



Office of the Director of  
**Telecommunications  
Regulation**

**'Regulatory Developments 2000 – 2001'**

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## **Introduction**

Chairman, Ladies and Gentlemen, I would like to thank you for your kind invitation to address you today. As we approach the 2<sup>nd</sup> anniversary of liberalisation of the Irish telecoms market, it is an appropriate point at which to stand back and consider what has been achieved to date in a very short space of time and to look forward to the challenges that still need to be overcome.

I have been invited along to talk about the latest regulatory decisions in the Irish telecoms arena. However, I have taken the liberty of extending this topic further to include future developments in the telecoms market and our regulatory strategy for 2001.

Ireland has achieved much over the past two years. Liberalisation of the market with 45 active operators, CPS and Number Portability, 6 Wireless Local Loop operations and a greatly improved interconnect regime are among the highlights. However, some of the biggest challenges still lie ahead.

Telecommunications is a cornerstone of the highly successful economy we have developed here in Ireland. It is hard to imagine a world without telecommunications. It has become a hugely successful industry that currently amounts to 2.7% of Irish GNP. Its sustained growth is necessary to ensure that the improvements made to date continue and further drive the economic prosperity of the country for the benefit of all.

This industry is one that constantly surprises. In 1990 or even 1995, who could have predicted that by 1998, data communications would have surpassed voice communications as the largest consumer of telecommunications capacity?<sup>1</sup> Who would have imagined that by this year nearly one in two Irish people would own a mobile phone?<sup>2</sup> These facts are a testament to the power of the consumer and the technical expertise of many. Enabling further and ever more rapid development beyond our current expectations of the next 5 to 10 years is the key challenge for us as regulators and all of you in the industry.

As I speak there currently 47 General and 29 Basic operators in the market. At the end of June there were 12 operators offering services in the residential market with 9 of these providing the full suite of services i.e. local, national and international. Based on market statistics supplied to this office new entrants share of the fixed line market was approximately 15% and I expect this figure to rise in our next review. CPS customers continue to increase - already at 60,000 at end June, I expect that the figure is well over 100,000 by now. Further increases can be expected raising the total of 1.86 million mobile subscribers. The residential and business internet market continues to grow. Business Internet Access was at about 96% of companies while residential access was at 33% at end June. We are completing our quarterly review for publication on Friday 1 December.

## **ODTR**

Our core goal is to ensure that the best price, choice and quality is provided for the telecoms user. This is to be achieved by regulating with

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<sup>1</sup> The Industry Standard, November 6, 2000 - 'The End of Voice'.

integrity, impartiality and expertise in order to facilitate the rapid development of a competitive, leading edge telecoms sector. The sector must also attract leading edge business investment and ensure ongoing social and economic growth. All this is not just a telecoms objective: it is a central plank of any real strategy for national prosperity.

There is a straight forward task that flows from this. We need to identify the blocks to competition, remove and constantly review the market to see that the free flow of ideas from new and established business are making their way to the consumer. Because this is a sector that was once the preserve of a monopoly our job in the ODTR is to force the pace of change. Forcing the pace on competition leads us to encourage the development of new technologies.

Irish consumers today are ever more discerning and demanding and will settle for nothing less than their European and global counterparts. The Office regularly meets with user and consumer groups to ensure that we are addressing the most pertinent issues. Knowledge empowers the consumer and helps drive forward change. It should be actively encouraged.

Last January, I announced the introduction of a service quality measurement programme for licensed telecommunications companies. This followed extensive consultation with industry and other interested parties. Apart from the UK which liberalised its telecommunications market some 16 years ahead of Ireland, the ODTR is the only other regulator in Europe that is ready to launch an industry wide programme for the collection of performance parameters such as level of complaints,

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<sup>2</sup> The Irish Telecommunications Market, Quarterly Review, September 2000, p11.

fault reports and service provision from all main fixed telecommunications operators. The potential benefits of such a programme includes encouraging competing operators to provide high quality performance to their customers: empowering the consumer by providing clear information about service quality so they can make informed choices: this in turn stimulates competition in service quality among the operators as a competitive advantage leading to further improvements in quality.

The market is evolving rapidly and we are working with the Department of Public Enterprise and other regulators on the development of the European Commission's proposals for a new framework for e-communications. I will outline some of the key issues later on. We have benefited greatly from membership of the EC in terms of moving forward the liberalisation agenda.

