



Office of the Director of
**Telecommunications
Regulation**

SPEECH

"Regulatory Framework - A Liberalised
Market gives the Consumer Power."

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Telecommunications Regulation to the
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A liberalised market gives the consumer power

Thank you for your invitation to share thoughts with you this afternoon at ‘Net Imperative’.

Yes, your objectives of widespread flat rate internet access, local loop unbundling and broadband access are ones I share. My Office met Ireland Offline last month, and we were impressed by the energy and enthusiasm of your Committee. Since then I have been following the interesting postings on your website. I like your use of the word ‘imperative’ in your theme for this conference. The availability of widespread access to the internet at affordable prices is not a choice but rather a goal which must be shared by all key players; Government; State Agencies, Regulators; industry and indeed consumers.

Before getting into the substance of this issue, I should sketch out in the briefest terms just what my office does, and how our telecommunications market works.

Let us step right back. Decades ago, it was thought appropriate for Governments to provide telecommunications services. We no longer think that. Indeed we no longer think that Governments and agencies should be prescribing the detail of how independent operators should do their business.

Quite simply, any such ‘top down’ system *cannot* work. Technological innovation is so complicated, so rapidly evolving that it is just not possible for any State agency to set out detailed instructions governing all the services that should be offered to consumers. To try to do so would get in the way of competition.

The spirit of this age – a spirit encapsulated in Irish and European law – is one that rejects any such attempts to hem in the producer. However well-intentioned, any such attempts at centralised power stifle innovation. I lived in Russia for a few years in the early 1990s, and speak from experience of the damage done over decades of centralisation.

Today we recognise that creativity and development come from two sources – from technological and business innovation and from consumer demand.

I warmly welcome your coming together as an organisation that clearly expresses a consumer demand. You contribute to the energy of the market.

Let us be absolutely clear about where I stand. I believe that free competition – where the consumer can genuinely pick and choose in a market free of monopolies and restrictive practices – is when the consumer has real power. This is also an environment that encourages innovation. This in turn generates more choice, and so we get onto a positive circle of creative development and consumer response. My Office is there to ensure fair play, to be in a sense constantly subversive so that new monopolies cannot arise. We set rules for the competition, and ensure that cost-efficiency applies to benefit consumers. Beyond this, we cannot say how the players should play.

To cut to the chase... we have provided the framework within which un-metered internet access can be offered. It is up to individual companies to decide whether to offer this or indeed, any other service.

Will we have flat rate access? The opportunities are for the market to assess. How will the operators respond?

So, with this focus, in this free market, let us see how we can move towards your objectives.

The evidence is overwhelming that liberalisation is the best road. In the short time since we have followed this path there has been a significant reduction in the incumbent's market share and consumers are experiencing lower telecommunications costs and more choice.

New Technologies

New technologies and business methods are coming on stream that give more choice and so more consumer power

Unbundling of the local loop opens the final mile of copper to competitors and enhance capacity with DSL technology, so this should lead to the provision of internet services directly to consumers across the local loop.

Fixed Wireless Access is another way through which the consumer should get access to the Internet. There are 3 licensees offering service in broadband and narrowband applications and we issued a paper on various other wireless possibilities recently.

The satellite VSAT framework has been in place since last year. Operators can move into this market to provide alternatives to consumers.

There are a number of other broadband options. Perhaps the most widely publicised in the media is *eircom*'s ADSL technology which will allow fast internet access. This is a product which will be available to retail customers. A wholesale bitstream version will also be available for other operators to access the local loop.

Ireland – current practice

At the end of July 2001, residential Internet penetration in Ireland was estimated at 33%, with an active Internet universe of 560,000, of which the largest proportion are under 25. While this confirms Ireland's future growth potential our penetration rate does, however, lag behind many of our partners in Europe and beyond. However, it is clear that internet traffic is becoming increasingly important to the telecommunications industry with internet minutes now accounting for 25% of all local traffic carried on *eircom*'s network. With cable and MMDS operators such as NTL and Chorus set to roll out their internet offerings over the coming months, this will undoubtedly increase further.

The ODTR has surveyed business use (both SME and Corporate) of broadband, which becomes of increasing importance once businesses start doing any significant business on-line. Among the larger corporates, 62% indicated that they use leased capacity and 14% ISDN. According to the results in the recent SME survey carried out by IMS for the ODTR, over six in ten (62%) of the companies surveyed do not have any ISDN telephone line and around nine in ten (88%) companies indicate they do not have leased lines.

