of significant importance.

There is also a fundamental design issue to be addressed herein also, namely what policy element is to be the cornerstone of the SEM and the policy element best suited as a basis for and guide to the market's development. As already started, it is VPE's considered view that the market power mitigation strategy is appropriate both today and for the foreseeable future in the context of likely SEM developments. A market power mitigation strategy is required because one firm in particular has significant market power giving them a dominant position in the SEM. Market power, to the extent that it exists in the future, is a constraint on the options for developing the SEM in the same way it was a constraint on the initial High Level Design. Therefore it would appear to be an appropriate approach to the SEM, and development thereof, to consider options for reducing the market power of the dominant firm as opposed to increasing it. Vertical and horizontal reintegration of ESB would further reinforce the need for the market power mitigation strategy and create a market dependent on it, as opposed to one that may be capable of best responding and adapting to future requirements, including those coming from Europe.

The market power mitigation strategy exists in response to a given market structure and is designed to bring about a competitive outcome that otherwise may not have

[1] On the issue of dominance, European Commission guidance (Guidance on the Commission's enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings) and European Court of Justice case law indicate that a market share in excess of 40% is likely to give rise to competition concerns with particular firms found to be dominant with market shares of 40%-45% (United Brands). Noting that market shares are not the only relevant metric or analysis that should be performed in determining dominance and/or abuse of dominance in a particular market, it is nevertheless a widely used and accepted threshold criteria in considerations of such positions.

been brought about. This is not a structure or basis for argument in support of increasing the market power of the already dominant firm. Advancement of such an argument misunderstands the purpose of this strategy and would represent a backward step in relation to the development of real competition in the market and would likely constrain future development options. The strategy addresses a problem, it is not a basis for making the problem worse.

On the issue of interconnection, despite planned increases in interconnection it is not considered to be appropriate at this stage to envision the Irish market as being seamlessly part of a wider market with Great Britain (and beyond) over the medium term. Although an intention of EU Energy Policy, absent market and trading rules in relation to market integration and possible new interconnectors, and more immediately in relation to the East-West interconnector, the impact of increased interconnection is somewhat muted.[2] However, at this stage it is *de facto* inappropriate and naive to accept high level and largely unsubstantiated claims that increased interconnection and market integration will dilute ESB's dominant position to one of a small player in a larger market.

In relation to the explicit objectives of the market power mitigation strategy, namely;

- Prevent market participants from abusing their market power;
- Maintain efficient incentives for new entry and exit;

and the secondary objectives of;

- Exposing incumbents to competitive pressures, which should lead to increased efficiencies; and
- Not to unfairly discriminate between new entrants and existing players.

VPE consider these to be appropriate today and for the foreseeable future. Further to the criteria used to develop the market power mitigation strategy[3], VPE consider the constituent elements of this strategy to be both fit for purpose and necessary to achieve their objective in the market. As a starting point on the removal of the EPO in the RoI retail market as part of the wider deregulation of the market, it is VPE's considered view that the price deregulation of this market was premature, inconsistent with broader competition policy and potentially damaging to feasible long-term competition in the market, the first signs of which were only emerging prior to the CER's decision to deregulate the market. Removal of the EPO in RoI leaves a gap that must be filled through greater reliance on the remaining pillars of the strategy, pillars that are considered now to be even more important to achieving the stated objectives.

With respect to the appropriateness of these objective and criteria for the foreseeable future, this is considered to be somewhat dependent on market developments. However we note that without intervention, structural change arising from competition

[2] Although we would expect the overall effects to be positive for the SEM.
[3] Effectiveness, feasibility, retention of profit motive at the margin, allows for innovative strategy, regulatory efficiency, flexibility, transparency, ability to sunset and impact on retail markets

(and/or new entry into the market) is unlikely. Such intervention would likely be required to originate with Government. The imminent discussion by Government and likely publication of the findings of the McCarthy report on State assets and liabilities may initiate such structural change, however it is too early to advance any comment on the likely continued suitability of the criteria and objectives of the market power mitigation strategy. Therefore, subject to change, not limited to structural change, the criteria and objectives of the market power mitigation strategy are considered to remain appropriate for the foreseeable future. In the event of any such material change in the market, VPE would reasonably expect that market participants would be consulted, at which point we could offer our views on the continued suitability of the matters discussed herein.

