Pricing of Eir's fixed wholesale access services

Operator correspondence since Consultation 15/67

Annex 8

Reference: ComReg 16/39b

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1: Eir Ltd.

ComReg's Wholesale Access Service Consultation and Draft Decision

eir's key concerns

22 October 2015

Non-Confidential

Outline

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3. Why SB-WLR should not be cost-oriented
4. Cost orientation would remove any justification for the line rental margin squeeze test
5. The POTS based margin squeeze test is also flawed
6. SB-WLR in detail
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1. The modelling should reflect ongoing significant line loss

- The EC's Recommendation on costing methodologies states "*only traffic volumes moving to other infrastructures (for example cable, mobile) which are not included in the cost model, will entail a rise in unit costs*."
- The Bottom-Up and Top-Down models first need to be updated to reflect eir's actual lines of ✂ in June 2015 (lower than the forecast)
- eir's total access lines can be expected to continue to fall because of some continuing loss to mobiles and VM, the likely loss to SIRO and potential loss to an NBP provider other than eir
- We believe a conservative estimate of line loss is ✂% annually, based on line loss over the year to June 2015 plus estimated loss to SIRO

- In the Top-Down model, ComReg proposes annual reviews of volumes. While this would offer some protection from errors in forecasting, it would remove the incentive for eir to seek ways to maintain higher volumes such as through pricing mechanisms or higher quality services

2. Treatment of pole costs

- Around ✂% of eir's poles are treated as fully depreciated and excluded from the Top-Down cost base. As a consequence, current users of the pole infrastructure would not face a price which reflects the economic value of the infrastructure
  - Ofcom has recognised this issue in considering price regulation of BT's ISDN services: "*while in accounting terms the assets have been fully depreciated, the products are still being used. This means that the assets' accounting value, as reflected in the ISDN30 reported FAC level, may underestimate their true economic value, and so would need to be upwardly adjusted to reflect this value*" (Ofcom FAMR June 2014, p.496).

- The proposed approach would devalue the use of competing infrastructure and lead to future price instability and uncertainty which risks deterring and distorting investment requiring the use of eir's poles

An alternative approach to pole costs

- Infrastructure Renewal Accounting (IRE) is an alternative approach that ensures the same present value of cost recovery over time while achieving greater price stability
    - Under IRE, the annual revenue for the use of the pole infrastructure is based on the annuity that would recover the forecast expenditure required to renew the infrastructure (say over the next 15 to 20 years). Differences between actual expenditure and the charge level in any year would be added/deducted from the balance sheet with the WACC applied. The actual charge level would be adjusted only gradually as the long-term expenditure forecast is reviewed
    - Designed for long-lived assets where the precise asset life is uncertain and has been used in regulation of the UK water industry since the 1990s
    - Achieves more stable pricing over time by avoiding price changes caused by errors in forecasting asset lives. It does require information on long-term asset management but this helps investment decisions by both users of the pole infrastructure and by investors in potential rival infrastructures

3. Why SB-WLR should not be cost oriented

- The forthcoming regulation period will be one of intensifying competition and significant network investment
  - eir is undertaking substantial investment in rolling out fibre broadband
  - Virgin Media has launched high speed broadband services and is the largest provider of broadband services in its coverage area (853,000 homes). VM has also announced further rollout.
  - SIRO is rolling out its network (500,000 homes) and will launch this autumn
  - Sky, VM, Vodafone and BT bring the competitive advantages of large international groups
  - The NBP may bring further competition
- The European Commission has observed "*that the retail market shares of Eircom are already relatively moderate*" and "*calls upon ComReg to take the opportunity of the forthcoming parallel consultations to* ***streamline*** *the existing pricing remedies*".

There is little economic justification for the new cost obligation on SB-WLR

- ComReg proposes a significant reduction in SB-WLR prices which will cut investment returns for eir **and** competing networks
  - There is a clear danger of regulation displacing network competition and thereby losing the wider benefits that such competition would bring. This risk is exacerbated by costs being underestimated

- The stated reasons for the change are questionable

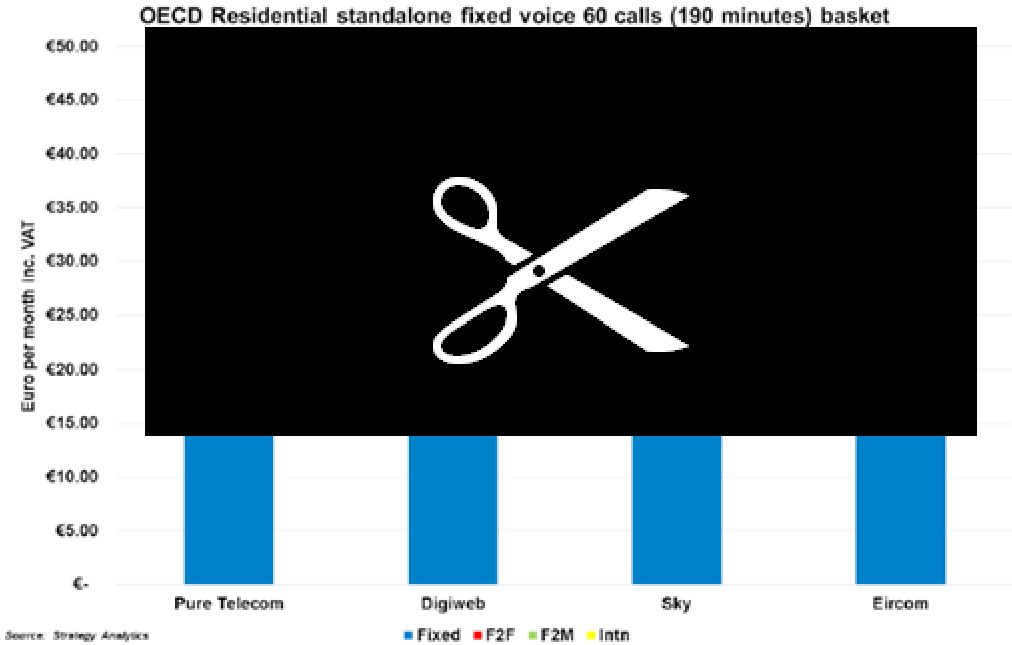
Reason for cost orientation	eir comment
Greater certainty	Holding prices constant over a regulatory period will require a larger change between periods – greater price changes than have occurred under the retail minus regulation
eir's market position	eir faces substantial competition in the LEA so that regulation is not needed to prevent monopoly pricing
Consistency across the ladder of investment	The change would cut margins for firms using upstream access products and discourage OAOs climbing the investment ladder

Cost-based regulation of SB-WLR ISDN services is also inappropriate

- Cost-based price regulation of SB-WLR ISDN PRA and FRA services would not reflect the economic value of the services (given the extent to which the assets are treated as fully depreciated). This would strand investments by operators self-providing ISDN services
- eir proposes that if SB-WLR is to be subject to cost-based regulation then SB-WLR for PSTN and ISDN services should be included in a single basket
  - This would offer the same protection to overall consumer welfare but would be more likely to support higher welfare by providing eir with the ability and incentive to alter relative prices in such a way to support higher overall demand
  - A basket approach is generally supported by the economic literature and possible exceptions to its use are not relevant in this case (i.e. distributional concerns or where competition was focused on one service and not the other)

4. The proposed new margin squeeze tests risk harming competition and efficiency

- ComReg proposes a new margin squeeze test between SB-WLR and retail line rental
- There is no evidence of margin squeeze to date



The line rental test risks undermining rather than supporting competition

- There is no basis to expect such a margin squeeze going forward
  - SB-WLR will be regulated at retail minus (directly controlling the margin) or with a cost obligation. And the Net Revenue Tests applies to bundles.
  - ComReg should recognise the general point that wholesale cost based regulation makes a margin squeeze highly unlikely
    - With cost based regulation a margin squeeze would require eir to incur losses
    - A business would only incur losses if it could be confident of recouping those losses later
    - eir would have no opportunity to do so given intensifying competition from rival networks and the ongoing ability of OAOs to access regulated SB-WLR
- The proposed margin squeeze test would however inhibit eir's ability to offer competitive pricing to the detriment of consumers (including with the proposed use of Average Total Costs). The proposal also runs against the EC's call for ComReg to streamline the multiple layers of regulation

5. The POTS VUA test is inefficient

- ComReg proposes a second new ‘margin squeeze’ test which is designed to guarantee investments in managed VoB relative to relying on SB-WLR and POTS NGA bitstream
- eir believes there is no compelling economic justification for the test. The specific test proposed is inconsistent with efficient incentives
  - The test would only establish that investment in VoB is not viable if such investment brings no additional value compared with POTS – but what is the rationale of protecting such investment in that case?
  - The test is likely to overstate incremental costs because it ignores the ability of operators to leverage VoB internationally
  - The test artificially increases the margin available to OAOs which could lead to inefficient entry
- eir believes that to the extent that ComReg believes there is a need for competitive safeguards in this area, these can be most efficiently achieved through a wholesale VoIP offer from eir

6. The cost of SB-WLR is underestimated

- Network competition in the LEA has led to the take-up of SB-WLR being skewed towards higher cost rural areas. SIRO will lead to a further loss in the LEA.

	Share of WLR in LEA	Share of WLR outside the LEA	Implied national SB-WLR price (€/month)
ComReg's proposed price	[redacted]		
Current SB-WLR take-up			
Forecast SB-WLR take-up			

- It is neither efficient nor sustainable for eir to seek to cross-subsidise below cost rural provision through service provision in the LEA, particularly given the extent of network competition
- The price for SB-WLR is further underestimated because of the treatment of pole costs, the forecast of future volumes and the use of a tilted annuity (as discussed later in this presentation) and because of new service enhancements

