



# Submission to Consultation on Private Wires

Department of the Environment, Climate  
and Communications

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Coimisiún um  
Iomaíocht agus  
Cosaint Tomhaltóirí

Competition and  
Consumer Protection  
Commission



## Introduction

The Competition and Consumer Protection Commission ('the CCPC') welcomes the opportunity to respond to the Department of the Environment, Climate and Communications ('DECC') consultation on Private Wires.<sup>1</sup>

The CCPC has a statutory function under Section 10(3)(a) of the Competition and Consumer Protection Act 2014 to provide advice to policymakers on matters likely to impact on consumer protection and welfare, or competition, and the CCPC's submission reflects this mandate.

We recognise that there is merit in introducing legislation to permit Private Wires, as this will introduce more options for customers in the Irish electricity market and it may allow for the quicker delivery of much needed infrastructure. However, it will be important that the challenges that Private Wires may create are adequately addressed before they can be permitted. It would be valuable to establish the number of contestably built connections or Direct Lines currently in operation. Once that has been established, then an analysis of how they have performed may be of benefit in identifying how to overcome any challenges that Private Wires may create.

There are potentially significant consumer protection risks if Private Wires are to supply groups of domestic households and any benefits of including this group needs to be more clearly defined. It will be very important to ensure there is no risk of domestic households being trapped in a captive market if they are to be supplied by Private Wires. The importance of avoiding this risk also applies to any business located in a business park that is supplied by a Private Wire.

Many of the challenges identified in the consultation could be addressed by permitting Private Wires on a phased basis for projects where the risks are lowest and potential benefits the greatest.

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<sup>1</sup> Due to the technical nature of many of the consultation questions, our response will focus on the overall themes of the consultation rather than addressing specific questions.

We set out our views in more detail below.

### **Increasing competition and choice**

The CCPC and our predecessor organisation, the Competition Authority, have long advocated for the opening up of different aspects of the electricity market to competition, from generation through to supply, in order to offer more choice to customers.

We have welcomed the progress that has been made since the liberalisation of the energy markets and we are in favour of proposals that would facilitate more choice for customers in aspects such as the transmission and distribution of electricity. We acknowledge that if legislation to permit Private Wires is introduced, this would open up further opportunities for customers when sourcing their electricity supply.

Since current legislation greatly restricts the potential for privately-owned power lines, it means there is little option available to customers but to choose to source their electricity via infrastructure owned and built by the Electricity Supply Board (ESB). This lack of choice can create difficulties for large energy users if they have to wait for extended periods of time in order to secure a connection to the electricity grid.

There is therefore merit in measures – such as Private Wires - that open up further aspects of the Irish energy market to competition, and would allow for the quicker roll-out of key infrastructure. Alongside greater choice, the other possible advantages of Private Wires that are set out in the consultation document – such as their ability to reduce demand on the electricity grid and potentially help deliver further electric vehicle charging infrastructure – make a strong case for introducing the required legislation to permit their use.

However, it is important to note that treating electricity networks as a natural monopoly does have some benefits – in terms of efficiencies surrounding cost, safety and security. While the benefits of permitting Private Wires may outweigh any benefits of the status quo, the Government must be confident that those benefits are likely to be realised before they are to be permitted.

While current national legislation covering the electricity sector in Ireland - the Electricity Regulation Act 1999, as amended – and separate EU legislation does allow for contestably built connections and Direct Lines, this is only in very limited circumstances and it appears from the consultation that it is unclear how many contestably built connections and Direct Lines are in operation. Although the number may be low, once the exact number has been established it would be beneficial to conduct analysis on how they have performed and any lessons learnt could be applied if Private Wires are permitted.

### **Challenges of Private Wires**

We note that the consultation document has identified a wide range of potential challenges that will need to be addressed if Private Wires are to be permitted. It will be important that these challenges are all adequately addressed before moving forward with introducing any new legislation in this area.<sup>2</sup>

Ireland is in an advantageous position in terms of developing policy in this area as many other countries currently allow for privately-owned power lines. The approaches taken elsewhere could prove useful in identifying solutions to the challenges Private Wires present in the Irish context.

If Private Wires are to be permitted, we would expect that the regulatory regime put in place would uphold and maintain current Irish and EU competition law. This would suggest that Private Wires should be regulated within the regulatory regime that is currently in place.

Although, the type of customer most likely to benefit from Private Wires would appear to be large energy users, we note the consultation envisages that end users could also include mid-sized users and groups of domestic households such as housing estates or apartment blocks. If this group are included, then the potential benefits to them would need to be clearly defined, as including domestic households as potential users of Private

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<sup>2</sup> The measures that will need to be taken to overcome many of these challenges will be very technical in nature and it is not in the remit of the CCPC to address them. Therefore, we will limit our response to the competition and consumer protection related challenges that are set out in the document.

Wires could create additional consumer protection challenges. One challenge relates to switching, therefore, it is welcome that the consultation takes account of the ability of customers to change their electricity supplier, and the regulation of operators, generators and suppliers if Private Wires are permitted.<sup>3</sup>

It is important that customers are free to purchase electricity from a supplier of their choice, as required by European Union Regulations. The importance of this ability to switch suppliers is true of all types of customers, but it is of particular importance if Private Wires are to be used by domestic households. If this type of customer was to find that their electricity was provided by a Private Wire, they must have the ability to switch to another source in order to benefit from better costs and services that may be found elsewhere. There must be no risk that any new policy could potentially result in the creation of a captive market, whereby groups of domestic households are severely limited in the number of suppliers of electricity available to them to choose from.

In regard to international examples, the CCPC notes that in Australia, a privately-owned electricity service is known as an Embedded Network. Such networks have received scrutiny by regulators and the media recently as a result of customers in an embedded network having difficulty buying energy from a seller other than the provider of the private network. This is often because of the way the network has been wired. The situation has meant that customers are unable to switch even if their energy bills increase significantly.

While the operation of private-owned power lines may differ in each country, the example of embedded networks in Australia highlight issues that may arise with Private Wires if they are not addressed in the initial design.

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<sup>3</sup> We would encourage policymakers to always keep in mind the potential competitive impact when introducing new legislation or regulations. The Organisation for Economic Co-operation and Development (OECD) has designed a helpful competition assessment toolkit that is aimed at policymakers and includes a series of questions that focuses on the competitive impact of new laws. These questions are intended to help evaluate the impact of the law and should be kept in mind during the policy formation process.

The concerns outlined above in relation to domestic households would also apply to businesses. The consultation document envisages business parks as one potential opportunity for the use of Private Wires. If a business park is covered, then it is important that businesses located in the park don't become part of a captive market for electricity.

It would appear a way to ensure customers can still avail of the benefit of switching is for the customer to maintain a connection to the national electricity grid. A requirement of a back-up connection would help to ensure access to competitive markets and serve to address other challenges, such as security of supply for the customer in the event of an outage, and the recovery of an asset should the Private Wire project cease to operate. The involvement of ESB Networks in setting standards for Private Wires would help facilitate a connection to the grid.

#### **Approach to permitting Private Wires**

As the consultation document clearly identifies, there are numerous challenges that need to be addressed before Private Wires can be permitted.

To address these challenges, it would appear that there is merit in permitting Private Wires on a phased basis. Some of the potential opportunities of Private Wires would be less risky than others. Allowing them for offshore networks, or where demand and generation are located side-by-side, would create fewer challenges than with other potential opportunities, such as where demand and generation are located some distance from each other.

Private Wires could be permitted in these more limited areas initially, and after they have been operational for a period of time and following evaluation they could then potentially be permitted in other areas.

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