



Office of the Director of
**Telecommunications
Regulation**

**Speech by Etain Doyle,
Director of Telecommunications Regulation**

at the

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**Telecoms Competition
- Developing a level Playing Field -**

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Introduction

Let me start by thanking you for the opportunity to talk today about the development and future of the telecommunications regulatory framework in Ireland. The importance of the telecommunications market is reflected by the attendance at this summit and, looking around, I see some of the main national and international players. The discussions over the next three days should be lively and I am confident that by the end of the summit, we all will go away better informed about key developments and challenges facing us as regulators, policy makers, market players and consumers.

Overview of Irish Telecommunications market

In the past year, the face of Irish telecommunications has changed irrevocably. We have taken our first steps towards competition and an open market in telecommunications. It has been exciting, it has been hard work, and it has been very rewarding. It gives me particular pleasure to address you today with liberalisation now a fact rather than an aspiration, and with the market opening rapidly to accommodate new entrants and new services.

The last six months have seen a sea change in the field of Irish telecommunications. From the situation where we had a near-monopoly incumbent in most areas, we have moved into a liberalised environment offering consumer choice and, even at this early stage, we are seeing the initial benefits of competition. This is evidenced by the number of new players entering the market, the choice of services they offer, and, very importantly, in the prices for those services. I am sure I don't need to quote prices here - we have all seen Telecom Eireann react to the nascent competition by

reducing prices significantly and rightly so. At the same time we have seen the new entrants competing aggressively in some parts of the market, most notably the corporate sector. I want to see this expand into all segments of the Irish market, ensuring that all consumers can benefit from these developments and the Irish economy can boast one of the most advanced competitive and effective telecoms sectors in Europe, or indeed the world.

These are high aspirations, but we have moved firmly off the starting blocks. What we have now is the foundation on which the truly competitive telecommunications market will be built. Much more remains to be done by all the players. For my Office, we must, like the telecommunications operators, consider the implications of our new environment and address the next set of challenges. I am very aware that my Office must remain fast-reacting and forward-looking. The market is changing so rapidly that we cannot stay still. We know what the immediate issues are, and we are addressing these. But we are also keeping one eye on global trends to ensure that we are ready to handle them as they come. It is not just a question of running fast for a little while, it involves programming ourselves to identify directions and run fast all of the time.

Today I would like to talk about some of those immediate issues as well as the more aspirational ones. Now that we have the key elements of liberalisation in place, I will describe my approach to the work we are doing to complete that framework, and our approach to the longer term challenges ahead. What I will say is consistent with our approach to date, that the key to good regulation is to concentrate on ensuring that the market can deliver what consumers need, now and into the future. This means taking

a strong pro-competition stance and providing for as much choice as possible. I will, in keeping with the brief for this talk, outline what the Office is doing, the targets we have set ourselves, and the results that we can deliver to contribute to the development of the emerging competitive telecommunications market.

Approach to Current and Future Challenges

The regulator is an essential enabler of market development, but the regulator should seek in so far as possible to be unobtrusive, to enable choices to be made by the market and most particularly, the consumer. Thus I want to introduce a simple, clear and comprehensive series of licensing regimes for all the different types of technologies and services which may be used by the market. We have already done so for liberalised telecommunications licensing, for radio links, for licensing for testing equipment, for cable/MMDS television transmission, and are working on, inter alia, satellite links and digital terrestrial television. We have a competition underway for wireless local loop licensing. Instead of creating a grand plan for market development, deciding on what tools it can use, I intend to provide as many frameworks as possible so that market players can choose the vehicles they consider most appropriate to meeting their existing and prospective customers' needs. As different vehicles provide opportunities that will suit ever-larger numbers of players, consumers will have ever increasing choice of supplier and range of services.

Low, Cost Oriented Charges by Telecom Eireann to alternative operators

We have been handling some market operations issues since the Office opened, and in particular have arranged for low interconnection rates towards the end of last year. I intend to continue to keep interconnection rates as low as I possibly can, taking

account EU and national law on cost orientation. Low interconnect rates are a key indicator for international investment in Ireland, investment which will grow the market to the benefit of all players including Telecom Eireann. Low rates for all charges by the incumbent to alternative providers give greater opportunities for user choice in quality of service and range of suppliers. The more all market players can compete, the more the overall market can grow. Establishing the cost base for the key indicators of the market such as interconnect and access costs is a major on-going task of the Office, working with the market and with Telecom Eireann in particular. I would like to thank them for their co-operation to date and know it will continue in respect of our current and future work in this regard which I will outline later on today.

