Pricing obligations in WLA Market and WCA Markets

Operator correspondence since Consultation 17/26

NON-CONFIDENTIAL VERSION

Annex 8

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation
Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland
Telephone +353 1 804 9600 *Fax* +353 1 804 9680 *Email* info@comreg.ie *Web* www.comreg.ie

1. Eircom Ltd.

eir Group

Comments on Non-Confidential Submissions to Consultation 17/26:

Further specification of price control obligations in Market 3a (WLA) and Market 3b (WCA)

ComReg Document 17/26s

15th November 2017

DOCUMENT CONTROL

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eir would like to take this opportunity to comment on the non-confidential submissions to ComReg's consultation on Further specification of price control obligations in Market 3a (WLA) and Market 3b (WCA) (ComReg 17/26). eir has a number of general observations as well as specific concerns surrounding certain claims and assertions made by other alternative operators (OAOs).

General observations

1. Ireland's digital economy is approaching a critical juncture for the delivery of very high-speed broadband. In this context, the regulatory regime for the next number of years will play a crucial role in creating an environment conducive to the rollout of FTTH. Ensuring that the regulatory approach provides certainty, as well as the correct investment incentives, and thereby supports the development of infrastructure competition has been recognised by the Commission and pan European bodies such as the FTTH Council as a key factor in delivering gigabit connectivity.

2. eir is extremely concerned that the proposed move to cost orientation for FTTC[1] will cause harm to consumers in the long run by creating a very material deterrent to future investment in network infrastructure in Ireland, thereby discouraging network competition. This appears to be a view shared by other network providers. eir and other current and prospective investors will be discouraged by the prospect of diminishing returns, making already challenging business cases, particularly those where returns are likely to be marginal, uneconomic.

3. eir notes that in line with developments in the wholesale broadband market and planned and commenced infrastructure rollout, there is a distinct divergence in the overall tone of responses and reactions to ComReg's proposals. This reflects the disparate views of OAOs that have plans to invest in their own infrastructure as opposed to those that simply wish to buy an active wholesale service at the lowest price possible and those that operate in the intermediate wholesale market.

4. This can be seen in particular with regard to the dissonance prevalent in the ALTO response and the extent to which the response suffers from trying to reflect the disparate

[1] FTTC is used throughout this response to refer to VDSL and EVDSL

views of OAOs and their varying levels of commitment to infrastructure investment. Also of note, is the fact that separate responses have been submitted by SIRO and Vodafone, which has not been a feature of previous consultations or indeed the earlier stage of this particular consultation concerning the WLA and WCA market reviews (ComReg 16/96). This would appear to indicate a divergence in opinion as to the appropriate approach to pricing remedies in the relevant markets, how such will affect the investment incentives available to both eir and OAOs and the importance of those same incentives.

5. eir considers that certain OAOs have raised numerous valid points concerning the potential effects of ComReg's proposals that may be unintended and the likelihood that such proposals will stymie investment.

- SIRO believes that infrastructure competition should be the preferred option from a regulatory perspective and all decisions made should promote alternative investment. A regulatory regime which attempts to promote investment utilising the incumbent infrastructure is likely to act a barrier to the utilisation of alternative infrastructure. SIRO submits that the use of HCA in some elements of the pricing models in particular may result in prices being set at a level below that which would be required to sustain investment in alternative infrastructure.
- SIRO expresses concern around ComReg's proposal to base the VUA FTTC pricing on exchanges with active FTTC/EVDSL lines rather than all VUA sites and questions whether this gives other operators an appropriate incentive to invest in infrastructure to serve additional exchange areas.
- SIRO is also concerned by ComReg's proposal to implement a single per-port price for FTTH, as has been done with FTTC and would be in favour of allowing eir to retain differing wholesale price points for differing FTTH product speeds.
- enet has significant concerns in relation to ComReg's proposal to put in place a single, i.e. flat-rate, monthly rental charge for FTTC-based VUA services, with this charge set using the BU-LRAIC+ cost standard. enet considers that ComReg should move away from a flat-rate approach to VUA and instead adopt a tiered approach in relation to wholesale pricing.
- enet is of the view that anchoring FTTC wholesale pricing to the BU-LRAIC+ standard will inevitably lead to knock-on reductions in all related wholesale prices, including for FTTH-based wholesale products thereby having a major impact on

alternative providers of FTTH services and could call into question planned investments by these operators, enet included.

- Virgin Media considers that the imposition of cost-oriented obligations on eir's FTTC VUA and Bitstream products has the potential to undermine investment in competing broadband infrastructure. Virgin Media is of the view that the availability of regulated cost-oriented access to eir's FTTC network could impact decisions by operators, including Virgin Media, to deploy network in some areas. In addition a national cost orientated price control for FTTC VUA and FTTC Bitstream fails to account for the variation in network deployment costs. By definition, this would result in under-recovery in towns with higher-than-average deployment costs.

6. It is important to understand the impact of the reduction in wholesale prices on retail prices. In the context of a competitive retail market, reductions in wholesale prices will be reflected in retail prices. Customers are sensitive to the differential between the prices of various services and if this differential grows, take-up of higher speed services is adversely affected. Cost-based regulation of FTTC, at the price levels proposed by ComReg critically undermines the migration path for customers from FTTC to FTTH. In this manner, FTTC pricing effectively anchors pricing for FTTH services. The FTTC product that ComReg intends to impose stricter price controls on is capable of meeting the needs of the vast majority of users for at least the next number of years. Higher bandwidth products delivered over FTTH can command a premium, however if the price of the substitute FTTC product falls, the price of those premium products will tend to fall by the same or a similar amount.

7. It is this collateral effect that has the potential to significantly undermine the economics of investment in FTTH. Cost oriented prices for FTTC will lead to the elimination of any scope for infrastructure-based market entry in Ireland and will result in retaining an outdated focus on service level competition. This would seem in direct contrast to the Commission's vision for the telecommunications sector in Europe. The Commission has proposed an ambitious overhaul of EU telecoms rules, the main objective of which is to encourage investments in very high capacity (VHC) networks, such as fibre networks and fifth-generation mobile systems (5G).

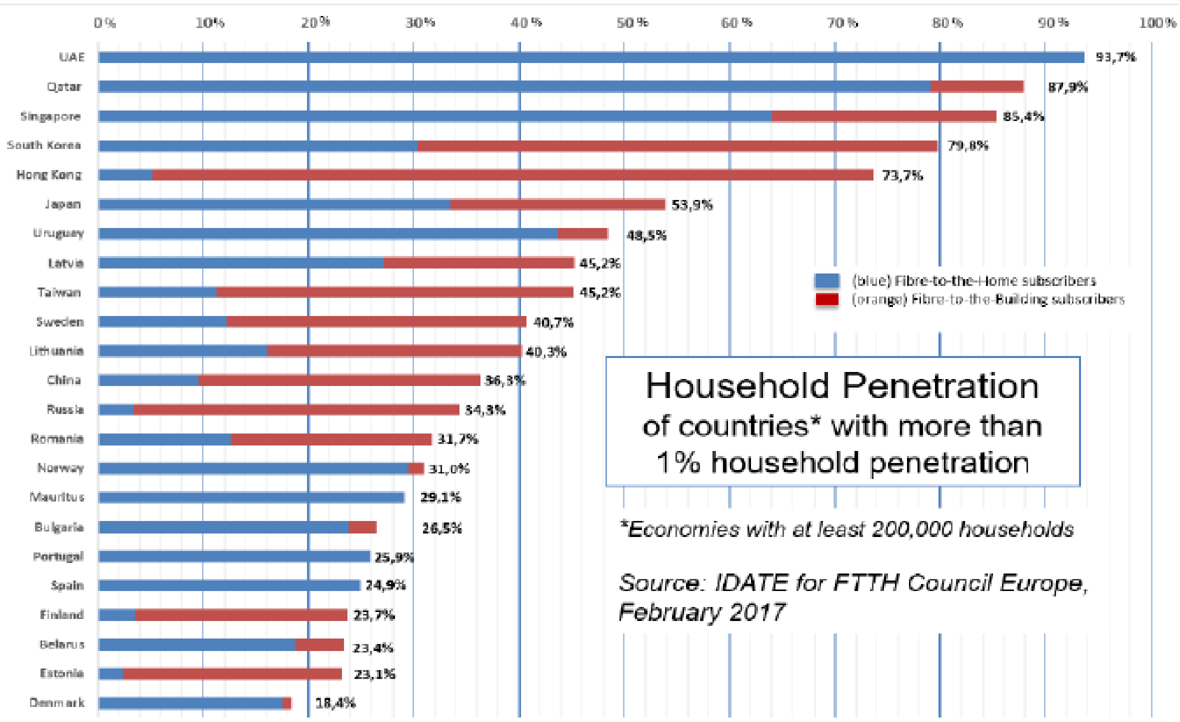
8. It is envisaged that the promotion of such investments will be key to delivering the extremely ambitious Gigabit Society connectivity targets. The Commission wishes to achieve the following by 2025;

- Commercially available 5G mobile communications systems in all urban areas and major transport corridors in Europe
- Access by all households to internet connectivity offering a download speed of at least 100 Mbps and upgradeable to gigabit speed.
- Socio-economic drivers' such as schools, transport hubs and businesses should enjoy a connection speed of 1 Gbps.

9. The availability and take-up of VHC connectivity are now elevated to core objectives of the EU regulatory framework for the telecoms sector. To this end the proposal aims to provide incentives for both incumbents and other operators to make economically viable investments in high capacity networks that meet the future needs of the Union.

10. The Commission's intervention appears to be timely, given that international benchmarks show that Europe is generally lagging behind the United States and other developed economies in fast broadband access and needs to do more to attract investments.

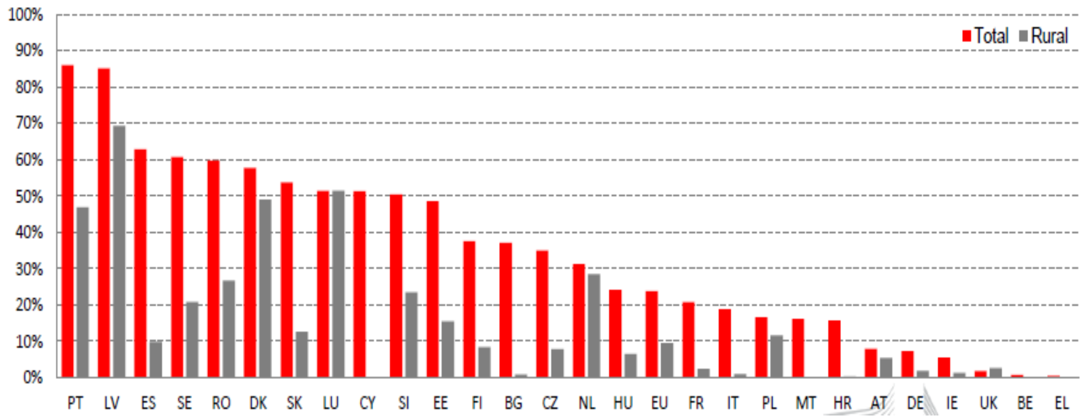
Figure1. FTTH/B global ranking, September 2016



Source: FTTH Council Europe

11. Although Ireland has now passed the 1% threshold to join the FTTH ranking, it is of note that in a European context, Ireland is still significantly behind in terms of FTTH coverage.

Figure 2. FTTH/B European coverage, June 2016



Source: Europe's Digital Progress Report 2017 – Connectivity

Table 1. Broadband coverage in Ireland by selected technologies (% Households)

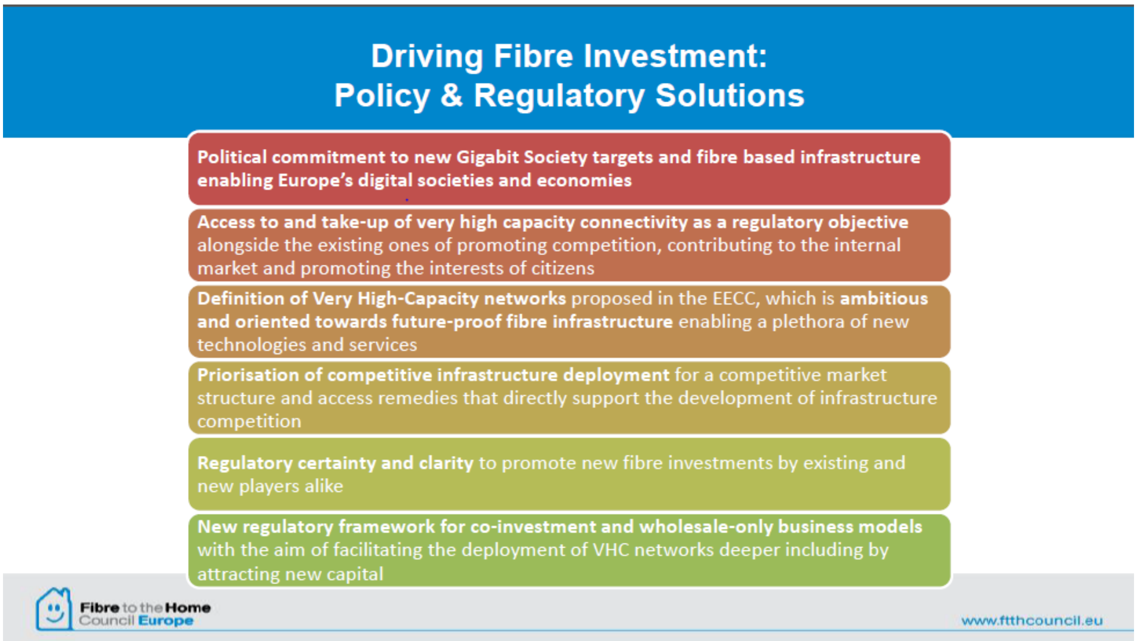
	2013	2014	2015	2016
DSL	92.5%	92.5%	92.5%	92.5%
VDSL	33.2%	60.8%	70.6%	80.6%
FTTH	1.7%	1.7%	4.5%	5.5%
Cable	42.4%	42.4%	42.7%	43.3%

Source: Europe's Digital Progress Report 2017 – Connectivity

12. It is clear that FTTH rollout in Ireland is currently at a very early stage and the likelihood of regulatory failure in the context of a market in transition is significantly increased. ComReg is proposing to impose heavily interventionist and burdensome pricing remedies in the WLA and WCA markets. For nascent technologies, pricing is far more complex and there are a number of interrelated variables, for which the outcome of intervention is inherently difficult to forecast.

13. As presented by the FTTH Council at the annual ComReg conference 2017, the policy and regulatory framework is key to creating an environment conducive to the rollout of

FTTH. This includes inter alia regulatory clarity and certainty as well as the prioritisation of competitive infrastructure deployment i.e. remedies that directly support the development of infrastructure competition.



