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**BILLE BSL (LÍONRAÍ CUMARSÁIDE LEICTREONÁÍ), 2013  
ESB (ELECTRONIC COMMUNICATIONS NETWORKS) BILL  
2013**

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**EXPLANATORY MEMORANDUM**

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**Introduction**

The Bill provides an explicit legal basis to enable the ESB to engage, now or in the future, in the business of installing and operating an electronic communications network and providing electronic communications services, either alone or in conjunction with another company. The Bill extends the existing definition of electric line to include infrastructure associated with an electric line for the purpose of carrying electronic communications services. Appropriate provisions are also included in respect of the ESB's existing wayleave powers in the context of its operation in the fully liberalised telecommunications market.

**Financial Implications**

The costs associated with the Bill amount to administrative costs related to pursuing legislative proposals generally. No additional or recurring costs to the Exchequer have been identified.

**Provisions of the Bill**

The Bill comprises of 8 sections, the main provisions of which are summarised below. In this Memorandum a reference to “the Minister” refers to the Minister for Communications, Energy and Natural Resources. A reference to “the Principal Act” refers to the Electricity (Supply) Act 1927.

*Section 1 — Definitions*

This is a standard provision providing definitions for certain terms and words used in the Bill.

*Section 2 — Board may engage in electronic communications networks and electronic communications services*

This section gives the ESB an explicit legal basis to engage in the business of electronic communications networks and electronic communications services either alone or in conjunction with any other company.

*Section 3 — Board may provide access to its electricity infrastructure to another company*

This section enables the ESB to provide any company with (i) access to its electricity infrastructure for the purpose of developing electronic communications networks and (ii) services of any nature to facilitate such development.

*Section 4 — Electric line*

This section redefines the meaning of electric line in the ESB Acts 1927 to 2013 and the Electricity Regulation Act 1999 ensuring that a single definition applies on the statute book. The revised definition is based on the definition contained in the Electricity Regulation Act 1999 and extends the definition to include infrastructure associated with an electric line for the purpose of carrying electronic communications services.

*Section 5 — Way-leaves across land by companies accessing electricity infrastructure of Board*

Due to the nature of the electricity network, parts of the ESB's infrastructure crosses private land. In recognition of this, the existing Electricity (Supply) Acts 1927 to 2004 provide statutory wayleave rights to the ESB which allows it to cross private lands subject to the payment of compensation where appropriate. Given that the ESB proposes to utilise its existing electricity distribution network for telecommunications purposes, such wayleave rights across private lands will be necessary where the ESB provides access to its infrastructure under section 2 of the Bill. Accordingly, this section extends the ESB's wayleave powers across private land in instances where access to infrastructure is granted by the ESB to another company under the Bill. This section has been modelled on section 49 of the Electricity Regulation Act 1999 whereby such powers are subject to the consent of the Commission for Energy Regulation.

*Section 6 — Non application of section 53(2) of Principal Act*

In addition to the wayleave powers in respect of private lands, the Electricity (Supply) Acts 1927 to 2004 also confers powers to fix to any wall, house or building fixtures in relation to electric lines or apparatus. Such powers are not considered appropriate in the development of electronic communications networks, particularly given that existing telecommunications providers operate without such powers. Accordingly, section 5 provides that this power will not apply in respect of the application of the powers conferred by section 2 of the Bill.

*Section 7 — Expenses*

This is a standard provision enabling the expenses of the Minister to be paid out of moneys provided by the Oireachtas. It provides a general authority for the Minister, with the sanction of the Minister for Public Expenditure and Reform, to expend moneys provided by the Oireachtas.

*Section 8 — Short title, collective citation, construction and commencement*

This is a standard provision providing for short title, collective citation, construction and commencement.

*Department of Communications, Energy and Natural Resources,  
December 2013.*