



Office of the Director of
**Telecommunications
Regulation**

**Speech by Etain Doyle,
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to the

**Joint Oireachtas Committee on
Public Enterprise and Transport**

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Introduction

I welcome this opportunity to exchange views with you today.

Since our last meeting a year ago, the Irish telecommunications market has been developing at a hectic pace. If I were to go through everything that has happened step by step, I would still be talking by the time the Chairman would be attempting to bring this meeting to a close.

My primary focus will be on how all this affects the consumer. In addition, I will sketch in broad outline some of the devices we have used to benefit the consumer and the rationale behind these. Crystal ball gazing is not a wise game but there are some new technologies we can clearly see coming down the tracks and I will indicate how we aim to maximise the use of these for individual and business users.

I would then like to leave as much time to hear your concerns and opinions and for you to ask questions on any points of detail.

Objective

Simply put, my Office has one focus:- that is to enable consumers to have a choice of quality telecommunications services at attractive prices. Anything that speeds and enhances this process of consumer power is to the good: anything that slows it down or gets in the way is to the bad.

It goes without saying that the social and economic importance of our having such telecommunications services increases exponentially.

By concentrating on *users* we will get not just the right services but also the structures which will allow new services, even new wishes, to come into being. From the very outset, I have said that the Office must be *subversive* - not just shaking up the old regime but shaking up any new regime that replaces it. The key is to work to ensure

that the market is open, free - that it never "hardens" in such a way that new ideas or new service providers cannot reach the consumer.

Market Overview

That new operators continue to enter the Irish market is a clear indication of the burgeoning demand for new and cost-efficient telecommunication and network services. The marked increase in telecommunication revenues in recent years reflects this demand with the European Information Technology Observatory estimating that the Irish Telecommunication market in 1999 was worth IR£1.66bn, an increase of almost 10% on estimates for the previous year. Given the reduction in prices in 1999, the growth in traffic will significantly exceed this 10% figure.

Expressed as a proportion of total national output, the telecom sector is now estimated to account for 2.5% of Irish GDP, a figure broadly in line with most other Western economies.

The ODTR estimates that the new entrants' share of the fixed line market has increased to between 6% and 7%. This estimate is based on data provided by eircom's competitors for the quarter to 31 December 1999 and the unaudited interim accounts for eircom to 30 September 1999. This represents a significant increase on the 4% figure reported in our December review.

The Irish Consumer today

The Irish consumer is now seeing the concrete benefits of a liberalised market.

- There are now 44 operators offering retail services to residential and business users. The net effect is better prices, better quality, better choice.
- Prices have fallen. The effect of competition has been to increase the pressure on eircom to reduce its residential prices in line with those offered to business customers. These reductions have been across the board with local, national and

international calls all being reduced over the last 12 months. Some examples of these reductions include:

- A ten minute call to the US during peak hours cost the consumer £2.99 in March 1999. The same call costs £2.30 in March 2000 - a 23% reduction.
 - A similar ten minute call from Dublin to Cork cost £1.04 in March 1999. It now costs £1.00 - a 4% reduction.
 - A ten minute local call during peak hours cost 46p in March 1999, and now costs the consumer 38p - a 17% reduction.
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- Eircom's competitors are also aggressively reducing prices. New entrants, such as Esat, OCEAN, and Irish-Multichannel are also introducing new pricing initiatives, such as per second billing and one rate prices for all local and national calls.
 - Residential customers still pay more for national and local calls than customers do in 15 out of the 19 key countries within the OECD. However as competition develops we are likely to witness fierce price wars in the residential market as has happened in other European countries.
 - On cable/MMDS, there now two large players, NTL and Irish Multichannel are preparing to provide Digital Service. The licensees concerned are required to connect over 180,000 homes to Digital Television Services by next March. This figure is the minimum requirement and I understand that the licensees are planning to exceed their minimum obligations. We are in discussion with the new owners of the Suir Nore group of companies operating mainly in Tipperary, Carlow and Kilkenny about new licences under which digital TV services would be brought to these areas.
 - 19 Deflector licences have now been issued . Since the process started, some others have made themselves known. As there appears to have been genuine difficulties affecting some of these, I propose to deal with applicants from such groups provided they are made before the 4th May – four weeks from now. The scheme is now well known – there will be no third chance.

