



Office of the Director of  
**Telecommunications  
Regulation**

## **Information Notice**

### **Implementation of local loop unbundling in Ireland - 1 January 2001**

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**Oifig an Stiúirthóra Rialála Teileachumarsáide**  
**Office of the Director of Telecommunications Regulation**  
Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1.  
*Telephone* +353-1-804 9600 *Fax* +353-1-804 9680  
*Web:* [www.odtr.ie](http://www.odtr.ie)

## 1. Executive Summary

*eircom* has informed the ODTR that it will publish its Reference Offer for access to unbundled loops and related facilities by 31 December 2000 under the Regulation of the European Parliament and of the Council on unbundled access to the local loop ('the EU Regulation'). While there remain a number of issues to be resolved as outlined below, full unbundling and shared access offerings will be available on 1 January 2000.

The purpose of this paper is to outline the current status of arrangements for local loop unbundling (LLU), including such preliminary indications on the position of the Director as are feasible at this time and setting a firm framework for dealing with remaining issues. This will enable the market to proceed with their planning/ordering LLU with as much certainty as is possible.

The ODTR signalled its requirement to receive advance copies of the draft Reference Offer as early as 22<sup>nd</sup> September so the full offer could be scrutinised and approved for 31 December 2000. Since then ODTR has been exerting its influence to encourage the early delivery of the draft Reference Offer and a fully justified support of the proposals.

*eircom* was unable to provide the draft until 8<sup>th</sup> December, with pricing information and supporting evidence arriving on 15-18<sup>th</sup> December 2000. Some Reference Offer elements required under the EU Regulation, such as SLAs, were provided in draft to the ODTR only on 22 December 2000.

Starting before the EU mandated full physical LLU or shared access, a series of industry working parties set up following the issue of ODTR Decision Notice D6/00 (ODTR 00/30) have worked very hard to define the products required for LLU. Their work has been invaluable in informing the shape of LLU in Ireland. Their assistance will continue to be needed into the new year to complete the remaining items.

While the Director recognises the considerable amount of work *eircom* has done on the draft Reference Offer and considers that its form and much of its content is acceptable, she is not in a position to give it her approval. The delays in providing the draft *eircom* offer means that the ODTR has not had adequate time to scrutinise to the extent that this important area deserves either the pricing proposals or certain key elements of the text.

The Director has highlighted several specific issues arising in the service schedules to the draft Reference Offer that are of concern to the ODTR. The Director has asked the Chairman of the Methods of Access and Definitions working groups to raise these issues in the relevant fora in the first week of January, with a view to resolving them or providing the Director with sufficient information from the parties to make a speedy determination on them. These items should be finally dealt with by 15 January 2001. The Director wishes to emphasise that the Reference Offer that comes into effect on 1<sup>st</sup> January 2001 will be an initial offer, and it will be reviewed and amended in light of experience.

*eircom* has submitted pricing on a LRIC basis, and as noted above the ODTR has not been in a position to carry out any detailed analysis as yet of the complex modelling behind the figures. The Director believes that LRIC pricing is appropriate for LLU, but as foreshadowed in D6/00 there is a need for historic pricing in a transition period - an approach taken by some other EU member states.

Many elements of the *eircom* pricing seem high, in comparison to preliminary results of ODTR models and international comparisons. Taking the example of monthly rental charges, analysis of international comparisons show a large range but the largest number of countries (five) are within the range €11.50 to €13.00 (two other countries also quote a wider range that spans the €11.50 to €13.00 bracket).

Whilst the Director recognises that country-specific factors will influence a cost-oriented price she is doubtful that these will be sufficient to resolve current differences, which are considerable, between *eircom* and the ODTR. To date results from the ODTR historic cost model indicate a range of €15.90 – €17.10 for fully unbundled loop monthly rental. This work is ongoing and will be further refined to take account of other factors including in particular efficiency issues. It would not be appropriate for inefficiencies within *eircom* to be passed on in the form of additional costs to the industry as a whole. The Director remains confident that with further work in reviewing *eircom* pricing, the ODTR will be able to establish the appropriate level and structure of pricing. Final pricing will be determined by end February 2001. Any changes made to prices through this process will have retrospective effect to 1<sup>st</sup> January 2001.

The Director considers that this approach will meet the requirements of the market and the legislation.

## **2. Introduction**

This Information Notice discusses the background to *eircom*'s forthcoming reference offer and outlines future ODTR plans in this area.

### **2.1 Background**

#### **2.1.1 Legislative requirements**

The need to unbundle the local loop was signalled as a priority at the European Council meetings at Lisbon (March 2000) and Feira (June 2000) in order to achieve the eEurope Action Plan.

The Regulation of the European Parliament and of the Council on unbundled access to the local loop ('the EU Regulation') was adopted on December 5<sup>th</sup> 2000 and enters into force on 31<sup>st</sup> December 2000.

