

# **DSO Compliance Report 2010**

**ESB Networks Ltd**

**31<sup>st</sup> March 2011**

## **Introduction**

ESB Networks Ltd was vested as Distribution System Operator (DSO) on 1<sup>st</sup> January 2009 in accordance with the European Communities Regulations 2008 (S.I. 280 of 2008). ESB Networks Ltd subsequently prepared a Compliance Programme in accordance with Regulation 11 of S.I. 280 which was approved by the Commission for Energy Regulation (CER).

This Report outlines the activities undertaken by ESB Networks Ltd in relation to the implementation of the Compliance Programme during 2010.

## **Statutory and Licence Obligations**

Regulation 12(1) of S.I. 280 of 2008 provides that within three months after the date of each anniversary on which it was established, the DSO shall prepare a compliance report about the implementation of its compliance programme during the twelve months ending on that date and shall submit it to CER for approval. .

Condition 18 of the DSO Licence also requires the DSO to report to CER on the effectiveness of the practices, procedures and systems implemented by the Licensee under the Compliance Programme.

This Compliance Report addresses the requirements of both the Statutory Instrument and the Licence as outlined. This time-line for Reporting has been agreed with CER.

## **2010 Compliance Activity Overview**

The following is a summary of the compliance issues that arose in 2010:

### **1. Compliance Officer**

- Condition 18 of the DSO Licence provides that the DSO shall appoint a Compliance Officer to monitor compliance with the Compliance Programme. Mr Paul Stapleton resigned as Compliance Officer on 21<sup>st</sup> June 2010. The role of Compliance Officer was temporarily assigned, with the approval of the Managing Director, to Ms Annelie Walsh. The Board of ESB Networks Ltd approved the appointment of Caitriona Kinsman as Compliance Officer on 31 August 2010.

## **2. Management/Organisation Separation**

- The Board of ESB Networks Ltd met on a number of occasions in 2010.
- The Directors of ESB Networks Ltd and the Senior Management Team have no day-to-day involvement in the management or operations of any ESB generation or supply businesses.
- The performance targets for the Managing Director and Senior Management Team relate solely to the performance of ESB Networks and are not linked in any way to the performance of ESB's supply or generation businesses.
- In July 2010 CER granted approval, pursuant to Condition 18.3 of the DSO License, to the integration of ESB's telecoms businesses within ESB Networks. A revised Compliance Programme was approved by CER in July 2010.
- In accordance with Condition 32 of the DSO Licence, a Certificate of Resources was approved by resolution of the Board of ESB Networks Ltd on the 13<sup>th</sup> December 2010 confirming that the DSO has sufficient resources and financial facilities to enable the DSO carry on the Distribution Business for twelve months from the date of the Certificate. The Certificate was submitted to CER on 15<sup>th</sup> December 2010.
- ESB Networks Ltd and ESB continue to operate at arms length on the basis of an Operating Agreement and Personnel Agreement approved by CER.

## **3. Compliance Code of Conduct**

- Condition 18(8) of the DSO Licence provides that the DSO shall prepare a Code of Conduct, subject to the approval of the Commission, which shall apply to every Director and to every person employed by the Licensee. The Code, which had been in place since 2002, has been revised and updated to reflect the further legal unbundling of the DSO, the establishment of ESB Networks Ltd and the Compliance Programme approved by CER. The revised Compliance Code of Conduct for ESB Networks Ltd was approved by CER in July 2010.
- The Code sets out the obligations of staff to ensure that no supplier or generator, including ESB's own supply and generation businesses gains a commercial advantage as a result of unfair discrimination, or access to confidential or commercially sensitive information relating to ESB Networks.
- The Code sets out the principles that ESB Networks staff must adhere to in carrying out their day to day duties and in particular covers:

- Confidential and Commercially Sensitive Information
  - Restrictions on the transfer of information
  - Staff Transfers
  - Restrictions on access to premises and information systems
  - Non- Discrimination
- The Code of Conduct was briefed to all ESB Networks staff in September 2010. Staff in other ESB business areas who procure services from, or on behalf of, ESB Networks and staff that carry out ESB corporate duties in relation to ESB Networks are currently being briefed.