Role of ODTR

The ODTR's role in relation to the Internet is in regulating transmission for the provision of Internet services whether by cable, telephone wire or radio. We can facilitate the development of the Internet offerings by, for example,

- licensing competing operators,
- developing regulatory frameworks for different technologies suited to Internet delivery (such as Fixed Wireless Access and Local Loop Unbundling),
- pricing of interconnect services and leased lines, and
- ensuring the quality of service standards through the introduction of service level agreements and operator performance measurement programmes.

In short we are about providing the framework for the delivery of quality services at competitive prices. Our role is not to prescribe technical or commercial models for the delivery of services such as the internet, but to facilitate the competitive provision of services by addressing actual or potential market failures.

So what does that mean in practice? It means that we try to promote the development of internet service offerings by service providers at competitive prices. The introduction of such offerings is a matter for the operators themselves. We are not prescriptive. Our role is to put in place the building blocks that facilitate the introduction of innovative service offerings.

This has included Internet access codes, interconnection, Local Loop Unbundling as well as other broadband options. While we have taken these initiatives, we have been reaching out to the public through a programme of public consultation.

Internet Access Codes

The ODTR strongly supports the introduction of new Internet products that benefit consumers. Earlier this year we issued a paper for the allocation of additional access codes and number ranges for Internet access. The additional codes and number ranges were designed to facilitate two types of Internet access:

- 1892: Pay-As-You-Go, whereby, the consumer is charged for their telecommunications time on-line but Internet service is provided free of charge: and,
- 1893: Partial or Full Flat Rate Access, including fully unmetered Internet access, the consumer pays an agreed subscription rate up to a pre-set limit or with no limit for its Internet service.

Before introducing product offerings on these codes, Service Providers must first establish appropriate interconnection arrangements with *eircom* under the framework that has been established by the ODTR. In other words once we have issued these codes it is then a matter for service providers to agree wholesale commercial terms with *eircom*. I am aware that operators have started discussions on the development of new wholesale interconnect products to support retail offerings under these codes. My Office is monitoring these developments closely. Either party can make a request to my Office for dispute resolution if they are dissatisfied with progress or if there is a breakdown of discussions.

Flat Rate Access

The debate regarding the success of flat rate unlimited access pricing in Europe continues. A flat rate interconnection product is a move away from the pence per minute

charging structure to a capacity based charging model. Operators may find it advantageous to offer their ISP customers a fixed rate internet access product.

It is a matter for operators themselves to decide whether to provide such services. It is a matter for the consumer to decide whether the price and quality of service are worth it.

Oftel, the UK's telecommunications Regulator, introduced Flat Rate Internet Access Call Origination (FRIACO) in May 2000, which required BT to offer a wholesale flat rate to ISPs. In this instance flat rate interconnection was mandated by Oftel under legislative provisions on non-discriminatory treatment by BT of its downstream arms vis-à-vis other licensed operators. In the Irish situation, *eircom* has not introduced a flat rate interconnection product at all so the non-discrimination issue does not arise at this stage. *eircom* is however obliged not to refuse any reasonable request for access. As I have said, at least one operator has entered discussions regarding the introduction of a flat rate product. I am hopeful that these discussions will lead to a commercial product offering. If my intervention is sought to help move things along then I will not hesitate.

An efficient and low cost interconnect regime is one of the key enablers of internet development. During the year we have approved a number of measures relating to interconnection for calls destined for internet services, including 'two-part charging'. The effect will be to lower the cost for operators interconnecting to *eircom*'s network when conveying internet calls. I expect that operators would pass these savings on in terms of lower call rates to internet consumers.

Local Loop Unbundling

We must keep our eye on the wider principle that it is competition itself that gives the consumer ultimate power. That is why all of us are right to give so much attention to unbundling the local loop. Just to be clear, the "local loop" is the copper pair connecting an individual telephone subscriber to the nearest point of interconnection with the main telephone network at the local exchange. This "last mile" of network is the most difficult for new entrants to replicate. With "Local Loop Unbundling" the network owner, that is *eircom*, is required to provide access to this copper pair, so that new entrants can offer their services across the local loop directly to the customer. In particular, new entrants can offer the new range of broadband services (such as high-speed Internet access) even if the incumbent operator has not chosen to offer such services, or in competition with it.

As a result, Local Loop Unbundling has the potential to increase significantly the range of competitive services available to businesses and consumers. Quite simply, it allows more choice of operator and of services.