The EU Regulation applies to unbundled access to the local loops - both full unbundled access to the local loop and shared access - and related facilities (meaning the facilities associated with the provision of unbundled access to the local loop, notably collocation, cable connections and relevant information technology, access to which is necessary for a beneficiary to provide services on a competitive and fair basis) of notified operators.

Article 3.1 requires *eircom* (as the notified operator) to publish from 31<sup>st</sup> December 2000, and keep updated, a reference offer for unbundled access to their local loops and related facilities. Charges shall be set on the basis of cost orientation. The Annex to the EU Regulation includes a minimum list of items to be included in such a reference offer, for example, conditions for unbundled access to the local loop, collocation services, information systems, and supply conditions.

Additionally, Article 3.2 requires *eircom* to, from 31<sup>st</sup> December 2000, meet reasonable requests from beneficiaries for unbundled access to their local loops and

related facilities under transparent, fair and non discriminatory conditions. Requests shall only be refused on the basis of objective criteria, relating to technical feasibility or the need to maintain network integrity. Where access is refused, a dispute resolution procedure may be invoked.

The EU Regulation also obliges the National Regulatory Authority (NRA), under Article 4, to ensure that charging for unbundled access to the local loop fosters fair and sustainable competition. The NRA also has the power to impose changes on the reference offer, including prices, and also to require notified operators to supply information relevant for the implementation of the EU Regulation. Article 4.3 gives the NRA the power to intervene on its own initiative in order to ensure non-discrimination, fair competition, economic efficiency and maximum benefit for users.

The EU Regulation is binding in its entirety and directly applicable in all Member States.

### **2.1.2 Related ODTR developments**

Prior to the initiation of the EU Regulation, the ODTR had consulted on Local Loop Unbundling in Ireland (Document 99/21 of March 1999) and issued a Decision Notice D6/00 (Report on the ODTR Consultation on Local Loop Unbundling) in April 2000.

D6/00 recognised the EU framework at that time did not allow for the mandate of introduction of full unbundled access to the local loop. Instead it mandated the introduction of a specific type of Local Loop Unbundling known as bitstream, as required under Regulation 20 (Special Network Access) of the European Communities (Voice Telephony and Universal Service) Regulations, 1999 (S.I. No. 71 of 1999), transposing the Voice Telephony and Universal Service Directive (98/10/EC), by 1<sup>st</sup> April 2001.

D6/00 also signalled commencement of preliminary work on full unbundled access and shared access, which is now required from 31<sup>st</sup> December 2000 under the provisions of the EU Regulation.

Readers are also referred to ODTR document 00/98 'Response to the Consultation: Delivery of Licensed Programme Services,' which discusses specific issues in relation to ADSL.

### **2.1.3 Progress in industry working groups**

Following publication of D6/00 (Report on the Consultation on Local Loop Unbundling), two working groups were convened in May 2000. The LLU Operations Forum was set up to oversee the implementation of bitstream LLU in Ireland by 1<sup>st</sup> April 2001 and the Methods of Access Forum was tasked with investigating different collocation options.

A third group, the Definitions Group was established to deal with issues of overlap and also to progress full unbundling of the metallic path and shared access so as to allow for the most speedy implementation of these as and when mandated. This group commenced collating access seekers' statement of requirements for these products in July 2000 in order for *eircom* to produce product specifications in response. Following an iterative process to inform and clarify production of schedules of requirements in August 2000, composite schedules for both products were provided by access seekers on 2<sup>nd</sup> October 2000. *eircom* provided draft product specifications which were refined through the working groups and which were signed off in

principle on 13<sup>th</sup> November 2000, with formal sign-off taking place on 18<sup>th</sup> December 2000.

A composite schedule of requirements for the collocation product to support these products was provided on 6<sup>th</sup> November 2000 and was also formally signed off on 18<sup>th</sup> December having received sign-off in the main on 5<sup>th</sup> December 2000.

The Definitions Group has also ensured that work being done in the other fora, and subgroups such as processes, does not preclude or inhibit a fully unbundled or shared access product.

The working groups are meeting on average for 2-3 full days per week and are chaired by an independent Chairman, with ODTR support. At present there are 8 access seekers and *eircom* nominated to the fora, with over 80 meetings having taken place so far. The Director would like to thank all the participants for the work they have done.

#### **2.1.4 ODTR work on pricing**

The ODTR has been engaged, since August 2000, with *eircom* in order to form a detailed understanding of the costs of *eircom*'s access network with a series of bilateral weekly meetings and data requests. Throughout this process the ODTR has experienced significant delays in obtaining sufficiently detailed information from *eircom*.