2. ***Will the new interconnector facilitate more competition from Great Britain? If so, what will be the impact on the appropriate market power mitigation strategy?***

This question is one to which VPE has already provided specific views on in response to the first consultation on market power and liquidity (SEM/10/057). As little in the market has materially changed since this time, the initial response provided is considered to remain relevant. To facilitate the reader the specific response is provided below.

A priori one would expect the likely impact on liquidity and competition in the SEM of the next interconnector and Ireland-UK market coupling to be positive. However, we wish to caution that the full potential of any such benefits will only be realised if the correct market rules and rules for the sale of capacity on the interconnector are put in place. The failure to do so may risk the introduction of adverse impacts for the market and customers.

3. ***It would be helpful if market participants could explain why they believe demand for hedging products in the SEM exists, and how this demand is not addressed by alternative hedging options, such as through fuel markets.***

This issue is specifically addressed in the consultation paper (Section 5.5) wherein the demand for hedging products, along with the incentives to offer such products, is outlined. The demand for hedging products is driven primarily by risk management on behalf of market participants. Equivalent risk management is not efficiently or optimally provided by recourse to alternative, imperfect hedges, such as fuel hedges. Fuel hedges represent an imperfect hedge and as such leave market participants exposed to residual, potentially costly, risk that is removed through the use of forward electricity contracts. Furthermore, the imperfect nature of fuel hedges and associated risks prevent market participants from locking in a margin (rate of return) on contracted volumes and as a consequence require this additional risk to be priced in.

Therefore, not only is the demand for hedges not met through alternative hedging options, recourse to these options are likely to increase costs in the market, adversely affecting competition and the final offering available to customers.

4. ***In what way could DCs be reformed in order to promote contract liquidity while also mitigating market power? Do you see merits in replacing the HHI with the RSI in determining DC volumes?***

As part of the RA's market power mitigation strategy, VPE recognise that the primary objective of DCs is as a market power mitigation tool that have a secondary benefit of providing liquidity in the market. This liquidity is a consequence of there being a dominant firm in the Irish market and the need to mitigate the associated market power.

In terms of reforming DCs, it has already been VPE's stated view in response to the first consultation paper on this issue (SEM/10/057) that; *"[T]he available range of DCs made available to the market is inappropriate and misaligned with the needs of market participants. The baseload, mid-merit and peak are combined weekday and weekend products over different time bands. This set-up reduces liquidity and competition in the market as the contracts disproportionately favour domestic suppliers and effectively prohibit wider market involvement. This feature of the contract market is also likely to deter market entry…In addition to this a Mid-Merit 2 product is required with the effect that the overall quantity of DCs available should remain at least at the current level."*

In addition to these previously argued reforms to DCs, VPE call for DC products to be made available throughout the year. This change to the current annual arrangement would not affect the principal objective of DC, mitigate market power, but it would improve the consequential benefits of this strategy mechanism for the market. Such a change would facilitate new entry, benefit competition and ultimately benefit customers.

The RSI measure is a preferable and more appropriate measure of market power in electricity markets but importantly it should not be the only measure. VPE note that the views expressed by CEPA in the current consultation paper not only agree with those expressed by ourselves in response to the first consultation paper on this issue (SEM/10/057), that RSI is a preferable measure, but go on to repeat, almost verbatim, the arguments forwarded by VPE as to why this is the case (Box 4.2 of the CEPA report).