7. eir has serious concerns with the dark fibre proposal

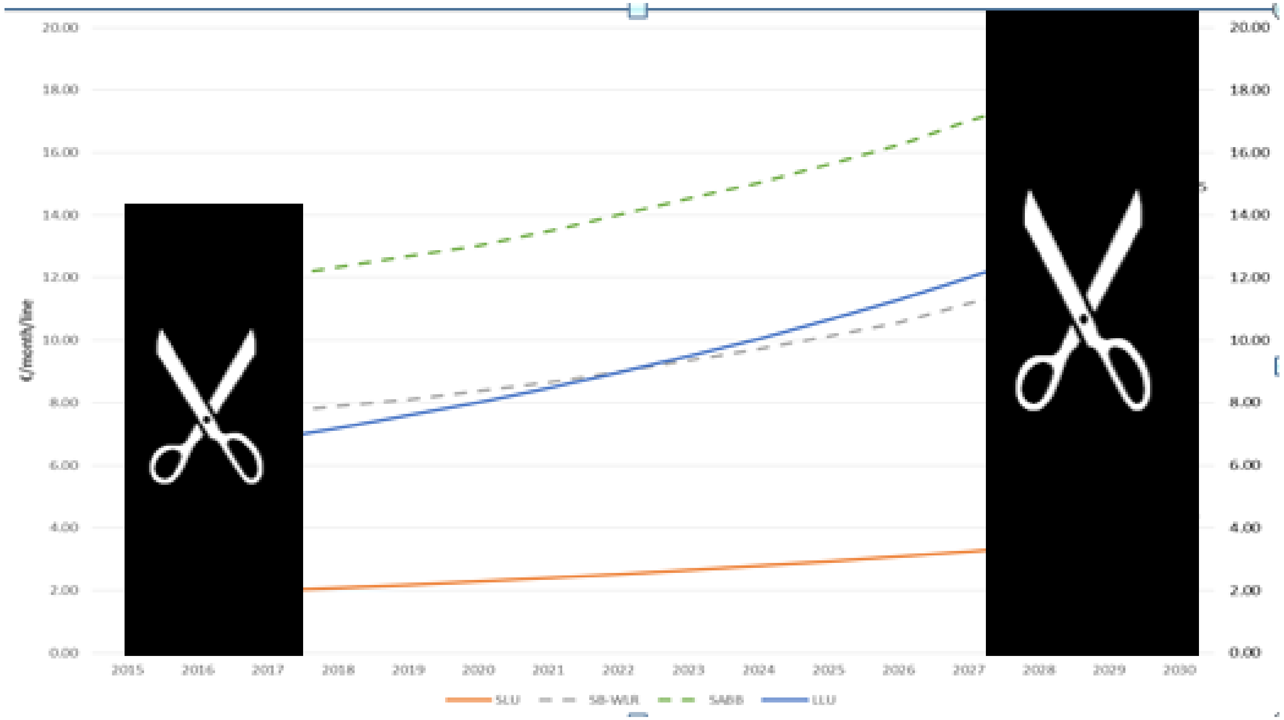
- While noting that regulated dark fibre is only available in lieu of duct/pole access, eir is concerned about the very low price for dark fibre access of €0.19 per metre
  - A price for dark fibre cannot be determined without better information as to where and when dark fibre access will be provided (including where there are multiple requests for access)
  - The price will be substantially below the costs for the future deployment of dark fibre more deeply into the access network
  - The price is not consistent with the proposed prices for duct/pole access increasing the incentives for access seekers to find ways to obtain dark fibre access
- eir believes that the proposal should be withdrawn in favour of the previous proposals set out in D03/13

8. ComReg's proposed constant prices over the control period

- ComReg proposes to set constant prices over the indefinite forthcoming price control period (potentially years into the future)
  - Such an approach carries a substantial risk of preventing eir from recovering its costs particularly given key factors driving higher unit costs including overall line loss, substantial future investment requirements and rising staff costs
  - ComReg has the information to more efficiently set annual prices in line with forecast annual costs (i.e. a CPI-X approach as applied by other regulators)
  - A CPI-X approach would also protect against delays in the next review and avoid large price spikes (10% to 47%) that would be created by ComReg's proposal

The longer term price paths implied by the current proposals are not credible

- ComReg proposes the use of a tilted annuity approach for LLU, SLU and poles while using a straight-line depreciation approach for SB-WLR and SABB. The implied longer term capital cost components for the services are shown. The tilted annuity results in significant price rises over time and the compression of margins for LLU-based players



The modelling of capital underestimates costs

- Capital costs are underestimated in the draft model because of:
  - The assumption that revenues are able to be earned as soon as network capital expenditure is incurred (in fact, an error in the draft model implies revenues are earned 6 months in advance of the investment). eir's actual experience suggests a 6 month time to build is reasonable
  - A spreadsheet error that reduces the NBV of investments made during 2010-2014 by an amount for depreciation as if the asset had been in place since 2009
  - The model assumes NBVs that are too low given actual depreciation allowed to date

Conclusions on price controls

		Cost estimated in draft model	Costs with revised assumptions over regulatory period	Costs to be recovered to achieve greater long-term price stability
LLU based on LEA cost of BU-LRAIC+		11.15	[redacted]	[redacted]
SLU based on national costs of BU-LRAIC+		5.88		
SB-WLR price based on national TDHCA with BU-LRAIC+ active equip. costs		16.72		
SABB outside the LEA		22.16		
Pole (per annum)				
	LEA	11.58		
	Outside the LEA	9.53		
Dark fibre (per meter/month)				
	National	0.016		
Duct access (per meter of subduct/month)				
Dublin	Carriageway	0.232		
	Footway	0.178		
	Verge	0.108		
Provincial	Carriageway	0.130		
	Footway	0.104		
	Verge	0.077		

9. EVDSL

- Treatment of eVDSL at CGA or NGA; obligations of cost orientation according to D11/14
- eir letter of 5 August, i.e. loop length and impact of EVDSL on LLU and SLU prices
- eir response to Q.10 regarding definition of LLU services

10. Timelines

- Updating the model
- Process

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Memorandum

To:	Paul Walsh, eir
From:	Paul Reynolds, CEG Europe
Date:	4 November 2015
Subject:	**Follow-up to ComReg/eir meeting on 22 October**
Status:	Non-Confidential

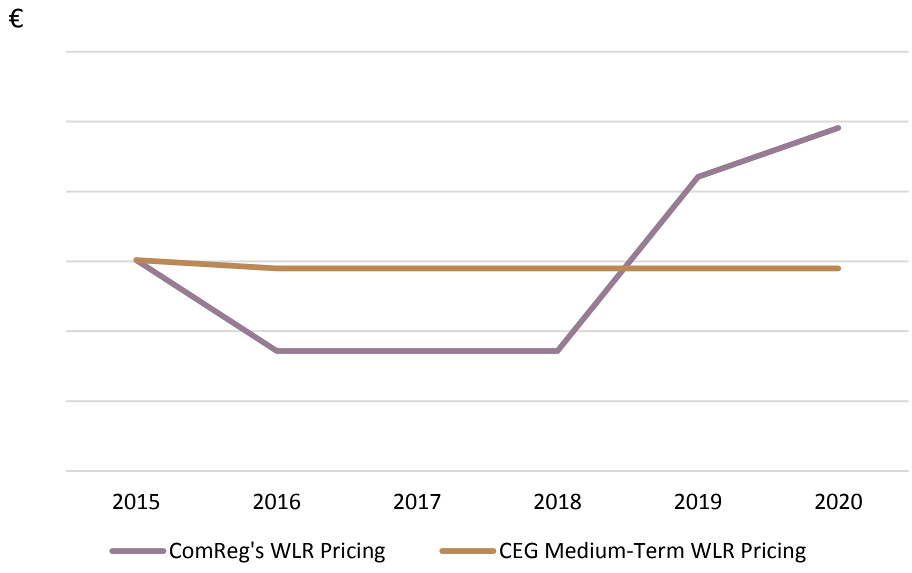
1. This note provides a response on two of the areas where ComReg has sought further information (i.e. the approach to poles costs and SIRO volumes).

1 Approach to pole costs

2. eir and CEG have raised concerns that the large number of poles that are treated as fully depreciated risks a number of distortions and will require significantly higher access prices in the medium term. CEG suggested an approach, Infrastructure Renewals (IR) accounting, which effectively brings forward some revenues to help cover the future expenditure and thereby achieves a smoother path of prices, while still ensuring strict cost recovery. As an illustration of the benefit to price stability from the IR approach, Figure 1 compares the potential erratic path of SB-WLR prices under the Consultation's proposals with a stable level of prices that could be achieved under IR accounting.[1]

[1] The potential path of prices under the Consultation's proposals is based on the Consultation's proposed prices for 2016 to 2018 and estimated SB-WLR costs in 2019 and extending the approach to 2020 (see Table 10 of the CEG Report and accompanying text). The alternative more stable price level is that estimated by CEG in Table 1 of their Report.

Figure 1 – SB-WLR price paths under alternative approaches



3. CEG's report of 25 September 2015 provided an illustration of the level of access prices that could result from applying IR accounting. The basis for the figures in CEG Report are set out in the Annex to this memo.

4. ComReg has asked what is the number of poles for re-investment that would be implied by the IR approach. The investment in poles over the years 2016-2018 is the same as assumed in the Consultation. In particular, this is the weighted average of the Top-Down and Bottom-Up model assumptions. The Consultation refers to this as ✂ poles over the three years in the Top-Down model and in relation to the Bottom-Up aspect of the model

> *"a further ✂% replacement of eircom's existing inventory of poles (i.e., ✂% of ✂ = ✂ poles replaced). This is over and above Eircom's forecasted pole investment as set out in part A above (TD valuation)"* (4.131).

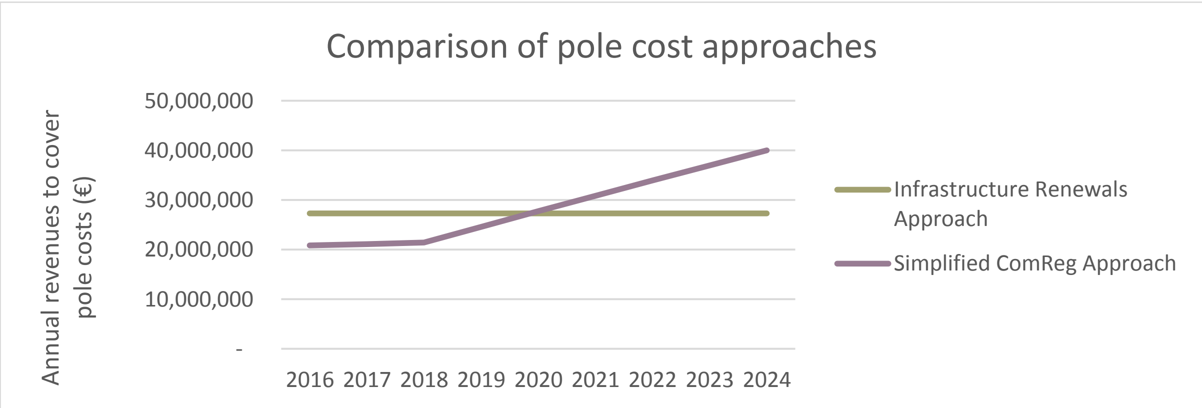
5. The references to "a further" and "over and above" suggest that the Consultation is assuming ✂ poles being replaced in total, i.e. ✂ poles replaced as part of the Top-Down plus ✂ poles replaced as part of the Bottom-Up. However, the use of the weighted average approach results in a somewhat lower implied number of poles being replaced under the actual Consultation approach (i.e. ✂).

6. As discussed in the Annex, for 2019 forward, CEG has assumed substantially more poles will need to be replaced on average per year. The IR approach effectively brings forward the generation of revenues to help cover some of this future expenditure and thereby achieve more stable pricing over time. It does not assume that more poles are being replaced in the initial three years than assumed in the Consultation.