- Since the beginning of this year, number portability for non-geographic numbers has been available – that means service providers using numbers like freefone and lo call (1800 and 1850) can choose their network provider and take their number with them.
- By November, geographic number portability will be introduced – what this means is that all customers will hold onto their telephone number when they change service provider.
- On 1 January 2000, Carrier pre-selection was introduced. This means that by simply having their phones pre-programmed, consumers can chose the operator they want without the inconvenience of dialling codes or the inconvenience and /or expense of installing a router (a "black box").
- Already this year, eircom has more than halved the price of a new ISDN connection, as well as reducing by over two-thirds the cost of an upgrade from an ordinary phone-line.
- Other operators have launched similar promotions with a discernible trend towards less distance-sensitive pricing and the increasing use of discount plans for high volume users clearly evident.
- The pre-Christmas rush in sales of mobile phones has driven the market to an estimated 1.7 million subscribers, pushing Ireland's penetration rate up to 46%, comparable with most other developed European markets.
- 22% of all adults describe themselves as current Internet users. 'Free ISPs' - combined with fall in PC prices and growing consumer awareness are bringing Ireland to a level from which it will escalate. Measures taken by this office to encourage cheaper access the Internet will further speed up this process.
- Along with the increase in the volume of mobile subscribers, the sophistication of the services offered by the operators has also increased. Following on from the

success of their SMS services, both Eircell and Digifone introduced new WAP-based services before Christmas, which allow users to access certain Internet information on their mobile phones.

- Despite growing competition from the mobile market, the number of main lines increased from 1.6 million in March '99 to its current figure of over 1.77 million, an annual increase of over 10%. This increase has pushed the fixed penetration rate to over 47 lines per 100 inhabitants, narrowing the gap between Ireland and most other developed European countries. The European average is about 53 lines per 100 inhabitants.

This is not a list of “achievements” by this office or by anyone else. It is an indication of a *process* – a process made possible by liberalisation. We must be vigilant to ensure that everything we do encourages this process to continue apace in the same direction.

I now intend to discuss some of the measures the ODTR has introduced to help bring about increased competition and resulting price decreases.

Price Cap

I put my trust in effective competition. For certain services provided by eircom, there is either no - or insufficient - competition. So the means we use to let the consumer reap benefits is through a price cap. Just before Christmas I set a new price cap requiring eircom to reduce its charges for the relevant services covered by the price cap by 8 percent before inflation for each of the next three years. While the measure will benefit all users, it is of most interest to residential consumers and small businesses that have not yet felt the full benefits of competition. Services that are capped include local and national telephone calls, calls to operator assistance and from payphones and line rental. Amongst the key features of the new price cap are:

- eircom is required to make annual reductions of 8% in the price of a basket of telecommunications services (increased from 6%) before inflation;
- A notional bill for a “lower quartile” user, representing consumers who do not make many calls, may not be increased by more than inflation.

- eircom will receive credit under the price cap if it introduces discounts for light users or other vulnerable users;
- International calls have been removed from the price cap as competition there is developing more quickly than in other services;
- The services remaining in the price cap are connection and rental charges for telephone lines and ISDN connections, local and trunk calls, directory enquiries, operator calls and calls from payphones;
- The price for any individual service in the basket may not increase by more than 2% plus inflation annually, except for directory enquiries which may be adjusted freely within the overall requirement;

Prices of other operators are not subject to regulation, but I am encouraged by the increasing diversity of offerings, particularly for business users but increasingly for residential ones too. New entrants are introducing all sorts of new tariff options, such as a unified local and national tariff.

Interconnection Charges

In order to ensure the best deal for the consumer, the ODTR works mainly on the “back office” part of delivering telecommunications services, providing the framework for competition, rather than trying to decide what the market should deliver to consumers. If the costs to competing operators are kept down, then the forces of competition should ensure that those benefits are passed on to consumers.

The most important of these costs is that paid by new entrants to eircom for interconnection to the eircom network. Interconnection is required if operators are to provide services and its cost can account for up to 40% of a new entrants costs. Clearly the charges are crucial for the development of sustainable competition, and they must be soundly derived from appropriately calculated costs.

The regulation of interconnection charges is a complex and difficult area. I am delighted to say however, that the target of having interconnection rates that are within the European Communities three “best practice” operators is one, which we are never very far from. This is a major achievement.

Leased Lines

Leased lines are of great significance because they are a product purchased by both consumers and other operators. Usually large companies, but increasingly small ones lease lines from Eircom in order to develop their use of advanced communications and e-commerce. Other licensed operators also lease lines from eircom to provide service and to enhance the reach of their network. Both the charges to other operators and to users are crucial.

We started work with eircom on the cost orientation of their leased line prices a year ago and I am pleased to say that finally this stage of that work has concluded and the result is an announcement by eircom today of price reductions in eircom's national leased line prices. eircom has already announced reductions in international leased line prices.

The new tariffs will effectively reduce the price of a leased line by on average 16 – 18 %. In the case of 2mb lines (the basic building block for private circuits and many broadband applications) the reduction in price amounts to 36%. These overall price reductions will result in cost savings of the order of £20 million per annum.