14. eir considers that ComReg should heed the warnings inherent in the submissions of those operators who are investing in their own networks, that is to say that ComReg's proposals are premature as well as disproportionate at this particular juncture and will only serve to erode investment as well as migration incentives at a crucial stage in terms of the development of the broadband market in Ireland. It would appear that ComReg are pursuing at pace the incorrect market conclusion and subsequent remedies at this time.

15. eir has significant concerns with regard to ComReg's proposal to move to cost orientation for FTTC, concerns that are compounded by numerous shortcomings in the cost models. The regulatory approach previously adopted in Ireland led to a particular form of competition emerging i.e. deployment of widely available upgraded copper (FTTC), which results in competition that is still heavily dependent on access regulation. This pattern of stringent access and pricing regulation and a corresponding lack of investment in FTTH is a pattern that has been observed in a number of other European countries as noted by Shortall and Cave (2015)[2] and Briglauer, Cambini and Grajek (2017)[3]. eir is of the view

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[2] Shortall, T. and Cave, M., Is Symmetric Access Regulation a Policy Choice? Evidence from the Deployment of NGA in Europe (April 1, 2015). COMMUNICATIONS & STRATEGIES, no. 98, 2nd quarter 2015

[3] Briglauer, W., Cambini, C. and Grajek, M., Speeding Up the Internet: Regulation and Investment in European Fiber Optic Infrastructure (May 3, 2017). ESMT Working Paper Forthcoming

that, given the current status of network deployment in Ireland and the requirement for additional investment in VHC networks, further consultation with industry is now required.

Proposed pricing remedies

16. A number of operators are supportive of ComReg's proposal to continue to apply a margin squeeze test to FTTH products but express concerns around the proposals to move to cost orientation for FTTC products and in relation to ComReg's proposal to put in place a single i.e. flat rate FTTH charge.

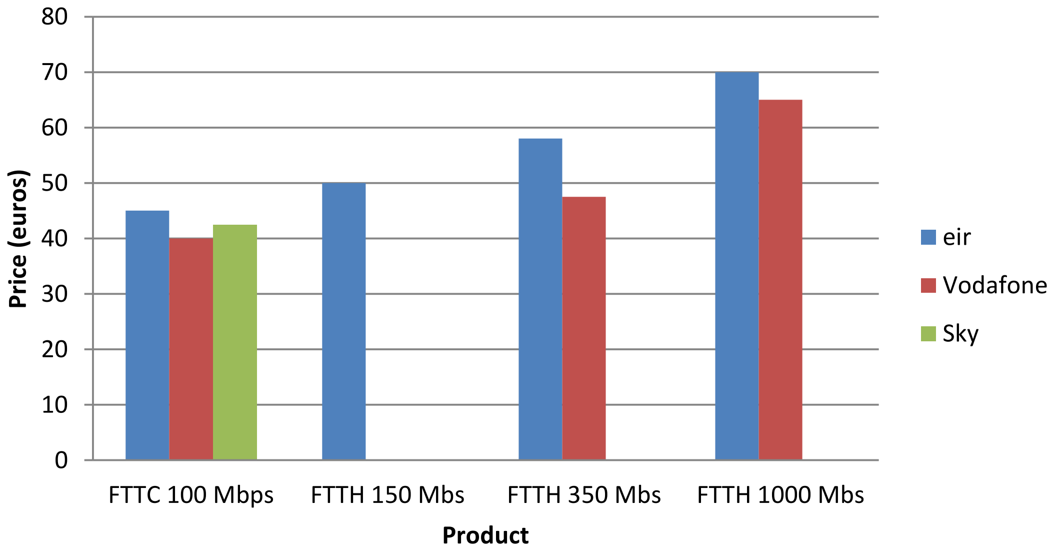
17. enet for example considers that ComReg should move away from a flat-rate approach to VUA and instead adopt a tiered approach in relation to wholesale pricing. eir agrees that it would be of benefit to overall market outcomes to allow it to retain differing wholesale price points for differing FTTH product speeds. eir also agrees that, with the aim of providing the best outcomes in terms of innovation, choice, quality and price, infrastructure competition should be the preferred option from a regulatory perspective and all decisions made by ComReg should seek to promote infrastructure investment by both eir and OAOs. A regulatory regime which attempts to promote competition through access to and the utilisation of eir's network only is likely to act a barrier to optimal investment in and utilisation of alternative infrastructure. By setting FTTC pricing using cost orientation there are a number of effects that eir believes ComReg has not sufficiently considered.

18. Wholesale pricing flexibility will be restricted if ComReg sets eir FTTC/EVDSL prices substantially below FTTH/B pricing levels. FTTC prices act as a constraint on FTTH/B prices and imposing cost orientation for FTTC will inevitably lead to knock-on reductions in <u>all</u> related wholesale prices. Although FTTH is often considered the superior or 'gold standard' broadband product from the perspective of the chain of substitutability, current consumer switching incentives will of course be based on perceived speeds, services available over higher speeds, pricing levels and a certain level of satisficing behaviour.

19. In a market where FTTH deployments such as SIRO's overlap eir's FTTC network, FTTC, which can provide speeds of up to 100 Mbps, is a close substitute for a 150 Mbps FTTH product. To therefore incentivise end-users to switch to FTTH, operators are likely to set the pricing levels in such a manner that the price differential is minimal. This can be seen in the prevailing prices for FTTC and FTTH and the convergence that has occurred over

the last 16 months. In June of last year for example the average contract price per month[4] for eir's FTTC product was €45 per month, while the corresponding price for its 150 Mbps FTTH product was €50 per month, a price differential of €5 per month (See Figure 1). It would appear from ComReg's analysis of retail pricing in ComReg 16/96 that a similar 150 Mbps product was not offered by Vodafone. With regard to pricing levels as of October 2017, the current average contract price per month for eir's FTTC and 150 Mbps FTTH products is €53, while Vodafone's average contract price per month for both products is €43 (See Figure 2). This illustrates the extent to which FTTC acts as an anchor product for FTTH, particularly for the lower bandwidth product. All higher bandwidth FTTH products are subsequently price constrained in relation to the 150 Mbps FTTH product.

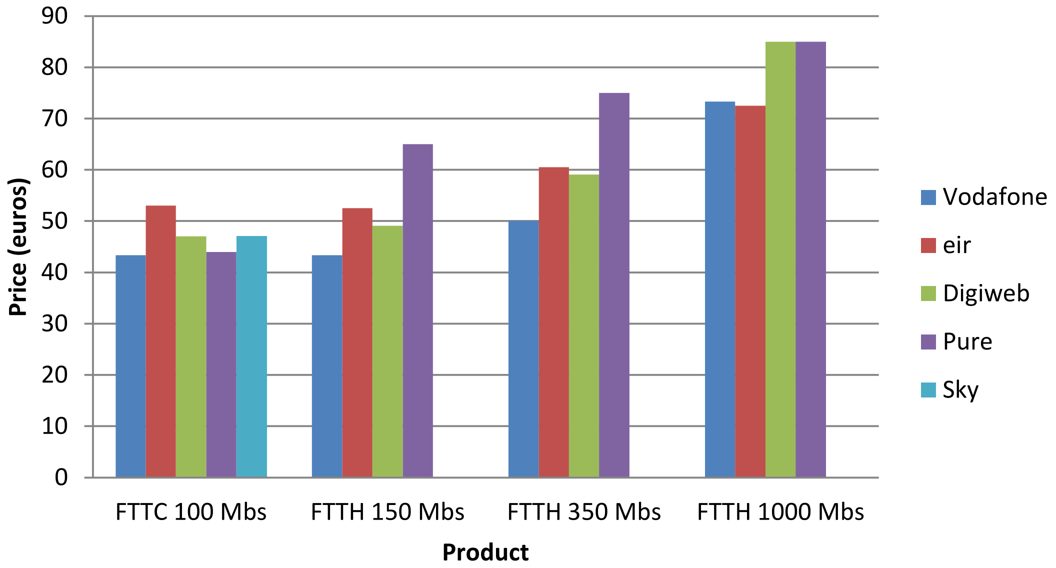
Figure 1. Price of retail fibre products for selected operators (June 2016)



Source: Internal eir analysis

[4] Speeds are advertised headline speeds. Prices are calculated as the contract average monthly charge, accounting for promotional discounts, contract length and any installation, set-up or activation charges applied i.e. this represents the average cost recovered by the operator per month over the term of the contract.

Figure 2. Price of retail fibre products for selected operators (October 2017)



Source: Internal eir analysis

20. [✂] Demand in the wholesale market is a derived demand i.e. driven by demand in the retail market. If ComReg proceeds with its proposal to implement cost orientation for FTTC, thus resulting in a lower wholesale price for FTTC, OAOs will undoubtedly pass these savings on to end users. This would create a larger price differential between FTTC and FTTH at the retail level with increased unwillingness on the part of end-users to migrate from FTTC to FTTH. If retail demand for FTTH stagnates this has a direct effect on wholesale demand for FTTH products unless the wholesale price for FTTH products also decreases.

21. In the context of current deployments of FTTH/B where operators are overbuilding eir's FTTC network in large provincial towns, wholesale prices for FTTC, which are artificially low due to flaws in the cost models and failure to consider an appropriate risk premium, will undermine the business case for that investment. The ComReg proposal to limit eir to a single FTTH/B price would also destroy value in investments by both eir and OAOs. The use of a single price places artificial constraints on the ability of retail operators to differentiate FTTH products based on speed and price, particularly where the variances in speeds available is large. The result at the retail level is that the FTTH price cannot be tailored to demand and customer willingness to pay. On the basis of derived demand, this

feeds through to the wholesale level and makes it harder for operators that have invested in FTTH networks to recover their investment costs.

22. Furthermore, a national cost orientated price control for FTTC VUA and FTTC Bitstream fails to account for the variation in network deployment costs. This proposal will lead to under-recovery in towns with higher-than-average deployment costs.

23. It would appear that other operators who are investing in their own infrastructure share this view and that such a move may call into question the business case for further planned investments by operators, a point that is in fact explicitly made by Virgin Media and enet. This would appear to be in conflict with Government and EU goals of achieving ubiquitous high speed broadband coverage. Where private investment fails to provide services of economic interest to a cohort of end-users, it is likely that additional public funding and thus transfers from taxpayers to operators would be required.

24. In addition, eir disagrees with any suggestion, such as that contained within Sky's response, that a move to impose a cost-orientation obligation on FTTH based Bitstream services is either appropriate or justified at this time or indeed over the period of the market review. Furthermore, Vodafone suggests that *"an immediate price reduction is warranted for CGA products"* and *"should be implemented immediately independent of any further consideration of the WLA/WCA markets"*. eir considers that both suggestions exhibit a lack of understanding around the complexities present in wholesale markets, the chain of substitution and the nature of regulating markets that are in decline.

25. eir agrees with the view expressed by Virgin Media that ComReg's current approach to Next Generation Access (NGA) regulation is working. The retail broadband market has become effectively competitive over the last number of years, while at the same time other operators have expressed confidence in their ability to grow and invest in their own infrastructure under the <u>current</u> regulatory regime;

    (i) Virgin Media has confirmed that it plans to expand its footprint by an additional 200,000 new homes and businesses over the next two years, a 25% increase on its current network coverage.

    (ii) SIRO with a network of over 85,000 premises passed is now Ireland's second largest FTTB operator. SIRO is live in 15 towns with construction advanced in a further 3 towns. SIRO has contracted with five different retail service providers and has network agreements with both BT and enet.

(iii) Imagine and Huawei have announced the formation of a strategic partnership with plans to deploy the first national Wireless-to the-x (WTTx) network. Imagine will commence the rollout of its network in October with the objective of 85% market coverage by 2019[5].

(iv) enet has developed a joint venture with SSE Ireland to bring fibre broadband to 115,000 homes and businesses in the western and north-western regions of Ireland by 2019[6]. eir notes that SSE already provides retail broadband in the UK and it's possible that they may do so in Ireland while offering discounts to existing energy customers.

26. eir therefore does not agree with Vodafone's assertion that the *"requirement for cost based stable pricing is immediate – otherwise the case for further investment in the fixed broadband market in Ireland is questionable".* It would appear that operators plan to continue to invest substantially in these markets in the presence of the current regulatory regime, which provides continued incentives for investment. The motivations behind ComReg's current approach to regulation, which allows for a degree of pricing flexibility in relation to NGA products, therefore remain relevant.

FTTx network rollout

27. ALTO believes that ComReg has erred in its assumption that *"FTTC rollout stopped at the end of 2016"* and *"considers it too early for ComReg to make the rollout assumptions that it has"*. eir agrees with ALTO that the FTTC rollout is on-going and would add that due to the continuing nature of the rollout a move to cost orientation is not appropriate at this time. The proposal to impose cost orientation on FTTC is not justified given the state of competition and given that the imposition of such an obligation at this stage of eir's rollout of high speed broadband would undermine and deter on-going investments in NGA by eir and other players. ComReg's stated reasons for imposing the new obligations do not, upon inspection, provide a sound basis for such high-risk regulatory intervention

5 http://www.huawei.com/en/news/2017/8/WTTxGame-Changer-Superfast-Broadband
6 https://www.siliconrepublic.com/comms/enet-sse-broadband-fibre-ireland

28. ALTO is of the view that eir *"cherry picked"* the 300,000 premises although it is not clear what point ALTO is trying to make. eir notes that it is rolling out its fibre network to these 300,000 premises on the basis that it can do so commercially and in a cost effective manner. eir also notes that a large proportion of these premises will also benefit from the rollout planned under the enet-SSE joint venture. eir considers that this is a prime example of the nature of competition in the wholesale broadband market and in particular in areas that are best served by market forces rather than regulatory intervention.

29. BT contends that eir *"has now established what may be considered a de facto monopoly position i.e. out of 2.2 Million lines eir has already rolled out its network to pass 1.6 Million premises and have agreed with the State to commercially bring this to 1.9 Million premises by the end of 2018*". eir does not agree that it has in any sense established a de facto monopoly position and notes that network presence in and of itself does not indicate a position of dominance as any determination of market power will depend on product and geographic market definitions. As noted in paragraph 25 above the current regulatory regime is encouraging dynamic network investment.

30. As a result of differing competitive conditions in urban and rural areas there are likely to be sub-national wholesale markets as well as differences in the levels of product substitutability within these markets. For example in rural areas, where more users access broadband via traditional telephone lines, one would expect to see higher levels of switching between copper based services and mobile broadband, FWA and satellite. Urban areas on the other hand will generally benefit from competition between broadband services provided over cable, VDSL and FTTH. As such eir is of the view that in contrast to a monopolistic market, there is effective competition in both urban and rural broadband markets, albeit due to the existence of different competitive effects.

