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 stringent enough, 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.


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 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 rationale 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 DCs 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 believes 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
March 3, 2008

To: All Employees

Subject: Important Information Regarding the First Quarter 2008 Financial Results

Dear Employees,

I am writing to inform you about the first quarter 2008 financial results. The company achieved strong revenue growth and made significant progress towards our strategic objectives.

Key highlights include:

1. Revenue growth of 10% compared to the same period last year.
2. Profit margins improved by 2% due to cost reductions.
3. Strong performance across all business units.

We are proud of our team's commitment and hard work, which has contributed to these results. Your dedication is crucial to our continued success.

Looking ahead, we remain focused on delivering value to our customers and stakeholders. We will continue to invest in innovation and growth opportunities.

Thank you for your efforts and contributions.

Best regards,

[Signature]

[Company Name]