7. We have attached a spreadsheet to help to show how we see IR working in comparison with a simplified version of ComReg's proposed approach (the numbers are for the purposes of illustrating the comparison only). For simplicity, we have considered a 10 year period. We have assumed that ComReg will wish to apply the IR approach so that it achieves the same present value of revenues as under its proposed approach but with the advantage of doing so using a smoother path of revenues.[2] Where actual investment is in line with forecast investment, both the ComReg and our proposed IR approach would generate the same present value of revenues to recover pole costs over the future period. In the example, this is €169,131,535 (as shown in cells D28 and D32). However, IR achieves these revenues in a smooth way which avoids the significant future increases in revenues required under ComReg's approach. This is illustrated in the following Figure which shows the path of revenues to recover pole costs under each approach. For the IR approach we have simply calculated the fixed annual payments that would deliver the same present value of revenues relating to pole costs as would be generated by a ComReg style approach. This is calculated by the formula:

$$\text{Annuity payment} = \frac{\text{WACC} * (\text{Present value of revenues})}{1-(1+\text{WACC})^{(-n)}}$$

where n is the number of years included in the model. If ComReg preferred to adopt an alternative path of revenues (such as with a small increase over time), the annual payments to give the same present value could also be calculated.



8. The additional feature of IR accounting is in relation to where actual investment differs from planned investment. In rows 51-63 of this spreadsheet, we have modified the example to assume that less pole investment takes place in 2018 than planned (e.g. investment of only 10,000 poles rather than 20,000). IR accounting then adjusts the future revenues from 2019 forward to effectively claw-back the

[2] For this simplified example, we have calculated pole costs using straight-line depreciation. As our IR proposal is to base the approach on the present value of the revenues relating to pole costs

extent to which revenues were too high in the previous year because of under-investment. The adjustment to future revenues is expanded by the Weighted Average Cost of Capital to ensure that eircom does not gain any timing advantage from investing less than the forecast investment on which the revenues are based.

9. Given ComReg's question, it may be useful to clarify how we see the interaction of the Bottom-Up and Top-Down models. The European Commission's Recommendation on Costing Methodologies (clauses 33-34) states that the assets of the NGA network should be modelled on the basis of replacement costs except for reusable legacy civil engineering assets which should be modelled on the basis of RAB which is rolled forward. This approach is seen as sending efficient signals for build/buy decisions for NGA investment while ensuring strict cost recovery for reusable assets.[3]

10. Applying these principles to poles infrastructure leads to the conclusion that new poles will be required for the NGA that represent around ✂% of the poles network and be appropriately subject to Bottom-Up costing. The other 92% of the poles network will be subject to Top-Down costing which will take into account the replacement of poles as they reach the end of their life (and which would occur even without the NGA). The difference to the Consultation proposals is that we believe that efficient investment and price stability can be better supported by bringing forward some revenues to help recover future pole replacement costs in the re-usable part of the poles network.

2 Volume loss

11. eir and CEG have set out why ComReg's duty to ensure cost recovery (under Article 13(1) of the Access Directive) and the European Commission's Recommendation on Costing Methodologies require that eir be allowed revenues to recover costs taking into account the rise in unit costs that results from the loss of volumes from eir's copper and fibre networks to rival networks. At the meeting, ComReg indicated some uncertainty as to whether the Recommendation on Costing Methodologies required taking into account the loss of volumes to any rival operator's network or only networks utilising technologies other than copper or fibre.

12. eir draws attention to the wording of the Recommendation and the Impact Assessment accompanying the Recommendation:

> *"Such a costing methodology should…deal appropriately and consistently with the impact of declining volumes caused by the transition from copper to*

[3] *Commission Staff Working Document – Impact assessment accompanying the document Commission Recommendation on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment*, 2013, p.82.

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****" (emphasis added).*[4]

and

"Only traffic volumes moving to ***other infrastructures*** *(for example cable, mobile),* ***which are not included in the cost model****, will entail a rise in unit costs" (emphasis added).*[5]

and

"In the proposed methodology, the model includes both copper and NGA lines, and therefore only traffic volumes moving to other infrastructures (e.g. cable, mobile ***and alternative operators' fibre****) would entail an inflation of unit costs" (emphasis added).*[6]

13. eir believes that this wording clarifies that ComReg should take into account all volume loss from eir's network to the networks of rival operators regardless of the technology of those rival operators' networks. Volume loss to rival operators (including mobile networks, VM and SIRO) will entail an increase in unit costs and hence need to be reflected in the level of access prices. Only the migration of lines to eir's NGA network should not impact the volumes in the cost model as the volumes in the cost model will be those of eir's copper and fibre networks.

14. CEG's report sets out CEG's approach to developing a conservative forecast of the loss of lines to mobile networks and VM. ComReg has requested further detail of the approach applied to estimate the likely loss in lines to SIRO. The forecast loss in lines to SIRO was calculated by first identifying the total number of WLR lines provided in the exchange areas that SIRO has announced will form part of its initial roll-out to 2018.[7] These are shown in Table 1. Second, CEG has assumed that ✂% of WLR lines in these exchange areas will be transferred to SIRO over the period to 2018. The assumption of a ✂% WLR line loss in SIRO areas is supported on two grounds. First, as noted in the report by Deloitte for ComReg, it is customary to model costs based on a market share equal to 1/N where N is the number of network operators in the market.[8] Relative to this benchmark, it is conservative to assume

[4] *Commission Recommendation on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment*, 2013, para.25.

[5] *Commission Recommendation on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment*, 2013, para.39.

[6] *Commission Staff Working Document – Impact assessment accompanying the document Commission Recommendation on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment*, 2013, p.44.

[7] The 50 initial towns are shown at http://siro.ie/roll-out/

[8] Deloitte, *MTR Model Specification Document for Ireland*, 23 February 2015, p.9.

that SIRO will only take ✂% of WLR lines rather than ✂% of total lines in the SIRO area. Second, the available evidence suggests that it would be relatively easy for SIRO to take ✂% of the WLR lines in its roll-out areas. ComReg's Key Data Report Q2 2015 (Figure 2.2.3) shows that Vodafone has 47% of the fixed line subscriptions nationally excluding eir's and VM's own lines. Assuming that Vodafone has a similar share of the non-eir/non-VM lines in the SIRO area then for SIRO to take ✂% of WLR lines in its areas would only require Vodafone to shift its lines to SIRO and for a relatively small percentage of other WLR lines to also be taken by SIRO.

Table 1 – WLR lines in areas of initial SIRO roll-out

Towns	MDF's	Site Code	WLR Volume
Cavan	1	CAV	✂
Dundalk	2	DDK	✂
		BLR	✂
Westport	1	WST	✂
Castelbar	1	CBR	✂
Sligo	2	SGO	✂
		RTD	✂
Letterkenny		LKY	✂
Carrigaline	1	CGI	✂
Tralee	1	TWV	✂
Navan	1	AUV	✂
Wexford	2	WXA	✂
		WXD	✂
Galway City	3	MVW	✂
		SLA	✂
		GAL	✂
Monaghan	1	MGN	✂
Carrick on S.	1	CKN	✂
Ballina	1	BLA	✂
Drogheda	2	DAH	✂
		DBC	✂
Longford	1	LOD	✂
Roscommon	1	RCM	✂
Balbriggan	1	BRN	✂
Mullingar	1	MGR	✂
Athlone	2	ATH	✂
		RSL	✂
Skerries	1	SKS	✂

Towns	MDF's	Site Code	WLR Volume
Swords	1	SRD	✂
Malahide	1	MHZ	✂
Portmarnock	1	PMK	✂
Maynooth	1	MNT	✂
Kilcock	1	KOK	✂
Leixlip	1	LEX	✂
Celbridge	1	CEL	✂
Bray	1	BRI	✂
Naas	1	NAS	✂
Newbridge	1	DNU	✂
Tullamore	1	TLM	✂
Greystones	1	GRS	✂
Wicklow	1	WLW	✂
Arklow	1	AKW	✂
Gorey	1	GRY	✂
Portlaoise	1	PGS	✂
Carlow	1	CRW	✂
Kilkenny	1	KNY	✂
Clonmel	1	CLM	✂
Ennis	1	ENS	✂
Shannon	1	SHN	✂
Limerick	5	LMK	✂
		CTY	✂
		CGA	✂
		LKD	✂
		CHD	✂
Eniscorthy	1	ETY	✂
Waterford	2	WRD	✂
		TYC	✂
Tramore	1	TRR	✂
Killarney	1	KLN	✂
Mallow	1	MLW	✂
Ballincollig	1	BNC	✂
Midleton	1	MDN	✂
Cobh	1	COV	✂
Little Island	1	LED	✂
Cork City	7	CHF	✂
		HYD	✂

Towns	MDF's	Site Code	WLR Volume
		QKR	✂
		DYX	✂
		DGS	✂
		CKC	✂
		WRD	✂
		Total	✂

Annex – Calculations underlying CEG's illustration of the IR approach

1. For the purposes of the illustration of the Infrastructure Renewals approach in CEG's report of 25 September 2015, CEG assumed that:

   - In 2015-2018, eir would make the same expenditure on poles as assumed in the Top-Down model of €✂ per year (this is intended to reflect the replacement of ✂ poles annually);
   - From 2019 forward, eir would invest €✂ per year in poles estimated as the long-term average replacement level of ✂ poles per year (i.e. given ✂ poles with an average effective life of 30 years) and assuming the same cost per pole as in the draft model's assumed pole investment (i.e. increasing the annual pole investment by ✂ times).

2. CEG then calculated the annuity that would provide the same present value of revenues as the present value of the assumed expenditures. This was comprised of (i) the present value of the expenditures of €✂ annually over 2015 to 2018 as assumed in the cost model; and (ii) the present value of a perpetuity starting in 2019 for the assumed medium-to-longer term annual expenditures of €✂.

Calculation of perpetuity to cover present value (PV) of long term pole replacement costs	
PV of 2015-2018 poles investment	✂
PV of the perpetuity starting in 2019 (medium-term investment)	✂
PV in 2015 of the perpetuity starting in 2019	✂
Total PV of poles investment	✂
Perpetuity giving same PV (=PV*WACC)	✂

3. The figure of €28,069,029 was entered into the dashboard of the CAM model in place of the existing pole investment figure of €✂. Effectively, this provides for the bring-forward of revenues relating to future poles expenditure in the Top-Down model (while still retaining the same revenues for unrecovered past expenditure).

Additional information from meeting of 22nd October

ComReg queries

ComReg has asked for additional material around 5 issues raised at the meeting

1) Poles – details of IRE calculations

Response: see attached spreadsheet and the relevant section of the CEG document attached explaining the IRE approach that proposes a medium term valuation of the pole asset rather than a particular pole replacement timetable.

2) SB-WLR promotions

Response: When considering promotional pricing for wholesale access products eir has found that it is necessary to distinguish clearly between promotional pricing for connection or other once-off fees on the one hand, and promotional pricing for on-going charges such as service rentals or usage fees on the other.