We are continuing our work to ensure downward pressure on prices continues particularly on the key 2mb line and we also expect to receive shortly from eircom details of tariff reductions for a "STM1" product – a higher capacity leased line which is of key importance to very large telecoms users and OLO's in particular.

Number Portability

Consumers want real and effective choice - and also convenience. It is important that they be able to take their number with them when they change to a new operator. This is of particular relevance to small businesses for whom the costs of changing stationery etc. are considerable.

Also of particular importance for business users is the ability to choose which operator to use when providing services on 'freephone' and 'low priced calls' numbers

on, for example, 1800 and 1850 codes. This service -non-geographic number portability - is now available since 1 January in Ireland. The wider service, geographic number portability - that is the ability to retain your 'ordinary' telephone numbers as you move from one operator to another - will be phased in from July to November this year.

With such portability, the market will in practice be freed up to a considerably greater extent.

Carrier Pre-Selection

Another very *practical* way in which the market frees up is through how the consumer chooses an operator.

Since late 1998, consumers in Ireland have been able to choose their operator by dialling a code on a call by call basis or by attaching a router to the customer's phone. This is called carrier access or carrier selection. Since 1 January 2000, consumers can choose carrier pre-selection. In this way they choose the operator they want to use and this can be pre-programmed so that they do not have the inconvenience of dialling codes or the expense of installing a router. Further it allows a consumer the flexibility to choose different operators for different types of calls. Three options are available from 1st January 2000.

1. International calls only
2. National calls only
3. All calls

Customers can select any option individually or a combination of the first two with either the same operator or different ones

There are 5 companies providing this service now and 2 / 3 additional companies will have completed testing in a couple of weeks. Like number portability, carrier pre-selection makes it easier for the consumer to make a real choice without great inconvenience. We should be particularly proud that Ireland has achieved a record in getting CPS launched very quickly. We are one of only a small number of countries to

offer a scheme that included local calls. I would like to thank all concerned in achieving in a short space of time what was a mammoth task.

Internet

Competition in the Internet market over the past year has been fierce with a number of operators devising and launching new and innovative services. This is a welcome development and is one in which my Office has been closely involved over this period.

Last year, my office devised the outline framework for access pricing and interconnect for Internet services. This is to ensure that operators are encouraged to develop more innovative pricing schemes and in ways make it more accessible for Irish users to become part of the Internet revolution. Further work on this continued into this year and at the end of February I issued a new decision on the interconnect rates for Internet services, amongst others, including free-phone services so important for call centres. Again, there was substantial work done by the industry, who worked very closely with my Office on this issue, and I wish to thank all involved.

Network Access - Alternatives

I spoke earlier about the costs to new operators of interconnecting to eircom's network. Some of these costs can be eliminated by competitors building out their own networks, but this takes time and is not in any case an option for some operators. Over the course of last year my Office developed projects to help provide alternatives. Two such alternatives are

- Wireless in the local loop: the use of radio to provide the "last mile" of connection to the customer's house or premises, and
- Unbundling the local loop: where the new operator has direct access to the eircom "last mile" of network and takes over responsibility for that network.

In February 1999 I launched a competition for the award of up to eight licences to use Fixed Wireless Point To Multipoint Access (FWPMA) to provide telecommunications services in Ireland. My office recently proposed to issue seven of these licences to

provide radio-based access for fixed line operators. However the issuing of these licences has been delayed due to ongoing court proceedings.

FWPMA, sometimes referred to as 'Wireless in the Local Loop', offers an alternative means to provide the connection from the customer's premises to the nearest network access point for the provision of telecommunications services. It offers a radio-based alternative to copper or optic fibre cable. FWPMA is not a telecommunications service *per se*, but makes available an important network element to be used in the provision of services.

The selection of potential applicants for licences was done by way of open tender using the 'best application' method, with applications, which were awarded the highest marks in the comparative evaluation process being ranked at the top of each category. The term of the licences will be ten years.

Unbundling the Local Loop .

I plan to issue a report on unbundling of the local loop in the coming days. The "local loop" or "last mile" of eircom's network into customer's premises is generally regarded as the least open to competition. It is expensive and time consuming for new entrants to build alternative networks out to everyone's home although I am encouraged to see the build out that has happened so far and [as I have already said] cable and wireless networks will provide alternatives to eircom's network in the future. However, in the meantime, unbundling is a service that would allow other telecoms companies and service providers access to eircom's local network and provide services directly to customers.

