



Commission for
Communications Regulation

Information Notice

Amendment to Table 1 of ComReg Decision No.
01/06

Document No:	08/12
Date:	30 January 2008

Amendment of Table 1 in ComReg Decision No. 01/06

By virtue of ComReg Decision No. 03/05¹, Eircom was designated with significant market power (“SMP”) in the market for wholesale broadband access (“WBA”). Eircom is subject to various regulatory obligations as a consequence of its SMP in the market for WBA.

ComReg Decision No. 03/05 imposed certain *ex ante* obligations upon Eircom which have as their object and purpose, the regulation of Eircom’s conduct in the market for WBA. ComReg Decision No. 01/06² further imposed particular obligations on Eircom which have as their object and purpose, the regulation, through specified controls, of Eircom’s pricing practices in the market for WBA.

Table 1 in the decision instrument in ComReg Decision No. 01/06 (“Table 1”) sets out the retail minus price controls used to derive the wholesale prices for bitstream³ products.

As noted in ComReg’s previous Information Notice 07/103⁴, ComReg has in recent months, following the publication by Eircom of its 2006/2007 financial statements, been reviewing the retail minus price control for WBA. This review is ongoing.

Eircom has now proposed price reductions and increased speeds for all of the wholesale broadband products listed in Table 1. ComReg is keen to encourage this initiative and to see that it is implemented quickly and accordingly these new prices will come into effect from 1 March 2008. The amended Table 1 is set out below. Eircom is required to update its Bitstream Access Reference Offer (“BARO”) pricelist to reflect the updated bitstream prices that result from the amended Table 1.

The amendments to Table 1 will result in lower wholesale broadband prices for Eircom’s competitors who are providing retail broadband services. The amendments will also result in faster broadband speeds for consumers becoming available, on a phased basis, over the coming months pending consultation between Eircom Wholesale and other operators availing of the wholesale broadband services.

As already noted, ComReg’s review of the retail minus price control for WBA is ongoing and compliance is being monitored. Accordingly, ComReg reserves its legal rights with respect to compliance by Eircom with all of its obligations under ComReg Decision No. 03/05, ComReg Decision No. 01/06 and otherwise.

1 Decision Notice - Designation of SMP and Related Remedies - Market Analysis – Wholesale Broadband Access, dated 24 February 2005. All parts of this Decision, except section 9 are currently in force.

2 Decision Notice - Retail minus wholesale price control for the WBA market – dated 13 January, 2006.

3 Bitstream is another term for WBA.

4 Information Notice, document reference 07/103, published on 14 December 2007 – Amendment to Table 1 in Retail minus wholesale price control form WBA market (D1/06: ComReg document 06/01) – Introduction of 12MB wholesale product and amendment of 6MB wholesale price.

Amended Table 1

Wholesale Product descriptions before 1 March, 2008	⁵ Previous price controls ⁶ effective to 29 February, 2008		Wholesale Product descriptions after completion of upgrade programme	New price controls ⁷ effective from 1 March, 2008	
	30% ⁹	€3.70 ¹⁰		30%	€4.09
1024/128 @ 48:1 (IP) plus usage ⁸	30% ⁹	€3.70 ¹⁰	1024/128 @ 48:1 (IP) plus usage	30%	€4.09
1024/128 @ 48:1 (IP)	29%	€4.37	1024/128 @ 48:1 (IP)	29%	€5.18
2048/256 @48:1 (IP)	28%	€4.70	3072/384 @48:1 (IP)	26%	€6.79
3072/384 @24:1 (IP)	26%	€6.75	7600/672 @24:1 (IP)	25%	€11.59
4096/384 @24:1 (IP)	24%	€12.64	10240/832 @24:1 (IP)	24%	€12.64
6144/512 @24:1 (IP)	26%	€4.06	12288/1024 @24:1 (IP)	26%	€4.06
12288/1024 @24:1 (IP)	22%	€5.82	12288/1024 @24:1 (IP)	26%	€4.06

5 The retail minus price control applying to products shall be established by reference to the following formula: Wholesale Rental Price = retail rental price * (1 – fixed percentage < 100%) - fixed monetary value (“the price control”). Please see the following two footnotes for an illustrative example of the price control effective to 29 February 2008 and an illustrative example of the new price control effective from 1 March 2008. Please note that the formula remains constant, it is the fixed percentage and the fixed monetary values that change between the two controls.

6 The following example was included in D01/06 for illustrative purposes – if the retail price of “1024/128 @48:1 (IP)” product was to be €50, the wholesale price could be no more than €50 * (1-29%) - €4.37 = €31.13.

7 To update the illustrative example in the previous footnote to reflect the new price control: if the retail price for “1024/128 @ 48:1 (IP)” product was to be €50, the wholesale price could be no more than €50 * (1-29%) - €5.18 = €30.32

8 Where usage charges make up a significant portion of retail or wholesale prices, these charges will be converted into monthly revenues and the price control in Table 1 will be applied accordingly.

9 This column represents the “fixed percentage < 100%” that is used in the price control formula.

10 This column represents the “fixed monetary value” that is used in the price control formula.

The following points should also be noted in relation to Table 1 as amended:

1. The retail minus price control formula per section 4.5.2 of D01/06 that applies to products remains constant for both the price control effective to 29 February 2008 and the subsequent price control commencing on 1 March 2008. This formula is

$$\text{Wholesale rental price} = \text{retail rental price} * (1 - \text{fixed percentage} < 100\%) - \text{fixed monetary value}$$

Please refer to footnote 6 and 7 for an illustrative example of the price control.

2. The amendments to the price control in Table 1 will apply from 1 March, 2008 and will result in lower wholesale bitstream prices. Eircom's programme of bitstream product upgrades will commence on a phased basis over the course of the following months. Eircom Wholesale will notify all access seekers of these upgrades over the coming weeks and the proposed timing in respect of each upgrade. During that period, the same bitstream price will apply to the individual service before and after the upgrade of that individual service. At the end of the programme of upgrades, any service that has not been upgraded in accordance with the Table 1 above will migrate to the best service then available for the prices effective from 1 March, 2008.
3. The wholesale bitstream prices that are derived using the amended Table 1 and the relevant Eircom retail prices are the maximum wholesale prices that can be charged in accordance with the amended price control. However, it should be noted that, in accordance with ComReg Decision No. 01/06, if Eircom wishes to reduce the wholesale bitstream prices further, it may do so once ComReg's approval has been obtained.