While both of the above options have merit, they still contain some degree of subjectivity. Enforcement via Option 1 would be based on MMU judgement, and if not stringently enforced, market participants will have no incentive to submit fair bids. Option 2 involves less judgement due to its automated nature, however the mechanistic set of rules or boundaries that participants must operate within could lead to the potential for rules to be bent or abused.

The goal is to have competitive SRMC pricing in the Balancing Market, which will likely not have sufficient competition. Invis Energy therefore believes that the best method of achieving this is to remove all subjectivity and just apply prescriptive bidding controls (Option 3) to Balancing Market bids. Treating all participants equally by applying formulaic SRMCs universally will achieve all five of the RA's key principles for Balancing Market mitigation: Option 3 will be effective and targeted in its universal application to all participants. It will also be flexible as long as the RAs ensure that the formulaic SRMC calculations are regularly updated. Option 3 is also practical because the MMU will be required to monitor participant activity regardless of the option chosen, and imposing prescriptive bids will reduce the subjectivity and the required intensity of monitoring activity. Finally, Option 3 will be transparent as the formulaic SRMC calculations would be published by the RAs.

4. Market Power Mitigation in the Ex-Ante Markets

Again, Invis Energy believes that the Balancing Market will be the most exposed to the threat of market power, and Invis Energy supports heavy control of bids in that market.

The Intraday Market will likely be the next most exposed to market power due to shorter time to gate closure and uncertain levels of liquidity. However factors such as REMIT monitoring, non-mandatory participation, dispatchable/elastic demand and eventual market coupling should help mitigate market power.

The Day-Ahead Market is likely to have very little exposure to market power also due to REMIT, non-mandatory participation, dispatchable/elastic demand and coupling with the GB market. Furthermore, the Day-Ahead Market will likely be the most liquid market in the I-SEM due to the auction format the and also being the first opportunity to contract physical power ahead of delivery in the I-SEM.

Invis Energy believes that heavy regulatory intervention would have adverse effects on ex-ante market dynamics, and should therefore be avoided.

Furthermore, if prescriptive bidding controls are applied to the Balancing Market, there will be little opportunity for lucrative trading in that market. The Balancing Market will instead just serve as an arena for the TSO to carry out balancing actions at least cost (which should be desired outcome of the design of this market). This should incentivise participants to push volumes into the more dynamic and unrestricted ex-ante markets where they can actively trade, thus promoting liquidity and mitigating the potential for market power in those markets. This reduces the necessity for ex-ante regulatory intervention.

With these factors in mind, Invis Energy supports ex-post MMU monitoring and retroactive offer replacement where required. If such a methodology is to be implemented, it is important for transparency and fairness that market participants understand the monitoring principles that the MMU will be operating under. There should therefore be an accompanying principles document that clearly outlines the regulator's expectations for participant behaviour and the rational that will be used to monitor and intervene on participant activity. Invis Energy therefore supports Option 2, provided that the bidding principles are not overly onerous, which would have the adverse effect of constraining active participant trading.

Invis Energy notes that Option 4 (Market Abuse Condition) could be effective, however breaching licence conditions has very serious ramifications and may be too severe a punishment, meaning that regulators may be hesitant to reprimand market power abusers. In other words, it may be too big a stick to effectively wield, and therefore not utilised often enough, leading to a certain level of market power abuse being tolerated.

5. ESB market share and market power

As has been previously discussed at length, ESB hold a considerable position of dominance within the supply and demand side of the markets. Their large and diverse generation fleet gives them huge potential to influence the I-SEM, and as confirmed by the analysis presented in the consultation paper, they will continue to be the dominant player going forward.

Invis Energy therefore supports implementation of measures which will mitigate ESB's market power. These above measures should also be applicable to any other existing of future market participant who are adjudged to hold market power.

Invis Energy supports the continued use of forward contracting obligations in the I-SEM. FCOs (either DC's or some other instrument) will promote liquidity in the forwards market and reduce the incentive for the FCO writer to exert market power in the FCO reference market.

Invis Energy also supports the continued vertical ring-fencing of ESB and other dominant market participants. The Irish market is small, and to relax the current vertical ring-fencing measures would only harm competition.