Current wholesale broadband access pricing

31. eir disagrees that increases in the price of its next generation wholesale broadband access (WBA) products were *"retribution"*, *"a cynical ploy"* or *"unjustifiable"*. Having regard to the competitive nature of the market in which eir operates, this is not something that would make sense for eir to do. eir is satisfied that the price increases were entirely justified and consistent with market developments including requirements for further fibre roll-out. In addition penetrative or exploratory pricing is a common strategy for nascent technologies, especially in a scenario where legacy technologies are subject to regulatory

remedies, which may serve to cause the initial price points of a replacement technology to be lower than that which would otherwise be expected.

32. eir notes that NGA WBA prices are currently regulated by ComReg in a manner that allows for such pricing flexibility whilst also providing for the need to ensure that effective competition is maintained, as envisaged by the European Commission (EC) in its 2013 Recommendation ('the 2013 Recommendation')[7] on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment. In particular, ComReg Decision D03/13 sets out price controls designed to prevent margin squeezes at the retail level and ensure appropriate 'economic space' between various wholesale products by regulating, inter alia, the relative levels of open eir's Bitstream Plus and VUA products (which were notified to ComReg) are compliant with relevant price controls. The price increases were compliant with all of eir's obligations.

33. Certain operators appear to imply that the price increase fully justifies a move to a cost orientation remedy for FTTC. Cost orientation is a remedy appropriate for mature products rather than growing markets with uncertain demand and costs. eir is of the view that OAOs are simply urging cost orientation to allow them to lower prices so as to retain higher margins. eir notes that despite increases in the price of wholesale access, both Sky and Vodafone have the ability to price competitively in the current market context and to leverage significant margins in other non-fixed assets in order to price in such a manner as to gain market share. For example Sky has priced its fixed dual play bundle and triple play bundles at standard prices of €55 and €84.50 respectively for the last number of quarters. Vodafone's equivalent dual play offerings increased by €5 to €60 as of Q4 2016, while its triple play product has remained stable at €70 (See Table 2). At the same time, both Vodafone and Sky have increased their share of the retail broadband market, with Vodafone's share increasing by 0.6% and Sky's increasing by 1.1% between Q2 2016 and Q2 2017. In contrast, eir's market share over this period has declined by 1.5% (See Figure 3).

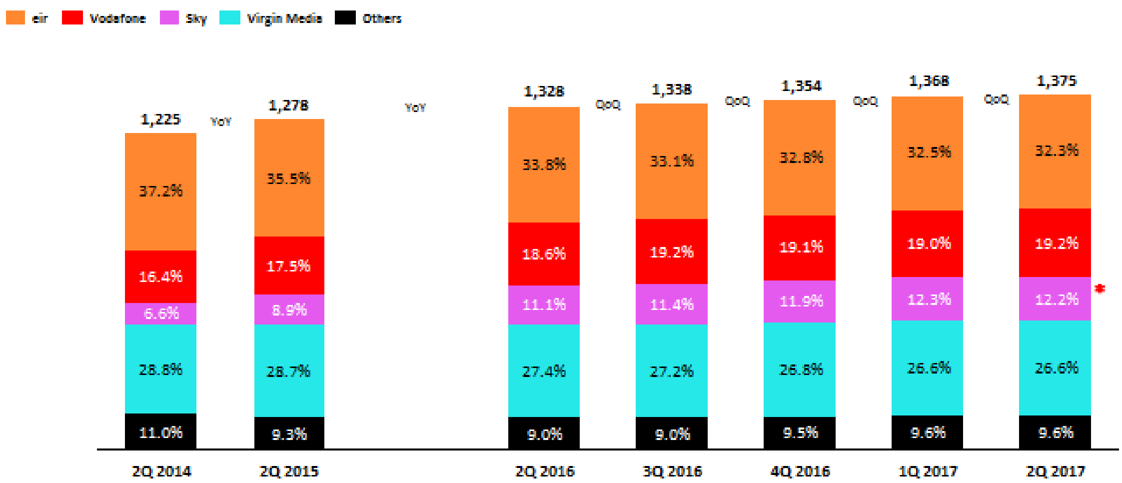
[7] C(2013) 5761, 11.9.2013
http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2013/c_2013_5761_en.pdf

Table 2. Standard retail price for competitor dual play and triple play bundles

	Q1 2016	Q2 2016	Q3 2016	Q4 2016	Q1 2017	Q2 2017
Fixed 2P						
Sky	€ 55.00	€ 55.00	€ 55.00	€ 55.00	€ 55.00	€ 55.00
Vodafone	€ 55.00	€ 55.00	€ 55.00	€ 60.00	€ 60.00	€ 60.00
Fixed 3P						
Sky	€ 84.50	€ 84.50	€ 84.50	€ 84.50	€ 84.50	€ 84.50
Vodafone	€ 70.00	€ 70.00	€ 70.00	€ 70.00	€ 70.00	€ 70.00

Source: Internal eir analysis

Figure 3. Fixed broadband retail market shares (subscriptions)



Source: ComReg Quarterly Key Data Report

34. ComReg itself appears to consider that simply because some penetration data now exists, the FTTC market can be treated as effectively mature with costs and volumes sufficiently easy to forecast. In the face of infrastructure-based competition that is only just emerging, this is simply not correct. In addition as per the 2013 Recommendation *"it is important in order to promote efficient investment and innovation…to allow those operators investing in NGA networks a certain degree of pricing flexibility to test price points and conduct appropriate penetration pricing"*.

Transparency

35. ALTO considers that ComReg should *"seek to provide more transparent reviews of pricing and price change applications from eir by means of production of cost models and also by means of mini consultations or requests for input on proposed changes on an ex ante*

basis". eir notes that the contents of eir's price change applications are commercially sensitive and it would not be justifiable that they would be provided in order to inform 'mini consultations'. It is unclear whether ALTO is proposing this in the context of the retail or wholesale market but eir notes that this would simply inform OAOs of eir's commercial strategy and provide unmitigated incentive for operators to frustrate the process as well as eir's ability to compete.

eir's Civil Engineering Infrastructure

36. ALTO once again raises concerns around eir's duct products and insists that eir is wrong in its assertion in its response to the WLA/WCA Market Review (ComReg 16/96) that there is no issue. This is a view that is echoed by BT.

37. Although the suitability or otherwise of eir's civil engineering infrastructure (CEI) is not considered in this consultation, it would appear that ALTO and indeed BT are intent on engaging in regulatory gaming with repeated efforts to discredit eir's duct and pole products. [✂]

38. Access seekers invariably want better arbitrage (via a heavily regulated eir) in order to add value to their businesses. In addition, ComReg itself has recognised in the response to the Consultation on its ECS Strategy Statement 2017-2019, that widespread take-up of CEI access products has been relatively limited in the EU and that it is likely that economies of density will impede the use of CEI in more rural areas.

> *"ComReg notes it is unlikely that such access products will obviate the need for other forms of access remedies in the short to medium term, including for reasons associated with the economic viability of using civil engineering infrastructure in areas where lower premises density makes the business cases challenging; it is notable that, with some exception, widespread take up of such access products in most EU countries has been relatively limited"*

39. As previously discussed (see paragraph 25), operators including enet, Virgin Media, Imagine and SIRO have continued to invest and plan to invest further in their own infrastructure and networks. This is in the context of the current regulatory regime and absent an EoI obligation for ducts and poles.

40. eir notes that there is already an obligation on eir to provide access to its passive infrastructure on an EoO basis and additionally that eir has removed restrictions on the usage of its CEI. Implementing the strictest form of non-discrimination is unlikely to change fundamental patterns of demand in the market and therefore result in the benefits required to outweigh the costs associated with eir having to re-engineer many of its business processes.

REO data

41. ALTO and BT do not agree with ComReg's proposal to collect REO data from OAOs and submit that industry would require several years notice to put in place the processes and systems to capture the appropriate data. eir notes, however, that this appears to be in direct contrast with ALTO's view submitted in its response to ComReg's Consultation on Price Controls relating to Bundles (ComReg 17/51). In its submission ALTO contends that *"on the issue of cost calculation, that such being done on a REO basis is a more fair reflection of the costs that would be incurred by other OAOs"*. The change in position appears to reflect Vodafone's stance on the issue with regard to both ComReg 17/26 and ComReg 17/51, which has consistently been that the REO standard is the appropriate cost standard.

42. In any event it is unclear to eir how using a REO cost base would be consistent with the nature of the problems identified. The use of a REO cost base would not promote efficiency, lead to sustainable competition or maximise benefits to end-users. A REO approach is not needed to ensure competitive Bitstream services and imposing such an approach would simply harm eir's ability to compete. Accordingly the proposal by ComReg to use REO data is inappropriate and creates legal uncertainty regarding the appropriate benchmark. The use of REO data is also inconsistent with both competition law (which uses an EEO cost base) and the 2013 EC Recommendation (which recommends the use of an EEO cost base). Applying the incorrect benchmark could result in unnecessary and unwarranted margins and may have no correlation to eir's own actual costs which could in fact be higher.

Treatment of access network costs in FTTC pricing proposed in Consultation ComReg 17/26

Background

On 7th April ComReg published a consultation on the price control remedy for open eir services offered in the WLA and WCA markets on the basis that ComReg proposes in a parallel consultation to designate eircom Limited with significant market power in these markets. This current consultation proposes to move from price control by margin squeeze test to price control by cost orientation for those WLA and WCA services delivered using the VDSL technology – delivered as either fibre-to-the-cabinet (FTTC) or as exchange-launched VDSL (EVDSL). Both forms of delivery use the open eir local access network between the node containing VDSL electronics and the customer premises to deliver the wholesale broadband service. In the pricing approach proposed in ComReg 17/26 there is a fundamental inconsistency between the treatments of the costs of this local access network and that treatment which has been used in previous ComReg decisions on setting prices for access services by cost orientation. This paper sets out the nature of the inconsistency, evaluates the financial impact of the inconsistency in price setting, and considers how the inconsistency must be addressed before the price control proposed in ComReg 17/26 is implemented.

The treatment of access network costs in ComReg D03/16

In the decision that set the price control for wholesale PSTN line rental for the period from 1/7/2016 to 30/6/2021 prices were directed to recover the sum of the cost of the PSTN line card and the average cost of all local access network infrastructure between the exchange where the PSTN line cards are located and customer premises where the service is delivered. This average is a single national weighted average across the 1148 open eir exchanges where access network costs and service demands were modelled in the Copper Access Model (CAM) built for ComReg by their consultant TERA after extensive inputs and engagement from eircom Limited. These exchanges include urban exchanges where the high density of demand warrant underground distribution of cables and the use of street cabinets as points of flexibility, and they include rural exchanges where low density of demand can only justify overhead distribution of cable on pole routes. The national average of the historic cost accounting (HCA) charge for the access network in 2016 was close to ✂ per service per month. This network includes about ✂ exchanges where the cost was less than ✂ as well as over ✂ exchanges where the cost is in excess of ✂. This national average charge on the access network assets is used to set the controlled price for wholesale PSTN (SB-WLR).

When ComReg published D03/16 and reduced the price for SB-WLR from €18.02 (controlled at retail minus 14%) to €15.91 per month for the year from 01/07/2016 to 30/06/2017 (controlled by cost orientation as the sum of nationally averaged historic costs of ✂ for the PSTN line card and of ✂ for the access path) open eir increased the prices for stand-alone and POTS-based VUA services. These increases were a legitimate form of tariff re-balancing in the context of the changed form of price control. In fact the subsequent cost modelling since undertaken by ComReg to inform the current consultation illustrates how closely this re-balancing approaches cost orientation across the FTTC and EVDSL portfolio. After removal of all access network costs ComReg has modelled the 2016 costs of the mix of FTTC and EVDSL at ✂ per month; the current open eir price is €8.09 for POTS-based FTTC/EVDSL where all access costs are recovered from the PSTN rental. The stand-alone variant of FTTC/EVDSL is currently priced at €23.00 per month; the sum of the access costs modelled for D03/16 (✂ for 2016) and FTTC/EVDSL VUA costs (excluding any access contribution) in ComReg 17/26 (✂ for 2016) giving a total of ✂ per month. All of the costs modelled will increase in 2017 so the current position based on ComReg cost modelling is that a small under-recovery on POTS-based VUA is offset by a small over-recovery on stand-alone VUA.

The treatment of access network costs proposed in ComReg 17/26

ComReg has proposed separate treatment for the recovery of access network costs from the pricing approach for stand-alone FTTC VUA on the one hand, and POTS-based FTTC

VUA on the other. Neither of these is consistent the recovery of access network costs on a nationally averaged basis.

Stand-alone VDSL VUA: there are two technologies used to deliver this service and the costs that ComReg has proposed to recover from these are a sum of the cost-oriented price for the unbundled copper input (SLU for FTTC, ULMP for EVDSL) that an Operator building their own VDSL electronics and locating these at open eir street cabinets or exchanges, and the modelled cost of the open eir VDSL electronics actually located in the network.

POTS-based VDSL VUA: the POTS-based VUA service is offered to Operators who take the service on the same copper pair that is used to deliver a PSTN service – in almost all cases as SB-WLR sold to the same operator at the price controlled to recover the national average of access network costs. However, as with stand-alone VDSL VUA, ComReg 17/26 proposes a price control for POTS-based VDSL VUA that (taken together with the associated SB-WLR service) does not allow for the full recovery of access network and VDSL electronics costs. In this case the ComReg proposal is to model the costs specific to the stand-alone service as above using the ULMP and SLU prices as the surrogates for access network costs and then to reduce the resulting price by the amount of the costs of the line card and the other access costs they consider to be recovered from the PSTN service. The result of this calculation is a price for POTS-based ADSL VUA monthly rental that does not even recover the investment in VDSL electronics and associated facilities (other than any access network elements) required to connect the VUA service to the Aggregation Node port where the Operator takes delivery. ComReg appears to have taken this position because they consider that the nationally averaged price for the PSTN SB-WLR service that must be purchased alongside the POTS-based variant of VUA has "over recovered" the lower access network costs specific to the particular PSTN services that exist on the same access paths as POTS-based VDSL VUA.

This imputation of a particular rationale to ComReg by eircom Limited is not supported by any exposition in ComReg 17/26 – or the necessary corollary exposition as to where the difference between the (lower) local "VDSL- specific average" of access network costs recovered from PSTN plus POTS-based VUA, and the (higher) national average cost of all access paths that is recovered from PSTN services sold without VUA, is to be recovered.