## **LLU**

And so it comes as no surprise that several of the latest regulatory decisions taken in the Irish telecoms sector have been driven by developments at European level. Local Loop Unbundling in particular is at the top of the agenda and, in keeping with the pace of many developments in the sector, there has been much progress since April this year, when I issued my Decision Notice D6/00 mandating the introduction of a form of LLU - bitstream access - by April 2001.

For many, the lack of local access has been a significant bottleneck to the development of competition in telecommunications. The implementation of LLU will aid the overall growth of the telecommunications market

while complementing alternative access infrastructure and providing delivery of new services. I don't support either the huge fears or the huge hype that surrounds LLU at the moment. Based on the reality of what it can offer I look forward to its deployment as it will particularly assist the development of broadband access for SMEs, a sector that makes little use of such capacity at present. Their inclusion in the e-commerce revolution is dependent on increased provision of broadband access and LLU together with FWA are key new enablers for this service.

As you are well aware a new EC regulation will mandate full copper unbundling from the beginning of next year. We have included this in our LLU working group programme, in addition to the bitstream product for which we have an identified demand as well, and for which trials are underway. The ODTR has requested that eircom submit a draft reference offer for scrutiny by end November. The working groups are making good headway, having agreed product descriptions in principle and I am confident of meeting the end of year deadline. We expect that an *eircom* Reference Offer for copper will be published by 31/12/2000.

This is a complex project, and I am delighted that the Irish industry has risen to the challenges required for implementation of LLU. I would like to thank all the participants for their commitment to the process and look forward to the widespread use of all forms of LLU in Ireland.

### **Accounting Separation**

In order to promote transparency and assist in price analysis work, the development of new accounting procedures was an early priority of the

ODTR. In this regard, operators designated as having Significant Market Power (“SMP”) in the fixed market have been required to prepare Separated Accounts. The Separated Accounts are restatements of the financial records of the SMP operator so as to reflect as closely as possible the performance of the constituent parts of a business as if they were operating as separate businesses.

In Ireland, the first Separated Accounts and accompanying Accounting Documents for *eircom* were published in October 1999, with Supplemental Information published in March 2000 as required by the ODTR. These accounts were produced on the Historic Cost (HCA) basis of accounting.

On 29<sup>th</sup> September 2000, *eircom* published its HCA Separated Accounts and Accounting Documents for the year ended 31<sup>st</sup> March 2000. These have been recently reissued to take account of certain provisions of ODTR Decision Notices. Supplemental Information relating to these accounts will be published on 15<sup>th</sup> December 2000. *eircom* will publish Current Cost Accounts (CCA) and Long Run Incremental Cost (LRIC) Separated Accounts for the first time on 1<sup>st</sup> December 2000.

Currently *eircom* and British Telecom (BT) in the UK are the only two incumbents in the European Union that have published Separated Accounts on a Historical Cost basis. BT has also published CCA and LRIC Separated accounts for a number of years.

- **LRIC in Ireland**

The ODTR set out the key principles for Long Run Incremental Costs in Decisions in early 1999, and later in the year, brought the analysis forward, constructing a bottom up model, taking account of advice of an Industry Group. This was useful in the context of the interconnect pricing review of June 1999, although further refinements were still needed and the working group re-convened to consider the matters. Model viewing sessions were held in Summer 2000 to enable all operators access to the model, consistent with maintaining necessary confidentiality. The industry was then requested to provide final comment / analysis on the model. These comments have now been reviewed. The ODTR bottom-up LRIC model is ready for comparison with the *eircom* top-down model currently being completed.

It is intended that the interim interconnection rates for 2000/1 will be finalised and interim rates for 2001/2 will be set using LRIC. These tasks will be completed by end March 2001.

A recent review of LRIC implementation in 16 IRG member countries shows that only 3 countries have LRIC based interconnect charges currently in place (Austria, Germany, UK). Ireland's implementation date of March 2001 will place Ireland firmly in the lead group of IRG countries to implement LRIC.

### **Internet Interconnection /1891**

The residential internet market in Ireland continues to grow strongly. Spurred on by the increasing popularity of subscription free packages,



approximately 33% of the population have Internet access. Further growth is expected over the coming months as the two main cable operators roll out their local broadband networks across the major population centres. At the end of June 2000 the ODTR estimates that there were approximately 615,000 Cable and MMDS subscribers in Ireland while over 1 million were in close proximity to either a cable or MMDS network.

Internet services are hugely important to customers who use the telecommunications network to dial-up and access the Internet. In addition, I have been ever mindful of the potential for operators to innovate and develop new service offerings, which can be accessed over Number Translation Code services and the potential benefit to the end users of those services.

