Consultation on First Mover Disadvantage in Connecting to Water and Wastewater Infrastructure

Submission by Chambers Ireland

January 2023

About Chambers Ireland

Chambers Ireland, the voice of business throughout Ireland, is an all-island organisation with a unique geographical reach. Our members are the Chambers of Commerce in the cities and towns throughout the country – active in every constituency. Each of our member Chambers is central to their local business community and all seek to promote thriving local economies that can support sustainable cities and communities.

In September 2019, our network pledged to advocate for and support the advancement of the Sustainable Development Goals. In doing so, we use the Goals as a framework to identify policy priorities and communicate our recommendations, and we have a particular focus on five of the goals encompassing decent work and economic growth (SDG 8), sustainable cities and communities (SDG 11), advancement in gender equality (SDG 5), viable industries, innovation, and infrastructure (SDG 9) and progress in climate action (SDG 13).[1]

~~For this consultation, the following Sustainable Development Goals are the most relevant.~~ This particular consultation is critical to the Sustainable Cities and Communities Goal (SDG 11) as, if implemented well, should ensure more effective capital spending by Uisce Éireann which will support a more rapid transition to denser models of housing. Industry, Innovation, and Infrastructure (SDG 9) is relevant for this consultation as ~~it encapsulates the aim of the policy to build better and innovative infrastructure~~there is a significant national deficit in our water infrastructure, the gap between service capacity and demand needs to be urgently addressed. This policy also promotes efficient use of assets which aligns with the sustainability clause of Climate Action (SDG 13). And, finally, these proposals support
Decent Work and Economic Growth (SDG 8) ~~is in~~ as they are in line with the ~~CRU~~Commission for the Regulation of Utilities principles of Equity and non-discrimination, and cost-recovery. ~~Industry, Innovation, and Infrastructure (SDG 9) is relevant for this consultation as it encapsulates~~

[1] The Chambers Ireland SDGs. Available at https://www.chambers.ie/policy/sustainable-development-goals/chambers-ireland-sdgs/

~~the aim of the policy to build better and innovative infrastructure. This policy promotes efficient use of assets which aligns with the sustainability clause of Climate Action (SDG 13).~~

Summary of our position:

- The Shared Quotable Rebate (SQR) is the optimum option for mitigating first mover disadvantage, subject to minor corrections.
- Reasonable Cost Reduction (~~RCR~~Reasonable Cost Reduction) is the next-best alternative to the ~~SQR~~ Shared Quotable Rebate option, primarily because it is predictable and follows a standard formula.
- The Group Appraisal Rebate (GAR) is inequitable in how rebates are allocated and should therefore not be considered for adoption.
- The option to be able to bundle up and secure receipts should be considered.
- The reimbursement value should be tapered to minimise the risks

Chambers Ireland's Perspective on First Mover Disadvantage in the Connection Charging Policy

As both the Commission for the Regulation of Utilities, and Uisce Éireann have noted, 'First Mover Disadvantage' ~~(FMD)~~ in the context of the current consultation is not a widespread problem ~~at the moment~~. However, it could become a potential issue in the future and therefore ~~it is useful~~ Chambers Ireland supports this effort ~~to take measures towards its~~ to ~~mitigation~~mitigate it's potential impact ~~. We accordingly~~ and welcome the opportunity to contribute to this~~e~~ consultation.

It is our view that policy should be implemented which incentivises developers to provide effective and sustainable infrastructure for our communities. ~~With this in mind~~Therefore, we support the

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~~CRU~~Commission for the Regulation of Utilities's regulatory guiding principles which guide the Connection Charging Policy. Of particular note are the principles of:

a. Cost Recovery: which should aim to ensure that the utility can recover the costs incurred in providing new connections.
b. Efficient use of Assets: promoting the use of existing assets and avoiding stranding of assets.
c. Stability: which should aim for charges to be designed to ensure that the charge level volatility is kept to a minimum.

Three potential options have been proposed for the mitigation of the First Mover Disadvantage issue, namely the

- Shared Quotable Rebate option (SQR),
- Reasonable Cost Reduction (~~RCR~~Reasonable Cost Reduction) option
- Group Appraisal Rebate option.