On the issue of whether to adopt the RSI as opposed to the HHI measure in the calculation of DC volumes, there would appear to be, on the basis that it is a preferable and more appropriate measure of market power in electricity markets, good reason for doing so. Of course in debating the merits of any such change it is important that the RAs have consideration for the change and any resulting consequences, including the impacts any such consequences could have on the market.

Irrespective of the measure used (HHI or RSI) it is imperative that the RAs apply them appropriately. The current practice with respect to DC volume calculations and the approach taken by CEPA in their report is flawed. It is inappropriate and contrary to best practice in relation to market power metrics in the electricity sector[4] and elsewhere to calculate a simple average of the outturn measures on an hourly or half-hourly basis over any period of time from annual down to periods within day (e.g. baseload hours). To provide proper, accurate and correct meaning to such metrics over any such period of time, a load weighted average approach must be adopted. This approach is not followed in the RAs calculation of DC volumes and is likewise not followed in the CEPA report with respect to average HHI and RSI values. These values can therefore reasonably be considered to be potentially misleading and fundamentally inaccurate.

5. ***Does the recent removal of the EPO condition from ESBCS for business customers and the earlier EPO removal from NIEES for customers with an annual demand above 150 MWh, together with the removal of ring-fencing between ESBCS and ESBIE, negatively impact on the SEM spot or contract markets? If you consider that it does, are there any replacement conditions required in the SEM and what should they be?***
6. ***Do you consider that the planned forthcoming removal of the EPO for domestic customers in Ireland will have an adverse effect on competition and liquidity in the SEM spot or contracts market? If so, what replacement would you recommend for the SEM? Would the removal of the EPO from NIEES for customers below 150 MWh per annum in NI have a similar impact – and if so, what replacement would you recommend?***

Due to market developments since the original deadline for this submission, Questions 5 & 6 are answered jointly. At present an EPO condition only remains relevant for NIEES customers below 150MWh consumption per annum.

In response to the first consultation paper on market power and liquidity (SEM/10/057) VPE responded to one of the specific questions indicating a degree of frustration with the EPO and the regulatory oversight of this provision for properly ring-fenced companies. The delay or prohibition of trades arising from what is considered to be a somewhat disproportionate level of oversight for properly ring-fenced companies, an approach that appears (appeared) to have differed by jurisdiction, has materially adversely affected both ring-fenced parties and customers.

To date VPE has not witnessed adverse impacts on competition and liquidity in the SEM spot or contract markets arising from the removal of the EPO in both Ireland (business and domestic) and Northern Ireland (business). Despite this, the rationale for the removal of the EPO is somewhat absent from the debate and is not necessarily a move consistent with the protection of customer interests, in that it

[4] See reports of EC DG Competition and London Economics as part of the EU Sector Inquiry into Energy Markets.

exposes customers to risks they were previously insulated from while not necessarily changing the genuine commercial incentives of those (previously) covered by the EPO. An EPO advances and seeks to ensure replication of commercial decision making. In the event that such adverse impacts were to arise and/or be evidenced in the market, it is VPE's considered view that the reintroduction of an EPO mechanism is the appropriate, proportionate and most efficient response available to the RAs.

7. What, if any, implications for competition/end customer do you see arising from ESB's proposed reintegration:

- ***Horizontally,***
- ***Vertically,***
- ***Horizontally & Vertically.***

What, if any, new measures would you recommend be put in place for each of the above forms of integration?

Further to our response to the previous consultation paper (SEM-10-057), VPE continues to contend that any increased integration of ESB, either horizontal and/or vertical, would have a negative impact on the market, competition and customers. ESB is the dominant generation and supply company in the SEM and the current market power mitigation strategy is a regulatory imposition necessary to alleviate the potentially adverse impacts of this structure, in a market where sustained competition is only emerging. Therefore, in their capacity as regulators acting primarily in the interests of consumers, it is not considered appropriate for the RAs to progress any proposals on the reintegration of ESB.