The first type of price promotion has been, and will continue to be, an important part of the pricing approach for managing demand for network access products with business cases developed on the trade-off between connection costs incurred and revenues forgone early in the service life and rental volume increases due to enhanced take-up from customers sensitive to up-front charges. It is important to note that although eir has a general policy to have low, or zero, connection fees for pre-enabled access services there is a general need to distinguish between these services and the connection service provided to a new customer whose address is not connected to the network.

There have been several instances of the second type of price promotion for PSTN, LLU, and Bitstream services where monthly rental charges have been discounted - to zero for an introductory period, of permanently by a fixed money amount – below the normal permanent level for that service. In general the eir experience of these discounts has not been positive. In one case an eir initiative labelled “Trial Line” set rental charges for a range of access services to zero for the first twelve months of an access service that was new to the network. The experience was that many of these services were ceased soon after the normal level of service rental fell due. This price promotion was also the subject of negative feedback from several other operators. A second instance of rental promotion was the introductory pricing for Stand Alone CGA Bitstream where sales of the product up to 31/12/2014 received a permanent discount of €2 per month from the standard service rental. Once again this form of promotion was the subject of negative feedback from operators – who found that the issues of managing a product base with instances of separate permanent prices for identical inputs was problematic.

So the general position proposed by eir is that we will continue to have a requirement to offer promotional pricing for connection services but that it is unlikely that we will seek to offer promotional discounts from standard recurring charges for standard wholesale access services.

The most recent rental promotion was restricted to pre-cabled and in-situ orders for lines that were in place but had been ceased in the previous six months. This meant that only 30,000 premises qualified and some OAOs found the lead list of limited use.

The performance on the current promotion is minimal. The position at the end of July was as follows:

- Identified eligible SBLWR lines (ARD ID matched on lead list) #694
- Number of Lines Provided in period and subsequently ceased before eligible to receive promo discount 106
- Number of Lines Provided in period and subsequently transferred to another Operator and therefore eligible to receive promo discount 4

- Identified eligible LLU lines (ARD ID matched on lead list) #4
- Number of Lines Provided in period and subsequently ceased before eligible to receive promo discount 0
- Number of Lines Provided in period and subsequently transferred to another Operator and therefore eligible to receive promo discount 0

Given this performance it is clear that this type of limited connection promotion plays no meaningful role. We are reviewing the volumes since July at the moment and will provide an update shortly.

3) ISDN services

Response: the brochure attached describes the eir Business SIP Trunking that delivers multiple speech channels over a leased line or Broadband access service. This was launched in June 2014 and to date eir has ✂ (in other words the equivalent of one or more ISDN PRA services). Prices for SIP trunking are somewhat different from ISDN in structure but for a typical configuration with similar speech channel numbers SIP Trunking would deliver savings of ✂ to ✂. We consider that the take-up has been slowed both by the technology change required for customer premises equipment and by the lack of growth of demand for new fixed voice access driven by general growth in size of individual businesses.

These numbers are in the context of combined demand for eir wholesale and retail ISDN FRA (15 to 30 channels) and PRA (30 channels) close to ✂. In addition to this the 2-channel BRA service still has combined demand of ✂. Given that replacement of ISDN by SIP Trunking – and the equivalent Business VoIP services offered by other Operators – is at such an early stage that a reduction in ISDN wholesale prices could damage the take up of the new services. This would be particularly unfortunate as the ISDN platform is approaching end-of-life when equipment suppliers will no longer provide support or spares.

4) SIRO Volumes

Response: The attached paper from CEG describes how they have analysed the potential impact of the SIRO network roll out on demands for SB-WLR services currently purchased from open eir.

5) Presentation

Response: Also attached to mail that accompanies this note is a non-confidential version of the slides presented at our meeting of 22nd October.

Additional information from meeting of 22nd October and mail of 17th November

ComReg queries

ComReg has asked for additional material around 5 issues raised at the meeting

1) Poles – details of IRE calculations

Response:

i) The CEG analysis is not based on any particular set of plans by open eir for pole replacement. It is simply contrasting the model that applies for the period of the control where ✂ poles are replaced each year (where the current base of ✂ poles would take ✂ years to replace) with an increased rate of pole replacement required later arising from the increased ageing of the pole base arising from limited replacement during the control period. This is contrasted with the IRE approach where a continuous investment to replace the pole base over the regulated asset life is used to develop a constant annual charge. The CEG IRE approach is not intended to reflect the actual investment in any one year – but is intended to reflect the medium term trend.

ii) The rate of pole replacement that eir will undertake is driven by two inter-related factors. There is a base level of close to ✂ per annum that arises from the clearance of faults and damage to the network by weather and third parties. Beyond this level replacement is driven by a combination of the pole testing programme and deployment of new cable on overhead routes. The recent eir announcement on the deployment of FttH to 300,000 rural premises will deploy fibre optic cable on overhead distribution poles. This will give rise to ✂ replacements in the years FY16 to FY20 – or an average of ✂ per year. In part this will replace the typical level of ✂ replacements driven by the pole testing programme – which is likely to fall to ✂. In summary the average level of pole replacement between FY16 and FY20 is likely to be close to ✂.

   Should eir win a lot within the NBP tender – or should another bidder opt to deploy fibre optic cable on eir poles – all the poles routes used will be tested. This will drive further replacement at a rate that is hard to anticipate at this point.

2) SB-WLR promotions

Response: details of FY13 and FY14 volumes to follow later today.

3) ISDN services

Response:

I) there is no current plan to retire the ISDN BRA, FRA, or PRA services. Although overall network volumes declined by ✂ last year there are occasional instances of new connections as business customers move premises or add a site. At this point it is unlikely that eir would retire the ISDN services other that as part of an overall programme to retire the PSTN.

II) In general the larger (by voice channel) implementations use symmetrical Ethernet access. This can be replicated by an operator using the open eir WSEA service. There are also instances of small site implementation where eir Business uses a Broadband access. In this context an Operator with their own VoIP platform, such as IMS, could replicate SIP trunking using either Bitstream or unbundled loops to access customers connected to the eir copper network.

eir **SIP Voice**

Leading the way for Unified Communications

Discover the ISDN alternative that offers you reliable, high-quality inbound and outbound calls, with no channel limit.

eir SIP Voice is revolutionising the core communications tool that organisations rely on: voice calls. It's a whole new way to deliver telephone lines to your premises: get better value by using just one connection to carry both your calls and your data, with no loss of voice quality or reliability.

Significant cost savings

Using your data network for voice gives you free on-net calls and eliminates unnecessary lines. On-net calls are free, right across the enterprise, including on-net mobile calls.

Genuine peace of mind

eir SIP Voice is a carrier-class service located in Ireland, provided over the eir network. You experience a reliable, business class service with toll-quality calls, supported 24 hours a day by our ISO-certified customer service organisation.

Future-proof your network

eir SIP Voice lays the foundation for innovative services like unified communications, hosted PBX and hosted contact centres. It's an ideal way to future-proof your communications infrastructure and to take advantage of tools like instant messaging, video and collaboration.

Range of access technologies

Access eir SIP Voice over a new or existing eir IP-based data circuit such as Business IP, NGN VPN or eir Fibre.

Improve productivity

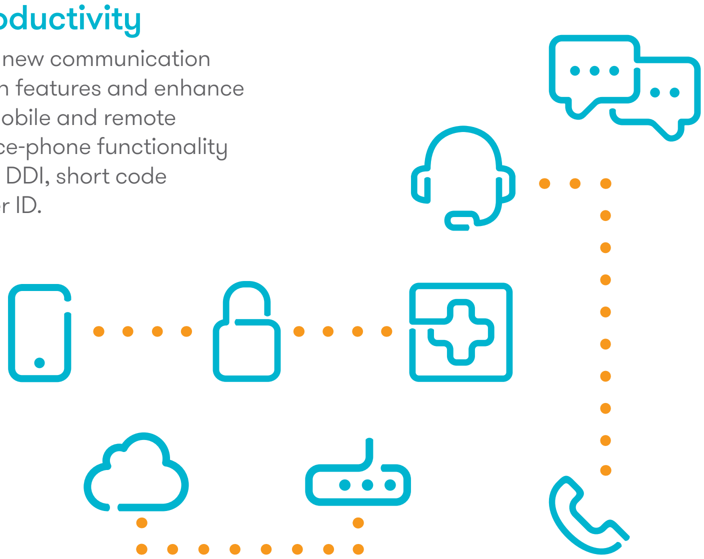
Deploy powerful new communication and collaboration features and enhance productivity of mobile and remote workers with office-phone functionality at home; such as DDI, short code dialling and caller ID.

Improve management

Simplify moves, adds and changes to your service.

Handle more calls, without more lines

You've never enjoyed this level of flexibility with your voice services. Burst your number of voice channels at any time to cater for seasonal demands, or events like product launches and other campaigns that create a sudden spike in inbound or outbound calls.



Flexible, cost-effective SIP Voice services with carrier-grade quality you can trust.

Your questions answered...

What is eir SIP Voice?

eir SIP Voice uses Session Initiation Protocol (SIP), a signalling communications protocol that control sessions on IP networks, including voice calls. eir SIP Voice is a robust, toll-quality voice service provisioned over a private, eir IP data circuit that connects an existing customer PBX to eir's Public Switched Telephone Network. SIP Voice calls can traverse both IP and traditional TDM networks, allowing customers to achieve cost savings by leveraging existing eir data infrastructure for voice traffic.

eir SIP Voice rests on Ireland's only geo-redundant IP Multimedia Subsystem (IMS), with core infrastructure repeated across two sites. The service is protected by robust Service Level Agreements and backed by our ISO-certified customer service organisation.

eir SIP Voice also includes a remote worker component, allowing staff in disparate locations such as home offices to connect to their headquarters' PBX through a DECT or IP phone using any broadband connection (a dedicated broadband connection is recommended to protect call quality).

How is eir SIP Voice delivered?

eir SIP Voice is accessible via access technologies including copper, fibre and eir Business IP Reach. Home and remote workers connecting into headquarters do not require an eir circuit at their home but may use any IP connection, including third-party DSL. For questions about access technologies, speak with your eir account manager.

To access the service, customers require an access circuit and NTU (this will usually be part of an underlying data network); a router; an IP-enabled PBX (or a gateway if their PBX is not IP-enabled), and optionally a Session Border Controller (SBC) to control the types of calls and traffic that may use the company network.

eir Business can provide all the elements for delivering this solution, including IP PBXs, traditional PBXs, Gateways and Session Border Controllers, plus services for the design, implementation and support of the system.

What options are available?

eir SIP Voice is available with multiple deployment scenarios depending on your needs, including distributed or centralised over Internet and via VPN.

The centralised solution allows routing of calls over a data VPN, giving you extra control over calls and costs. In this case, across all your sites, the extension features are provided by the IP PBX in your headquarters, letting you reduce costs further by having a single, central IP PBX. A multisite billing option is available for this scenario.