Option 1, the Shared Quotable Rebate option has been collectively preferred by our network as it is seen to be fair towards the First Mover Developer and it reduces the 'free rider' risk. If the Shared Quotable Rebate ~~(SQR)~~ option is not applied, then ~~it is~~ Chambers Ireland ~~suggested~~ suggests that the second option, i.e. the Reasonable Cost Reduction option, should be selected, among various other reasons, we believe it is comparatively simpler and better to implement. The third option, Group Appraisal Rebate is not favoured by our network as it is likely to be inequitable in how rebates are allocated.

Questions

1. **Which Proposals in your view most aligns with the ~~CRU~~Commission for the Regulation of Utilities Charging Principals and best addresses the issue of First Mover Disadvantage? Please provide rationale for your view.**

The Chambers Ireland perspective is that Shared Quotable Rebate ~~(SQR)~~ option is the most preferred option because it ~~does not impact~~ will allow Uisce Éireann's to use its exchequer derived revenue most effectively. ~~The risk regarding the cost and the timeline is completely borne by the First Mover Developer.~~ It will ~~also~~ positively affect Uisce Éireann's capital investments programme, as Uisce Éireann will be able to focus its capital on strategic investments and not have the impact diluted by co-financing such projects.

We believe this option is fair for the First Mover Developer as it reduces the 'free rider' risk, the 'free rider' issue can occur when the subsequent developer uses the connections of the First Mover Developer without contributing anything towards the cost.

The project and capital risk associated with the infrastructure will be borne by the First Mover Developer in this model which will be more equitable than the current system which often subsidises such projects.

The Connection Charging policy ~~presses upon~~ supports the ~~efficient~~ "Efficient use of Assets" by incentivising developers to locate in areas where ~~exiting~~ network infrastructure capacity already exists which should create greater efficiencies within Uisce Éireann's overall capital investment portfolio.

The Shared Quotable Rebate option is consistent with ~~this~~ the "Cost Recovery" principle of the Connection Charging Policy because with this option the First Mover Developer will only get a rebate if their funded assets are ~~utilised~~ further developed upon in the future, and any Uisce Éireann capital investment have been recovered. It is recognised that there is no guarantee that the First Mover Developer will receive a contribution towards the cost of the network infrastructure required for the connection~~.~~, but we believe that this will support the aims of the National Planning Framework and the public planning trend towards densification.

The Implementability of the Shared Quotable Rebate Option is also aided by the fact that precedent for this option already exists in the Irish and International electricity industry. The Shared Quotable Rebate Option has also been applied by ESB Networks and EirGrid in the Irish Electricity Sector~~.~~, therefore it is a model that many developers will have existing experience of.

~~Through analysis of national and international precedents of First Mover Disadvantage mitigation policies, it was found that 'rebating' type policies are the most common in the electricity industry. These policies vary in design and application, but they usually involve a partial refund to existing customers for connection charges paid for assets that are subsequently used to facilitate connection of new customers to the network. These refunds are usually funded through additional connection charges applied to the new connecting customers.~~

If a Shared Quotable Rebate model is selected then it is preferred that it should replicate the existing model applied in the electricity sector, ~~variations may be applied considering the differences in the electricity and water sectors~~Though we believe that the timeframe should be extended beyond the proposed five year window, and/or there should be a tapering off of the rebate rather than a cliff-edge that might distort the behaviour of potential second-mover developers.

~~There are some disadvantages associated with this policy, for instance rebates will be received by the developer after the connections of subsequent developments to the First Mover Developer funded network infrastructure, this will not eliminate the cost, or the risk burden borne by the First Mover Developer at the time of making the investment decision.~~

It is our view that the five-year timeframe proposed for the ~~SQR~~ Shared Quotable Rebate model is ~~very small~~ too short and should be extended. The rationale for this is that construction projects require ~~more~~ a significant time to be completed. ~~, and therefore t~~There is a risk that second mover developers may strategically structure their development plans so that they ~~will~~ can avoid paying the rebate costs ~~entirely~~. A longer recovery window~~Similarly, it is often difficult to quantify the exact funding required for many projects. It is our understanding that the difference in costs involved for projects may range from €100,000 to more than €5 Million.~~ , and a tapering of the rebate value would smooth out the effect of the capital cost demand on the second mover developer.