Independent Decisions after Widest Possible Review

As I have already stated, my role within the emerging environment is to encourage and facilitate the development of full and healthy competition – competition which can only benefit business, the economy, and society as a whole. The independence of my Office is crucial in this context. It is this independence which reassures the public that the decisions which I make are made in a totally objective manner. The main agenda I need pursue is that which benefits the Irish telecommunications consumer. I take the best available commercial, legal and technical advice so that I can make the best and most informed decisions, having regard to the views of interested parties, supplied to me, in particular through the consultation process.

ODTR Consultation Process

From the outset, I have adopted a systematic policy of consulting publicly, giving all interested parties the opportunity to respond, before making major decisions. The rationale for this is simple – the issues we are dealing with are intended to underpin the market and we should know in detail what the buyers and sellers think. The people who usually know this best are those nearest the coal face, that is, the service providers themselves and their customers. I have to say that I have found it an invaluable tool in preparing for liberalisation and in the ongoing development of our regulatory regime since then. It is a voluntary process, and as such a balance must be struck between obtaining informative comments and the need for transparency. Although I would like to publish all responses fully to make the process completely transparent, this is not always possible as some of the information received may be commercially sensitive and be provided in confidence. I am however, pleased to note that increasingly, respondents are willing to have their comments made available generally. This enables us to provide a more detailed commentary on the responses in our reports outlining our decisions. I am also very grateful for their willingness to respond very quickly where this is needed. Generally, I would like to set a standard of one month for comments, and vary this only for specified good reasons.

It is because I consult with industry and the public that I am able to deliver measures tailored to the needs of the consumer. That is not to say that my decisions are some sort of amalgam of the responses I receive, or are based on what the largest number of respondents have to say about an issue. All responses are considered carefully, and responses have caused me to change my approach. However, after taking all factors into account, the final decision must remain my own – anything else would be an

abrogation of my responsibility. Inevitably, like all regulators, I sometimes need to make decisions that are unpopular – often these are decisions that challenge industry to achieve more, to deliver more, to move faster. It is heartening to note, however, that industry never fails to meet the challenges set for it.

Enforcement of Regulatory Framework

I am very conscious that new entrants need support in getting their operations underway and in sorting out problems in the market as they arise. We have been active in this regard since the Office started. However, with the market fully liberalised, I believe more is needed and am taking steps to increase resources devoted to this service. We have issued a consultation paper on dealing with complaints to which I will refer later, and I trust that forthcoming legislation for my Office will also help in this regard.

Ireland's New Regulatory Regime

If I might turn briefly to describe of the key features of the new regulatory environment set in place for full liberalisation on 1st December 1998.

Licence Structure

Firstly, the licensing structure that applies to the telecommunications sector is an important feature. It is in the licenses that the ground rules are set. It is in enforcing those rules that I fulfil my role as “referee” and ensure that fair play is done.

In preparation for liberalisation we revised the existing structure to come up with something more appropriate, more robust and more flexible. Something that would work in the new environment and provide a firm basis for the developments we saw in

the future. The key characteristics of the regime are therefore simplicity, light-handedness and flexibility while still ensuring protection of the consumer. As an organisation, ODTR is pro-consumer. We have to be. To be otherwise would not achieve our overall aim to maximise the benefits of a liberalised market for the consumer. To get the best results for consumers we have to set the framework for the market players, for it is these players who introduce the competition. I believe that with our new telecommunications licensing structure, we have achieved the right balance, for both consumer and market player alike.