In light of the discussion contained in the consultation paper on this issue, it is appropriate to address the two issues of vertical and horizontal reintegration as two separate proposals. In the interests of competition, the market and consumers, it is VPE's considered view that vertical reintegration (including when combined with horizontal reintegration) is wholly inappropriate in the current market context. Irrespective of any formal or informal undertakings offered by ESB, or forwarded by the RAs, consideration of such proposals are seen as at best being very premature and somewhat worrying in the context of regulatory policy and policy certainty in the market that is consistent with developments in Europe and competition policy more generally. The recent CER decision to introduce price deregulation in the retail market in RoI, in the continued presence of a dominant supplier, raises concerns in relation to the RAs understanding of competition policy and in this regard we would urge the RAs to accept the recommendations of CEPA in the consultation paper in relation to proposals for vertical integration and not advance any such proposals until such time as the market is fundamentally different from today's structure.

On the separate issue of horizontal integration, CEPA appear to have identified costs in excess of the benefits of continued horizontal operational separation of ESB's power generation businesses. We therefore seem to be agreed with CEPA on the need to ensure legal separation is maintained. On the issue of operational separation, CEPA seem to be relying on relevant aspects of the market power mitigation strategy to minimise the costs associated with reintegration. This places greater importance on mitigation of market power and increases the incentives for the larger more dominant firm (ESB PG & ESBI) to abuse this improved dominant position. Given the profile of existing ESB plant and the relaxed bidding rules applied to certain plant to be included as part of any horizontal reintegration, ESB's market power in baseload hours would likely be significantly and disproportionately increased vis-à-vis other periods of the day wherein there would nevertheless be a *de facto* increase in their market power.

In the context of the current market it is surely more appropriate to consider further, and unlike the previous round, effective divestment on the part of the dominant generator as opposed to further increasing their market power and dominant position in the market. Undoubtedly any such move would be a significant negative signal to potential new entrants and perversely could negatively impact the likelihood of attracting new entrants on response to any imposed divestment on ESB PG in the future.

8. *Would further divestment by ESB encourage deeper competition in the wholesale market?*

Preliminary views on the need for further divestment by ESB have been advance in response to Question 7. In support of these views, VPE continues to contend, consistent with such metrics in competition policy and case law, that ESB is the dominant generator in the SEM. To encourage deeper competition and to allow for real competition, absent supportive regulatory measures, to emerge and develop, significant divestment by ESB would need to be effected. The SEM was developed in such a way as to mitigate ESB's market power with the same rules applied to both the dominant generator and competitors. Absent this market power, the SEM may be able to evolve and move closer to a truly competitive market.

Properly implemented, divestment is an effective and efficient means of introducing and strengthening competition in the wholesale market. Competition, including market entry, in the wholesale market is dependent on significant lumpy investment. This feature of the market distinguishes it significantly from the retail market and points to the need for greater reliance on such structural remedies to effect timely change, particularly in a small system such as the SEM

One important issue that must be addressed in relation to any future divestment by ESB is the need for effective divestment. The previous divestment of generation assets by ESB, in return for a new CCGT station in Aghada, can best be described as an exercise in optics and has been shown to be counter-productive with regard to the expected objective of divestment. This divestment resulted in ESB strengthening as opposed to reducing their market power. It is therefore important that any future divestment is effective divestment and divestment capable of achieving the presumed objective of such action.

9. What are the current incentives on generators and suppliers to offer and purchase contracts? Are there any impediments to trading contracts? Do you agree with mandating all generators to offer contracts and/or to become market makers? If not all generators, what criteria would you use for mandating generator to offer contracts or to become a market maker?

As alluded to in response to Question 3, the incentives to offer and purchase contracts in the SEM are principally functions of market participants' risk management strategies and an attempt by both sides to secure their margin ensuring a reasonable rate of return.

The principal impediment to trading contracts is the illiquidity of the market.