You may have heard a lot of debate on this recently. The Lisbon Summit on 24th and 25th March agreed that member states should work towards unbundling as soon as possible. There is general agreement that bringing in some form of unbundling would assist the development of telecoms markets in Ireland, and particularly emerging broadband access services

Regulatory Accounting

Regulatory accounting is important for my Office which must have a clear understanding of eircom's pricing for its products, and the additional measure of publication helps give the market some assurance that cross-subsidisation from less to more competitive markets is not taking place. Following the ODTR Decision Notice, eircom published separated accounts last year. My Office has some issues in relation to these and following discussions with eircom about these, supplementary information has been published by the company. Again I am pleased to say that Ireland is one of a small number of countries where this development has taken place. We are reviewing some residual matters before final clearance of last year's accounts.

Operational issues

The topics I have outlined so far deal with the framework issues associated with the regulatory regime. However, this only paints part of the picture. The day to day matters encountered by operators competing with eircom as an incumbent operator, can also impact on the development of competition. This is the coal-face of the telecommunications sector and we are very much at that coal face.

Disputes

As the market develops there are issues, which cause difficulty, particularly for new entrants, and it is essential that these are dealt with quickly and effectively. The first port of call for many of these issues is the ODTR dispute resolution procedures. Our priority is the timely and effective resolution of such disputes, because if they are not resolved they can hinder the development of competition, delay the provision of innovative services and even delay reductions in prices – all to the bad as far as consumers are concerned.

Our formal dispute resolution procedures have been in place since last September and were developed after a consultation with interested parties. We have concluded five formal determinations under these procedures, details of which are on our website.

But we do also operate more informal procedures where these are appropriate. For example we provide for the possibility of mediation and we also intervene informally on behalf of operators who are experiencing day to day operational difficulties. This can often be the more effective and speedy way to bring about a resolution, and overall, we have resolved another 25 cases in this way.

Where there are industry wide difficulties that require our assistance we are flexible in our approach. For example in the middle of 1999 the new entrants in general were experiencing difficulties in the delivery of interconnection circuits and leased lines. These are of fundamental importance to the new entrants who depend on them to deliver service. My Office worked with eircom and the operators to oversee a programme of work by eircom which I am delighted to say has significantly addressed this particular issue over a few months.

Service Level Agreements

However, we believe that these types of problems need to be addressed in a more systematic way and the ideal tool is Service Level agreements for the provision of services. Where new operators rely on services from eircom to provide their own services to customers, the service levels of eircom are a critical driver because this determines the level of service to the end customer. So in August we issued a report on delivery timeframes, quality levels and maintenance terms for services provided by eircom to its competitors.

These were set after consultation with eircom, the operators and consumer groups such as the Small Firms Association and IBEC's telecommunications user group. Eircom itself put forward the target times, starting at 40 to 60 days for delivery at the outset, moving down to 10 days by September of this year. The Agreements, which were introduced in November 1999, also include penalty payments for failure to deliver to the targets set.

I am pleased to say that with these new standards eircom will move into the upper quartile of comparable European operators, in particular in terms of service provisioning. I believe that this means of managing the delivery of service to

competitors provides for reliability and certainty which will ultimately lead to better service to the consumer.

Outages

One issue which this leads me on to is that of more critical failures on telecommunications networks. I know that the Committee will share my concerns which are prompted by certain recent outages on both the eircom and Eircell networks. We are all conscious of the importance to the Irish economy of the continued availability of a first class, non-interrupted telecommunications service. There are a number of steps that my Office has taken in this area.

When the first of these outages happened on both the eircom and Eircell networks – on 19 November 1999 – my Office immediately moved to ascertain the causes and what could be done about it. On this, and other outages around the same time, we received full reports from the companies setting out the causes of the problems and the steps that were being taken to ensure that these problems would not recur.

The outage and the prevention of its recurrence, are matters for the operators in the first instance – it is clearly not in the interests of an operator that is trying to woo customers to have the reputation of having an unreliable network. I do believe that the companies are taking this issue very seriously and are adjusting procedures and processes internally to protect against these things happening again.

I also take these problems very seriously and will continue to oversee the performance of the operators and their network reliability. I will receive reports on any significant network problems and their causes and remedies in the future. We have also initiated a programme for measuring performance of licensed operators and an examination of the future demand and capacity on the eircom network and these measures will also help to ensure that we have full information. Critical public services are covered by eircom's universal service obligation, which requires them to make service available uniformly throughout the country. Eircom is also obliged to ensure that people can contact the emergency services.

Performance Measurement

The programme for measuring the performance of licensed operators that I have mentioned will result in the publication of information. This will include information on outages as well as service levels. I believe that this will add to the incentive that is already there for operators to ensure the reliability and robustness of their networks.