Finally, Invis Energy believe that ESB's considerable position of market power may justify additional specific, targeted market power mitigation measures to be imposed on them, such as specific licence conditions.

Invis Energy looks forward to continued collaboration with the RAs on the design of market power mitigation measures in the I-SEM through further consultation and public forums.

Yours sincerely,

Emma Tinker

For and on behalf of **Invis Energy**

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Response to the Market Power Mitigation Consultation Paper (SEM-15-094)

To:	Gonzalo Saenz Commission for Energy Regulation The Exchange Belgard Square North Tallaght Dublin 24	Joe Craig Utility Regulator Queen's House 14 Queen Street Belfast BT1 6ED

Date: 12/01/2016

1. Introduction

Invis Energy welcomes the opportunity to provide feedback to the joint Regulatory Authorities in relation to the consultation on market power mitigation measures. Invis Energy would like to commend the RA's intent to highlight and address the issue of market power in the I-SEM wholesale market.

Invis Energy was established in 2011 as a joint venture between Invis Energy's Renewable Energy Fund and the Craydel Group, an Irish engineering company for the development, construction and operation of onshore windfarms in Ireland. Invis Energy currently has 87MW across two wind farms in operation, 65MW under construction and a substantial project pipeline of over 500MW representing around a quarter of the windfarms expected to be built in Ireland through to 2020.

Invis Energy's main concern in the I-SEM design is the vulnerability of the Balancing Market to the influence of market power, and the adverse effects this could have on wind participants in particular, who will likely be more exposed to imbalance costs due to their intermittent mature. As competition will likely not be sufficient to encourage competitive bidding in the Balancing Market, Invis Energy supports the implementation of prescriptive bidding controls based on short run marginal costs calculated by the RAs in order to ensure fair imbalance prices.

2. SRMC Cost Calculation

Invis Energy supports the use of formulaic SRMC calculations as a tool to monitor the bidding behaviour of I-SEM market participants and replace bids when required.

Invis Energy believes that greater clarity and detail will be required in the next stage of this consultation on the calculation methodology the RAs intend to implement as part of I-SEM market power mitigation measures.

While necessary, it is important that the bids calculated are accurate and represent the true cost to generators when all other revenue streams are accounted for. Implementing formulaic SRMC calculations could introduce the risk for error or misrepresentation, particularly in the calculation of start costs. Invis Energy would have particular concerns that there would be opportunity for market participants to overstate start costs due to the complexity in their calculation.

It is also that when calculating formulaic SRMC bids for participants, the regulators must realise that many participants will be earning payments other than energy payments that will contribute to their cost recovery, for example via reliability options and system services contracts. The RAs must be wary of participants overstating start costs and other fixed costs in the energy market – costs that may already have been covered by a reliability option fee, for example.

In summary, it is important that participants' bidding activities are monitored on a holistic basis across all I-SEM markets and mechanisms, as all these revenue streams will feed into the ultimate costs recovery of participants' assets.

3. Market Power Mitigation in the Balancing Market

There is no doubt that the Balancing Market will be the most susceptible to the threat of market power exertion due to the small, physically constrained nature of the Irish power system. The modelling analysis presented in the consultation paper confirms that this is the case. Wind generators will likely be heavily present in the Balancing Market due to their intermittent nature and forecasting errors. The market power mitigation measures chosen must work in parallel with the overall balancing market design to ensure that the balancing market is liquid, competitive and generates fair imbalance prices that do not unfairly punish all participants with imbalances.

Invis Energy believe all three options have merits, as explained below, but ultimately Invis Energy supports Option 3, prescriptive bidding controls.

Option 1, MMU triggered Intervention, could provide enough mitigating incentive to market participants provided that there is a zero-tolerance attitude to punishing participants who are observed submitting abusive offers. If market participants feel that they are being closely watched and will be penalised through offer replacement if caught, this could be sufficient to mitigate market power abuse. This option would also likely be cheaper to implement than an automated monitoring solution.

Option 2b, which involves adding automatic intervention functionality to the balancing market flagging and tagging mechanism, also has merits. Invis Energy particularly support the implementation of non-SRMC bid replacement for non-energy (constraint) actions. There is no reason why market participants should be receiving uncompetitive prices for system constraint actions.