The recent Local Loop Unbundling Regulation by the EU required *eircom* to publish a Reference Offer on unbundled access to the local loop and related facilities by 31st December 2000. I set interim prices for access to the loop on April 30th this year. This intervention was necessary to rectify a situation where *eircom* had not met the obligations required by regulation on 31 December last and not a single loop had been unbundled in Ireland.

The interim prices which I set are based on benchmarking and efficient operator principles along with the ODTR's own analysis; for example monthly line rental is set at €13.53 for a fully unbundled loop rather than the €32 which *eircom* proposed.

I regret that *eircom* has taken the step of issuing a legal challenge to these prices. However in the interim, the prices which I have set stand, and we will defend the case vigorously.

I appreciate the change in market conditions has led to a shakeout in the number of operators pursuing local loop unbundling. My Office is closely supporting the requests which have been made, providing project management and detailed monitoring of the situation. I would like to see more operators take up the framework which I have established, and have raised the issue in our major consultation this summer on internet delivery.

In April 2000 I issued a Decision Notice mandating bitstream access another form of access to the local loop. A lot of work was done by the ODTR and others to support the development of the underlying arrangements and products for access to the local loop. However, a review of supplier and platform change by *eircom* resulted in a delay of the launch date for bitstream access from April to September 2001.

I recently issued an Information Notice to inform all interested parties of the current position with respect to introduction of *eircom*'s wholesale Bitstream ADSL service.

I have asked that *eircom* provide an adequately and appropriately cost oriented submission to me by September 5th. Depending on the *eircom* submission, and its

orientation to cost, I will consider whether further action, such as the setting of interim prices or an instruction to *eircom* in relation to its planned launch, is appropriate and in the interests of effective competition and maximum benefit to all users.

Communications and Transmission Issues

The ODTR is aware that the technical and commercial models that support the delivery of Internet services are still evolving, and this summer we undertook a consultation entitled “The Internet in Ireland –Communications Transmission and delivery issues.”

The consultation period has just finished and I understand that there has been an extensive response. I must say that views from organisations such as Ireland Offline and other consumer representatives are particularly important to the ODTR in terms of how you see the development of the internet. Any actions taken by my office regarding the regulatory framework are taken in consideration of the issues of price, choice and quality for end users. We are now preparing our report on consultation: I expect it will provide a key building block in the development of ODTR programmes in relation to the Internet. I have already talked about some of the issues raised in the paper and while I do not have time to delve into them all here today there are some, which are worth mentioning briefly.

- Dial up Access and the increasing complexity of the commercial models being adopted by service providers to finance their internet offerings.
- The increasing use of IP networks which will have an impact on regulation because IP messages are subject to different rules than traditional circuit switched calls.
- The range of access and charging options which are likely to develop to enable providers differentiate themselves from competitors.
- Interconnection issues around the routing and billing of calls and their impact on the development of dial up internet products.
- Which access mechanisms (WAP, 3G, Cable Modem etc.) are likely to be deployed most significantly.
- Platforms - which access platform(s) will the internet evolve to over time? Will fixed wire remain king, or will mobile, television, VSAT, intelligent devices, take slices of the market, intensifying the competition and range of services.

Ireland has achieved a lot over the last few years: however, the situation is far from satisfactory.

Anything that encourages innovation to reach a free market quickly is to the good and anything that stands in the way has a major detrimental effect on Ireland's ability to keep with the leading pack.

So I would ask you to help bring pressure to free up Ireland's communications market. Amongst the most practical things we could do is to speed up the planning system in Ireland. We have excellent way of preventing things happening and even better ways of delaying them. A speedy planning process can be just as transparent, fair and in the widest public interest as a cumbersome one. It is extraordinarily difficult for any service provider to make a rapid response to the market when the planning process is so slow, unclear and variable from one local authority to another. The demand for better infrastructure is widespread, but the connection between this and the practical issues in respect of delivery including costs and implementation via the planning process is less often made.

Again, may I say that I warmly welcome the very existence of your organisation. You may well do a real service for Ireland by focussing consumer demand. This should contribute to improving the cost and quality of the services currently available.

The country's success at exploiting the growing Internet and e-business opportunities will continue to be a key determinant of future competitiveness, economic growth, income growth and employment.

My Office will continue to provide as many pitches as we can for players to play upon. I hope that I have given you some indication of what this has meant in practice. Such wide, free competition is the surest means of encouraging the development of widespread low cost internet access.

Thank you.