The programme also has another purpose. Operators can make many promises about the quality of service that they provide, but in many cases it is hard for the consumer to judge if they are living up to those promises. The purpose of this programme is to measure key indicators of service levels, for example;

- service provision – how long it takes to get a line
- fault management - how long it takes to get a line fixed
- complaints – how long it takes to get them resolved, and
- billing mistakes and problems and their resolution

Because of eircom's position in the market, additional information is required from them on Directory enquiry service, public payphones, and once again, the level of service that they provide to other operators. When published this will let consumers compare how operators live up to their promises and should help them to make informed choices about who they get their service from.

It is a complex exercise to make this data comparable and to set up the systems to ensure it is collected. My Office has convened an industry group that is working on the definitions and the systems and we are also keeping consumer groups informed of developments. The first published data from the programme will appear in 2001.

Cable/MMDS

Last year when I was here, I told you that 4 of the 5 main cable/MMDS companies had accepted my offer of new licences, which would authorise the carriage of digital television service. Licences were subsequently taken up by the four companies in April and May. The remaining company was not willing to abandon its claims to exclusivity and licence renewal and I felt obliged to initiate court proceedings to determine the position. At the beginning of March this year this year, Princes

Holdings Ltd – Irish Multichannel - acquired that company and has indicated to me that it is willing to accept licences on the basis which I had originally proposed. Effectively this would mean that the new owners would be granted a short period of in-platform exclusivity but that all claims to exclusivity going forward against other delivery platforms would be dropped. My office is in discussions with Princes Holdings on the detail of licence obligations which would apply to new licences. I am confident that this process will result in the early acceptance of new licences with the effect of introducing digital services to the Carlow/Kilkenny/Tipperary area.

In providing for the delivery of digital television services, operators must upgrade their networks. In doing so, the enhancements facilitate the introduction of new services for consumers, particularly voice telephony and Internet access. As a result, the competitive environment will be enhanced which can only mean benefits for consumers in terms of price, choice and quality.

Last year also saw the acquisition of Cablelink by NTL while earlier this year Cable Management Ireland was acquired by Liberty Ireland, a wholly owned subsidiary of AT&T and a 50% partner in Princes Holdings.

Deflectors

The acceptance of new licences by cable/MMDS operators last year cleared the major obstacle towards dealing with the issue of deflectors. Following a consultation process I provided a licence framework within which deflectors may operate and a total of 21 applications were received prior to Christmas. (In December I also issued a licence to South Coast Community Television which had previously made an application). Examination of the applications was completed early in February and 19 licences were offered, with the other two applications affected by the remaining claim as to exclusivity. All 19 applicants have accepted the licences as offered and these have now been issued.

I am aware that there remain a number of deflector operators who did not avail of the opportunity to apply for licences. In operating without a licence they are in breach of the Wireless Telegraphy Acts and, as Regulator, I cannot turn a blind eye to such actions. In addition to the need to uphold legislation, it would be unfair to those who

complied with the licensing requirements if such unlicensed operations were tolerated. As there appears to have been genuine difficulties affecting some of these I propose to deal with applicants from such groups provided they are made before the 4th May- four weeks from now. The scheme is now well known- there will be no third chance.

Pirate Radio

Pirate Radio is the last of a number of longstanding issues inherited by the ODTR, which we have yet to make a visible impact on. Considerable work has been done in the last year we are gearing up for a more structured approach to the problem, which will be more effective.

The policing of pirate radio is an important concern for this office and we are very aware that it is a growing problem. We have identified and located a large number of pirates in the Dublin area. In the last few months we have closed down three stations in Dublin and one in Co Monaghan and a number of investigations are ongoing at present. We have staff monitoring the advertisers on pirate stations and also staff on the roads monitoring interference issues. We have sent 30 letters to advertisers since 1999 with good results. A team leader has taken up duty and additional staff are being recruited.

It would require massive resources to physically shut down all of these stations and to continue to keep the airwaves free of pirates. It is our responsibility to manage radio spectrum – it is a national resource and not finite and we need to ensure that it is put to optimum use. Our aim is to reduce pirate broadcasting as far as practical by the most efficient means possible. The best way to achieve our aim is to operate in an open and forthright and measured manner. We are seeking high impact/ low resource solutions to the problem.

The legislation we are dealing with dates back to 1988 and some to 1926. To say the least it is cumbersome and defines offences so narrowly that it makes it difficult to get a conviction. The legislation allows the ODTR to bring a summary prosecution, which can result in a maximum fine of £1,000 or 3 months in jail. A prosecution on indictment which carries more severe penalties and which can result in the forfeiture

of the equipment is a matter for the Director of Public Prosecutions. The legislation does not specifically provide for the use of statutory injunctions in respect of offences. The use of injunctions could make enforcement a lot more effective and I believe including this in future legislation could be very useful.