The impacts of the differences on the treatments in access network costs as between ComReg D03/13 and ComReg 17/26

The move from price control of wholesale VDSL access services by margin squeeze to price control by cost orientation that uses an allocation of access network costs that is well below the level used to set the SB-WLR rental has a number of implications for eircom Limited. This is because the current price levels for VDSL access – both POTS-based and stand-alone – are set at levels that actually make a very similar contribution to access network costs as does SB-WLR. This can be seen with reference to the ComReg modelling of the average cost of the VDSL electronics for 2016 at ✂ per service per month. The CAM finds that the nationally average cost of the access path is ✂ for 2016 and the stand-alone price for wholesale VDSL at €23.00 per month is close to the sum of these costs at ✂ per month. In a similar way the current POTS-based wholesale VDSL price at €8.09 and the SB-WLR price at €15.91 is €24 per month; the sum of the costs of the PSTN line card (✂), the VDSL electronics (✂), and national average access path (✂) is ✂.

The volumes for the first full year of the proposed control, and the projected annual impacts on **external** revenues at current prices that eircom Limited finds to be cost oriented (for the reasons laid out on page 2 above), are shown in Table 1.

Service	**Volume in FY17/18**[1]	**Current price**	**ComReg 17/26 price**	**Current revenue**	**17/26 revenue**
SA FTTC VUA	✂	€23.00	€16.50	✂	✂
PB FTTC VUA	✂	€8.09	€5.55	✂	✂
All FTTC VUA	✂			✂	✂

So the impact of the different implementations of cost orientation for access prices controlled after D03/16 and of cost orientation for the FTTC services using the control proposed in ComReg 17/26 will be to strand over €18M per annum of the access network costs incurred in FY17/18 – for services sold externally. Of course, competition in the downstream markets will ensure an equivalent stranding of access costs for network services provided to eir Retail. For the same year there are likely to be ✂ retail FTTC services of which ✂ will be POTS-based. At this volume and mix the stranding of access network costs arising for retail services would be close to ✂ in FY 17/18.

[1] These include FTTC Bitstream demand as the Bitstream port rental is set at the same level as the VUA port rental

Another effect of the ComReg proposal in 17/26 to move from recovering the national average cost of the access path to the service specific (local average) cost of the access paths is to set the expectation that this form of price control will ultimately apply to other forms of access service – and in particular to services using developing broadband technologies such as G.Fast or GPON (FTTH).

Possible approaches to addressing the inconsistency in pricing between D03/16 and ComReg 17/26

There are two broad approaches available to re-establish the necessary consistency between the existing price controls determined in D03/16 and those proposed in ComReg 17/26.

1. Adjust the controlled prices for SB-WLR published in D03/16 such that they move from recovering the national average cost of all access paths to recover the higher cost of only those paths not used to deliver VDSL.
2. Adjust the price control proposed in ComReg 17/26 for stand-alone and POTS-based VDSL services such that the first recovers both the VDSL electronics and the national average cost of an access path, and that the second recovers the full average cost of the VDSL electronics (with the access path costs recovered entirely from the associated SB-WLR service).

Only if one of these approaches is adopted will consistency be established to the extent that revenues from SB-WLR and VUA services recover the total HCA of the access network costs modelled in the CAM.

Recommendation

The two alternative approaches to ensuring consistency and legitimate cost recovery from wholesale access services each have different effects on price controls – and they have different implications for the future development of services delivered over the open eir access network. It is necessary to state, assess, and balance these effects before arriving at a recommendation between approaches.

Effects of option 1: the effects of exercising option one will include (i) an early review of the pricing for SB-WLR leading to rates above the levels set in D03/16, (ii) accelerated movement of demand from PSTN + POTS-based VUA to Stand-Alone VUA as the differences between the price differential increases, and (iii) a subsequent reduction in the price for POTS-Based VUA following the skewed cost recovery rationale of paragraphs 6.147 to 6.150 of ComReg 17/26. Let us examine these in turn.

(i) As estimated above the stranding of access network costs from the pricing proposed in ComReg 17/26 will amount to about €27M in the first year of the price control. At this point there will be ✂ access paths delivering FTTC service, about ✂ FttH, with the balance delivering PSTN with or without some form of CGA – or stand-alone CGA. By excluding the FttH as immaterial and treating the CGA and PSTN as recovering the national averaged cost here will be ✂ CGA services of which ✂ will be stand-alone where the price control from D11/14 precludes any price increase. Given that the total access paths modelled to set prices under D03/16 for FY17/18 was ✂ and ✂ of these will recover the lower access cost allowed under ComReg 17/26 the stranded could only be recovered over about ✂ PSTN services with no FTTC on the same access path. At this volume the wholesale PSTN price increase required to recover the access costs stranded by the FTTC price control will be close to €3 per month above D03/16 controlled rates!

(ii) The requirement for an increase in the SB-WLR PSTN monthly rental charge to allow for the recovery of access network costs not recovered from price set after ComReg 17/26 of the level indicated above will have the effect of increasing the current rate of migration from PSTN + POTS-based FTTC to stand-alone FTTC. This, in turn, will strand further access network costs and require a further correction to the SB-WLR PSTN monthly rental charge. The potential outcome should therefore be modelled by assuming that all FTTC is stand-alone and that PSTN rental is set to recover the national average cost of those access paths not reached by FTTC service.

(iii) The rationale of the approach proposed by ComReg 17/26 for setting the price for POTS-based FTTC reduces the modelled cost of the VDSL electronics and associated fibre by the difference between the access cost of the mix of ULMP and SLU (based on the mix exchange-launched and cabinet-launched VDSL) and the access cost recovered from SB-WLR PSTN monthly rental. As the PSTN price in increased to recover stranded access costs this difference will increase to the extent that the price for POTS-based FTTC could drop to zero. After the correction to the PSTN price by €3 per month for FY17/18 the rationale for POTS-based FTTC in ComReg 17/26 would see the controlled price fall to €2.55 per month.

For the very reasons described in (i) to (iii) above the EC Recommendation C (2013) 5761 explicitly warns at paragraph 25 that NRAs should "deal appropriately and consistently with the impact of declining volumes caused by transition from copper to NGA networks i.e. avoiding an artificial increase in wholesale copper access prices which would otherwise be observed as a result of customers migrating to the NGA network of the SMP operator." ComReg has set up two conflicting forms of price control by cost orientation when controlling wholesale PSTN prices to recover the national average of access path costs and proposing to control wholesale FTTC prices to recover the local average of access path costs for only those paths used to deliver wholesale exchange-launched and cabinet-launched VDSL services.

Effects of option 2: the effects of exercising this option include (i) maintaining the pricing for SB-WLR directed D03/16, (ii) ensuring that the wholesale PSTN pricing does not depend on the rates of migration from CGA or the future deployment of FttH, and (iii) that the controlled FTTC price does not depend on the mix of exchange-launched and cabinet-launched VDSL.

Conclusion

The key principle of cost recovery at paragraph 26 of the EC Recommendation C (2013) 5761 requires ComReg to make a substantial adjustment to the joint price controls laid out in D03/16 and ComReg 17/26 so as to allow open eir to recover all access network costs from all services. The two options described above appear to be the only feasible forms of adjustment to these price controls sufficient to deliver cost recovery. The first option has the potential to set up a highly unstable interaction between wholesale FTTC and wholesale PSTN prices through the control periods as customers migrate from ADSL to VDSL and from POTS-based to Stand-alone VDSL that the wholesale PSTN price does not require to increase in an unpredictable manner to allow cost recovery. So, from the analysis and discussion above, the conclusion is that ComReg must re-visit the cost treatment and indicative prices from 17/26 and allow for the recovery of the full national average cost of an access path from both the stand-alone FTTC price and the sum of the PSTN plus POTS-based FTTC prices.

1 Heuston South Quarter
St. John's Road
Dublin 8
T +353 1 671 4444
eir.ie

11 October 2018

Donal Leavy
Wholesale Director
Commission for Communications Regulation
One Dockland Central
Guild Street
Dublin 1, D01 E4X0

NON-CONFIDENTIAL

Re: Draft 2018 Pricing Decision and Draft 2018 Bundles Decision

Donal

I refer to ComReg's recent notification to the European Commission of the Draft 2018 Pricing Decision and Draft 2018 Bundles Decision.

In both the notifications for further specifications of pricing remedies, it is extremely disappointing that ComReg has either set a number of eir's issues aside without redress or appear to have misinterpreted a number of our submissions.

eir acknowledges as stated by ComReg in paragraph 11.63 of the Draft 2018 Pricing Decision that ComReg is not required to present an exhaustive list of potential abuses. Equally, however, when imposing ex-ante regulation and thereby interfering in the normal working of a market, ComReg's foremost concern has to be to do no harm. It is neither proportionate nor appropriate to impose a remedy on a market without being satisfied that this intervention is both necessary and going to be effective to the extent that its benefits will outweigh any unintended consequences. Competition law seeks to address similar economic issues. However, in the case of competition law the theory of harm must demonstrate that the operator has the ability and incentive to foreclose or undertake a margin squeeze. It is unclear to eir why this established theory of harm and the economic principles to distinguish between theoretical and actual valid concerns appears not to be used by ComReg when such an economic lens informs and justifies ex-ante or ex-post remedies.

For example, in paragraph 12.315 of the notified WLA WCA Market Analysis decision, ComReg refers to eir's "ability" to foreclose or exclude downstream rivals. In this context, it is important to highlight that anti-competitive concerns such as excessive pricing or leveraging from the wholesale market are already addressed by ComReg in imposing cost-oriented prices, non-discrimination, transparency and cost accounting remedies at the wholesale level. The economic argument submitted by eir is that once there is cost-orientation at the wholesale level then the only remaining theoretical theory of harm to successfully implement a margin squeeze <u>is from the retail market</u>. Therefore, for any potential abuse stemming from the retail market to be a valid regulatory concern, ComReg must demonstrate that eir has the ability and incentive to do so in the retail market. Neither the notified WLA WCA Market analysis decision paragraph Paragraphs 12.314 to 12.324 nor the Draft 2018 Bundles Decision paragraph 3.50 addresses this.

ComReg's reasoning in paragraphs 3.50-3.58 of the Draft 2018 Bundles Decision can only be valid where eir can sustainably prevent effective competition — in the first instance by setting very low retail prices, and in later periods by setting very high retail prices — the after-effects of which are unaffected by the independent actions of its competitors and customers. In combination with ex-ante wholesale remedies of non-discrimination, access, transparency and cost-orientation and Regulation 14 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' rights) Regulation 11 including competition law means the success of such a strategy absent SMP in the retail market is unfounded and illogical even on a theoretical basis. In other words, eir does not have the ability at the retail level to successfully undertake a market foreclosure strategy and eir does not have the incentive as a wholesaler to do so as it would be worse off relative to the external sales it could have generated during that period. ComReg's reasoning for a retail margin squeeze without undertaking a proper analysis of the retail market (when ex-ante regulation is also present on the related wholesale upstream market) means that a retail margin squeeze test can be maintained in perpetuity once SMP is found at the wholesale level — even in the presence of eir's retail broadband market share of ca.32% — this appears to eir to be contrary to the 2014 EC Recommendation.

The Draft 2018 Pricing Decision provides no further insight into ComReg's decision for moving to cost-orientation for FTTC than that already notified in the Draft Market Analysis Decision. The impact of FTTC pricing as an anchor product for FTTH prices (which was raised by a number of operators including eir) is clearly not addressed in paragraph 5.39 of the notified Draft 2018 Pricing Decision. To state that FTTH and FTTC prices are set independently due to different price controls is misrepresenting the economic issue. We note that the impact of FTTC pricing as on anchor product for FTTH was also made by the European Commission in their response to ComReg's market analysis (13.7.2018, C(2018) 4786). The issue is that, irrespective of the price control for FTTH, once FTTC prices are set (in this case by regulation) it immediately caps any FTTH returns relative to any premium available above those FTTC prices. Therefore, while they have independent regulatory controls, as an anchor product FTTC directly influences FTTH pricing.

In the Draft 2018 Pricing Decision ComReg has proposed separate treatment for the recovery of access network costs from the pricing approach for stand-alone FTTC VUA on the one hand, and POTS-based FTTC VUA on the other. Neither of these is consistent with the recovery of access network costs on a nationally averaged basis as set by previous ComReg decision D03/16. Therefore, as services migrate towards urban NGA services the remaining higher rural network access costs are unrecovered between the lower regulated urban NGA prices and the rural services whose prices are set by regulation using a nationally averaged cost.

Today our price levels for VDSL access – both POTS-based and stand-alone – are set at levels that actually make a very similar contribution to access network costs as does SB-WLR (which is set by regulation pursuant to ComReg D03/16 at a national average cost). This can be seen with reference to the ComReg modelling of the average cost of the VDSL electronics for 2016 at ✂ per service per month. The CAM finds that the nationally average cost of the access path is ✂ for 2016 and the stand-alone price for wholesale VDSL at €23.00 per month is close to the sum of these costs at ✂ per month. In a similar way the current POTS-based wholesale VDSL price at €8.09 and the SB-WLR price at €15.91 is €24 per month; the sum of the costs of the PSTN line card (✂), the VDSL electronics (✂), and national average access path (✂) is ✂. Therefore, ComReg suggestion in paragraphs 3.101, 3.110 and 3.118 that eir's wholesale prices increases are not justified by cost is factually incorrect and is based solely on the fundamental inconsistency by ComReg alone of access cost recovery between a decision taken in 2016 and that proposed today.

The issue of stranding network access costs by direct regulatory intervention is partially but not fully addressed by ComReg's updated views. As recognised by ComReg in paragraph 6.232 *"any risk that Eircom may not be able to fully recover its access network costs is reduced but not eliminated".* Related to this issue, as a point of fact, ComReg in paragraph 6.233 of the Draft 2018 Pricing Decision notification is misrepresenting the regulatory options available for SB-WLR. ✂.

In the Draft 2018 Pricing Decision ComReg has put forward two FTTH connection models. A connection/migration model where charges for both are the same and eir's proposed re-imbursement model — where the size of the re-imbursement is dependent on the length of time that has elapsed since the initial connection and the cessation / migration to another service provider, with the rate of depreciation determined on the basis of a 20 year asset life.

Having worked through a number of cost recovery calculations using a single connection/migration model, we have significant concerns that based on conservative assumptions that the recovery of that part of open eir's connection cost will take on average over 5 years using this model.

For example, assuming a single charge under such a migration model and an average customer lifetime of 42 months could mean that eir will not recoup its costs (compared to the reimbursement model) until after month 58. These figures have not been adjusted for the time value of money. Any such adjustment would increase the period of recovery further. In addition, these estimates do not include churn off network for example to Siro, NBP, Wireless operators or Virgin Media. Consequently, we consider that an average time of over 5 years for cost recovery to be understated.

In paragraph 13.30 of the Draft 2018 Pricing Decision ComReg state that one of the conditions applies "the same assumptions about customer churn as are used in the margin squeeze test". However, assuming an average customer lifetime of ✂ months which may not be unreasonable for NGA services — then eir would not recoup its costs until after 6.5 years. The calculation of a single migration/connection fee is highly sensitive to the assumed customer churn e.g., in order to achieve a payback in 42 months where actual churn is lower would require that such a fee would be materially higher than the upper bounds speculated by ComReg in the Draft 2018 Pricing Decision at ~€200 per connection/migration charge.