~~In the Shared Quotable Rebate option, subsequent connections made to the First Mover Developer's funded assets will be charged differently for existing network infrastructure than if the assets had been planned by Uisce Éireann. This can prove to be unfair for these customers as their connection charge for Uisce Éireann will depend on the original funding model for the assets to which they connect. This inconsistency in charging the subsequent connections is a big disadvantage of the Shared Quotable Rebate option.~~

We ~~also believe~~recognise that the Shared Quotable Rebate option is potentially complex ~~and costly~~to administer for Uisce Éireann. For instance, there could be a need for multiple rebates to be calculated for the same asset when second, third or fourth movers connect, each connection would alter the pro-rata share of the assets. But it is likely that the capital efficiencies that accrue from this model will exceed the op-ex costs of managing it by a significant margin.

~~However, h~~Having weighed the advantages and the disadvantages as discussed above, the Shared Quotable Rebate Option ~~still remains to be~~ is the option that is most preferred by our network. ~~For example, the lack of impact on Uisce Éireann's revenue as well as the positive impact on their capital investment program are major factors in impacting our decision to choose the Shared Quotable Rebate option.~~

The ~~RCR~~Reasonable Cost Reduction approach is ~~the~~ our preferred alternative, if the ~~SQR~~ Shared Quotable Rebate model is not chosen. The Reasonable Cost Reduction ~~(RCR)~~ Policy ~~has~~ also ~~been recognised to work with similar merit and~~ performs well ~~against~~ regarding the ~~CRU~~Commission for the Regulation of Utilities' principles. ~~It is comparatively simpler for customers to understand since it is based on a standard formula. It is recognised as being predictable and easy to take into account while making the investment decision. Uisce Éireann has found this option to be straightforward, easy to apply and administer without a lengthy implementation phase.~~

~~We also think that the Reasonable Cost Reduction (RCR) option recognises that capital funding infact has multiple completing priorities. First Mover Developers are funding network infrastructure in areas of growth that have wider network benefits beyond their own connection requirements. Therefore, it may be reasonable to use the Capital Investment Plan (CIP) growth funds to support First Mover Developers in providing capacity for growth.~~

We agree with the ~~CRU~~Commission for the Regulation of Utilities in that it creates a risk to Uisce Éireann insofar as it would involve investing in infrastructure in a way which is not planned by Uisce Éireann. The upfront discount ~~will~~ would be available to all first-move developers regardless of the location, which has the potential to be problematic. It is also concerning that the potential exists for Uisce Éireann to provide a discount without any ~~concrete assurance~~certainty that a subsequent development will actually happen.

~~Moreover, the Reasonable Cost Reduction (RCR) option solves the problem of inequitability towards subsequent connections. Under the Shared Quotable Rebate (SQR) option the second and subsequent connections that connect to the First Mover Developer funded assets will be charged differently for the network infrastructure than if the assets had been planned by Uisce Éireann. However, under the Reasonable Cost Reduction (RCR) option subsequent developers using First Mover Developer funded assets would not face additional connections charges based on the original funding model for the network infrastructure to which they connect.~~

~~It is in our view that the Reasonable Cost Reduction (RCR) option could encourage connections to the Uisce Éireann network. In the case of the Reasonable Cost Rebate option, the contribution would be received upfront by the developer, and it could be factored into their investment decision making. This option could reduce the potential for First Mover Disadvantage and encourage developers to open up new lands for housing. New connections in such a case would translate to an increase in standard connection charges paid to Uisce Éireann, the "network infrastructure contribution" collected as part of the standard connection charge would fund further investment in network infrastructure.~~