DTT

One of my first tasks when the Office was established was to examine the opportunities, which were presented by advances in digital technology. The report which I commissioned from NERA/Smith explored the various possibilities in relation to broadcasting. One of the conclusions of that report was that Digital Terrestrial television (DTT) could exist side by side with competing cable, MMDS and satellite platforms. The ODTR last autumn circulated a consultation paper on DDT licensing with the aim of setting down the principles which my Office felt should apply to the regulation of DTT and to elicit the views of interested parties. A significant number of responses were received from a wide range of parties. Further progress in relation to putting a regulatory framework in place will depend on the progress through the Oireachtas of the Broadcasting Bill, which will set down the parameters for the introduction of DTT.

Last month I gave a presentation of my views on the Bill to the Select Committee on Heritage and the Irish Language following a written submission which I had given to the Committee in December. I look forward to the revised proposals signalled by the Minister for Arts, Heritage, Gaeltacht and the Islands.

At that Committee, I also referred to the position regarding responsibility for radio broadcasting. The ODTR identifies frequencies for new stations, but it is the IRTC that actually licenses them. Accordingly, the question as to whether and how any particular station should be licensed is not a matter for us.

Satellite Regulations

My office recently drafted a Statutory Instrument on licensing of Earth stations operating in the Fixed Satellite Service (FSS) and these have been submitted to the Minister for Public Enterprise for her consent.

Until now we have not had a comprehensive licensing regime for such Earth stations, authorisation of stations being done on an individual permit basis. Satellite networks are yet another element of communications infrastructure and are becoming increasingly important in the context of the overall growth in demand for national, supra-national and global communications.

With these Regulations we will be establishing a clear, transparent, licensing framework for FSS Earth stations and rationalising yet another area of telecommunications legislation with a view to the successful development of telecommunications in Ireland.

Future Developments

On the 22 March last I produced a report on the status of the market at that point. There were seventy operators licensed to provide service with almost two-thirds actively providing services to the Irish consumer. Liberalisation has seen market size increase with a growth of 18% in voice traffic during the year.

Competition was initially fierce in the business, long-distance and international telephony sectors, but signs were showing that competition was on the increase in the supply of local telephone services. The market trends developing in the early stages of liberalisation mirror the experiences of other European countries who have successfully liberalised. New entrants to the market aim to establish a customer base in the higher value/volume ends of the market to establish credibility and ensure cash flow in the start up phase of the business.

This is the stage the Irish market is in at present. As the market matures and these new operators become more established competition is likely to broaden across all of the different customer bases in the telecommunications market. The Irish market is

beginning to see this happen with the ever-increasing variety and sophistication of services being offered to all customers in the market place.

To ensure that my Office can continue to provide the best service to the Irish telecoms market I have re-organised the operations of my Office. In 1998 my Office was geared very much towards servicing the three key client blocks, namely telecoms, broadcasting and radio. However with the pace of change and the consolidation and convergence in the market place I decided to re-organise my office in to three new areas, namely Market Operations, Market Framework and Market Development. I am also expanding the numbers in my Office to ensure that the fast efficient and timely response that my clients need is provided.

Aside from the regulatory issues, which had a significant impact on the telecoms landscape, developments on the commercial front were no less spectacular. Eircom, aside from the name change, became a publicly quoted company. Consolidation, by both merger and acquisition, also helped to change the telecoms scene from when we last spoke. BT purchased Esat Telecom, which itself had purchased Ireland-On-Line from An Post. BT also purchased the remaining part of Ocean Communications that it did not own from ESB. On the cable/MMDS side of things Princes Holdings, which trades as Irish Multi-channel, took over Suir Nore Relays and CMI, and NTL's purchase of Cablelink.

What is happening in Ireland is merely a mirror of that which is happening on a global scale in the telecoms sector. I expect that over the coming years consolidation will continue and the line between telecommunications companies and communications companies will become more and more blurred. Fixed/Mobile convergence is one of the new terms being bandied about and already operators are looking at the potential benefits to their customers of such services. It is for this reason that I have put together a project team within my Office to examine all aspects of the regulatory regime to ensure that it will not impact in any negative way on such developments. I am committed to ensuring that my office makes it as easy as possible for market players to go about the business of doing business without any unnecessary impediments.

Work Plan 2000

My Office's role is to ensure that a framework is in place that keeps the needs of Irish telecommunications users at the forefront and that allows operators the commercial freedom to exploit new technologies and develop innovative services. In particular I want to ensure that no segment of the market gets left behind. Further steps to encourage competition will be needed as the market evolves and to cater for further technological change. I will mention just a few issues we will be dealing with in the near term.