Both recovery timeframes are completely unacceptable from a cost recovery perspective — in particular as we have proposed to back date the recovery of the remaining average FTTH connection cost of ca. ✂ (✂-€270) through our on-going monthly rental. Finally, as this recovery straddles regulatory review periods it means that the ability to recover our costs may be truncated by future regulatory intervention. There is no wholesale business case that supports the current FTTH business case under such a model where a connection/migration fee is set at such low levels.

Aside from the elongation of eir's recovery of costs a connection/migration model may actually have unintended consequences at the retail level for certain operators as their ability to recovery this acquisition cost may be truncated or not recovered at all. However, in eir's notified reimbursement model this imbalance does not occur and places all operators on an equal playing field — as they only pay the wholesale charge for as long as they have the customer (i.e., there is no sunk cost). This allows all operators to pass on better value to end-users. As such, the notified reimbursement model better meets ComReg's regulatory objectives.

Put simply, a migration model means that eir's FTTH cost recovery risk is increased. eir's cost recovery under the reimbursement model is based on adoption. While eir's cost recovery under the migration model is dependent on adoption and churn. Our fundamental concern as a wholesaler should only be to ensure adoption.

eir acknowledges that ComReg has correctly changed its position to use an Equally Efficient Operator ('EEO') cost base in the various retail margin squeeze tests. However, eir notes that ComReg intends to maintain the use of a DCF model to determine the retail broadband costs for FTTH services. In this context eir maintains its view that ComReg has failed to transparently consult on the parameters of a DCF Model. Indeed, paragraph 10.126 merely re-states the previous assumptions used in the DCF model from 2014 pursuant to the ComReg D11/14. This means that interested parties for a decision being made in 2018 needed to have submitted views in November 2013.

The margin squeeze test shared by ComReg during the consultation process appears to be based on an extract of a DCF Model (from ca. 2012/13) and a subsequent adjustment made outside of that DCF

Model to estimate NGA costs (the retail broadband costs at the time were based predominantly on an SEO basis). As noted in eir's response in footnote 70 to the WLA WCA pricing consultation the *"DCF Model supplied to eir as part of the Consultation process is extremely dated and has been surpassed not only in terms of the updates but also in that it fails to include NGA retail services — which has been included for some time to allow a more accurate comparison to eir's HCA accounts".* Following discussions with ComReg, eir submitted a further refined DCF Model in December 2017 which allowed for easier comparison to the regulated accounts. The outputs of this model have been used in the various margin squeeze tests since that date.

✂

The notified WLA WCA Market Analysis decision states that there are 145 Urban Exchanges. However, in Annex 11 of that decision there are 154 exchanges listed. I would be obliged if you could clarify the names of the exchanges which ComReg proposes to deregulated in the WCA market.

I am available to discuss this or any further queries you may have and we are available for a conference call if you would find it useful.

Yours sincerely

Kjeld Hartog
Director of Group Pricing and Regulatory Finance

An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Mr Kjeld Hartog
Eircom Limited
1 Heuston South Quarter
St John's Road
Dublin 8

19 November 2018

Re: Draft 2018 Pricing Decision and Draft 2018 Bundles Decision[1]

Dear Kjeld,

Set out below is ComReg's response to the points raised in Eircom's letter of 11 October 2018. Please note that ComReg has published ComReg Decision D10/18[2] (referred to as the "2018 WLA / WCA Market Review Decision"), ComReg Decision D11/18[3] (referred to as the "2018 Pricing Decision") and ComReg Decision D12/18[4] (referred to as the "2018 Bundles Decision"), today.

1. Justification for a retail margin squeeze obligation

In its letter, Eircom states that it is neither proportionate nor appropriate for ComReg to impose a remedy on a market without being satisfied that its intervention is both necessary and effective, to the extent that its benefits will outweigh any unintended consequences. Eircom makes reference to competition law, noting that the theory of harm must demonstrate that the operator has the ability and incentive to foreclose or undertake a margin squeeze. Eircom also argues that, once there is cost orientation at the wholesale level, then the only remaining "*theoretical theory (sic)*" of harm to successfully implement a margin squeeze "*...is from the retail market*". Eircom claims that, for any potential abuse stemming from the retail market to be a valid regulatory concern, ComReg must demonstrate that Eircom has the ability and incentive to do so in the retail market. Eircom considered that neither the notified WLA / WCA market review decision (at paragraphs 12.314-12.324) nor the Draft 2018 Bundles Decision (at paragraph 3.50) addresses this issue.

[1] The Draft 2018 Bundles Decision and the Draft 2018 Pricing Decision referred to throughout this letter are the documents notified to the European Commission on 11 September 2018 and 12 September 2018, respectively.

[2] ComReg Document No 18/94, Decision D10/18, Market Review: Wholesale Local Access (WLA) provided at a Fixed Location, Wholesale Central Access (WCA) provided at a Fixed Location for Mass Market Products. Response to Consultation and Decision; dated 19 November 2018.

[3] ComReg Document No 18/95, ComReg Decision D11/18, Pricing of wholesale broadband services, Wholesale Local Access (WLA) market and the Wholesale Central Access (WCA) markets, Response to Consultation Document 17/26 and Final Decision, dated 19 November 2018.

[4] ComReg Document No 18/96, Decision D12/18, Response to Consultation and Decision on price control obligations relating to retail bundles – Further specification of the wholesale price control obligation not to cause a margin squeeze in the WLA, and WCA Markets, dated 19 November 2018.

Please see ComReg's views regarding competition law in the context of SMP regulation at paragraph 4.151 of the 2018 WLA / WCA Market Review Decision, and at paragraph 3.60 of the 2018 Bundles Decision.[5]

Eircom notes in its letter that (emphasis added) "*Therefore, for any potential abuse* ***stemming from*** *the retail market to be a valid regulatory concern, ComReg must demonstrate that eir has the ability and incentive to do so in the retail market.*"

ComReg does not accept Eircom's characterisation of what ComReg is required to do in justifying the imposition of a margin squeeze obligation. ComReg is of the view that Eircom's ability and incentive to engage in conduct on downstream wholesale or retail markets stems from its position of SMP on the related upstream wholesale market. The remedies applied to Eircom due to its SMP position at the wholesale level are therefore intended to prevent Eircom from, *inter alia*, leveraging that SMP onto downstream markets which, in the case of retail markets, are not subject to regulation by ComReg.

2. Anchor pricing

Eircom stated in its letter that "*The impact of FTTC pricing as an anchor product for FTTH prices (which was raised by a number of operators including eir) is clearly not addressed in paragraph 5.39 of the Draft 2018 Pricing Decision.*" and that "*...the impact of FTTC pricing as an anchor product for FTTH was also made by the European Commission in their response to ComReg's market analysis...*"

Please see ComReg's position on anchor pricing at Appendix 3 of the 2018 WLA / WCA Market Review Decision, in particular paragraphs A3.11-A3.18.

3. Recovery of access network costs

Eircom stated that the recovery of access network costs proposed by ComReg in the Draft 2018 Pricing Decision is different for stand-alone FTTC VUA than it is for POTS-based FTTC VUA and that neither of these approaches is consistent with the recovery of access network costs on a nationally averaged basis as set out in ComReg Decision D03/16.[6] Consequently, it is Eircom's view that, "*...as services migrate towards urban NGA services the remaining higher rural access costs are unrecovered between the lower regulated urban NGA prices and the rural services whose prices are set by regulation using a nationally averaged cost.*"

Eircom also stated that the prices currently set by Eircom for both POTS-based and standalone VDSL services are set at levels that "*...actually make a very similar contribution to access network costs as does SB-WLR (which is set by regulation pursuant to D03/16 at a national average cost)*." Eircom also disagreed with ComReg's views in the Draft 2018 Pricing Decision stating "*...that eir's wholesale price increases are not justified by cost is factually incorrect and is based solely on the fundamental*

[5] Paragraphs 6.2 and 11.3 of the 2018 WLA / WCA Market Review Decision and paragraph 3.62 of the 2018 Bundles Decision also note the fact that it is not necessary for ComReg to provide examples of actual abuse, or to provide exhaustive examples of potential abuse that could arise, absent regulation.
[6] ComReg Document No. 16/39, ComReg Decision D03/16, "Pricing of Eir's Wholesale Fixed Access Services: Response to Consultation Document 15/67 and Final Decision", dated 18 May 2016.

inconsistency by ComReg alone of access cost recovery between a decision taken in 2016 and that proposed today".

ComReg does not agree with Eircom's views.

As outlined in Section 6.4 of Consultation 17/26,[7] and as summarised at paragraph 6.177 and in Figure 6 in the 2018 Pricing Decision, the cost of the FTTC based VUA (incl. EVDSL) service already comprises all the costs of the local copper loop however the cost of E-Side copper, as represented by the differences between the LLU and SLU cost inputs, is an additional cost for the FTTC based VUA service when it is sold as a POTS-based FTTC VUA service. Consequently, the principle of cost causation implies that the POTS-based FTTC VUA services should make a higher contribution to access cost recovery than the standalone FTTC based VUA service to be consistent with the fact that both services make use of the access network in different ways.

In addition, as noted in Chapter 6, paragraph 6.212 of the 2018 Pricing Decision, "*...adopting a national average cost approach would mean that the wholesale FTTC/EVDSL charges are recovering costs over and above the costs that an operator would incur to serve those customers and this would distort the build or buy price signals for OAOs that are targeting the same customer base*".

In finalising the SLU and LLU cost inputs used to inform the cost oriented prices for POTS based FTTC VUA and for standalone FTTC based VUA (including EVDSL) services[8] ComReg and its advisors (TERA) carried out an analysis of Eircom's 2016/2017 Separated Accounts[9] in conjunction with expected costs and revenues to ensure that the risk that Eircom will not be able to fully recover its access network costs in the future is minimal. In this context it is worth noting the returns in excess of the regulated rate of return reported against Wholesale Access services in Eircom's 2016/2017 Separated Accounts and in previous years. Please also see Annex 12, paragraph A1.88 of the 2018 Pricing Decision.

Eircom has access to the Revised Copper Access Model ('Revised CAM') associated with ComReg Decision D03/16. Eircom has an obligation in line with Annex 12 of ComReg Decision D03/16 to provide ComReg with an annual reconciliation statement for the provision of WLR in order to assess any material and sustainable changes over the duration of the price control period. This review should allow ComReg to assess any material under / over recovery of costs.

[redacted]

[7] ComReg Document No. 17/26 "Pricing of wholesale services in the Wholesale Local Access (WLA) Market and in the Wholesale Central Access (WCA) Markets: further specification of price control obligations in Market 3a (WLA) and Market 3b (WCA)", dated 7 April 2017.
[8] See Chapter 6 of the 2018 Pricing Decision.
[9] https://www.eir.ie/opencms/export/sites/default/.content/pdf/regulatoryinformation/HCA_Accounts_2017.pdf.

[redacted]

4. **FTTH connections**

Eircom stated that it has worked through a number of cost recovery calculations based on the single connection/migration model proposed by ComReg in the Draft 2018 Pricing Decision, and that it has "...*significant concerns that based on conservative assumptions that the recovery of that part of open eir's connection costs will take on average over 5 years using this model*".

ComReg remains of the view that the measures set out in Chapter 13 of the 2018 Pricing Decision are appropriate for the reasons set out in that document. We will assess the details as to how such a charge would be calculated as part of the process set out at Chapter 13.

5. **DCF approach for FTTH retail margin squeeze tests**

Eircom stated that "...*ComReg has correctly changed its position to use an Equally Efficient Operator ('EEO') cost base in the various retail margin squeeze tests. However, eir notes that ComReg intends to maintain the use of a DCF model to determine the retail broadband costs for FTTH services. In this context eir maintains its view that ComReg has failed to transparently consult on the parameters of a DCF Model.*"

Firstly, to clarify, in relation to the margin squeeze test between FTTH based VUA and the retail product delivered by FTTH based VUA and sold singly in the footprint of the

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[redacted]

Urban WCA Market, ComReg proposed, as set out in Chapter 10 (Section 10.4) of Consultation 17/26, to use the EEO cost base and the DCF model. Therefore, in this regard there has been no change to the principles (EEO and DCF modelling approach) for the FTTH based VUA retail margin squeeze test.[11]

Furthermore, the proposed DCF model applied in the case of a margin squeeze test between FTTH based VUA and the retail product delivered by FTTH based VUA and sold singly in the footprint of the Urban WCA Market, was clearly set out in paragraphs 10.90 to 10.100 of Consultation 17/26. Similarly, in relation to the margin squeeze test between FTTH based Bitstream and the retail product delivered by FTTH based Bitstream and sold singly in the Regional WCA Market, the proposed DCF model was set out in paragraphs 11.85-11.93 of Consultation 17/26. Therefore, it is not accurate to say that ComReg failed to consult on the parameters of the DCF model.

[redacted]

6. Urban WCA exchanges

Eircom stated that "*The notified WLA WCA Market Analysis decision states that there are 145 Urban Exchanges. However, in Annex 11 of that decision there are 154 exchanges listed. I would be obliged if you could clarify the names of the exchanges which ComReg proposes to deregulated in the WCA market.*"

ComReg notes that, while there are 145 Exchange Areas in the Urban WCA Market, an additional 9 exchanges/nodes are entirely contained within the 145 Exchange Areas, and it is appropriate to indicate that these 9 exchanges/nodes are part of the

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[11] While ComReg proposed an operator cost base of SEO and EEO for the margin squeeze test between FTTH based Bitstream and the retail product delivered by FTTH based Bitstream and sold singly in Consultation 17/26, following consideration of respondents' views, ComReg decided that the EEO approach should be used for the reasons set out in Chapter 11, paragraphs 11.57-11.58 of the 2018 Pricing Decision.

[redacted]

Urban WCA Market footprint. In some cases these exchanges/nodes do not have any active lines. These exchanges/nodes are: KSH, BOM, SBK, KMO, LPT, MNS, CWJ, CWD, and MMT. For example, exchange BOM is contained in the AUV Exchange Area. Hence, the total number of Exchange Areas/exchanges in the Urban WCA Market footprint is 154. I understand that the status of these exchanges/nodes (plus 5 others that are in the Regional WCA Market) was clarified in an email from Eircom on 21 July 2017.

ComReg has published this letter, with the redactions noted in this letter, as part of the 2018 Pricing Decision.

