

## **SONI Limited**

**-and-**

### **The Northern Ireland Authority for Utility Regulation**

#### **Decision on Permission to Appeal**

1. The Northern Ireland Authority for Utility Regulation (the Utility Regulator) has modified the terms of the electricity transmission licence held by SONI Limited, in a decision published on 14 March 2017, *Decision on the Licence Modifications for the Price Control 2015-2020 of the Electricity System Operator for Northern Ireland (SONI) and Modifications to SONI Limited's Electricity Transmission Licence* (the Price Control Decision).
2. On 12 April 2017, SONI Limited, as a relevant licence holder under article 14B(2)(a) of the Electricity (Northern Ireland ) Order 1992 (the Order), and within the time period allowed by paragraph 1(3) of Schedule 5A to the Order, made an application to the Competition and Markets Authority (CMA), under article 14B(3) of the Order, for permission to bring an appeal against the Price Control Decision, under article 14B(1) of the Order.
3. SONI Limited wishes to challenge the Price Control Decision on three grounds. Ground 1, the Financeability Methodology Ground, is that the Utility Regulator has failed to conduct a proper assessment of SONI Limited's financeability. Ground 2, the Revenue Uncertainty Ground, is that the Utility Regulator has failed to put in place arrangements to secure adequate revenue for SONI Limited; and Ground 3, the Inadequate Allowances Ground, is that the Utility Regulator has not included certain specific costs, which SONI Limited considers it requires to fulfil its functions and Licence obligations.
4. On 28 April 2017, the Utility Regulator made representations and observations to the CMA on SONI Limited's application. In particular, the Utility Regulator submitted that SONI Limited had simply identified matters on which it held a different view from the Utility Regulator and had not identified any errors in the decision.
5. By virtue of article 14B(4)(d) of the Order, the CMA may refuse permission for SONI Limited to bring this appeal only on the grounds that the appeal: (i) is

brought for reasons that are trivial or vexatious; or (ii) has no reasonable prospect of success.

6. I am satisfied that the issues raised in the notice of appeal are serious and of genuine concern to SONI Limited, so that the appeal is not being brought for reasons that are trivial or vexatious.
7. The Notice of appeal is a complex document, which raises a number of issues in support of each of the three main grounds of appeal. Whilst the Utility Regulator has provided various arguments why it considers these grounds of appeal are unfounded, my view is that the issues raised require further consideration as part of the appeal. Without expressing a view on the merits of the submissions being made by SONI Limited, I am satisfied that it cannot be said that any of the grounds of appeal has no reasonable prospect of success.
8. In accordance with paragraph 1(8) of Schedule 5A to the Order, I have therefore decided to grant SONI Limited permission to appeal the Price Control Decision on each of the three grounds of appeal.

Anne Lambert

*Authorised Member of the Competition and Markets Authority*

11 May 2017