#### **2.1.5 Correspondence relating to the Reference Offer**

On the 22<sup>nd</sup> September, the ODTR signalled its requirement for *eircom* to provide a Reference Offer for unbundled access to local loops and related facilities. This was followed up with further requests and a template of requirements, but ODTR did not receive pricing for full physical unbundling, together with other parts of the draft Reference Offer until 8<sup>th</sup> December. Pricing for collocation and all of *eircom*'s cost justifications were delivered on 15<sup>th</sup>-18<sup>th</sup> December. The cost justifications provided by *eircom* were incomplete and omitted much of the detail specified in the ODTR template.

### **3. Terms of the draft Reference Offer**

#### **3.1 Items omitted from initial draft**

The draft Reference Offer *eircom* provided to the ODTR on 8<sup>th</sup> December 2000 did not include certain elements required by the EU Regulation, but *eircom* provided drafts of these items on 22 December 2000. In particular, service level agreements<sup>1</sup> (SLAs) and access to information on the notified operator's relevant sites<sup>2</sup> were not included in the initial draft and the relevant text has not been scrutinised by the ODTR.

#### **3.2 Updating of product descriptions**

The draft reference offer relies on earlier drafts of product descriptions than those formally signed off in the relevant working groups on 18 December 2000. *eircom* has

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<sup>1</sup> Annex to the EU Regulation D1

<sup>2</sup> Annex to the EU Regulation B1

stated that it will update the Reference Offer to take account of any differences from the final product descriptions. The Director expects any required changes to be complete by end January 2001.

### **3.3 Sub-loops**

In addition to unbundled local loops and shared access, the EU Regulation requires that *eircom* meet reasonable requests for unbundled local sub-loops (partial local loops). *eircom*'s draft Reference Offer does not include service details or pricing relating to this form of unbundling. While sub-loops are not mentioned by the EU Regulation as falling within the minimum set of items to be included in a Reference Offer, in recent days a number of operators have expressed interest in having this form of unbundling included. The Director expects *eircom* to provide the ODTR with draft sections on sub-loop unbundling by 15<sup>th</sup> January 2001 and include them in the Reference Offer by end January 2001.

### **3.4 Other items requiring attention**

The Director would also like to highlight three items in the service schedules to the draft Reference Offer that are of concern to the ODTR. The Director has asked the Chairman of the Methods of Access and Definitions working groups to raise these issues in the relevant fora in the first week of January, with a view to resolving them or providing the Director with sufficient information from the parties by 8 January so as to enable her to make a speedy determination on them. These items should be finally dealt with by 15 January 2001.

#### **3.4.1 Definition of space available for collocation**

*eircom*'s draft Reference Offer restricts the space in which collocation is offered to existing exchange facilities (switching and transmission spaces). OLOs have argued that they should be permitted to collocate in other spaces as well.

In circumstances where a particular exchange facility has little free space, this restriction may amount to a barrier to entry by OLOs. Even where there is space, the Director is concerned that restrictions on use of AC power in exchange facilities – based on safety considerations – may limit the ability of OLOs to use the full range of equipment they may need to introduce innovative services. If space outside the standard exchange areas were available, this constraint might be removed. Access and security issues might be simplified as well.

It is also unclear how the restriction could be sustainable in the context of sub-loop unbundling, where the beneficiary's point of access to the loop may not be located within a local exchange, and thus not be accessible from a collocation space within an exchange facility.

#### **3.4.2 Restrictions on equipment that can be collocated**

*eircom* permits only ADSL and associated backhaul equipment to be used in collocation spaces. While *eircom* is entitled to maintain certain restrictions on the characteristics of equipment that may be collocated, the Director is concerned that this restriction is in breach of *eircom*'s obligations for non-discrimination.

#### **3.4.3 Prohibition of rack and collocation space sharing**

In the draft Reference Offer, *eircom* has indicated that it is not willing to permit sharing of racks or collocation space between beneficiaries. This might be of benefit to competition by reducing barriers to entry; operators could enter the local access

market at a particular location on a smaller scale than they could do if they were required to take an entire rack or space in each collocation site. It could lead to some administrative inconvenience, in comparison to a situation where each operator is responsible for entire racks. For example, fault handling might be more complex. However, it is not clear that this complexity outweighs the potential benefits to competition of allowing rack and collocation space sharing.

To make rack and collocation space sharing practical, the Director believes that cost sharing would have to be permitted as well.

## **4. Pricing**

### **4.1 Principles**

In D6/00, the Director stated that LRIC should form the core of the pricing formula for LLU. However, she also recognised that the application of LRIC is new to the Irish market and it will take time to apply LRIC to access network costs, as it has to core network costs. The Director therefore indicated that she might employ other relevant information, including historic cost data, for a period of time.

This approach is still relevant in the new regulatory environment created by the EU Regulation. *eircom* is required to set prices on a cost oriented basis and the ODTR is tasked with ensuring that prices foster fair and sustainable competition. Other important principles set down to guide the determinations of NRAs are non-discrimination, fair competition, economic efficiency and maximum benefit for users.