Yours sincerely,

Donal Leavy

Donal Leavy
Director
Wholesale Division

1 Heuston South Quarter
St. John's Road
Dublin 8
T +353 1 671 4444
eir.ie

26 October 2018

Donal Leavy
Director, Wholesale Division
Commission for Communications Regulation
BY EMAIL: Donal.Leavy@comreg.ie

Re: Pricing of Wholesale Broadband Services (WLA/WCA) Response to Consultation Document 17/26 and Final Decision as notified to the European Commission

Dear Donal,

I am writing in relation to the above matter and, in particular, in relation to the lack of transparency and due process in respect of matters related to FTTH connection charges in the notified decusuib and the misrepresentations made by ComReg on related matters.

As you know, eir has written to ComReg with proposals in relation to a reimbursement model for the FTTH connection charge and discussions have been ongoing with ComReg and also with the OAOs through the industry forum since our proposal was first submitted on 18 June 2018. Notwithstanding those discussions, ComReg's assessment of eir's proposal over a number of months, and the acknowledgement by ComReg that the proposal addressed the original concerns raised in relation to the FTTH connection charge (including ComReg's email of 11 August 2018 stating that it would not be intervening), ComReg now appears to be abandoning that entire process and ignoring the positive feedback from the OAOs through the forum. In particular, ComReg now appears to be taking the view that the assessment that has been done is irrelevant and eir should be required to make a fresh submission to ComReg in relation to that same reimbursement model once the Decision Instrument is finally published.

eir fundamentally disagrees with this approach. The Decision Instrument itself does not make any reference to the process for submitting an alternative proposal to the connection/migration model and, in particular, no timelines or criteria are set out. The Decision Instrument merely states that "unless otherwise agreed with ComReg" the connection/migration model will apply. There is therefore no reason why eir should have to resubmit the reimbursement model that has already been assessed by ComReg, unless of course ComReg is deliberately attempting to restrict the ability of operators to challenge the Decision Instrument within 28 days of its publication.

eir notes that there is some detail in the response to consultation document that was submitted to the European Commission in respect of the timelines that might apply to any such submission by eir once the Decision Instrument is published. However, it is extremely concerning to eir that ComReg has indicated a timeline of at least 30 days for its response, clearly ensuring that the 28 day appeal window has lapsed. In the interests of fairness, transparency and due process, it cannot be the case that the time limit for appealing the Decision Instrument will have passed before industry knows what FTTH connection model will apply going forward. The way in which ComReg has managed this process has therefore left eir with no choice but to challenge the Decision Instrument, including the process followed by ComReg, in order to preserve its rights.

In addition to the above, eir is also very concerned with the apparent pre-judgement and bias of ComReg in relation to this consultation process. In particular, the statements made by Commissioner Jeremy Godfrey before the Joint Oireachtas Committee on Communications, Climate Action and Environment on

11 October 2018 clearly indicated to industry that ComReg had already decided that there was going to be a connection/migration model, as opposed to a reimbursement model, despite the previous indications that the reimbursement model addressed the relevant concerns. Not only does ComReg appear to have already decided that there is going to be a connection/migration model before the consultation process is finalised but it also indicated that the applicable charge would be in the region of €80-€150. This demonstrates pre-judgement and bias on the part of a public body on (a) matters that are subject to public consultation and (b) in relation to the outcome of ongoing discussions with eir and the OAOs; a matter which unfortunately appears to be a running theme in ComReg consultations of late.

It is also a clear misrepresentation to industry in relation to the charge that might apply going forward under this model. The Commissioner had no legal basis for stating that a €80-€150 range would likely apply and this false signalling to industry is in stark contrast to the workings undertaken by eir and being shared with ComReg which clearly indicated that such a fee would actually be materially higher.

We further note that the Commissioner also stated to the Oireachtas Committee that ComReg had not seen any competitors use the eir FTTH network. This is yet another misrepresentation to industry and Government when it is actually the case that there are currently 21 operators that have connected customers to the FTTH network. In this regard, we would also note that the continued momentum of FTTH adoption seems to be largely attributable to the introduction of the proposal for the reimbursement model, a model which ComReg now appears to be disregarding.

Unfortunately, the manner in which ComReg has managed this process has ensured that there is a complete lack of regulatory certainty and, as stated above, eir believes that it will be left with no choice but to challenge the Decision Instrument once published in order to preserve its rights.

In the interests of certainty and due process we therefore request that ComReg address the above issues before the final Decision Instrument is published and, in particular, we ask ComReg to confirm that it will continue with its assessment of the reimbursement model as already submitted, including the revisions submitted on 19 October 2018. We also request as a matter of urgency an explanation in respect of the misrepresentations made by ComReg on the level of connection/migration charge and the level of FTTH take up.

eir fully reserves it rights to raise the matters set out in this letter and any other matters it sees fit in any proceedings that may arise out of or in connection with the misrepresentations made by ComReg or the Decision Instrument once published.

We await hearing from you as soon as possible.

Yours sincerely

Gary Healy

Gary Healy
Director of Regulatory and Public Policy

An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Mr Gary Healy
Eircom Limited
1 Heuston South Quarter
St John's Road
Dublin 8

16 November 2018

Re: Pricing of wholesale broadband services – (WLA/WCA) markets: Response to Consultation Document 17/26 and Final Decision as notified to the European Commission – FTTH Connection Charges

Dear Gary,

Thank you for your letter of 26 October which was received by e-mail on 29 October.

Your letter deals with two matters, namely wholesale notifications #8 and #12 ("Notifications") and the new regime ("the Draft Measure") under consideration by ComReg under consultation document 17/26, Pricing of Wholesale Services in the Wholesale Local Access (WLA) market and in the Wholesale Central Access Markets.

I have responded in relation to wholesale notification #12 under separate cover and respond to your points made about the new regime below.

First, there is no attempt being made by ComReg to "restrict" the right of Eircom or any other operator from challenging the Decision Instrument, neither is ComReg attempting, in effect, to impose any restriction on Eircom's right to appeal. If Eircom wishes to challenge either the Decision Instrument when adopted or any individual decision made by ComReg pursuant to the provisions of the Decision Instrument, any such challenge can be brought in the appropriate manner.

Second, you appear to suggest that ComReg should approve wholesale notification #12 pursuant to its powers under a decision that is not yet adopted when ComReg, in fact, does not have that power.

Third, we do not agree that comments made by Commissioner Jeremy Godfrey before the Joint Oireachtas Committee suggests bias or prejudgment on the part of ComReg in relation to the Consultation process. I can also assure you that no actual bias or prejudgment arises. Neither was there any clear misrepresentation.

At all times the Commissioner made it clear that his remarks were being made in relation to the Draft Measure and it was made clear that a final decision had yet to be made. As you know the remarks were made in the context of Eircom having already, on 18 September, defended its €270 charge without referring to its proposed reimbursement model.

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation
1 Lárcheantar na nDugaí, Sráid na nGildeanna, BÁC 1, Éire, D01 E4X0.
One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.
Teil | Tel +353 1 804 9600 Suíomh | Web www.comreg.ie

In respect of the statement of what the charges might be under the proposed approach it was made adequately clear that this was an estimate based on particular assumptions as set out in the Draft Measure. By communicating this price range the Commissioner was merely informing the Committee about the main features of the Draft Measure, a document that is in the public domain.

As regards the comment by the Commissioner about the take up of Eircom's FTTH network, the Commissioner was intending to convey that the take up was not material. ComReg intends to write to the Committee in relation to this matter and so I will respond under separate cover with regard to that.

To be clear there is no attempt being made by ComReg to either restrict the right of Eircom to take whatever action it deems necessary following any upcoming decision nor is ComReg seeking to misrepresent the position in any way.

We trust that this clarifies matters.

Yours sincerely,

Donal Leavy
Director
Wholesale Division

2. Sky Ireland Ltd.

Donal Leavy,
Director of Wholesale,
The Commission for Communications Regulation
Guild Street
1 Dockland Central,
Guild Street,
Dublin 1,
D01 E4X0,
Ireland.

26 January 2018

Further comments on consultation 17/26 in light of new information

Dear Donal,

1. Sky continue to harbour serious concerns that its requests for fair and transparent access (subject to appropriate confidentiality protections) to the relevant cost models that will significantly impact on its commercial success continues to be denied. By contrast it is clear Eircom has unfettered access to these models as evidenced by their response to the consultation where among other things, they are in a position to call out "errors" to ComReg[1]. This has given Eircom a distinct advantage above all other respondents in being able to influence the outcome of the consultation process. Sky reserves all its rights accordingly.

2. Given the considerable time that has passed (it would have been reasonable to have assumed a decision would have been issued months ago) since ComReg's last consulted on the matter, Sky wish to draw ComReg's attention to a number of important market developments in market 3a (WLA), in particular since it last made a submission in the current process. These developments ought to be considered in any final assessment by ComReg in particular, with respect to assumptions on cost modelling and the mechanism for cost recovery across different product sets. The key developments to note are as follows:

    i. The latest available data provides evidence that anything other than a strong FTTC growth assumption will significantly underestimate Eircom's actual performance over the review period. It is unclear why ComReg deferred specifically to Eircom[2] (rather than the broader market) on future FTTC volumes when it has a clear incentive to misrepresent its position.

[1] Eircom are of course only likely to call out "errors" identified that has an impact on moving the outputs in the direction that benefits Eircom commercially and ignore "errors" that it currently benefits from.

[2] See pargraph 6.37 of consultation 17/26

ii. The launch of Eircom's recently proposed "super-vectoring" product, Profile 35b, will likely add further impetus to the growth rates seen in its FTTC footprint. ComReg were not aware of Eircom's plans to launch this technology when it considered subscriber growth previously.

iii. The rate of growth of Standalone Broadband ("SABB") FTTC volumes has slowed dramatically following completion of Vodafone's bulk migration strategy of the previous 2 years. POTS based FTTC will continue to drive FTTC growth (and as a by-product will significantly thwart the decline in fixed narrowband line demand).

iv. Sky can confirm [redacted].

v. The reallocation of access costs as reflected in Eircom's recent regulatory accounts under existing allocation rules prompted by the uptake in [redacted] highlights the urgency for ComReg to remove the impact of the "double recovery" of costs being proposed [redacted]. The implication of the current proposals is for P[redacted] and over pay for the POTS element of the service at the same time.

vi. Eircom's agreement with the Government to provide FTTH to 300K premises ("300k Footprint"), thus having this footprint removed from the government's intervention area, compounds Eircom's market power in the WLA market and lays to rest claims that proposed cost orientation obligations on FTTC (and the associated proposed prices) would be a deterrent to NGA investment generally.

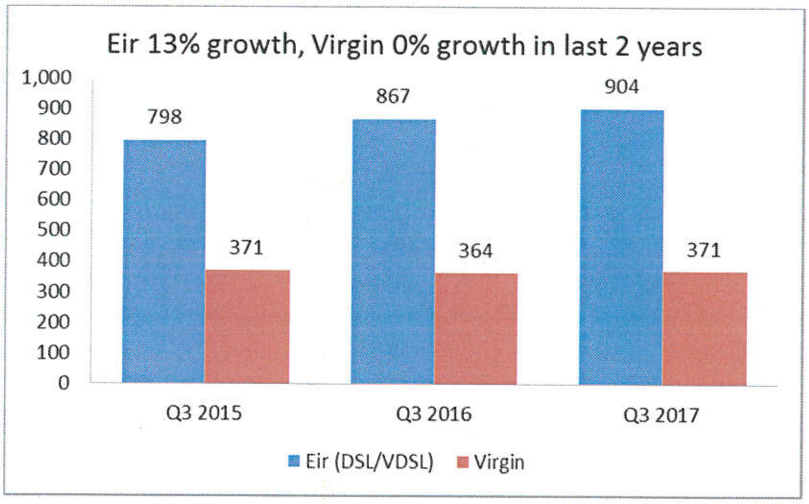
vii. [redacted].

i. Eircom FTTC volumes will continue to grow for several years

3. Sky had previously argued that FTTC subscriber growth was likely to continue for some time. One year on, Sky's position is proving to be to be accurate and the aggressive transfers to Virgin Media and other networks predicted by CEG on Eircom's behalf are proving wide of the mark and self-serving from a regulatory point of view.

4. As we can see in ***Chart 1***, based on the most recent data from Eircom and Virgin Media, Eircom's subscriber base of CGA + NGA (VDSL only) customers continues to grow adding 37,000 customers in just 12 months to Q3 2017. Over the same period Virgin Media added just 7,000 customers and this only saw it get back to levels it had previously achieved 2 years previously. Over the same period Virgin Media added some 50,000 homes to its footprint yet has not grown its subscriber base beyond 2015 levels. This is reflective of an operator running to stand still as opposed to one that is providing a constraint on Eircom's market power.

5. **Chart 1 -**



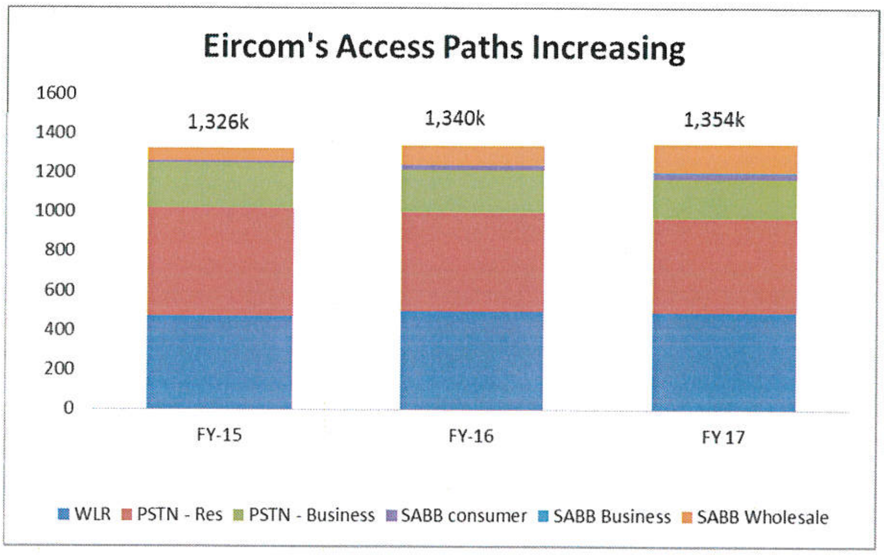
6. Eircom's FTTC growth in the last financial year was in excess of 40% y-o-y. Even if the rate of growth, to take an extremely conservative view, were to half next year and half again the year after that again, its FTTC base by 2020 would still climb to c**675k**. On that basis an assumed FTTC base over the review period of **750-800k** would be not be unreasonable.

7. The mounting evidence runs entirely contrary to CEG's extraordinary claim that FTTH will have replaced 20% of FTTC **by 2020**. That would imply, based on figures available to CEG when it made its claim, Eircom's FTTC base would fall from 480k (in April 2017) customers to 400k. This represents a gap of almost 350-400k subscribers to what Sky, based on the latest evidence and a conservative prediction claim will occur. The manner in which ComReg deals with this new information (of Eircom's continued strong performance) will be central to assessing the credibility/rationality of its model. It is clear a significant upward adjustment to FTTC volumes is required and this should result in a lower FTTC port charge than proposed in the preliminary consultation i.e. **< €16.50**.

