

Legislation Committee No.2

National Assembly for Wales – Consultation on proposed Welsh Language (Wales) Measure

Response by E.ON UK plc

Legislative Competence Order

E.ON supported the principle of the Legislative Competence Order (LCO) proposed by the Welsh Assembly to transfer competency for the Welsh language to Wales, on the basis that it is logical that the Welsh Assembly would wish to control the use of the Welsh language in Wales itself. We also accepted the principle that electricity and gas supply are essential services for consumers in Wales and that the Legislative Competence Order should cover these services.

However it is important to distinguish between the principle of the transfer of powers to the Welsh Assembly and the form that resulting legislation might take.

We welcomed the changes to the LCO following debate in both Westminster and Cardiff. We believe that removing energy generators from the scope of the LCO was appropriate, given that generators provide no direct service to customers. We also welcomed the introduction of the "reasonableness and proportionality" clause.

Proposed Measure

The principles of the proposed Measure appear to be sound and we do not have any strong views with regards to the administrative proposals (i.e. the establishment of the office of the Welsh Language Commissioner (to replace the Welsh Language Board), an Advisory Panel and a Welsh Language tribunal).

The Measure also proposes the introduction of Standards relating to the Welsh language. Again the principle of replacing the current individually negotiated Schemes with sector-wide Standards appears to be sound. However the form of the obligation and the process of agreeing Standards could have a significant impact on organisations such as ours and hence on our customers.

Standards - Form of obligation

We are concerned that the proposed Standards will be very prescriptive in terms of the Welsh language service to be offered. This may be appropriate for the public bodies covered by the Measure, but this is not appropriate for companies, like ours, operating in a competitive market.

It is important that Standards applicable to competitive utility markets, such as energy or telecommunications, reflect the nature of the competitive market in which they operate. Legislation that allows these services to be delivered in a variety of ways will be the most effective means of facilitating the use of the Welsh language and will reduce the risk of any less choice for customers in Wales relative to England and Scotland.

The key objective of a Standard relating to organisations operating in a competitive market should be to ensure transparency of the services offered, not to define the level of service. In the competitive market it is legitimate for companies to offer different standards so consumers have a choice; it could become an element on which companies compete.

We would suggest that the Standard could be in the form of a Charter Mark whereby companies are accredited according to the level of Welsh language services they provide. The introduction of a Charter Mark will give transparency about the level of service provided by these companies, which will allow customers to make easy and consistent comparisons between each. It should be up to individual companies in the competitive market to decide how they position themselves. This would allow flexibility and would not lead to disproportionate costs which would put at risk our ability to offer competitive services to Welsh customers.

Standards - Process of engagement

The proposed process of Standard Investigations by the Commissioner to engage with organisations before they are required to comply with a Standard appear to be reasonable, as does the process for challenge.

We would be very keen to work closely with the Commissioner to shape the Standards applicable to our sector. Based on the information currently provided, our one area of concern would be that the Commissioner only needs to give 14 days notice before beginning a Standards investigation.¹ We would appreciate ongoing, long term engagement over the Commissioner's plans on the roll out of sector specific Standards.

We look forward to understanding how the "reasonableness and proportionality" clause will be applied in practice.

Financial implications of the proposed Measure for our organisation

Until we understand the exact nature of the Standards to be imposed on our sector under the framework established by the proposed Measure it is not possible to quantify the financial implications.

However as an organisation that does not currently operate a specialised Welsh Language Scheme the costs involved could be considerable.

We currently supply electricity and / or gas to nearly 108,000 residential customers in Wales, of these only 16,000 are in areas of >60% Welsh fluency. Although we have customers in Wales, none of our Retail customer service activities are based in Wales.

We welcome the fact that the proposed Measure will allow sector-wide Standards to take into account regional variations, provide for varied timescales for compliance across a sector and make specific provision for individual organisations.

¹ Section 60 (2)