The rationale underlying any proposal mandating all generators to offer contracts is somewhat curious, as are the likely outcomes. At present ESB are required to offer contracts to the market with the effect that it buoys liquidity in the SEM. This is largely due to the dominant position of ESB in the market and absent such provisions ESB would remain the sole party in the market capable of fulfilling the same goal with respect to liquidity.

Mandating all generators to provide liquidity would fundamentally alter the investment case for entering the SEM and/or increasing investment for existing independent market participants. Given the continued dominant position of ESB in the market coupled with the relatively illiquid forward contract market which is further limited in terms of the depth and breadth of contracts available, the most plausible investment case in the SEM is a vertically integrated model. Mandating such new entrants to provide a proportion of their generation in the form of contracts would restrict their ability to affect viable entry into the market and would likely introduce a degree of inefficiency.

One issue that should be addressed in relation to the dominant incumbent (ESB) is the degree of transparency around their forward hedge position. This is likely to be an important consideration in any regulatory response addressing issues of liquidity.

The market maker proposal is an interesting one but is considered to be one that, in the context of the SEM, would have academic as opposed to practical appeal. Given the structure and identified issues with liquidity in the market it is difficult to see how such a proposal could bring about benefits for the market and customers. The relative degree of illiquidity, coupled with structural problems in the market in respect of liquidity, would likely result in large spreads on trades in the market and may restrict as opposed to improve liquidity in the market. Mandating the role of market maker on the dominant firm with limited/restricted spreads may be a possible option in this regard and may be able to be incorporated into the market power mitigation strategy as a deliberate, combined approach to addressing market power and liquidity in the SEM.

10. What product types and in what proportions should a minimum specification market maker offer? What eligibility restrictions should there be to trading with market makers?

Should RAs consider this approach in any more detail, as a practical and appropriate response to the current liquidity situation in the market, VPE would wish to reiterate the comments already made in relation to reform of DC products, as part of a minimum specification market maker design offer. Importantly, but not exhaustively, this should include sufficient product depth and breadth to meet the demands of market participants (e.g. Mid-Merit 2 and weekday/weekend products), as rolling 12-month offerings. However, given the possible practical issue with a market maker approach in the SEM, auctions (with buy-side recognition) may be a more appropriate mechanism for advancing liquidity within them SEM

11. Do you agree with the CEPA analysis of the ability of structural remedies to address the competition problems presented by the hypothetical structural scenarios outlined in section 6 of the accompanying paper?

Firstly, it has been and continues to be VPE's considered view that the vertical and horizontal reintegration of ESB has unambiguously negative consequences for the market. From our reading the possible structural remedies forwarded in the CEPA report, no comfort has been taken and indeed no assertion by CEPA has similarly been made, that indicates either structural remedy would be effective. In light of this, and further to the issues raised herein and previously in response to SEM/10/057, VPE remain wholly opposed to the vertical reintegration of ESB and draw no comfort from the somewhat abstract structural proposals forwarded in the CEPA report, namely of an independent power producer or of the structural separation and ringfencing of ESB into two separate vertically integrated companies.

As stated elsewhere in this response, VPE consider the further divestment of ESB plant to be appropriate and furthermore that unlike the previous divestment arrangement with the RAs, any subsequent divestment be effective in achieving an outcome that is beneficial to the market and competition, as opposed to one that further improves ESB's market power.

12. Will ESB's liquidity proposal be effective in assisting contract liquidity in the market if it is allowed to vertically and horizontally integrate? Will this proposal facilitate competition in the wholesale and retail market? If so, why? If not, why not?

Given the ESB propose to only offer liquidity commitments in return for vertical and horizontal reintegration, VPE do not consider it appropriate to consider these proposals in light of our firmly held view that such reintegration should be firmly opposed.