8. If Eircom truly believed it would lose 20% of its FTTC base to other operator FTTH in less than 2 years surely its FTTH investment would be focussed on areas where it faced this competitive threat rather than in the 300k Footprint where no alternative operator is providing fixed broadband services. In truth Eircom's investment strategy not to deploy FTTH in the FTTC footprint reflects its own confidence in FTTC from a long term perspective. Eircom continually refer to its *"future-proofed"* network in its quarterly investor reports which in the main incorporates its description of its VDSL/FTTC network.[3]

9. It should be noted that the focus on POTs based FTTC has meant there has been a reversal in the trend of declining utilisation of Eircom access paths. [redacted] involve bringing a previously decommissioned or inactive Eircom access path back into use. Has this trend been reflected in Eircom's 2016 Access Pricing Model? Sky consider that if it has not it ought to be and associated lower pricing be implemented. See **Chart 2** below:

[3] For example see Eir Third Quarter Results Presentation, 28 April 2017.



Source: Eircom Investor Relations reports

ii. Eircom to launch 250Mbps FTTC across up to 500k premises

10. Eircom confirmed that demand for NGA outstripped demand for CGA broadband since July 2016[4] and following its recent announcement of plans to deploy "super-vectoring" (profile 35b) technology it expects to achieve speeds up **250Mbp**s in its VDSL footprint for more than a third of customers passed within the next 12-18 months. This makes the prospect of Virgin Media (or indeed other FTTH providers) eating into Eircom's subscriber base ever less likely. The "super vectoring" technology can be deployed at low marginal cost utilising the existing VDSL cabinet footprint and in-situ electronics. Sky considers it would not be unreasonable to assume Eircom could hit **1 million** CGA/NGA customers by 2020.

iii. SABB FTCC volumes in ComReg's cost model is most likely over-stated

[redacted]

11. Sky are unable to comment on the volumes of SABB customers assumed by ComReg or indeed the basis for the same given we have been denied access to this information notwithstanding our numerous requests for transparency on the issue in the interest of fairness. Nevertheless we consider it is important to raise some further points on assumed SABB volumes given the time that has passed since the consultation was issued and given developments in the market since that time.

[redacted]

[4] Paragraph 72 of Eir Response to Consultation 17/26

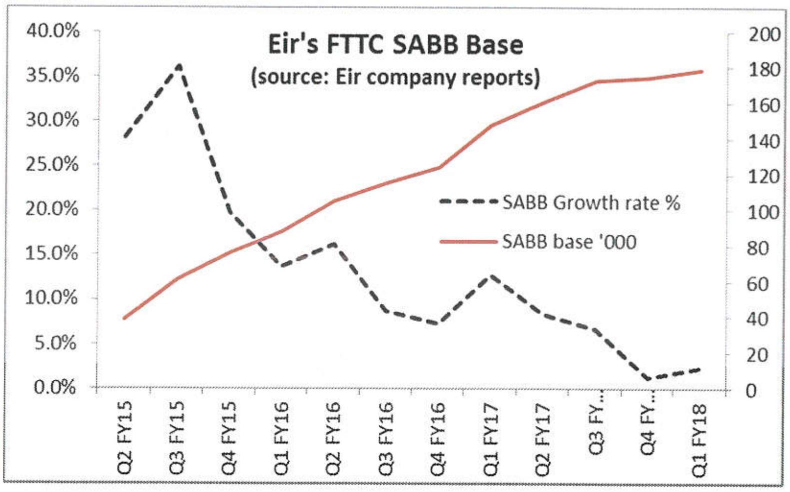
[5] While this may appear an unduly long period of time, a review of many of Eir's major IT RAP development projects has taken similar timelines execute over the last decade.

[redacted]

Significant slowdown in SABB uptake

14. After two years of strong growth in SABB FTTC uptake to March 2017 as Vodafone undertook a series of bulk migration projects, growth has slowed significantly for the last two quarters. In addition to the information provided by Sky in relation to its own inability to sell SABB, ComReg's models should be further updated to reflect this slowdown as recorded in **Chart 3** below.

Chart 3



15. The rate of decline in growth in SABB is considerably more pronounced than the rate of decline in uptake of VDSL generally (which continues to grow steadily) as can be observed from data in ComReg's quarterly report. The rate of decline as observed in Chart 2 above is based on Eircom's most recent figures from its quarterly report. It is interesting to observe the decline in SABB growth would have been even more pronounced but for what Eir described as a "Restatement of Customers" newly classified as SABB which resulted in an uplift of 7,000 customers previously not classified as SABB. No explanation was given for the reclassification of these customers or why they had previously been misclassified. To the extent to which ComReg accepts or interrogates such reclassifications which has implications for cost allocations in the relevant cost models is also unclear. However, it is critical that ComReg are alive to Eircom's obvious financial incentive to drive allocations in a manner that increases cost to a service that is facing an imminent cost orientation obligation by comparison to services that either face no such regulatory imposition or is not due to be reviewed in the medium term[7].

[redacted]

[7] Notwithstanding that Fixed Access market review should occur next year, based on available evidence ComReg are unlikely to complete any such a review for 2-4 years.

v. POTs based FTTC charges relative to SABB FTTC which is unjustly subsidised by the former

16. A flat €4.96 per month rental for the POTs element of a POTS based FTTC cannot be justified if there is any growth in assumed SABB FTTC users over the review period. The €4.96 base is also too high if the current SABB FTTC base is higher now than was anticipated when the consultation 17/26 was issued. In either scenario maintaining a flat €4.96 charge implies Eircom are being permitted "double recover[8]" costs associated with assets on the exchange side of the cabinet.

17. [redacted] the matter of the double cost recovery[9] identified by Analysys Mason in response to 17/26 becomes ever more critical to address. ComReg has proposed a flat €4.96 POTS element charge for duration of the cost review period.

18. As we can see from Figure 1 below when a customer moves from POTS based FTTC to SABB FTTC the E-side trench and cabling allocated in the Copper Access Model are reallocated to the NGA cost model. For accounting separation purposes a similar transaction occurs and is noted by Eircom in its most recent Regulatory Accounts (to June 2017). For example under the section entitled "*Explanatory Report – Wholesale Fixed Narrowband & Unbundled Access*" under 'Operating Costs' Eir note:

> *"Depreciation also reduced, partly due to the increase in **standalone broadband** volumes which **<u>has the effect</u>** of **moving** access **costs** to the **broadband products**"*

19. In the next section of the report under the section entitled "*Explanatory Report – Wholesale Broadband Access*" under "Operating Costs" Eircom note:

> *"Overall operating costs increased by 9% due primarily to the continued expansion of NGA and **<u>increase SABB volumes</u>**".*

20. Cost causation principles suggest these higher broadband access costs should not be borne by the customers that still pay for fixed narrow band services [redacted]. In addition they should see lower charges for the POTS based element of the POTS based FTTC service to reflect the reduced depreciation for the POTS service as identified by Eircom itself.

21. It is unreasonable for ComReg to ignore that what is driving up the cost of broadband service is a transfer of assets [redacted]. However, what is causing the costs to be increased is not where ComReg is seeking to have those costs recovered. [redacted] See Figure 1 for explanation.

22. This double injustice (over paying on POTs and paying for SABB FTTCs newly allocated access costs) is arbitrary, unfair and based on irrational considerations by ComReg and must be amended before the final decision. There is no proportionality argument that can or has been presented by ComReg to justify this approach.

8

9 Paragraph 109, page 39 of Eircom's own submission to 17/26 acknowledge the "double recovery" problem that requires a correction.

23. Very little information was provided by ComReg in 17/26 on the derivation of the proposed €4.96 charge notwithstanding the vast majority of FTTC customers being POTS based FTTC customers. FTTC can only be provided over loop lengths less than 1.5Km but it is unclear that the POTS element charge has been calculated against copper loops within the FTTC footprint only. Any contribution to WLR lines outside the FTTC footprint is a de facto subsidy [redacted] (in a competitive retail footprint) to pay for the higher costs of longer loops outside the FTTC footprint. [redacted] at a competitive disadvantage and is not justified on grounds of proportionality. ComReg itself acknowledge the greater retail competition in [redacted] [redacted] at a disadvantage in this footprint by requiring them to pay for WLR costs incurred beyond that footprint.

24. If the €4.96 charge is partially derived from costs outside the FTTC footprint then this must be clearly called out by ComReg in the final decision. Without prejudice to Sky's views already outlined on that matter, for WLR lines outside the FTTC footprint where FTTH is expected to be taken up over the review period, this should result in a complete asset reallocation from WLR to FTTH with a corresponding reduction in WLR charges. No such reduction is observed over the review period so there is a gap in ComReg's work/analysis.

25. We would note overtures made by Eir that rural pole replacement costs should be recovered by POTS based FTTC customers[10]. Apart from the lack of any economic merit to support such a claim Eircom categorically advised wholesale customers its Senior Industry Engagement meetings that it would not be investing in rural networks while the NBP question was outstanding - a fact reflected in Eircom's repeated failure to achieve acceptable levels on its Line Fault Index. Strategically, it is clear that rural network improvements will only be made by Eircom to facilitate roll out of FTTH not to maintain PSTN.

26. Eircom also mentioned the fact that a revised repair SLA regime in early 2017 should lead an upward revision of costs in the NGA cost model[11]. There is no merit in this claim. During extensive negotiations before and after the original ComReg decision on the dispute pertaining to the SLA in question, Eircom repeatedly rejected engaging in any discussion whereby a trade- off between higher SLAs and higher access prices might be considered. When the final SLA was agreed following a mediated solution, it was clearly understood by the parties who took the dispute against Eircom that the new SLA targets could be achieved without seeking further compensation from operators. If Eircom had sought and agreed additional compensation from operators it would been covered in the agreement. Any backdoor attempt to seek additional compensation from operators now would in Sky's view be a breach of the agreement reached and would provide grounds for reopening discussions on the same to receive improved terms[12].

27. Sky did not agree to the terms of the mediated settlement in a manner that allowed Eircom to further rely on it in another process that completely nullified its value. It was Sky's clear understanding that the new targets were accepted by Eircom to be achievable through efficiencies currently not being exploited and as such any purported increase in costs ought to have been completely offset by productivity gains.

vi. It is clear that proposed cost orientation obligation has had no impact on the investment environment for FTTH

28. Despite attempts by Eircom to suggest that the threat of cost based regulation for FTTC would stifle investment, its own actions belie this assertion. Being fully cognisant of ComReg preliminary views on the matter of cost orientation for FTTC, Eircom entered into a commercial agreement with the government to deliver FTTH to 300k premises anyway. It has also announced plans to deploy super vectoring technology (profile 35b) in the next 12 months, a product which would be captured by the proposed cost orientation obligation.

29. This suggests that not only are Eircom not deterred by cost orientation obligation on FTTC in terms of its appetite for further investment, it is clear that the level of pricing being proposed gives it plenty of scope for earning a "fair bet" return. Yields on risk free rates in international fixed capital markets remain depressed (an imminent review of Eircom's cost of capital would likely be justified as a consequence) and Eircom's regulated return on capital is clearly seen to be attractive to investors i.e. it is being regarded as more than a fair return on capital, as evidenced by the proposed acquisition of Eircom by French company Illiad and its subsidiaries.

[10] Paragraph 117 of Eircom response to 17/26

[11] Paragraph 103, of Eircom response to 17/26

[12] It is also worth pointing out that the level of compensation payable by Eircom in any calendar year is capped so even if ComReg were to see merit in Eircom's position, the cost to Eircom must be set at less than that financial cap for any purported increase in costs.

30. It should be noted that with respect to the 300k Footprint the government were in fact willing to help subsidise roll-out of FTTH within this footprint. Eircom has effectively rejected this offer and chosen to carry out the work of its own volition, clearly in its own commercial interest. It has done so without any commitment from ComReg that it would row back on preliminary conclusions made in the pricing consultation.

[redacted] In addition SIRO appear not to be deterred by ComReg's proposals. [redacted]

vii. [redacted]

[redacted]

In summary, recent developments in the market point to on-going growth of Eircom's FTTC base over the life of the review with POTS based FTTC growing at a much faster rate than SABB FTTC. There is also an urgent need to redress the proposed unjust pricing mechanism for [redacted] which currently does not observe cost causation principles and would result in a competitive distortion that see's over payments to Eircom for its access network and a subsidy [redacted]. We trust ComReg will address these matters in its final decision.

Yours sincerely,

Kevin Barrins

Director of Wholesale and Regulation

Donal Leavy

Director of Wholesale

The Commission for Communications Regulation

1 Dockland Central

Guild Street

Dublin 1

D01 E4X0

13 June 2017

Re: Eircom cost models in context of markets 3a/3b review

Having reviewed ComReg's draft decision on the Wholesale Local Access ("WLA") market provided at a Fixed Location[1] ("2018 draft decision") as notified to the European Commission, Sky is concerned that ComReg proposes to adopt prices for FTTC-based services as part of its FTTC price control which significantly depart from the prices ComReg proposed in its April 2017 consultation[2] ("April 2017 consultation").

Based on all the available evidence that Sky has access to, we firmly consider that any such price change - which, would amount to an almost 20% adjustment - would be unjustified and would not appropriately reflect relevant market conditions. We request that ComReg publish the draft 'Pricing Decision' urgently to enable Sky and other stakeholders to

[1] ComReg 'Market Review: Wholesale Local Access (WLA) provided at a Fixed Location and Wholesale Central Access (WCA) provided at a Fixed Location for Mass Market Products', Response to Consultation and Decision (15 June 2018).

[2] ComReg 'Pricing of wholesale services in the Wholesale Local Access (WLA) market and in the Wholesale Central Access (WCA) markets: Further specification of price control obligations in Market 3a (WLA) and 3b (WCA) - Consultation and Draft Decision - ComReg 17/26'.

properly review ComReg's methodology and the evidence that ComReg has relied on in proposing such an adjustment.

In the April 2017 consultation, ComReg proposed that the cost oriented FTTC based VUA prices for 2017/18 should be set at €16.50.[3] However, in the 2018 draft decision ComReg stated that:

> *"...it is noteworthy that prices now being set by ComReg are reasonably closely aligned with those set by Eircom between July 2015 and August 2016 when Eircom's NGA expansion continued uninterrupted. These considerations, in ComReg's view, support the move to cost orientation for FTTC based services."*[4]

Eircom's price for FTTC based VUA[5] between July 2015 and August 2016 was €19.50. This is almost **20% more** than the prices ComReg proposed in the April 2017 consultation.

