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**Third Package Consultation Team  
Department of Energy & Climate Change  
Area 4C  
3 Whitehall Place  
London, SW1A 2HA**

19 October 2010

Dear Sirs

SONI Ltd welcomes the opportunity to express its views on proposed changes to the GB energy market framework in compliance with Directive 2007/72 EC.

We acknowledge that as energy regulation is a devolved matter, the application of this directive to SONI, as a Northern Irish company, will be determined by DETI and SONI will not be subject to the regulations issued by DECC. However in the area of energy regulation, Northern Ireland has adopted substantially identical legislation to that in place in GB and in the interests of a thorough and timely exploration of the question of unbundling as it applies across the UK, we would note as follows.

At Clause 2.17 of the consultation document, Government has indicated that it is not minded to make the ITO model available due to its incompatibility with GB market arrangements. It is also noted that Ofgem will decide whether companies meet the unbundling requirements set out in the directive, including the derogation available under Article 9(9). However a member state may make Article 9(9) derogation available only when a particular test is satisfied, namely;

*'Where on 3 September 2009, the transmission system belongs to a vertically integrated undertaking and there are arrangements in place which guarantee more effective independence of the transmission system operator than the provisions of Chapter V....'*

These criteria must be considered and deemed satisfied by a member state as a precondition to Article 9(9) being made available. However we note that the consultation document contains no guidance as to the interpretation of the test of 'more effective independence' which must have been applied by the Minister before coming to the 'minded to' position to make Article 9(9) available.

Yours sincerely

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