Very briefly, we have three core types of licences

- The Basic Telecommunications Licence
- The General Telecommunications Licence, and
- Mobile Telephony licences

Basic Telecommunications Licence

The Basic licences are issued to companies that provide licensable telecommunications services to the public, but do not provide voice telephony or require numbers for allocation to their customers. This licence will suit those providing specialised services to business customers. Not all services in the telecoms sector are licensable – re-sellers, for example, are generally exempt from the requirement to be licensed. The conditions attached to the Basic licence are not onerous, but are designed to ensure a certain uniformity of minimum standards. Since 1st December last, we have issued ten Basic licences.

General Telecommunications Licence

The General licences are appropriate for companies providing voice telephony, or services that require the use of numbers. A higher level of consumer protection is needed when a company is providing voice telephony, since this is an essential service. The conditions attached to the general licence are somewhat more stringent. Nonetheless, I feel that I have struck the right balance, protecting the user and avoiding being excessively prescriptive. In brief – and the licences are brief, less than 30 pages in total - the main conditions attached to these licences relate to Public Service Conditions, Numbering and Quality of Service, together with enforcement provisions. We have issued nearly 30 General licences since last December. This is, I believe, a healthy indication of the perceived potential of the Irish market.

While the General Licence is a generic text, there are particular conditions attached to the licence where an operator is designated as having Significant Market Power. It has long been recognised that regulation is required where a market with key bottlenecks emerges from statutory monopoly – one or more players have significant power in that market and thus have the potential to act without regard to the normal competitive forces. This is the case in telecommunications in Ireland where one player – Telecom Eireann – controls most of the fixed telephony market. To cater for this, licensees that have been designated as having SMP are subject to additional conditions. They are also subject to more stringent controls in legislation. Examples of those controls include:

- The requirement to meet all reasonable requests for access to its network and all reasonable requests for services;

- The requirement to abide by the principle of non-discrimination;
- Requirement to ensure that charges for access / services are cost-oriented, transparent, unbundled and universally available;
- Operation of a cost accounting system which is suitable for compliance with the principles of cost orientation, transparency and non-discrimination;
- Publication of details of the terms and conditions for access or services and sale at standard prices;
- A prohibition on unfair cross-subsidisation.

The SMP conditions are there for protection of the competitive environment. An SMP operator can compete, but must be subject to more stringent conditions than its competitors, otherwise liberalisation would inevitably fail. The conditions aim to recognise commercial realities while levelling the playing field and opening the market to innovation and competition. The conditions can be applied when any player reaches a position of SMP, and can be dis-applied when SMP is lost in a relevant market. This in-built flexibility is designed to allow for the significant changes that we expect to see in the market in the coming months and years.

Mobile Telephony Licence

The mobile telephony market has been a major success story in Ireland as elsewhere in the 1990's. We have two licensees at present and I have made a decision to award a third. However, that is subject to legal action at present. We are currently revising the existing licence texts in the light of liberalisation. Unlike the existing regime, most of the new licence texts will be publicly available.

The Future of Licensing

When developing this licensing regime we took care to look to the future – to new technologies and new developments.

We saw ahead the issue of convergence between wireless and fixed telecommunications. Now we have the reality – in February my Office issued tenders for licences to use wireless technology in the local loop. We have offered 4 broadband licences which would enable a telecoms company to provide substantial service for a new industry in a few months, even in areas with little local infrastructure already. We have also offered 4 narrowband licences which can provide enhanced services including internet to the most remote homes and tiniest businesses, quicker and at less cost than conventional cable. We expect to announce the results of the competition in the summer.

Coming up rapidly behind that, we saw convergence of fixed and mobile services. That reality is now close with the requirement that we licence third generation mobile services – UMTS. This broadband mobile service will provide alternatives for data and Internet access over mobiles as well as an opportunity to develop a whole host of new advanced services. I am pleased to note that the US-EU difficulties about standards may dissipate with the announcement last week of the Ericson/Qualcomm deal. We intend to publish a paper on UMTS later this year and to introduce a licensing regime thereafter.

In a separate development we have also updated the TV transmission regime for cable and MMDS. Already the main cable companies have acquired telecom licences,

enabling them to deliver the whole range of services from TV to multimedia to telephony. I am looking forward to more competition, particularly in the residential market.