Such a development would be entirely unexpected given that it was clear from the consultation that prior to publication ComReg engaged extensively with Eircom in relation to its modelling of Eircom's costs and undertook an exhaustive information gathering exercise to determine, among other things, the operating and capital costs of Eircom's relevant asset base and FTTC demand forecasts. For example, among many other such references ComReg noted:

- *"We also requested information from Eircom as part of the NGA cost Model update, including Eircom's demand forecast volumes by exchange and by technology...this data has been reflected as appropriate in the NGA Cost Model"*[6]
- *"ComReg also requested Eircom to provide a forecast on how broadband demand was expected to develop over the coming years by technology and by site"*[7]
- *"Eircom provided ComReg with details on the number of FTTC DSLAMs and optical line terminations ('OLTs') it has deployed in each MDF area and it also indicated that the deployment of FTTC DSLAMs is almost complete. This information from Eircom has*

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[3] Figure 36, April 2017 consultation.
[4] Paragraph 7.1294, 2018 draft decision.
[5] As ComReg is aware Sky have made reasoned arguments around cost causation principles as to why there should be a distinct price for Standalone FTTC based VUA and for the FTTC element of POTS based FTTC VUA for reasons as outlined in our 26 January 2018 submission. It is unclear from this paragraph whether ComReg has been minded to make amendments to the pricing structure accordingly.
[6] Paragraph 6.12, April 2017 consultation.
[7] Paragraph 6.37, April 2017 consultation.

been used as the basis for the number and location of FTTC DSLAMs and OLTs in the NGA Cost Model."[8]

- *"Eircom provided ComReg with the number and location of its access facing aggregation nodes it has planned for its NGA network and this was used to inform the dimensioning of Aggregation nodes in the NGA Cost model"*[9]
- *"Eircom also provided operating cost data for its core network and the unit prices for various equipment types. This data has been reflected as appropriate in the NGN Core Model."*[10]

No additional Capex and declining Opex going forward does not support an upward revision to price

As noted, any upward adjustment would be surprising for a number of reasons. Firstly, there has been only very limited investment in FTTC services since ComReg issued the April 2017 consultation. On 5 April 2017, Eircom indicated it had commissioned "6,300" FTTC cabinets[11] and passed "1.6 million" premises. On 27 June 2018, Eircom indicated it had commissioned "6.4k" FTTC cabinets"[12] and passed "1.7m premises". As such, any change could not be explained by an increase in capital expenditure.

Secondly, Eircom has recently undertaken a substantial operating cost cutting exercise that looks set to result in excess of 750 redundancies at the company. Sky is aware that many of the inefficiencies identified by the new management have been in the wholesale part of the business with a large volume of "Open Eir" staff having already left or due to leave Eircom imminently. Therefore, rather than resulting in an a significant upward adjustment, we would expect that lower forward looking operating costs ought to have pushed cost oriented prices lower (through a revised and more ambitious efficiency adjustment) than the €16.50 concluded on in the preliminary decision.

Demand/volume developments also suggest no upward adjustment justified and in fact ComReg's original assumptions are too conservative in relation to Eircom's performance

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[8] Paragraph 6.46, April 2017 consultation.
[9] Paragraph 6.52, April 2017 consultation.
[10] Paragraph 8.10, April 2017 consultation.
[11] See Open Eir Update to NGA Forum slides issued 5 April 2017.
[12] See Open Eir Update to NGA Forum slides issued 27 June, 2018.

Thirdly, in Document 17/26 ComReg outlined its approach to 'Service Demand' for cost modelling purposes in section 6.5 of the consultation[13]. Again nothing that has happened in the market since the consultation was published points to any obvious basis that would explain a significant increase in cost oriented FTTC charges. In fact, based on a review of the market since the publication of the April 2017 consultation there has been mounting evidence to suggest ComReg were unduly conservative in its assumptions about demand for Eircom's NGA products, particularly FTTC (see table 1 below) i.e. Sky consider more appropriate and realistic demand assumptions should point to a lower cost oriented rate for FTTC based services than was outlined in the draft decision.

Demand - as per section 6.5 of ComReg 17/26			
Various base assumptions	('000)	**Reference**	**Comments**
Eircom 2016 Broadband Base ('000)	880	As per ComReg 17/26 (j)(m)	Base at Mar 2018 = **919k** and growing
less 15% migrated to other platforms	132	As per ComReg 17/26 (j)(m)	Virgin growth continues to be negative even with larger footprint - Comreg predict Virgin growth
Adjusted Base - Implied FTTC base Target by 2026	748	As per ComReg 17/26 (h) (j)(m)	As of March 2018 **620k** FTTC growing at 20-25k per Qtr - likely reach Target in next 6-10 quarters rather than by 2026
FTTC + FTTH base = 96% of 2016 ("4% lower")	845	As per ComReg 17/26 (j)(m)	Must now fall by at least 8% from current level (still growing) to reach this
Eircom implied FTTH by 2026	97		With Eircom already at circa 50k this looks conservative

More than an additional year of above cost pricing runs should mean less costs need to be recovered on forward looking basis

Finally, Sky would note that the draft decision outlined a rate of €16.50 beginning in the period 2017/18. However given that Eircom charged at an excessive rate of €23 (and €24.29 for POTS based FTTC) for the duration of that period one might reasonably have expected the "above cost" recovery during this period (and indeed prior to it), would have resulted in the need to recover less costs on a forward looking basis and so be reflected in a lower than €16.50 charge as published in the draft decision.

The culmination of these factors all point to the likelihood of a downward revision to the €16.50 rate proposed in the April 2017 consultation.

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[13] Some of the key information was redacted and aggregate demand figures were not published by ComReg. Sky has consistently argued this, in addition to denial of access to the relevant cost models does not provide for a fair and transparent process.

Correspondence Address: Sky Ireland, One Burlington Plaza, Dublin 4, Ireland

Sky Subscribers Services Limited (Irish branch), Fifth Floor, One Burlington Plaza, Burlington Road, Dublin 4, VAT Number: IE9941926K

It is against the backdrop of the above anomalies that Sky has sought greater clarity on the level of engagement between ComReg and Eircom in the context of the relevant cost modelling exercises and accordingly has filed its request on this date under the Freedom of Information Act 2014. We consider this may provide some insight as to the process that has led to the apparent modification/s of the model signalled in ComReg's 2018 draft decision.

Eircom linkages of cost oriented FTTC prices to its willingness to engage in NBP process

Furthermore, we would note that it is a matter of public record that Eircom sought to link its engagement in the government's NBP process to FTTC pricing[14] in the context of the current market review. Eircom continue to be involved in discussions with the government around access to its infrastructure as part of the NBP process, notwithstanding that it has withdrawn as a formal bidder for the tender itself. It seems both logical and probable that if Eircom has been linking these issues in submissions it has made to the government that it would maintain that position in any representations to ComReg or in any tripartite setting between the parties. While Sky can see no reasonable basis on which pricing of FTTC based services should in anyway be linked to developments around NBP, stakeholders ought to be made fully aware of any such representations in the interests of transparency and in particular, if any weight was given to such representations.

Sky has consistently argued that Eircom enjoys a significant advantage over other stakeholders in terms of its ability to make effective submissions around pricing. As you are aware, Sky requested access to the confidential models during the consultation in controlled circumstances and subject to strict undertakings of confidentiality. Sky consider, given the restrictions offered, this was a reasonable proposal and the justification for ComReg's unwillingness to accommodate that request continues to raise concerns about procedural fairness. We reserve our rights accordingly.

We further consider that procedural fairness demands that ComReg clearly outline the process, including all relevant interactions with Eircom that has led to any significant adjustments to the prices that were outlined[15] in the April 2017 consultation in its final decision on pricing.

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[14] E.g. On 30 January, 2018 Eircom CEO Richard Moat wrote to Minister Naugthen noting," *Recent developments on....FTTC cost orientation....create large economic uncertainties for Eir's NBP participation*". He further noted that such commercial issues had been set out by Eir "*many times*".
[15] As outlined in Figure 36

Yours sincerely,

Kevin Barrins

Director of Wholesale and Regulatory Strategy, Sky Ireland

3. Vodafone Ireland Ltd.

24 November 2017

Donal Leavy,
Wholesale Director,
The Commission for Communications Regulation
1 Dockland Central
Guild Street
Dublin 1
D01 E4X0

RE: FTTH Connection Charges

Dear Donal

I am writing in relation to FTTH wholesale connection fees and Eircom Limited's ('eir') pricing strategy which is a matter of serious concern to Vodafone Ireland and one which requires urgent attention from ComReg, to ensure a balanced and equitable market.

In our ongoing engagement with ComReg we have highlighted pressing concerns regarding the current state of competition and the challenging business case for future investment in the broadband market. It is useful to acknowledge that many of the issues we are raising in this letter are under consideration as part of ComReg's ongoing review of market 3a and 3b broadband markets. ComReg are looking through their market review to lower upfront connection charges and implement recovery of remaining installation costs in monthly rental charges that will factor in the economic life of the eir asset. Notwithstanding this fact it is Vodafone's view that opportunistic pricing behaviours by eir in relation to FTTH connection fees are discriminatory under existing regulatory obligations and we strongly feel that **immediate and effective action** is now required:

- to ensure fair pricing for connection to wholesale FTTH products; and
- to restrict unacceptable pricing conduct in retail markets.

Vodafone Ireland must await the outcome of the ongoing broadband market review to secure long-term viability and continued Vodafone Group investment in our fixed business. Under existing requirements eir must not cause margin squeeze and must not unreasonably bundle services. In our view the current pricing of eir retail FTTH services, taking into account wholesale connection charges, is in clear conflict with these regulatory obligations.

Eir are aggressively rolling out FTTH services under its Commitment Agreement with the Department of Communications, Climate Action and the Environment. Under this agreement Eircom shall have passed 132K premises by next month. Vodafone Ireland are however in effect unable to compete for these customers. The rollout programme is expected to complete in December 2018 and a total of 300K premises will be available for FTTH services.

[CONFIDENTIAL TEXT REMOVED] Our competitor is offering free connection when we are faced with €270 connection charge that cannot be absorbed. [CONFIDENTIAL TEXT REMOVED]

As you will be aware, wholesale operators connecting customers to the eir wholesale FTTH product must pay €270 connection and a minimum of €23.50 monthly rental. As detailed in the table below and in Annex 1 of this letter, on its entry level FTTH bundle, eir retail are currently offering free connection, monthly rental of €45 for the first 6 months and €50 for the subsequent 6 months on a 12-month contract. After 12 months the price rises to €81 per month. The customer is also entitled to a €50 cash back offer.

A very basic comparison in the table below of wholesale cost versus the equivalent eir retail charge illustrates the extent of the competitive constraint that exists. Eir retail are not even covering the monthly wholesale charges, and it should also be noted that this rudimentary analysis ignores additional and significant cost elements such as acquisition, CPE, marketing and voice costs.

Table 1: Wholesale Costs versus eir Retail charges

Wholesale Cost				Eir Retail Proposition					Balance
	Connection	Monthly Rental	12 Month Wholesale Cost	Retail Connection Charge	Monthly Rental ex VAT		12 Month Contract Eir retail charge	Less eir retail €50 Cashback	Retail charge less Wholesale cost
150MB	€270.00	€23.50	**€552.00**	**€0.00**	Months 1-6 Months 7- 12	€36.59 €40.65	**€463.41**	**€422.76**	**-€129.24**

[CONFIDENTIAL TEXT REMOVED] If we focus on the FTTH retail pricing alone there is no reasonable argument that a customer who is out of contract and free to move after 12 months will be likely to remain on their current eir retail proposition when the price increases from €50 to €81. The characteristics of the bundle, the fact there is already excessive prices at the wholesale level and the current context of the Commitment Agreement and rollout of FTTH services must now be considered by ComReg.

[CONFIDENTIAL TEXT REMOVED]

We have made it clear that poor practices by eir are jeopardising future investment in broadband in Ireland. Eir fixed line services annual EBITDA margin for the financial year ended 2017 was 45%. [CONFIDENTIAL TEXT REMOVED]

It is our view that the current eir approach to pricing of FTTH products is discriminatory and damages Vodafone Ireland's competitive position. Vodafone Ireland is already subject to unjustifiable wholesale monthly rental charges for broadband services and cannot go to market accepting a €270 connection fee in the knowledge that there is no chance to recover our costs or compete at the retail level. [CONFIDENTAL TEXT REMOVED]

The FTTH connection fee is a barrier to entry that provides eir with a free run in FTTH locations during the critical rollout period. The first to market advantage should not be underestimated. The effective exclusion of the largest competitor to eir in FTTH rollout locations clearly restricts competition and is detrimental to the interests of consumers. Vodafone Ireland requests ComReg to consider the points raised above and respond as a matter of urgency. We are ready to engage to provide all further information that ComReg may require to assist their consideration of this matter.

We await your response and please contact me directly if you require any additional information or clarifications.

Yours Sincerely

Andrew Corcoran
Head of Regulation
0863314717

Annex 1 – Eir retail FTTH plans (Source Eir Website 16/11/2017)

€50 CASHBACK

Extreme broadband, Unlimited Mobile & UK calls	Extreme broadband, Unlimited Mobile & UK calls	Extreme broadband, Unlimited Mobile & UK calls
Normally ~~€50 per month~~	Normally ~~€58 per month~~	Normally ~~€70 per month~~
Online price €45 per month for 6 months*	Online price €53 per month for 6 months*	Online price €65 per month for 6 months*
Get this bundle	Get this bundle	Get this bundle
eir Fibre Extreme unlimited up to 150Mb	eir Fibre Extreme unlimited up to 300Mb	eir Fibre Extreme unlimited up to 1,000Mb
Unlimited Extreme Fibre broadband	Unlimited Extreme Fibre broadband	Unlimited Extreme Fibre broadband. Ireland's fastest broadband with unlimited usage
eir Broadband Talk Unlimited National, Mobile & UK	eir Broadband Talk Unlimited National, Mobile & UK	eir Broadband Talk Unlimited National, Mobile & UK
Unlimited calls over broadband to Irish and UK landlines & mobiles	Unlimited calls over broadband to Irish and UK landlines & mobiles	Unlimited calls over broadband to Irish and UK landlines & mobiles
Make and receive calls to/from your landline via your mobile, smartphone or laptop	Make and receive calls to/from your landline via your mobile, smartphone or laptop	Make and receive calls to/from your landline via your mobile, smartphone or laptop
Online price for new eir customers in their initial contract term	Online price for new eir customers in their initial contract term	Online price for new eir customers in their initial contract term

Price Breakdown

	150Mb bundle	300Mb bundle	1,000Mb bundle
Promotional price	€45 for 6 months	€53 for 6 months	€65 for 6 months
After 6 months	€50	€58	€70
After 12 months	€81	€89	€101
Contract Length	12 months	12 months	12 months
Cashback offer	- €50	- €50	- €50