Following on our paper of July 1999 setting out the framework for different internet models from “pay as you go” to “freeserve” February 2000 saw the welcome move to a more stable and transparent pricing regime for interconnection calls destined for the internet and NTCs. The new interim rates as proposed by *eircom* allowed significant savings for operators and across the board.

A number of operators have developed specific arrangements with *eircom* and are discussing issues with the ODTR which will facilitate their entry into the ‘1891’ type market. I look forward to developments in this key area in coming months.

## 3G

Third Generation mobile communications represents the next major step in the evolution of mobile communications. The introduction of 3G mobile services in Ireland will be crucial to ensuring Ireland maintains a leading position in the European Information and Communications market.

You are all familiar with the differentiation between 3G services from their current 2G counterparts and their emphasis on data rather than voice services. It combines the benefits of the two fastest growing global markets - mobile telephony and the Internet - creating major new opportunities for mobile commerce and multimedia.

In July this year I announced that the competition for the selection of licensees for the next generation mobile phone technology will be a comparative selection process (also referred to as a beauty contest). I also indicated that I favoured issuing 4 licences with one reserved for a new entrant. I expect to announce the details very shortly.

At the moment there is some uncertainty about how the 3G market will develop. For example, it is unclear whether it will be dominated by business use, as in the early days of 1G and 2G, or whether mass-market applications such as on-line music and video will drive the market. Some analysts have suggested that the mass consumer market could be a major driver of 3G services and applications.

## **Looking to the Future.....**

### **Spectrum Management**

Mankind has had many centuries to learn how to exploit and manage other natural resources such as land, water and minerals. We have made great strides in developing technologies, but by comparison our understanding of how to exploit and manage the radio spectrum is still in its infancy.

My Office is currently undertaking the first ever review of spectrum management in Ireland. We have made improvements over the last few years, but it is always essential to look ahead in this very dynamic sector. For example, is it correct to regard radio spectrum as a finite resource? To what extent is congestion a problem? And can the radio spectrum be exploited in new ways that would help bring economic advantage to Ireland? These are tough questions but they require answering. Which is why in the very near future we shall be publishing an information paper, setting out options in respect of spectrum use and seeking views as to what will be needed in future years.

### **Numbering**

My Office is also carrying out a major review of the National Numbering Scheme. The growth of existing services and the introduction of new services and new access technologies have resulted in a heavy demand for numbers. Because of this, we need to identify 'hot-spots' where the supply of numbers is coming under pressure. We expect that we will

need number changes to increase capacity in 10 to 15 areas over the next couple of years, to ensure that users can get the service they need.

The ODTR proposes to incorporate provisions to improve the clarity and user friendliness of the numbering scheme co-incident with capacity-driven number changes. This may include the reduction of the number of Subscriber Trunk Dialling (“STD”) areas and the removal of some anomalies from the current numbering scheme. Changes must be balanced against the need to minimise disruption to users and keep the cost of number changes to an acceptable level.

The introduction of Geographic Number Portability from December onwards will somewhat ease the demand for new numbers. With the introduction of Geographic Number Portability, a customer requesting the facility will be able to change their telephone service provider while retaining their existing telephone number. Number portability for non-geographic numbers such as Freephone was introduced in January 2000.

In the case of mobile services, we have a consultation under way to see how best to increase the supply of mobile numbers to meet the dramatic rise in demand resulting from mobile’s popularity and from innovative approaches such as pre-paid services. We understand the problems that all number changes impose on users and operators, and taking account of the subtleties of the Irish mobile numbering scheme, we believe that full mobile number portability introduced in an effective way is the best way forward. The average saving to Small and Medium Enterprise (“SME”) users of being able to retain their mobile phone number when changing operator has been estimated at over £90.

This heavy growth in demand for numbers - affecting telephone numbers for many geographic areas, special codes for new services, and especially mobile numbers - can be seen as a sign of the dynamism that is now characteristic of the whole telecoms scene here in Ireland.

## **IRG**

Since many of the developments taking place in the Irish Telecoms sector are also taking place across Europe, it makes sense that we work closely with our European counterparts. This is particularly so given that harmonisation across Europe must be achieved in respect of telecommunications regulatory practice.

Recognising this need, an informal group of regulators was set up in order to pool knowledge and to seek to resolve issues of mutual concern. This group – the Independent Regulators Group – is comprised of independent regulators from all EU States and those of the European Economic Area. It provides a forum for an exchange of views and where appropriate, formulates common positions and practices.