We believe that our modular approach to licensing will be able to cope with these developments, at least in the near future. But, being absolutely honest, I have to say that the developments in this sector are so great, so wide-ranging and so revolutionary, that our licensing regime will in the future, need constant scrutiny and updating. It is my belief that there is a place for an ultimate “bitstream” licence – one that is technology neutral, infrastructure independent and allows operators the ultimate freedom to innovate and create. This is my goal. Creating the market reality that goes with this is a job for the market.

There are a number of particular developments that our licences must take into account and I would like to say some more about these in a little while.

Interconnection

A second key plank in the regulatory framework is the interconnection framework within which the networks of new entrants can be connected with that of TE, who have most subscribers as customers already. The costs that new players pay to TE for interconnection can make or break a business case. We have made this a priority and since we started work, interconnection rates have dropped as much as 50%.

Once again, this is just the start. Much of our work in 1999 will be concentrated on more detailed reviews of specific aspects of TE’s costs and on moving to a LRIC base

for interconnection pricing. We published a consultation paper on LRIC costing last week. I expect this work to lead to further reductions in the interconnection rate, thus ensuring that the Irish market is open and welcoming to new entrants. We are also concerned with the range of products for which interconnections rates are set and we have this month issued a comprehensive consultation paper on the Telecom Eireann Reference Interconnection Offer (RIO). We look forward to input from the industry and others on these key consultation papers.

Market Development

So, now to what is happening in the market as we see it – from a Regulator’s point of view. To date, my Office has issued nearly 40 telecommunications licences. Four have negotiated inter connection agreements with Telecom Eireann and more than a dozen are doing so at present. So far, of the companies issued with General licences, 8 are active in the business market and 3 in the residential. More are planning their entry and will start offering services in the coming weeks and months. The market may fragment somewhat in the near future as new entrants identify their own niche markets or take on the existing players head to head. In the normal course of events, we can expect to see mergers and takeovers, management buyouts and, in all probability, some market exits. As in all newly liberalised markets, it will take some time for the marketplace to become established, but given that it is the telecoms market, I do not ever expect it to ‘settle down’.

The telecommunications markets even longer-established liberalised countries, are in a state of rapid development and technological change. We can expect the Irish market to grow very rapidly, to provide choice of supplier and a very much increased

range of products. How fast and what range of products? Your guess is as good, no better, than mine. What we can all expect is a market with a variety of companies playing from different strengths, all concentrating on finding and maintaining markets for their services. This has to be good news for the consumer, both business and residential.

I am asked from time to time if there is a danger of having too many players in the Irish market. In a rapidly growing and changing market, how many is too many? Any company coming to Ireland or expanding in the Irish market is planning not only, if at all, on taking over just existing revenue streams from existing players. This is an expansionary industry, with exciting visions for the future, and the drive and resources to realise them. My view is that it is my job to make it easy for existing and prospective players to enter the market: to create a simple licensing regime: to ensure low interconnect prices and effective access, and to ensure that the regulatory framework is respected by the players, so that the market operates as it should. The choice to enter the Irish market or any segment of it should be made in the boardrooms in Ireland and elsewhere. In so far as possible I do not wish to make decisions on how many players there should be in Ireland: However, in some areas there are constraints such as the availability of spectrum which requires me to make the choices.

Convergence

One of the most exciting developments in the telecommunications sector is the phenomenon of convergence. Talked about for years, it is now becoming a reality. Services that were traditionally only deliverable over one medium may now be

delivered by a variety of media. Voice telephony, once only deliverable over wired dedicated telephone networks may now be delivered using radio frequencies. I have already referred to our work in respect of fixed-mobile convergence. We have all seen the rise in popularity of mobile phones in the last decade: cable television networks, if upgraded, can also carry voice telephony and I have already noted that many of the cable television companies have been granted telecom licences. I am confident that the approach I have adopted to technology and services is sufficiently flexible not alone to deal with future possibilities but to encourage innovation. The new telecom licences cover all telecommunications services other than standard television transmission, and so holders of a new telecoms licence can market innovative media services. What future technology will enable us to enjoy is hard to predict. Who can say what the Betamax of the future will be ?