#### **4. Staff Transfers**

- There were a number of changes in the Senior Management team of ESB Networks during 2010. The new members of the Senior Management Team have transferred to ESB Networks Ltd. in accordance with the transfer plan.
- Mr Pat O'Doherty resigned as Managing Director of ESB Networks Ltd in February 2010 as he was appointed as Director of ESB Energy International. Mr Paul Stapleton, Compliance Officer, took up a new role in ESB Corporate Centre. In both instances, their secondment agreements were terminated and the procedures set out in the Staff Transfer Business Separation Guidelines and the Code of Compliance were fully implemented. This involved, inter alia, revoking IT access, the return of keys and access cards and obtaining confirmation that commercially sensitive information would not be brought to the new position.
- Mr Bernard Byrne resigned as a Director of ESB Networks Ltd with effect from 30<sup>th</sup> April 2010 to take up a position outside of ESB.

#### **5. Separate Accounts**

- ESB Networks Ltd continues to have separate bank accounts to which income received is lodged and from which payments are made.
- The Regulatory Accounts for ESB Networks Ltd for 2010 have been prepared and audited and will be submitted to CER in April 2011. The Regulatory accounts will detail separately the costs and revenues of the telecoms business.

#### **6. Compliance Activity Programme**

- The DSO Compliance Programme approved by CER included a Compliance Activity Programme whereby the person responsible for the relevant area in the Networks business is required to sign off on an annual basis that the necessary measures and controls have been put in place to ensure compliance with Licence

requirements. The key areas for which this applies in the Compliance Activity Programme are:

- Premises Separation
  - National Customer Contact Centre
  - IT Separation
  - Accounts
  - Staff Briefing and Training
  - Staff Transfers
  - Connections to the Distribution System
  - Wind Generation Connections
  - Metering and Data Services
  - Services carried out at supplier request
  - Regulatory
  - Legal
- A sign-off sheet has been received from the manager of each of these relevant areas confirming compliance with the DSO Licence obligations. No material compliance breaches were identified in this process with the exception of the breach referred to below. [Copies of the sign-off sheets are available to CER on request].
  - In addition, ESB Group Internal Audit was engaged to assess the adequacy of ongoing compliance by ESB Networks Ltd. with the governance arrangements and the relevant Ministerial and Regulatory consents. The auditors' findings are set out in Section 9 below.

## **7. Breaches**

In May 2010 an email was sent in error to a supplier containing confidential information. Steps were immediately taken to advise the unintended recipient and the email was deleted without being opened. A detailed report was sent to CER and the Data Protection Commissioner on the incident and preventative actions have been taken to prevent a reoccurrence.

## **8. Management and Staff Communications**

- The Board of ESB Networks Ltd. was given an update on Compliance issues in April 2010 and a detailed presentation on the Compliance Code of Conduct and other compliance issues was made to the DSO Board in August 2010.
- The new members of the Senior Management Team of ESB Networks have also been fully briefed on compliance requirements.

- As set out above, ESB Networks Staff have been briefed in relation to the confidentiality and non-discrimination requirements set out in the Compliance Code of Conduct. A programme is underway to brief staff in other businesses who interact with ESB Networks.

## **9. Audits**

- ESB Group Internal Audit carried out an audit of ESB Networks Ltd in October/November 2010. The Group Internal Auditor reported that there is a satisfactory level of compliance by ESB Networks Ltd with the governance framework and DSO Licence obligations, including internal compliance monitoring and reporting.
- Group Internal Audit noted that the internal control framework is operating effectively and there is high level of compliance reported, with only one breach, as set out above, arising to date. [A copy of the key audit findings is available to CER on request].

## **Summary/Conclusion**

ESB Networks Ltd continues to adhere to the stringent compliance requirements set out in S.I. 280 of 2008, the DSO License and the Compliance Programme in relation to non-discrimination and independent operation of the DSO and the Separation of the Distribution Business.

I am satisfied that the framework established is comprehensive, is operating effectively and has been adequately tested and reviewed. Other than the breach referred to above, there have been no material compliance breaches.

This Compliance Report is submitted for approval of the Commission.

**Caitriona Kinsman  
Compliance Officer  
ESB Networks Ltd.**

**31<sup>st</sup> March 2011**