The distributed architecture empowers your staff with more freedom by managing locally the traffic and the associated costs. A hybrid solution can also be provided by eir Business, depending on your business needs and traffic profile.

What are the components of the product?

eir SIP Voice offers multiple voice calling features including DDI numbers, Caller Line Identification capabilities (CLI Presentation and CLI Restriction), call barring, call waiting, DTMF, hunt groups, call forwarding, faxing, clustered PBX, multiple number range scenarios and multisite billing. Advanced call features are also available either at trunk or at DDI level, including call waiting, conferencing, call forwarding or call transfer. eir SIP Voice is SIP Connect compliant and is compatible with services including Suretel and Freefone.

Want to know more?

call 1800 400 200

speak to your Account Manager

@eirbusiness

eir.ie/business

From: [redacted]
Sent: 23 October 2015 13:23
To: [redacted]@eir.ie'
Cc: [redacted]@eir.ie
Subject: [Confidential] follow up from meeting
Attachments: Tilted annuity.xlsx

Importance: High

[redacted]

Further to our meeting yesterday morning regarding clarifications on Eir's submission to ComReg Document 15/67, Eir are requested to provide the following information to ComReg:

1) **Poles**:
    a. Details (including workings) of the IRE calculation that is put forward in Eircom's CEG submission for determining the cost of poles.
    b. The number of poles for re-investment that would be applied in the context of the IRE approach.

2) **SB-WLR promotions**:
    a. The take-up of previous rental promotions for SB-WLR, by operator, over the past two years.
    b. The details on how successful these promotions were at stimulating new demand on the network.

3) **ISDN services**: Eir's proposal for the future provision / delivery of ISDN PRA and FRA services and Eir's assessment of how these changes will affect the demand for these services

4) **SIRO volumes**: The details of the anticipated impact of SIROs rollout plans on Eir's network volumes. Including, in detail, how Eir derived at these estimates.

5) **Presentation**: A non-confidential version of the presentation given at our meeting (22 October).

If Eir can please provide the information by Friday, **6 November 2015**.

As agreed at the meeting, please find attached the spreadsheet from TERA which provides a simple illustration of the current time lag in the Revised Copper Access Model. There are details contained within the spreadsheet explaining how it works.

We will separately follow-up on the ancillary charges next week via email.

Regards

[redacted]

[redacted]
Wholesale Division
Commission for Communications Regulation
Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1, D01W2H4, Ireland
Telephone +353 1 804 9708
Fax +353 1 804 9680
Email kjeld.hartog@comreg.ie

From:	[redacted]@eir.ie
Sent:	10 November 2015 17:54
To:	[redacted]
Cc:	[redacted]@eir.ie; [redacted]@meteor.ie; [redacted]@eir.ie
Subject:	RE: [Confidential] follow up from meeting
Attachments:	Covering Note.doc; ComReg meeting follow-up.docx; Alternative approaches to pole costs.xlsx; Business SIP Product Sheets.pdf; Access Review - Presentation 221015_non_confidential.pdf; ATT00001.txt

[redacted]

please find attached a covering note for the five items together with a document and spreadsheet from CEG addressing items 1 and 4 in detail. In addition to these I attach a brochure describing the SIP Trunking service to business customers and a non-confidential version of the slides from the meeting of 22/10.

Regards,

[redacted]

From: [redacted]
Sent: 17 November 2015 11:30
To: [redacted]@eircom.ie'
Cc: [redacted]@eircom.ie;[redacted]
Subject: FW: [Confidential] Follow up queries

[redacted]

Further to your email of 10 November please see below a number of clarifications/follow up queries for your consideration:

1. **Poles:**

i) Based on our review of your IRE spreadsheet, provided on 10 November, we understand the number of poles considered by Eir / CEG under the TD approach is [redacted] poles each year from 2015-2018 and [redacted] each year from 2019 – 2024. Can Eir confirm if these projections (from 2019-2024) are deemed to be representative of actual pole replacement numbers each year? If so, please provide cogent reasoning to support your view.

ii) If the numbers presented by CEG are not considered representative can Eir please provide the level of annual pole replacement they anticipate taking place each year from 2019 to 2024 ? Please provide cogent reasoning to support your view.

2. **SB-WLR promotions:**

i) We note that only part of the data requested in our email of 23 October 2015 was provided i.e., take-up of previous rental promotions for SB-WLR, by operator, over the past two years, remains outstanding.

3. **ISDN services:**

i) Please confirm if there is a migration plan from ISDN PRA/FRA services to SIP trunking services and if so, please provide us with the details.

ii) Please confirm if the SIP trunking service can be replicated by an alternative operator either using LLU or Bitstream.

If you can please provide a response to us by noon on Tuesday, 24 November.
Thanks
Regards
[redacted]

From: [redacted]@eir.ie
Sent: 24 November 2015 11:37
To: [redacted]
Cc: [redacted]@eir.ie; [redacted]@eir.ie
Subject: RE: [Confidential] Follow up queries
Attachments: Covering Note II.doc; ATT00001.txt

[redacted]

Attached please find a note responding to the queries below. The balance of the data on the SB-WLR promotion take-up will be supplied later today.

Regards,

[redacted]

2: Sky Ireland

Donal Leavy,
Director of Wholesale,
The Commission for Communications Regulation
Block D, E, F
Abbey Court
Irish Life Centre
Lower Abbey Street
Dublin 1

27 November 2015

Re: OECD basket prices and Eir's response to ComReg Document No. 15/67

Dear Donal,

As you may recall when we met with ComReg in December 2014 we raised concerns about the expansion of its pricing analysis carried out in its quarterly report and in particular the use of OECD "baskets" in undertaking this initiative. We believed at the time that using baskets that do not reflect actual consumer needs and/or ignores actual demand profiles observed in the Irish market ran the risk of causing confusion at best or being wholly unrepresentative at worst. Sky considers recent events have proved those concerns to be well founded.

A cursory review of Eir's response to ComReg's Consultation and Draft Decision (15/67) highlights the extent to which the SMP operator and/or their consultants can seek to exploit such data which they know to be unrepresentative to advance arguments of self-interest[1]. Both use the fact that given the information is presented in a ComReg report that this equates to an effective 'seal of approval' from the regulator that the comparisons made amount to relevant pricing benchmarks for the Irish market. Indeed, it would not be unreasonable to assume that a third party adjudicator/mediator would also arrive at a similar (albeit misguided) interpretation given that ComReg's publication will inevitably lend some status to their relevance. However, the analysis as presented makes no attempt to reconcile with actual market developments and as such Sky fails to see what useful purpose the comparisons fulfil.

In its response to the aforementioned consultation Eir has attempted to use these comparisons to present a case that it is struggling to compete with other operators at its current prices. Even Eir's consultants CEG, has relied on the OECD basket comparators to note *"ComReg's pricing evidence shows that eircom has not engaged in a margin squeeze in fixed voice – indeed, eircom's prices are being significantly undercut by rivals"*[2]. CEG argues that this ought to be taken as evidence as to why no margin squeeze should be imposed on Eir.

Need for cost orientation and more stringent MST

[1] While ComReg's report does reference some caveats about the benchmarks this has essentially been treated as "background noise" by Eir and their consultants.
[2] See CEG response to 15/67 paragraph 12 and paragraph 115.

The reality on the ground however, is that the SMP operator in mid-November put a heavily publicised offer into the market that highlights the need and urgency for both a cost oriented WLR rate and a more stringent margin squeeze test (MST). The offer at its deepest discount level entails a **€30** per month price point for quad play (line rental + talk, broadband, TV and mobile) for a 12 month period. Notwithstanding that the price increases to **€92** in the second year, a comparison of the line rental and broadband variable costs alone in the first year shows [redacted]

From the table below we can see excluding call costs associated with free minutes, the loss at this retail price point less <u>*variable costs for **just** WLR and BB*</u> would be [redacted]). This estimate considers a modest backhaul usage assumption and takes no account of substantial fixed costs associated with service provision. It furthermore takes no account of significant fixed and variable costs associated with the TV and mobile elements of the bundle. As such far from being undercut by its competitors as Eir's consultant report would suggest, [redacted] (discussed in next section).

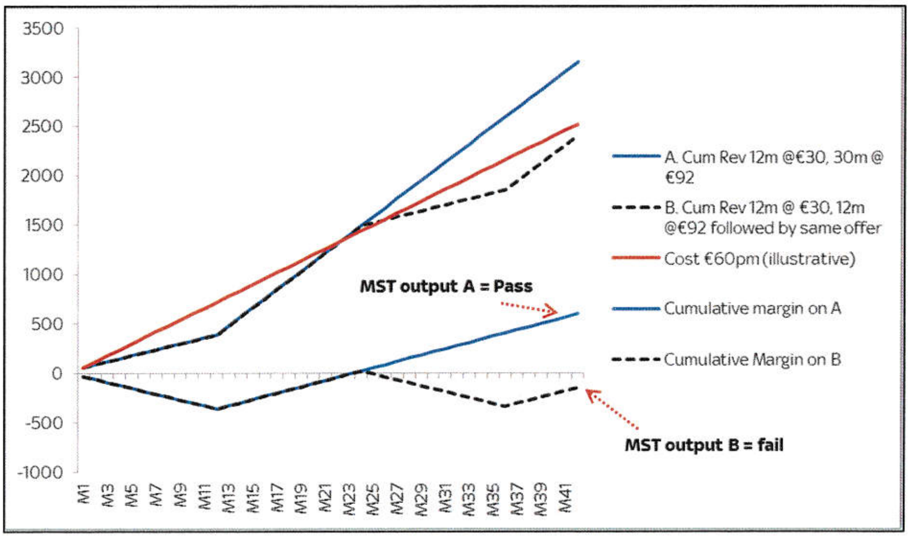
12 Month analysis of Eir's current offer

A Revenue	€ 30	**C WLR/BB SAC**		**F TV Fixed Costs**	
		Router	-	Box	-
B WLR + BB variable costs (excluding call charges)		Installation	-	Installation	-
WLR	€ 18.03	Distribution	-		?
WLR Retail Costs*	€ 2.94		?	**G TV Variable**	
		D Mobile Fixed Costs		Rights	-
NGA BB port	€ 6.98	Handset	-	Service	-
Backhaul (av usage of 500kbps)	€ 5.13	SIM	-		?
			?	P/L = **-€3.08 - C-D-E-F-G**	
Variable costs (excl. call costs)	€ 33.08	**E Mobile Variable Costs**			
	-€ 3.08	100 free mins	-		
		Service	-		
			?		

* 14% margin assumed as proxy for retail costs based on Retail minus regime

Sky understands that ComReg currently assumes a 42 month customer life in assessing Eir's MSTs but in reality once a contract has expired (be it for 12, 18 or 24 months) these customers will often be offered a further discount in order to renew the contract at the relevant time. In these circumstances assuming a €92 monthly price point will apply for the subsequent 30 months after the 12 month offer expires will over estimate revenue generated by the bundle in current MSTs. Eir can rely on this disconnect between the MST assumptions and reality to inform a pricing strategy that effectively allows it to circumvent what the MST is designed to capture. For example, Eir can run extremely aggressive "front loaded" retail offers because it knows the ComReg MST will assume large offsetting revenues (that may never be realised) further out in the analysis.