Digitalisation of TV Transmission

We have completed the digital regime for cable and MMDS transmission and are currently working on the regime for digital terrestrial television, which is expected will rollout in 2000. We are working on the basis that the licensing regime for DTT should be equivalent to that for cable and MMDS: it will not be exactly the same for there are differences between the systems. Ireland also receives digital satellite transmissions since the end of last year. Thus there will be very substantial choice of programming and three choices of type of operator for multi-channel digital television transmission, operating all across the country. What future technology will enable us to enjoy is hard to predict. Given the scale of investment needed and spectrum constraints, it is not possible to provide more in the next five years, but three alternatives is good in international terms. In the immediate term, prior to the roll out

of DTT, in view of the number of customers currently served and in order to avoid market disruption I have indicated that I am minded to provide for the licensing of analogue 'deflector' systems on a short term basis. These systems are subject to considerable limitations and universal service cannot be provided, nor is there any quality standard guarantee. However, I am anxious to deal with their situation in the present state of development of the market, even if the scale and range of technological development and the spectrum needs of the national services does not augur well for their future.

Spectrum and UMTS

As I have already stated, my Office aims to be forward looking – to encourage new technologies and systems which will be viable in the medium to long term. At present, we are well on schedule for clearing spectrum in the 1900 to 2200 megahertz range, for the use of the forthcoming Universal Mobile Telephony System. In accordance with a recent European Parliament decision, licensing of UMTS should start in the year 2000. We will be prepared, and I anticipate that, after an initial testing period, a full range of UMTS services should be available in Ireland during 2002 at the latest.

E-Commerce and Internet

I trust that the regulatory framework we have put in place will succeed in encouraging e-commerce in Ireland. Ireland has set itself the target of becoming a European centre of e-commerce. The target is ambitious, but it is going to be realised because of the sustained commitment of all parties to making it happen. I am pleased to note major recent developments in the market that should develop competition and availability of international bandwidth

There is a lot of work to be done though. It is estimated that only between 9 and 16% of the Irish population has Internet access. It appears likely that the figure is closer to the lower end of this range – of which about three quarters is accounted for by business connections. We have insufficient data to indicate how high the usage level is among this group. Of our huge number of small businesses, under 2,000 have a presence on the World Wide Web. The message has not yet sunk in, but we are aware of major efforts by Government, the Information Society Commission and bodies such as IBEC to popularise use of the Internet, and encourage its use in schools. The Internet is increasingly important, and e-commerce is not a fashion that Ireland can afford to ignore. If we ignore it, we will not just lose out on an immense opportunity, but could jeopardise the secure economic position we have so recently attained. If we do not take the opportunity now to get involved in e-commerce, it will have serious consequences for Irish provided goods and services at retail and wholesale level, and thus for employment and the economy as a whole.

We cannot afford to let this happen. We need to have world class telecommunications services in this country if we are to attract and keep major high tech companies in Ireland. We need all businesses to take the Internet seriously, in a way that most have not dreamt of. In the USA, e-commerce is well established among PC retailers, booksellers, travel agencies, transport companies, banks, and insurance brokers, to name but a few. The same businesses in Ireland have negligible Web presence, if any at all.

My Office has a role in facilitating the provision of the transmission network for e-commerce. Two issues arise, availability and price. I have already indicated how our

licensing regime favours opening up and growing the market. While the issues concerning Internet access are getting substantial publicity, even more important for major development of e-commerce is the pricing of leased lines, which are relatively expensive here. As part of our major programme of reviewing Telecom Eireann's costs, we have requested new proposals on leased line prices generally from Telecom Eireann. These are due in April and we expect to publish our decisions on them in June.

We are just completing a consultation paper on interconnect for Internet and will publish this in April. I am not in a position to say more on this matter just now, as you will understand.

Work-in -Progress

We have recently published, or are in the process of publishing, consultation documents on a wide range of issues. I would like to give you a flavour of the issues on hand.

Accounting Separation

This paper was published on 4 March 1999 and addresses the requirement for accounting separation by Telecom Éireann. It seeks views on the nature and extent of such separation and what information should be published on foot of such accounting separation. Accounting separation provides valuable information on other costing work of the ODTR in dealing with interconnect etc. Its publication provides the market with key information on the market and confidence that cross-subsidisation is not taking place.