Mobile Market

The predictions for the mobile market vary but most commentators expect the number of mobile subscribers to surpass the numbers for fixed subscribers by about 2005. I want to ensure that all end-users of such services benefit. I will be reviewing access to the mobile markets in the context of fixed-mobile convergence and propose to hold a competition later this year for the award of spectrum for UMTS. The current case relating to the award of the third mobile licence should be resolved and Irish mobile consumers can look forward to greater choice, more innovative pricing and an increased range of services in future.

UMTS

The ODTR has recently initiated the process that will ultimately lead to the licensing of frequencies for the introduction of 3rd Generation (3G) public mobile communications, more commonly referred to as UMTS, in Ireland.

Essentially this technology will give the high mobility of your GSM phone along with the high rate of data transfer only now available from fixed lines. The rate of transmission will be over 200 times faster than that available on current mobile phones. The main advantages are content, speed of delivery and high levels of mobility.

UMTS (Universal Mobile Telecommunications System), represents the next major step in the evolution of mobile communications. What principally differentiates

UMTS services from their current 2nd Generation (i.e., GSM) counterparts is the emphasis on data rather than voice services. This reflects similar trends in fixed telecommunications, where the rise of the Internet has recently seen data overtake voice traffic for the first time.

The ODTR has much work to do during the course of this year in terms of determining how many operators the available spectrum can support. Other areas, which will have to be examined are the legislative framework and the relationship between 2nd and 3rd generation networks with respect to incumbents and newcomers. Licences will be awarded by competition, the format of which has yet to be determined, and I plan to issue the licences in February 2001. We will be hosting a workshop for the industry on 18 April to discuss these issues.

It is clear that spectrum will play an increasing role in telecommunications in the future, and I have asked Mr Jim Connolly of my Office to prepare a slide on spectrum use in Ireland, which has been circulated to you. He is here and can give you a 5 minute explanation of it should you so wish.

Consumer Protection and related issues

The presence of so many major international players on the Irish market can only be good for Irish telecom users. I welcome the contribution that all players have made in driving down the cost to end-users while at the same time increasing the range of services and quality of service available.

My office is working with industry, including user interests, in developing the requirements for publishing performance measurement indicators of service quality that all operators will have to introduce on a phased basis. It is a complex business, comparing service between operators, but essential for users.

Tariff transparency is a key concern of consumers. The best judges as to whether tariffs are clear are consumers themselves. Perhaps the best way the ODTR can help

is by supporting and promoting them in their call for transparency rather than devising regulatory common measures that will necessarily be complex, involve costs for operators and ultimately consumers and take time to introduce. We will be watching developments in this area with interest because we do see changes coming down the line with on the one hand , more tailored prices as companies target particular types of users and on the other hand the advent of “ total package solutions” where converged services – internet, voice, data, TV are all billed together.

Recently my Office met with a number of user and consumer groups in the context of getting their views on what the future regulation of the market should look like. This was of particular benefit to my Office because over the past 18 months or so the lack of a consumer voice in reply to consultation has been of great concern to me. My Office is now considering, in co-operation with the representative groups, how best to afford them the opportunity to be heard and I look forward to working more closely with them over the coming period.

99 Review

As you know the regulatory regime in Ireland is based on EU Directives, some of which in the telecoms sector date from the early 1990’s. During last year the European Commission engaged in a wide spread review of the existing regulatory regime, to try and measure its effectiveness to date and the needs for the future. In November 1999 it published a consultation paper on the future framework in which it outlined its views on how the future regulatory regime might look. My Office, in association with our colleagues in the Independent Regulators Group has submitted a co-ordinated response to the Commission on our views.

In addition to the co-ordinated response, my Office, following consultations with ALTO, eircom, the Department of Public Enterprise, the Competition Authority and consumer and end-user groups, has submitted our own response also. I have included in your packs a copy of both my own response and the IRG response. The European Parliament will debate the matter in early May and I would expect the Commission to be make known its position following that. It should be noted that we are now

considering the framework for the telecoms sector from 2003 onwards so it is vital from Ireland's perspective that we take the opportunity to influence as much as possible the Commission's thinking. The importance of telecommunications to Ireland, given our peripheral location is crucial to the continued success of the overall economy. My office is engaged in regular contact with the European Commission, both directly and as a member of the IRG, to ensure that our concerns are clearly understood and taken into account in any future regulatory regime that may emerge.

Powers

I want to briefly touch on the legal powers under which my Office operates.

Appeals of Decisions

As you are aware, this Office has been subject to major legal challenges in respect of certain decisions – the challenge by Orange in the award of the third mobile licence and the challenge last autumn by eircom to a decision on interconnection matters are two that come to mind. I don't propose to say anything specifically about either case as both are still before the courts.