Where Eir offers further discounts to customers when these 24 month contracts are renewed, the chart below illustrates how not taking account of this real market phenomenon could result in the standard MST being passed whereas in reality competitors would not be able to replicate the 42 month scenario without incurring losses.



"Wooden dollar" losses

Furthermore, it is important to note that the front loaded 'losses' for Eir are essentially just "wooden dollar" transactions between its retail and wholesale operations. [redacted] The prices competitors must pay to Eir are in main above cost (because they do not carry a cost orientation obligation e.g. NGA port charges, WLR, NGA backhaul charges) notwithstanding Eir's increasing market dominance.

Sky consider it is imperative that a cost oriented obligation on WLR and NGA broadband access (where Eir face less competition than on CGA broadband) are implemented imminently and that this initiative is complimented by a more stringent MST that accounts for the issues outlined above. Finally, Sky would suggest that if ComReg is intent on continuing to publish price comparison analysis based on OECD baskets (which incidentally have not been revised since March 2010) that are unlikely to be reflective of actual Irish consumer needs or demand profiles then this caveat ought to be definitively called out in quarterly reports. If not, ComReg runs the risk of allowing unrepresentative data to be used to undermine otherwise sound market analysis as per Eir's attempt to do so in its response to the wholesale access services pricing consultation and draft decision (Document No. 15/67).

Yours sincerely,

Kevin Barrins
Head of Regulation, Sky Ireland

Cc: Kjeld Hartog, Head of Pricing Wholesale
Eric Tomkins, Senior Manager Wholesale

Sky Ireland, One Burlington Plaza, Burlington Road, Dublin 4
Visit sky.ie
Registered in England at Grant Way, Isleworth, Middlesex TW7 5QD as British Sky Broadcasting Ltd No. 2906991
VAT registered No. 440627467

3: Vodafone Ireland Ltd.

2nd December 2015

Mr Donal Leavy
Director Wholesale operations
ComReg
Abbey Court
Abbey Life Centre
Lower Abbey Street
Dublin 1

RE: Eir wholesale access services, document 15/67

Dear Donal,

I refer to the publication of submissions to the above consultation and specifically to responses by eir to the consultation. Vodafone believes eir responses do not accurately reflect the state of the fixed market and the need to ensure the level of competition that exists to compete with the national incumbent is sustainable and not undermined still further by the final decision of comreg on the copper access products.

Vodafone make specific comments referencing the questions posed in the original consultation in **Annex A** but would take the opportunity to make a number of general observations:

1. **Eir response focuses on the competitive conditions in retail, not eir dominance in wholesale markets**

Eir's arguments focus extensively on current Retail Market Shares, and appear to avoid the more relevant arguments, as articulated by ComReg (in Section 3.8 of ComReg 15/67), that it is possible for eir to "Leverage its market power into adjacent vertically or horizontally related markets through price and non-price means with the effect of foreclosing or excluding competitors in downstream retail and/or upstream wholesale markets". This has been rightly identified as due to eir being a vertically-integrated operator with SMP, having the incentive to use its market power to affect the competitive

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MountainView, Leopardstown, Dublin 18, Ireland
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conditions in both wholesale and retail markets. In Recital 47 of the EC Directive 2009/140/EC it was clearly stated that "For the purposes of ensuring that there is no distortion or restriction of competition in the electronic communications markets, national regulatory authorities should be able to impose remedies aimed at preventing leverage of significant market power from one market to another closely related market." Thus, NRAs, including ComReg, are working within their powers to prevent distortions in competition in Retail markets where incumbents, such as eir, have SMP in directly related wholesale markets. Thus, eir's claim that the use of Margin Squeeze along with the use of cost orientated price is 'unusual', which has not backed up with specific facts is far from 'unusual'. We are aware of a number of other EU countries where such an approach is regarded as the norm.

Vodafone finds it unusual that many of eir's arguments against the Retail Margin Squeeze requirements proposed by ComReg were not more properly argued and debated as part of previous ComReg's Decisions, for example ComReg 14/89, D12/14, eir was determined to have SMP in the three relevant Fixed Voice Access (FVA) Markets, which incorporated Retail PSTN, Retail ISDN and Managed VoIP; with the SB-WLR obligations subsequently transferring to the FACO Market (See ComReg 15/62, D05/15).

In addition eir's argument that other operators have the capability of moving in and out of the Retail Markets, in reaction to eir's Retailing activities, appears deeply flawed. For example, eir submissions argue that 'short term' (not defined) under-recovery of retailing costs can increase volumes over which (eir's) fixed costs can be spread. This ignores the effects of these "short term" Retail price reductions. For example, eir are assuming that its Fixed Costs are not required to be recovered in the short term, but will be recovered through Retail price increases (over the longer term) to recoup any "short term" under-recovery. This leads to a key underlying assumption of lower volumes for other operators over this longer term thus contradicting eir's assertion that other operators can re-enter the market once these price reversals occur. Logistically, this also ignores that other operators would incur retailing stop and restart costs which would be significant if Eir is given the freedom it appears to be suggesting. It is clear that other operators, in particular smaller operators, would more simply exit the market completely, as these additional costs to the business could not be funded from margins being earned at the Wholesale level, as is the case for eir.

2. **Eir's recent behaviour in raising wholesale costs demonstrates there is no retail price constraint and that eir have the ability to act independently at wholesale levels**

Eir's most recent SB-WLR effective price increase of €3 per month per customer (on lines shared with NGA), and also NGA price increase of €2 per month undermines eir's assertion of "rapidly developing competition". It would appear from eir's most recent presentations that these price increases are being reflected through to the average ARPUs being earned at both Wholesale and Retail levels. Contrary to the assertion by eir that it is losing customers in retail markets, the most recent financial results reflect a strengthening of eir's position in retail markets. Eir has stated in their response to this Consultation that SABB and LLU volumes are c.80k. Given that c.10k are Full LLU lines this implies that c.70k are SABB. This implies that much of the decline in eir's WLR and retail PSTN access lines to the year to the end-of-June 2015 and on into the end-of-September 2015 has been matched by growth in Eir's Wholesale SABB lines.

It is possible that the underlying access line base could in fact start to grow over the period of this pricing control in the light of the continuing demand and growth of Standalone Broadband services. Therefore the ComReg approach of assuming a stable access line could actually be viewed as favourable to eir. It should also be noted that the scale of Full unbundled lines in Ireland of c.10k is not material and cannot be said to act as a constraint on eir at other Wholesale Products level such as for SB-WLR or for Wholesale Bitstream and any argument put forward that it has an influence must be seen in this light.

The results also suggest that the margin squeeze tests may not be as effective as eir would argue. At a wholesale level the price increases, which were a response to retail price increases by Virgin Media, demonstrates an ability on eir's part to act independently of others in the market place and also an ability to influence both the Wholesale and Retail Markets.

3. **Ex post based regulation (i.e. competition law alone) would not provide a sufficient deterrent to ensure effective long term competition to the ultimate detriment of customer welfare**

Vodafone would strongly refute the claims of eir that ex-post regulation is appropriate in this market and eir's recent price changes strongly indicate a need for both cost orientated pricing at the Wholesale level, and retail controls, such as a Retail Margin Squeeze, on eir to protect the continued development of competition. Eir are at pains to show retail market shares in fixed markets as signs of competitive strength however ComReg should examine the margins and profits available to fixed operators. Vodafone would argue, based on eir's financial results, that eir have the lions share of profits from the fixed markets and this is not healthy for sustainable competition.

Eir equally argue that mobile substitution is contributing to losses of lines in the fixed retail markets. As we argue elsewhere eir are increasing their dominance in wholesale markets and are aggressively leveraging that dominance into retail markets. Mobile substitution is driven by high line rental prices and poor service in rural areas where eir have continually neglected investing in their access network.

We again state that this move from Retail minus to cost orientated pricing will bring greater certainty to wholesale pricing and this is in the long term interest of the wider industry and consumers. It would appear that eir has overlooked one of the most important paragraphs of the EC (NGA related) Recommendation as it relates to cost recovery: "Cost recovery is a key principle in a costing methodology. It ensures that operators can cover costs that are efficiently incurred and receive an appropriate return on invested capital". To encourage efficient capital and operating cost expenditure there needs to be a clear linkage between the wholesale prices and these efficiently incurred costs. The current lack of a direct linkage between **wholesale pricing and wholesale costs**, leads to a very damaging situation. This can be very clearly seen in the significant, and growing, over recovery of costs now being observed in eir's reported Wholesale Access Markets in Separated Accounts, and we will address this issue in more detail in a follow up letter.

In addition, the continued use of a Retail Margin Squeeze enables the wider industry to have some reassurance that eir will have reduced ability to use (short term) retail pricing movement to manipulate the retail market. It is worth noting that in 2013 the Commission published their recommendation "on consistent non-discrimination obligations and costing methodologies to promote competition and enhance the broadband investment environment". This document included the following statement: ".. NRAs may also apply an ex ante margin squeeze test to regulated wholesale inputs in order to ensure that wholesale access pricing of copper-based access products does not hinder competition at retail level or to ensure an adequate economic space between the different copper access inputs". This was stated in the context of how of ensure competition at the Retail level, while also setting pricing at a wholesale level, it is clear that the imposition and use of Margin Squeeze Tests (MSTs) is neither 'unusual' nor without precedent. Also, it should be noted that the Commission has not implicitly or explicitly rule out the possibility of using MSTs in conjunction with cost orientation obligations.

Finally, Vodafone would again draw ComReg's attention to the need to now start the development and incorporate of stricter Non Price controls, such as monetary based incentives and penalties on eir, directly linked with quality of services, repair and provisioning performance. Once developed, these non-price controls should then be linked more directly to the prices in the market place. In this regard, we also note that eir's response make very little mention of the Universal Service Obligation (USO) requirements placed on it. It is hard to reconcile eir's request for greater Retail pricing freedom in the context of eir's USO requirements.

Sincerely,

Gary Healy

Head of Regulation & External Affairs
Vodafone Ireland Limited

ANNEX A Observations on eir Responses to Consultation (ComReg 15/67)

Eir Response to Q1

Eir argues that the complexity of constructing cost models and that cost modelling is based on numerous assumptions and thus subject to significant risks. They argue that this is a justification for not moving to a cost orientation. Leaving to one side the fact that the EU Recommendation place cost orientation regulation at a higher preference to the use of retail-minus, the fact remains that cost modelling of mature access products, such as SB-WLR, is relatively speaking, easier than when attempting to complete such an exercise for newer products, with less of a history to draw from.