The Director welcomes *eircom*'s approach in setting prices on a geographically averaged basis. She believes this is of great importance to users across the country and it is consistent with the view she expressed in D6/00 on this subject.

As the Director also signalled in D6/00, she is not persuaded that moving immediately to a reliance on LRIC costing of the access network is appropriate at this early stage in the development of unbundling. A number of other EU countries have decided to employ historic cost models for initial pricing of unbundled access and move to a LRIC basis over time. The Director considers that this approach has merit, and also provides time for LRIC methods to be fully developed and tested in a local access context before they are used as the sole costing basis. It parallels the development of interconnect pricing in recent years. She also feels that the approach is consistent with developing fair competition, augmenting economic efficiency and providing maximum benefits for users.

### **4.2 *eircom*'s Reference Offer**

#### **4.2.1 Benchmarks**

Some of the key prices quoted by *eircom* seem high, in comparison to preliminary results of ODTR models and international comparisons. This can be explained in part due to the LRIC rather than historic methodology, but it is essential that there is a full and detailed analysis of *eircom* costing to arrive at the appropriate figures.

*Table 1: Benchmarking of LLU rental and connection charges  
All charges ex VAT and in euros per month*

Country	LLU rental	Connection (LLU)
Austria	12.35	54.5
Denmark	8.28	46.97 (first) 16.37 thereafter
Finland	from 5.05-25.03	n/a
France*	17	166
Germany	12.99	97.98
Italy*	from 11.47 to 12.55	151.8 (191.6 if ADSL)
Netherlands	12.5	n/a
Norway	from 12 to 20.25	n/a
Sweden	14.28	from 170.19
UK*	16.5	159

\*Proposal.

For countries not listed, it is expected that incumbents will produce a reference offer by 31/12/00

Note: Norway is not technically a LLU product but operator access

The only proposal re price for shared access rental is France (9 euros per month)

Source: Cullen International Quarterly Cross-Country Analysis 2000  
EU's 6th Implementation Report - annex 3 (December 2000)

#### **4.2.2 ODTR historic cost modelling indicative prices**

As a cross check to eircom pricing, the ODTR has been developing access models using information supplied by eircom when made available to the ODTR. To date results from the ODTR historic cost model indicate a range of €15.90 – €17.10 for fully unbundled loop monthly rental. This work is ongoing and will be further refined to take account of other factors including efficiency issues. It would not be appropriate for inefficiencies within eircom to be passed on to the industry as a whole by way of regulated prices.

### **4.3 Review**

#### **4.3.1 Initial review**

Having received the price justifications between 15<sup>th</sup> and 18<sup>th</sup> December, the bases for the suggested prices have not yet been subject to detailed scrutiny by the ODTR. Initial comparison with the ODTR's own models and calculated costs indicates that the prices are much higher than would be expected on an efficient basis.

#### **4.3.2 Further review**

The ODTR, in any event, intends to carry out a detailed review and analysis of eircom's cost justification and pricing principles with the intention of agreeing or determining pricing by end February 2001, on a retrospective basis to 1<sup>st</sup> January 2001.



## 5. Conclusions and next steps

The Director appreciates the extent of the work done by eircom and the OLOs to prepare for LLU. The time has been short and yet a Reference Offer, albeit an unsatisfactory one will be available on time.

The Director notes that the form and much of the content of the draft Reference Offer is acceptable, but she is not in a position to give it her approval.

Changes as are necessary to bring the Reference Offer in line with the most recent set of product descriptions agreed in the industry working groups. Provision should also be made for unbundled sub-loops. The Director expects the relevant changes covering both of these items to be made by end January 2001. Certain items in the draft Reference Offer, in particular SLAs, that were delivered too late to the ODTR for examination are also likely to require amendment by end January.

The Director has highlighted three specific issues arising in the service schedules to the draft Reference Offer that are of immediate concern to the ODTR:

- the definition of space available for collocation,
- Restrictions on equipment that can be collocated, and
- the prohibition of rack and collocation space sharing.

The Director has asked the Chairman of the Methods of Access and Definitions working groups to raise these issues in the relevant fora in the first week of January, with a view to resolving them or providing the Director with sufficient information from the parties to make a determination on them by 15 January 2001.

In addition, the Director will ask the Chairman of the LLU Operations, Methods of Access and Definitions working groups to discuss with group members what work needs to be done on further process development for full physical unbundling and shared access.

The ODTR will continue its own modelling and examine *eircom's* price justifications with a view to establishing the appropriate level of prices for LLU and related facilities. Final pricing will be agreed or determined by end February 2001. The Director plans to make any price changes arising from this process retrospective to 1<sup>st</sup> January 2001.