The IRG members have submitted common positions in response to the EC consultations on the new EU framework (1999 Review) and have recently started the development of PIBS - notes setting out best practice for tackling regulatory issues such as LLU and LRIC pricing - within the framework of national and EC law. It is expected that these will help the process of harmonisation of approach of NRAs and provide additional transparency in respect of approaches taken.

## **New EU Framework**

In 1999 the Commission initiated a review of the existing legislative framework. In July of this year, the Commission published 5 new proposed Directives. These new Directives are intended to replace the current 22.

The Commission's proposals can be summarised as follows;

It is intended that there will be five new Directives, replacing the current 22 Directives. The Directives proposed are

- A Framework Directive – this will set out the specific policy objectives for the Member States, the regulatory principles to be followed by NRAs, guarantee specific consumer rights and establish and lay down the rules for the new EU committees (to replace the existing ONP/Licensing Cttes.
- Directive on Authorisations and licensing
- Directive on Universal Service and Users Rights
- Directive on Access and interconnection
- Directive on Data Protection and Privacy in the telecommunications sector

While there is a lot to be recommended in the Commission's proposals there are a number of key areas where the Commission has failed to fully comprehend the state of competition in the market, and the variances of competition within the member states. The ODTR's principal concerns relate to;

- End-user/consumer interests do not appear to be addressed to the degree one would expect. There is a need for a balance to be struck between the needs of market players with regard to competing in the market and the concerns and needs of consumers in such a liberalised environment.
- NRAs need to have the proper regulatory tools to enable effective policing of the market within member states. The tools needed will vary depending on the state of competition and what may be an effective remedy in one Member State may not be sufficient in another. NRAs need to be empowered to have such discretion as required.
- While agreeing fully that regulatory certainty is an essential requirement in ensuring investor confidence and facilitating market entry, the need for flexibility on the part of the NRA has to be considered. A regime that is overly prescriptive – in the interests of ensuring certainty - may not be the most effective way of ensuring long term competition in the market.
- Effective regulation must avoid too heavy and wide-ranging controls that will discourage new entry and stifle investment. Views of all interests, both market players and end-users must be acknowledged and taken into account.

The Commissions texts have been evolving in the light of discussion in Brussels and with the European Parliament. The ODTR will continue to work with the Department of Public Enterprise, the IRG and the Commission in developing this new to ensure that Ireland's concerns are fully addressed and that any new framework is focused in needs and helps further encourage investment and innovation.

While I believe that the new proposals are generally very welcome and can greatly improve the regulatory framework, I do have concerns about some of the more fundamental concepts being proposed. In particular, the Commission's proposals for the definition of operators with SMP has the potential to slow down and perhaps reverse liberalisation. I want to make it perfectly clear that I do not want to regulate for regulation's sake – on the contrary. Where I believe that the user's best interest is best served by allowing the market to dictate then I am more than happy to stand back and watch.

It is heartening to note the rapid progress on developing and implementing the new Directives. Indeed, the Regulation on Local Loop Unbundling will be in place by end year. The commitment of all involved to progress these directives very quickly is quite evident. The new legislation is timely and much needed.

## **Conclusion**

The pace of the global telecommunications market is breathtaking and there are few 'certainties' that last for more than a few months. Only one thing is certain in this dynamic market - if we do not continue to progress at an advanced rate we will fall behind. That is one thing I am not going to let happen.

I believe the liberalised market is just breaking into its stride, as is clear from the plethora of announcements of major developments for cable, MMDS, FWA, pricing and portability over recent months.



In the next six months three more wireless in the local loop licences will be available. Digital television services will begin to be available in substantial parts of the country. In the mobile market there will be much more competition resulting in more choice and better value for the consumer. The advent of 3G licences, mobile virtual network operators and the launch of Meteor Communications Ltd means that prices should fall for the mobile customer. This I really look forward to.

Licensees have commitments whether standard in modular licenses, or reflecting specific conditions and commitments formally accepted by them. Companies accept these commitments in full knowledge of what is involved. We will not take breaches lightly.

We are only getting started. With the correct framework for telecommunications in place, Ireland can reach new heights. At the ODTR, I aim to ensure that we play our part in getting and keeping Ireland up at the top of the European league table in terms of offering consumers the best in telecommunications services.

A very good start has been made to date but this is a market that moves very quickly and if we want to be competitive and sustain competitiveness we – the Government, regulators and the industry need to keep moving forward faster all the time.

Thank you.