In addition, given that modelling of costs will always involve the use of assumptions, Vodafone would again strongly urge ComReg to ensure that these cost models are continually reviewed against eir's Separated Accounts as the Accounts provide the perfect benchmark against which to judge the cost modelling assumptions and outcomes. We would strongly urge that that this review be explicitly incorporated into any existing ComReg's (regulated) pricing review processess, as well as the overall process for regulatory price consultations and determinations. The use of such an review process(es) would have a number of key benefits:

- It would address eir's concern to ensure that efficiently incurred costs are appropriately recovered;
- ComReg and purchasers of eir's services would have reassurance that the risks associated with over-recovery of costs, and thus over pricing of services would be identified and corrected;
- It would also address the situation of 'double dipping' by an incumbent, this is where costs are being recovered twice (or more) by the pricing decisions of regulated services.

Not to build in this review provides a strong dis-incentive to an incumbent such as eir to make the necessary operational and capital investments required to ensure the delivery of appropriates services, at the appropriate quality of service expected by its customers AND modelled in the original costing models. Where evidence of material deviation between the pricing generated by these cost models and Annual Separated Accounts emerges, then it is incumbent on ComReg to react to adjust the pricing to reflect the new realities, this would very simply and effectively address eir and the wider industry concerns, such as:

- Providing a mechanism for adjusting future pricing to align with actuals such as volumes, costs, investments, and reduce eir's concern on the use of assumption with the model, such as the use of tilted annuity;
- Provide more certainty that eir will recover its efficiently incurred costs; as well as provide a much more relevant pricing signals to other operators who are making efficient 'build or buy' decision; and,
- Provide a more clear pricing roadmap for the future price developments, in particular between one price setting review and the next, thus adding to pricing predictability.

Vodafone also would again draw ComReg's attention to the recent pricing decisions, for example eir's most recent SB-WLR effective price increase of €3 per month per customer (on lines shared with NGA), and also NGA price increase of €2 per month which undermines eir's assertion in its response that "eircom is significantly constrained in the prices it can set" and can be seen as of more historic relevance and very much indicative of the urgent need to move to cost orientation.

Eir Response to Q3 and Q4

Eir make the assertion that an appropriately populated regulated asset base (RAB) is the correct basis to develop the charge for re-usable assets and Vodafone would share this view. However, the arguments made by eir, in its supporting submission from CEG, are difficult to justify. In making the decision to adjust regulatory asset lives, ComReg was mindful that previous pricing decision had been made using the earlier, much shorter asset lives, and it is very obvious given the significant profits reported by eir that at this point in time it has more than recovered its efficient costs.

To argue for additional cost recovery over that which is reported in eir's Separated Account is the very definition of 'double-dipping' i.e., seeking to recover cost for a second time. This also acts as a significant disincentive on eir from completing the necessary capital investments to ensure the delivery of wholesale services at appropriate quality of services levels. In fact, given that the replacement of Duct and Poles when viewed over a longer term has not matched the expected re-investment profile, Vodafone would strongly suggest that the current asset lives for such infrastructure does not match their economic lives and Vodafone would strongly urge a review and potential lengthening of infrastructures assets such as those for Poles and Duct. For example, the Poles regulatory asset live has been set at 30 years, this implies a replacement / reinvestment requirement of 3.3% per annum. eir themselves have not had to make this level of re-investment. Therefore it is now incumbent on ComReg to review what an appropriate replacement ratio should be and thus what the economic deprecation should be when reviewing appropriate Pole cost modelling.

Also for Ducts, the 40 year regulatory asset live implies a replacement/reinvestment requirement of 2.5% per annum. Again eir have not required this level of reinvestment over an extended period of time. Again it in also now incumbent on ComReg to review what an appropriate replacement ratio should and thus what the economic deprecation should be when reviewing appropriate Pole cost modelling

Eir Response to Q5

Vodafone would draw attention to the most serious error contained in the Annuity formula, in that instead of economic lives being used, current regulatory accounting lives have been used. We refer ComReg to our section on the response to Q.3 and Q.4 in which we highlight the fact that the observed replacement and reinvestment profile of infrastructure assets, such as Poles and Duct, are not aligned with these current asset lives. This has serious consequences for both eir and for other operators in that the true economic value of the assets is not being observed.

We would not agree with eir's queries in relation to actual mechanics of the tilted annuity formulae as used in the current modelling. For example, CEG are requesting a delay of between 6 and 7.5 months between when investments are made and when revenues begin to be realised. If this was a pure tilted annuity model then Vodafone would agree, but it is not, as the NBV, from eir Separated Accounts, already includes the Fixed Asset related WIP (Work in Progress) and thus eir is already being compensated in advance on assets under construction and thus there is no need for an adjustment in the payment period to reflect for this construction (thus non-revenue) generating period.

Eir Response to Q6

We note that eir's response makes many references to the loss of retail access lines and in particular that these losses are only being partly offset by increases in wholesale line numbers. From eir's most recent Quarterly presentation, and the Eir Year End 30 June 2015 Separated Accounts, it would appear as if the total local access line base (when including Standalone Broadband lines) is stabilising. It is possible that the underlying access line base could in fact start to grow over the period of this pricing control in the light of the continuing demand and growth of Standalone Broadband services. Therefore the ComReg approach of assuming a stable access line could actually be viewed as favourable to eir.

Eir Response to Q7

Vodafone, for the reasons listed above, would strongly disagree with eir's assertion that stable pricing of this regulatory period would result in material discrepancy between the underlying cost and associated Revenues. In this regards Vodafone would draw ComReg attention and ask it to take note of the significant improvement in returns in the Wholesale Access Markets that are now reported in eir's Separated Accounts for the Year Ended 30 June 2015

In light of this, we would strongly disagree with a move away from cost orientated pricing as suggested by eir (and CEG) through the use of a CPI+ regime. In all eventuality this would lead to even greater and ever increasing deviation between the underlying costs of regulated services, and the pricing of such services, to the detriment of the industry and consumers.

Eir Response to Q8

Vodafone would disagree with the thrust of eir's arguments in relation to the costing and pricing of LLU. In particular, we strongly disagree with an unsubstantiated use of uplifts of 8% on Poles and 5% for Ducts (non-reusable elements) and the argument from eir that this is not enough.

As highlighted before we would strongly counter that this is reflective of both an **underinvestment by eir** in the past, as well as a reflection that **the replacement cycle for Poles and Ducts is longer than the regulated asset lives**. If some element of additional replacement were to be used then more realistic asset lives will have to be used in the Pricing models. And we again call on ComReg to commence such a review as soon as possible, but note this review should not delay the implementation of revised wholesale access pricing with the move to cost orientation but that the prices are adjusted once this review is completed.

Eir Response to Q11 & Q.12, Q13

Eir makes much of the fact that the use of its own Separated Accounts costing inputs (adjusted for efficiencies) when pricing of SB-WLR, and SABB outside of LEA understates the true economic value of these assets, and Vodafone has some sympathy and understanding for this statement. Vodafone would propose that the solution to this problem is far simpler than has been portrayed.

Eir highlight that a significant element of the SB-WLR line card assets are heavily depreciated and that to price on this basis would not reflect their 'economic value', and could if priced at such levels provide a dis-incentive to investment. Vodafone would argue that this is overstated, as the line card infrastructure constitutes a relatively small portion of overall SB-WLR costs, but would acknowledge eir's concerns in the area. The most obvious solution is to reallocate NBV and depreciation costs from eir's next generation cost base, in particular, from eir's Broadband cost base. This would reflect the reality that eir funded its next generation investments and rollout from the profits made in current generation products and services, for example from SB-WLR. Should these next generation investments have not been made, then investment would have been required into current generation assets. While this would (marginally) increase the regulatory cost base of current generation products it would reduce the cost base for next generation products and services.

From a ComReg, and industry point of view, this balancing mechanism would deliver the most effective signals to encourage the necessary migration from current generation to next generation products, as it uses a balanced and transparent approach. Also, and very importantly, it ensures that eir is not 'double dipping' with regard to the regulatory return on investments. Thus providing the necessary regulatory mechanisms and strong incentives to encourage and ensure that eir is rewarded for the efficient investments and costs incurred. But importantly send a forward looking signal that any lack of investments will have direct consequences on eir's pricing into the future.

This would also address and close off all the concerns raised by eir in its consultation response. It is also perfectly aligned with the suggestion from eir (through CEG) for the use of **Infrastructure Renewal Accounting (IRA)**. Vodafone notes that an essential part of IRA are strong review and incentive mechanisms by the Regulator to ensure that forecasted and required investments by the incumbent are actually made, and where this has not been the case there are direct consequences with regards to pricing. Given that the underlying Local Access line infrastructure accounts for c.85% of cost a SB-WLR line (with the remainder being the PSTN equipment, such as customer line cards etc.), it is also reasonable to assume that eir will then recover an efficient level of cost. This is certainly the case in the situation where PSTN and ISDN infrastructure investment will be of minimal nature over the coming years as eir and other operators switch voice technologies and deliver to VoIP/VOB, thus the costs to be recovered from SB-WLR, excluding line cards where costs are declining, as assets are increasingly heavily depreciated.

Eir Response to Q14

As stated Vodafone agrees in principle with the approach adopted by ComReg but has serious concerns with regard to the eir suggested recognition of a "substantial pole replacement in the medium". As implemented by such bodies as Ofwat in the UK, one of the basic principles of Infrastructure Renewals Accountings (IRA) is that incumbents who do not make the necessary infrastructure investment during a particular regulatory pricing period is held to account in the next period, another is that a holistic multi-period longer term view is taken as capital investment can be of periods of 20, 30 and more years into the future.

What eir is arguing is that they should be rewarded, in advance, for infrastructure investments it states are now required, as well as being allowed to keep all the over-recovery in investments made in prior periods due to the margin squeeze pricing regime that was and is currently still is in place, in particular for SB-WLR. At the very least this appears illogical. We strongly encourage ComReg to move quickly to determine interim revised Wholesale Access prices and also:

- Accept eir's offer of a holistic and multi-period review (historical and forward looking) of the necessary Pole (and Duct) infrastructure investment that the use of Infrastructure Renewals Accounting implies;
- As highlighted before, to review and determine a more realistic economic life for Poles / Duct and associated infrastructure;
- Justify to Vodafone and the industry why eir requires an 8% uplift due to Poles replacement (with a 5% factor for Ducts), given that ComReg should at the very least have divided this between end of life Poles replacement, which should in no way be completed on a forward looking basis as these investments should already have been made; and additional pole investment being made due to the rollout of Next Generation Access (justified and proven);

- Explicitly detail how ComReg will monitor the necessary and efficient capital investments used to justify pricing; and where such capital investments are not occurring, detail a mechanism for ensuring that pricing will be reflective of any such variances.