Costing Principles

This paper, which is due to be published early next month, will address the costing principles that should be applied when calculating interconnection costs, and will address the appropriate methodology to be applied in establishing appropriate cost drivers and allocation methods to be used primarily for accounting separation purposes.

LRIC (Long Run Incremental Costs)

This paper was published last week and addresses the basis on which interconnection costs are calculated. This is a key issue and has been the subject of much discussion throughout Europe. I have already indicated my preference to the market that LRIC based costing is the most appropriate basis to be used. This is in line with best practice throughout Europe and in particular the European Commission Recommendation on Interconnection. The consultation will seek views on the different methods of implementing LRIC and how they may be best applied in Ireland's liberalised environment.

Unbundled Local Loop

Unbundling the local loop provides an alternative to building infrastructure to gain end to end control of delivery to customers. This is important for the development of enhanced services, in particular in the context of e-commerce. The concept is simple, but implementation raises a range of complex costing and technical issues on which the benefit of the service crucially depend. We are issuing a consultation paper on these issues and I will be particularly interested to hear the views of the market.

Price Capping

This consultation paper is just published: it reviews the price capping mechanism currently in place in Ireland. The review is being undertaken following a direction by the Minister for Public Enterprise, in accordance with the 1996 Act. The current price cap controls the prices Telecom Éireann is allowed to charge for a number of its services, such as calls over the fixed network, line rental and connections to the fixed network. Our initial view, following our examination to date, is that the structure of the cap is still appropriate, but before coming to any final conclusions, I wish to hear the views of interested parties. Telecom Eireann considerably exceeded the level of reductions required under the price cap in both 1997 and 1998. Before deciding on a level going forward, I wish to review comments from interested parties on the considerations to be taken into account. I also wish to review relevant costs and prices in Telecom Eireann, in particular access costing. I will need to take into consideration the relationship between the price cap and issues such as tariff rebalancing, Universal Service and Access Deficit. These issues are discussed in the consultation paper and will be considered in the context of any revised price cap.

Dispute Resolution

We have been handling disputes since the Office was set up, but we wish to bring the system into line with EU and national requirements and make it transparent and easy to use. The paper, which was published recently, proposes a dispute resolution procedure within the ODTR and sets out the linkages to the dispute resolution procedures and service level agreements within operators. The paper seeks views on the proposed process, the scope of its application and the timescales set out.

I have already referred to our recent consultation paper on Telecom Eireann's Reference Interconnect Offer and on Satellite links. The consultation periods on two of our numbering papers, on number portability and carrier preselection, are ending and we will publish our response and plans for introducing these key services in the second half of April.

As I have said, these consultations are just a small part of our work programme for March and April. Other issues currently being addressed include deflector licensing, rate regulation for CATV, telecommunications operators' service level agreements, all of which will be the subjects of consultation papers in the next month, together with the opening of the application process for DCS 1800 spectrum for ESAT Digifone and Eircell

All of these issues are important for the development of the market and will, when concluded and implemented, add another layer to the structure of the telecommunications regulatory framework.

Conclusion

The Office, like the sector it regulates, is still developing and has a great deal to achieve. We are holding a major recruitment drive to ensure that we can continue to deliver on our targets, and deliver a quick response service to the industry as required.

We are also developing our capability in looking to future market developments, reviewing the likely uses of spectrum and technological development into the future. It is a perilous business given the speed of change, but we must ensure that we have as

much information as is available to inform our work. I must in so far as possible, future-proof my policies so they do not become out-dated as soon as a technological innovation is introduced. We need to think out very carefully how new licences should be framed so it is something of a slow process. We will be publishing papers on this later in the year.

As Ireland's telecommunications regulator, I want to see fair competition making a real difference to the lives of consumers. I want to facilitate the industry in delivering this. We need to see a world-class telecommunications sector here in Ireland. My job is to provide an environment where this can happen.

We have moved towards a truly liberalised and open telecommunications market. It is a good sign that so many companies – both Irish and multinational – are starting up and providing a real alternative and a vibrant industry. Top class telecommunications services and infrastructure are key drivers for long term economic health, and Ireland can remain an attractive destination for business only as long as it can compete with the rest of the world in its information infrastructure.

Thank you.

-ENDS-