However, I do want to draw your attention to the impact that the regulatory framework can have on the successful development of competition, and the corresponding negative impact that long delays in implementing that framework can have. It is for this reason that the industry players, and I sought a change in the operation of appeals against decisions of my Office. The particular concern was to remove automatic suspension of decisions while appeals are heard, thus removing a significant delay in implementing the framework. That automatic delay only benefits the operator who is least happy with the decision appealed, and not the overall market development.

Two weeks ago the Minister for Public Enterprise, Mary O'Rourke, signed into law two statutory instruments particularly on interconnect and licensing decisions which remove this automatic suspension. This is a very welcome development for my Office and the market generally. I believe this type of change can greatly assist the

continued development of competition in the Irish market and help us to keep up, and in some cases ahead, of our EU partners.

As well as this very specific change, the Minister for Public Enterprise has also published a policy paper entitled “Governance and Accountability in the Regulatory Process: Policy Proposals”. In this paper the Minister suggests, amongst other measures, that there be statutory provision made that decisions by regulators may be appealed by way of judicial review. This would clarify the scope of what a court needs to examine – that is the processes and procedures used in arriving at a decision. It would also clarify the fact that in general, full and minute re-running of complex technical decisions made by an expert body such as a Regulator, are not best carried out in a court of law.

Enforcement powers

Another other area where I wish to see a change in the legislation is with regard to the enforcement powers of my Office. Since the establishment of my Office, it has been clear to many that the enforcement powers are not sufficient to cope with the telecoms sector in the year 2000. This is hardly surprising given that the powers under which I can act date mainly from an Act of 1983 – this provide for fines up to £1,500 which in the context of today’s telecoms market is wholly insufficient. In other words if someone is in breach of their telecoms licence the maximum I can fine them is £1,500. I think we are all agreed that things have moved on somewhat from that time.

In this vein, another enforcement tool that would be of assistance is the explicit entitlement to be granted a civil injunction in respect of activities that might also attract or possibly instead of criminal sanctions. I have already referred to this in relation to pirate radio. It is not clear that this can reliably be done without specific empowering legislation. None of the legislation relevant to my functions contains such entitlement.

There is also a need to sort out how competition law is operated in respect of the telecoms sector. The ODTR views are set out in our submission to the Minister for

Public Enterprise in the context of her consultation last autumn. The matter is subject to further consideration at Government level.

Licensing of Spectrum

Another topic that I feel is important is the licensing of spectrum. The growth in the use of wireless telecommunications is set to explode. The demand for spectrum can be expected to increase as the growth of wireless telecommunications continues to grow. At present licences for the use of spectrum are granted under the Wireless Telegraphy Act 1926. We have found ways around problems to date, but it is becoming increasingly difficult to use this legislation to cater for an industry that is experiencing profound, rapid and ongoing technological change.

Benchmarking

One feature of telecommunications regulations is that broadly similar issues are been addressed simultaneously across the European Union. This enables direct comparisons to be drawn between member countries. This is often referred to as benchmarking and I believe it is most useful in addressing difficult issues. For example it has on occasion taken a significant length of time for eircom to justify by reference to relevant costs certain of its interconnection rates. In such circumstances it is very useful to look at incumbents in other member states and where circumstances are right, require that such a benchmark be used.

Conclusion

This past year has been particularly gratifying for me as Regulator. Having put in place the framework in 1998 it was very satisfying to see how successful that framework has been in helping to allow operators get on with developing their

business, in spreading the benefits of liberalisation across all sectors of the market and in promoting innovation by the various players.

While much has been achieved over the past since 1 December 1998 my office and I are fully aware that there still rests a great duty on us to maintain and indeed increase the pace at which we operate. I am currently in the process of adding to the resources of the Office to ensure that our reaction to market developments is in keeping with the pace of developments in this sector. As I mentioned I am confident that the deficiencies in the current legal framework can be overcome and this will greatly assist me in meeting the needs of the market.

I must also thank the players in the market. While this past year has been particularly challenging in terms of the amount of issues that were dealt with, it would not have been possible to accomplish any of it without the co-operation and assistance of the operators themselves. There is a broader understanding of the fact that regulatory decisions are made for the benefit of users and market as a whole, while there may well be differences between my Office and individual operators on individual issues. The most effective work has not been headline-grabbing, and for this reason I want particularly to draw it to attention. In particular I must mention the Task Force on Numbering that against a very short deadline delivered the introduction of CPS on time. I very much appreciate the efforts made and I look forward to increasing and building upon this working relationship over the coming period.

I have outlined for you some of the key issues facing my office and provided you with a summary of the work undertaken since we last spoke. If there are any issues where you would like me to further expand upon I would be very pleased to deal with them in so far as I can.

Thank you