Eir Response to Q21

Eir does not address the fact that the self-supply of FACO via Managed Voice over Broadband is included in the ComReg definition of the FACO market Decision as stated by ComReg on the basis that "Managed VOB is ultimately likely to replace eir's traditional circuit switched telephony services" . Thus, ComReg is within its powers to apply a margin squeeze requirement between POTS based VUA and standalone VUA/NGA Bitsteam. It is logical from a ladder of investment point of view that ComReg is mindful of the need that eir would not act in a manner that would lead to operators not seeing a viable business case for investing in VoB due to eir pricing decisions, and thus potentially leading to eir having dominance in Wholesale VoIP.

Eir Response to Q27

Given the recent and most relevant use of Discounts and Promotions by eir (in particular the removal of €3 per month per customer increase on SB-WLR lines) which has had a significant effect on Wholesale and Retail markets, it is now appropriate to restrict the use of promotions and discounts. This makes perfect logical sense with the incorporation of the €0.50 per month additional charge for connections into the revised SB-WLR PSTN charge. Thus Eir's argument in the area do not have a commercial logic.

13th December 2015

Mr Donal Leavy
Director Wholesale operations
ComReg
Abbey Court
Abbey Life Centre
Lower Abbey Street
Dublin 1

RE: Eir Historical Cost Separated Accounts

Dear Donal,

I refer to the publication of Eir's Historical Cost Separated Accounts for the Year Ended 30th June 2015. Vodafone would like to make some initial comments to ComReg that are causing us deep concern and should be a cause of concern to ComReg as well:

Increase in the Returns being earned in Regulated Markets and Products

The trends observed over the last few years of increasing Wholesale Returns has continued into eir's recently published Separated Accounts for the Year Ended 30th June, 2015. This is against a backdrop of a reduction in the Allowable Regulatory Weighted Average Cost of Capital (WACC) from 10.21% to 8.18%.

In particular we note that in the "Wholesale Access" markets there has been a significant improvement in the 2015 on the Return on Mean Capital Employed (ROCE) being earned over the Returns reported in 2014;

- The resulting overall ROCE for 2015 has been reported as 14%, a c.40% improvement over the 10% in FY14. And almost 6% or €70m over recovery when compared with the expected Regulatory Return (based on a WACC of 8.18%).
- We note that the key drivers of the increase in return for Wholesale Fixed Narrowband Access from 12.5% in 2014 to 17% for 2015 were :

- As expected a general decline in operating costs driven by a general reduction in cost; and,
- External Wholesale Access Revenues are up 14% compared to 2014. this uplift is driven primarily from volume and ARPU increases in fixed broadband access.

This represents an over-recovery against the Regulatory WACC for the overal Wholesale Access markets of c.€70m and was before the full effects of the following being reflected in the reported revenues:

- Eir's most recent SB-WLR effective price increase of €3 per month per customer (on lines shared with NGA) on the 31 December 2014, thus this effective increase was in place for 6 months of the year; and
- Eir's NGA price increase of €2 per month on NGA Bitstream Plus Standalone, which came into effect on the 1st July 2015, and would not have appeared in the figures

As we stated previously, it would appear from eir's most recent Separated Accounts and Investor presentations that these increased wholesale returns are being generated through increases in the ARPUs being earned in particular on Wholesale Access products. It should also be noted that according to the Separated Accounts Statement of Costs, the reduction in the underlying usage of the copper access network and lines is marginal. Eir reported reduction in average acces copper lines, from 2014 to 2015 was c 0.4% or a reduction of 6k lines to 1,356k of copper lines. As stated by Eir (in their response to ComReg 15/67) SABB and LLU volumes are c.80k. Given that c.10k are Full LLU lines this implies that c.70k are SABB. This implies that much of the decline in eir's SB-WLR and retail PSTN access lines to the end-of-June 2015 and on into the end-of-September 2015 has been matched by growth in Eir's Wholesale SABB lines.

We again highlight that to encourage efficient capital and operating cost expenditure there needs to be a clear linkage between the wholesale prices and these efficiently incurred costs. The current lack of a direct linkage between **wholesale pricing and wholesale costs, leads to a very damaging situation**. As detailed above, this can be very clearly seen in the significant, and growing, over recovery of costs now being observed in eir's reported Wholesale Access Markets in Separated Accounts.

With this clear evidence of material deviation between the pricing generated by the various ComReg wholsale pricing models and Annual Separated Accounts, it is incumbent on ComReg to react to adjust the whoelsale prices to reflect the new realities.

Equally as worryingly, Eir is also reporting a decline in the Returns being reported against its Fixed Line Retail Businesses. This was evident in that the Retail Margin on Retail PSTN and ISDN had slide from a slight profit in 2014 to a negative return in 2015. This can only have happened as Eir Retail revenues were not sufficient to cover the Retail costs.

Vodafone are increasingly concerned that ComReg continue to allow this overrecovery in the market. Although eir have the obligation to ensure they comply with various price/cost control obligations, Vodafone are relying on ComReg to ensure there is an effective compliance regime in place to ensure wholesale prices reflect the underlying costs.

Sincerely,

Gary Healy

Head of Regulation & External Affairs
Vodafone Ireland Limited

16th December, 2015

Mr Donal Leavy
Director Wholesale operations
ComReg
Abbey Court
Abbey Life Centre
Lower Abbey Street
Dublin 1

RE: ComReg Wholesale Access Costing / Pricing Modelling

Dear Donal,

We have completed a high level review of the Models as supplied by ComReg and we would like to make some initial comments. The models were shared with interested parties as part of a transparency exercise around copper access pricing and Vodafone welcomes this initiative by ComReg. Access seekers are at a disadvantage in terms of information asymmetry where only ComReg and eir have full viability of the model, we therefore depend on ComReg to be as transparent as possible and ensure wholesale prices reflect costs.

Our high review is causing us deep concern with regard to the current modelling. We are conscious that we have received a Non Confidential version of the Model but are surprised at a lack of transparency and traceability in the Models provided, for example, there is a lack of clear details and justification of chosen material Model input cost, sources, assumption, drivers etc. Also, we would ask that ComReg explain why the output Prices in the model provided are different than those in the consultation document ("Dashboard" sheet VS Consultation Document)? We would suggest that the current modelling would appear to be overly weighted in the favour of delivering higher prices than is justifiable:

Unexpected Product Costing results:

Bottom Up ("BU") Modelling of the Local Access Network can model higher costs than a Top Down ("TD") Separated Accounting approach. This can be expected as use of BU may give higher costs due, in the main, to increasing labour costs. But as the Models where supplied to us, they report that the TD Historical Cost Accounts (HCA) approach returning higher costs than TD Current Cost Accounts (CCA), this would appear to imply that CCA should return lower costs. For this to be the case then Bottom Up (in combination with CCA) should return lower costs as a result of the use of a revised more efficient network than is the case with costs in a Top Down Model. Therefore it is expected that BU CCA should be lower than a TD approach. Vodafone would welcome views from ComReg as to why the logic above does not appear to hold in the current modelling.

We would make the following observations and raise the following queries:

- As can be expected, there are additional costs with the BU approach, which are not included in a TD approach. These additional costs are related to investments costs (in the Models these appear to be derived from the sheet "Import for infra sharing" which is an output from Access file). Costs of these new investments are set for the year 2013 ("Assets" sheet) and subject to indexation for every subsequent year. Depending on asset type there are 5% (for Duct) or 8% (for Poles only) share of these new costs added to the wholesale services under Bottom Up approach. We assume that the 5% or 8% additional costs uplift which relate to capital investments is the application of this forward looking approach. However depreciation appears to be already based on a CCA approach. In the Dashboard sheet, changing from Bottom Up to Top Down CCA (with costs are set for 2016, for active lines, national level costs etc.) results in a reduction in the output Product Costings, for example, 21% for SB-WLR, and c.22% for LLU. Vodafone's concern is it is possible that there is a double counting of costs with CCA-based depreciation and an addition to that depreciation costs of future investments, or are our assumption and/or model adjustments incorrect.

- Re-utilisation factors appear not to have been applied to the following classes of assets: cable (including fibre), joint, distribution point, NTU, street cabinet, MDF, termination. While we are not suggesting that all of the assets are re-usable when it comes to Next Generation Products, it was surprising that these are not 100% re-usable for current generation products such as LLU and SB-WLR. Vodafone would welcome further information on how this logic is applied.

- Assuming that we have adjusted the Model correctly:
  - The impact of applying a 100% re-utilisation for all the classes of assets (in the "Network Annual Costs" sheet) would appear to cause a reduction in the output pricing, for example a 37% reduction in SB-WLR; a similar reduction in LLU; again this may be an over estimate, or modelling adjustments not correctly applied?
  - Even when we apply the quoted Re-utilisation ratios from 92% and 95% for currently re-utilised assets (these include: chamber, duct, trench, pole, FD) to 100%. All the other classes of assets which are not reutilized in the model are left with as currently modelled (i.e., re-utilisation = 0%), then the impact was to also to reduce the output pricing, for example an 11% reduction in SB-WLR; and again a similar reduction in LLU.

- Within the Model there is a Common costs allocation mark-up of 29% on the network costs. There is no justification for this level of mark-up provided. Assuming that there is a 10% General Markup then the 29% mark-up would appear to be unreasonable, in saying this maybe there are other cost categories included here, other than the more general overhead of HR, Finance and General Management?
- Also, could ComReg explain the logic and workings of the sheet "Network roll-out over time"?

Finally, we have two high-level queries in relation necessary reconciliations between any Cost/Price Modelling and the eir Separated Accounts.

- It is unclear as to what the basis of the 'Active Lines' (in the "Results" sheet of the CAM), the total appears to be c.808k of active copper lines. How was this volume derived? We note that there are currently circa 1,356k of Copper Access Network volumes reported in the "Statement of Costs" in eir's 2015 HCA's, and would ask to understand the volume differences. Given the growth of Standalone Broadband it is unclear as to why there would be a lower modelled active line volumes?
- We note that there has been a significant cost reduction between the eir reported Separated Accounts for 2014 and 2015, for example when combining the Cost Categories for "Copper Access Network", "Repair" and "Provisioning" in the Statement of Costs" in eir's 2015 HCA's, there is a

reported 14% reduction in "Operating Costs". And we would ask ComReg to explain how these reductions have been incorporated into the current Modelling?

- We note that these cost reduction have been flagged by eir in its Quarterly Investor relation presentation and we would expect to see these, and any future Operating Costs movements, to have been discussed in detail as part of the Modelling activities.

Vodafone would welcome comments from ComReg on the issues raised in this letter however aligned with our comments on the separated accounts we sent earlier in the week Vodafone have grave concerns that eir are not setting cost based wholesale prices where those obligations apply. We accept eir have the obligation to set these prices correctly however ComReg must ensure this obligation is enforced.

Vodafone will continue to review the model and reserve the right to submit further comments. We believe there is a probability of over recovery by eir on current wholesale prices which we believe is a serious compliance issue which must be addressed urgently by ComReg. .

Sincerely,

Gary Healy

Head of Regulation & External Affairs
Vodafone Ireland Limited