Should this matter arise for consideration in the future, following significant structural change in the market, VPE would expect any such liquidity proposals to be within the remit of the RAs. Proposals advanced by the dominant electricity company in the SEM are inappropriate for wholesale adoption by the RAs and such matters, in future, should be subject to consultation in early stages of development with any resulting developments being RA led and certainly not the unfettered proposals of the company such ring-fencing measures, as a market power mitigation measure, are designed to address.

Furthermore, as stated by VPE and others in response to the previous consultation (SEM-10-057) there is an issue with liquidity within the SEM. it may therefore be useful to take the ESB proposal as a starting point or as one of a number of options for addressing this issue, absent any further consideration of reintegration proposals. Without any reintegration of ESB's businesses, these proposals may understandably be diluted but the principle underlying them could be advanced by the RAs as a possible means to addressing the liquidity issue in the market.

13. Will increased wind penetration affect demand for contracts and the need for market liquidity?

VPE consider such a hypothesis to be probable in the context of the SEM and forthcoming planned increases in the penetration of variable generation on the system. Importantly such a development has the likelihood of further decoupling the link between SMP and fuel prices in the SEM, thus placing greater importance on the need for enhanced market liquidity. This would effectively increase the demand for forward electricity contracts and render imperfect hedges (e.g. fuel hedges) less effective in achieving their principal objectives for market participants.

In addition to this, VPE reiterates the consistently held view that liquidity is a matter the needs to be addressed in the SEM at present and to the extent that future developments are likely to increase the demand for enhanced liquidity, the need for timely, targeted and effective action becomes an imperative.

4. Concluding remarks and suggested further work

The issues of market power and liquidity in the SEM are important to all market participants. The SEM design is predicated on an underlying market structure that was, and continues to be, one whereby the old monopolies remain dominant in the market. Proposals to increase the market power of the largest company in the market should not be advanced as to do so would adversely affect participants, the market and customers. The prevalence of ESB's reintegration proposals throughout this consultation have further, although unrelated, adverse consequences for the market as appears to have hijacked the consultation and prevented these important market issues (market power and liquidity) from being investigated, assessed and reported on, on their merits.

A market power mitigation strategy should not provide a basis for the unfettered accrual of market power by any one market participant. Similarly, issues of market power will continue to act as a constraint to future market design and developments as long as it remains a feature of the market. For these reasons, as well as those outlined within this response, it would be considered to be short-sighted, damaging, and irresponsible of the RAs to consider the ESB options in any further detail at this time.

The promotion of competition should be advance by the RAs and for the benefits of competition to best realised in the market, real competition, as opposed to regulated competition, should be the means by which the RAs seek to deliver this objective. To this end, it is VPE's considered view that the RAs should seek to consider, as part of this investigation of market power, the possibility of effective divestment of ESB and the potential for further separation. Such an investigation is likely to be both relevant and important in the context of the McCarthy Report and the future of State Assets.

Liquidity is similarly an important issue and one highlighted by most respondents to the RAs initial consultation with most calling for improvements to the current situation. To this end, VPE would encourage the RAs to further engage with industry, perhaps through a series of working groups, to develop a strategy to address this issue. Proposals to address this issue should have industry-wide support and importantly from a transparency perspective, should not be the product of an apparent horse-trade between the dominant firm in the SEM and the RAs in return for even greater degree of market power. Early attempts have been made by industry to address this issue collaboratively through an industry forum but to date only the ESB proposal has been presented with no follow up or agreement on relevant issues raised by participants. However, such follow up may be unnecessary given our continued opposition to addressing the important issue of liquidity, only by compromising the relevance of real competition in the market that ultimately disadvantages customers.

Clearly additional work is required to address the issues raised herein and it is therefore considered appropriate for a further consultation paper on this issue to be published calling for industry comments on the RAs views of possible future developments in relation to these matters. Such a move would increase transparency and minimise potential issues of regulatory risk for the market, particularly arising from any decisions to allow change that appears overtly counter-intuitive to the further development of competition and the policy being advanced at a European level.