The reason why the Reasonable Cost Reduction ~~(RCR)~~ option is not the most preferred option is because it would be funded via Capital Investment Plan ~~(CIP)~~ growth funds and would be a subsidisation of connection assets through water sector funds. As this option would apply to all First Mover Developers that meet the qualification Criteria, Uisce Éireann would have to make investments in network infrastructure in a way that was not planned by them which may lead to investment of the Capital Investment plan growth funds that is not according to Uisce Éireann's prioritisation. There will also be the opportunity cost of other growth infrastructure that Uisce Éireann could have invested in instead. The Capital Investment Plan ~~(CIP)~~ growth funds intend that the upfront investment from them should be recovered through the network infrastructure element of the standard connection charges paid by future connections. This option in effect socialises the contribution to the developer and it is paid by all new connections instead of the ones that use the assets. Additionally, The Reasonable Cost Reduction option doe not promote efficient use of assets, it would apply upfront so the First Mover Developer would a contribution for making the capacity available even if no future connection utilises the assets. This weakens the incentive for First Mover Developer to locate to areas with exiting network capacity.

2. **Are there any proposals that you disagree with? Please provide rationale to support your view.**

The Group Appraisal Rebate option is not preferred by our network. Since this option would be funded via Capital Investment Plan growth funds, it would in effect subsidise connection assets through water sector funds, there will be the opportunity cost of other growth infrastructures that Uisce Éireann could have chosen for investment instead. It is intended that the investment from the Capital Investment Plan ~~CIP~~ growth funds will be recovered through the network infrastructure element of the standard connection charges paid by future connections. In effect, the Group Appraisal Rebate ~~GAR~~ option socialises the contribution to the developer meaning it is paid by all new connections rather than the ones that use the assets.

Under Group Appraisal Rebate ~~GAR~~, there ~~will also~~would be a cap on the availability of funds for payment of rebates. Therefore, there is a real possibility that the developer will receive less funds under this option than they would under the first two options. The amount received may be impacted by timing and the number of other First Mover Developers that are expecting rebates. This is inconsistent with the principles of Equity and Fairness.

3. Are there any other approaches which you consider would address the issue of the first mover disadvantage in a more appropriate manner than the three presented in the paper?

Chambers Ireland does not have suggestions for any other approaches which could be considered to address the first mover disadvantage issue.

4. Have you any other comments or considerations you would like to raise in your response to the consultation.

We wish to raise the possibility of securitising receipts where possible. Under such an arrangement, developers ~~would~~ may want to have the option of bundling up, selling their rights to a potential future rebate, and so ~~securitising~~ securitise their claims. We believe that such a policy option should be explored, as this could prove encouraging for developers and potentially assist in mitigating the first mover-disadvantage.

Additionally, we would like to ensure that the reimbursement value is tapered. In such a case, the value of the payment received should reduce ~~gradually~~ each every year after the initial rebate window has closed, ~~,~~ and therefore ~~the entire sum will not be received in one day~~avoid the market distortions that could be induced by having a "cliff edge" at the end of the rebate period. This is to avoid the risk that

~~D~~developers ~~can~~ may delay the commencement or staging of projects ~~based on the amount of~~so that they can avoid costs they ~~could expect to~~will incur for their connections. ~~However, if the charge is tapered and reduces by a certain percentage every year then altering timelines could put the second developer at a disadvantage as they would receive less payment. Similarly, it would increase the timeline over which the First Mover Developer would receive the payment even if the value of the payment received diminishes with time.~~

5. Do you agree with the ~~CRU~~Commission for the Regulation of Utilities'~~s~~ preferred option? Could you support your answer with clear rationale.

We agree with the ~~CRU~~Commission for the Regulation of Utilities~~'s~~ preferred option as the Shared Quotable Rebate approach ~~for the various advantages associated with it~~ as we have discussed earlier in this consultation. Major advantages include the lack of impact on Uisce Éireann's revenue and the positive impact on their capital investment program. We ~~resonate with the fact~~believe that this approach is the most fair, accurate and cost reflective.

If some of the disadvantages regarding this policy can be addressed, it would be much favourable. ~~Some of the disadvantages to be addressed includes the issue of cost or risk burden being borne by the First Mover Developer at the time of the investment decision.~~ We ~~want to press on the fact that the~~ reiterate our belief that the five year time frame for the Shared Quotable Renate approach is ~~small~~ short and that an extension should be considered.~~, the rationale being that construction projects need more time for completion and this could lead to developers avoiding to pay the costs completely.~~