



Office of the Director of
**Telecommunications
Regulation**

Decision Notice: D1/97

**Voice Telephony
in the Irish Telecommunications Market**

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Voice Telephony in the Irish Telecommunications Market

Clarification of the telecommunications services which may be provided in the Irish market before full liberalisation on 1 January 2000; Detailed information on new access offering.

1. Introduction

The Director of Telecommunications Regulation (“the Director”) is committed to facilitation competition in the liberalised telecommunications market within a framework which is clearly understood and accessible to all parties.

That framework includes a derogation which was obtained by the Government in December 1996 in respect of the EU timetable for the liberalisation of voice telephony services.

The Director wishes to confirm which telecommunications services may be offered by licensed telecommunications service providers prior to 1 January 2000 and which may not. The Director also wishes to clarify some of the terms associated with the provision of those services.

This notice is not a legal document. The Director is not bound by this notice and may amend it from time to time. This notice is without prejudice to the legal position or the rights and duties of the Director to regulate the market generally.

2. Background and Definitions

The Office of the Director was established and conferred with statutory powers in the Irish market with effect from 30 June 1997¹. The Director is the National Regulatory Authority for the Irish market for the purpose of EU and Irish law.

Voice telephony is defined in Irish and EU law as –

“the commercial provision for the public of the direct transport and switching of speech in real-time between public switched network termination point, enabling any user to use equipment connected to such a network termination point in order to communicate with another termination point”². By way of a decision of the European Commission³, Ireland has a derogation on the liberalisation of the provision of voice telephony as defined and the provision of public telecommunications networks until 1 January 2000.

¹ Telecommunications (Miscellaneous Provisions) Act, 1996 (No 34 of 1996), and commencement orders S.I. 109 of 1997 and S.I. 110 of 1997.

² European Communities (Telecommunications Services) Regulations, 1992 (SI 45 of 1992)

³ Commission Decision of 27.XI.1996 concerning the additional implementation periods requested by Ireland for the implementation of Commission Directives 90/388/EEC and 96/2/EC as regards full competition in the telecommunications markets (C(96)3342)

3. Competition in the Irish Market

The Director is responsible for regulating the telecommunications sector in Ireland both before and after full liberalisation which is scheduled for 1 January 2000. In the period leading up to full liberalisation, the Director is particularly concerned to see the market expand and develop within the restrictions imposed by the reservation of a certain limited segment of that market to Telecom Eireann, but to do so in a way which provides opportunities which will, in the Director's opinion, enhance the market place.

The Director has independently examined the definition of voice telephony in the context of derogation and the range of services which may be provided while respecting the derogation.

The Director is now making a statement on these related issues which she expects to benefit the telecommunications sector in Ireland as well as end-users. The Director consulted with those licencees who had indicated to this Office that they were involved in the provision of relevant services and their comments have been taken into account. In particular further detail is set out below in respect of the technical, operational and financial parameters of the new access mechanism.

The Director has also consulted with the European Commission on this issue.

4. Statement of Regulatory Principles

Liberalised Services

In Ireland, liberalised telecommunications services include –

- all telecommunications services which are provided over infrastructure leased from Telecom Eireann (leased lines),
- all telecommunications services which do not require simultaneous break in and break out of the PSTN,
- all telecommunications services which are provided over own or alternative infrastructure provided in accordance with a licence issued by the ODTR under section 111(3) of the Postal and Telecommunications Services Act, 1983,
- all non-voice services (e.g. fax, data transfer etc.) provided over the PSTN or other appropriately licensed infrastructure⁴,
- all telecommunications services provided to closed user groups either over the PSTN or other appropriately licensed infrastructure,
- all telecommunications services which include “value added” from the perspective of the user over and above the public voice telephony service provided by Telecom Eireann.

All of these services may be provided by bodies which hold an appropriate authorisation. Given the complex and rapidly developing nature of telecommunications technology and services and the rate at which new service offerings can be developed, the Director recognises that there can be difficulties in categorising any particular service offering. Where there is any doubt as to whether a service may be provided under licence or is reserved to Telecom Eireann prior to 1 January 2000, this Office will provide individual advice and clarification on request.

⁴ For the avoidance of doubt this includes the provision of non-voice services using routers and autodiallers.

New Access Offering

The Director now wishes to announce a new method of access for the provision of services to the public by licensed telecommunications service providers. The new access mechanism known as "SwitchLink" access provides a dedicated access circuit over the PSTN and both voice and data services may be provided using it. It is similar to a leased line in that it provides a dedicated point to point connection. However, unlike a leased line, the SwitchLink allows flexible usage-related charges which are set out in more detail below.

Service providers, having accepted the principles set out in this paper, should write to the Office of the Director of Telecommunications Regulation indicating that they wish to avail of the new offering.

The new solution is configured as follows:

- it uses the PSTN network for access (there is no restriction on how calls are terminated and, where preferred by the service provider, the PSTN can be used),
- it requires the conversion of an existing telephone line (or installation of a new line) at the customer's premises with SwitchLink configuration,
- when a SwitchLink circuit is seized, for example through the PABX or on lifting the handset off-hook, the customer receives a direct connection to the service providers' premises/switch, receiving dial tone from the service provider, and
- the line, in common with a leased line, is dedicated to the path between the customer and the service provider – that is incoming calls are barred as are all outgoing calls⁵ other than the connection to the service provider premises.

The provision of the SwitchLink facility from Telecom Eireann to service providers is subject to the following general service commitments:

- the new facility will be available from 20 October, 1997,
- charges are at a monthly fixed rate plus call charges at new wholesale rates as set out below, and
- guaranteed delivery times for conversion of existing lines and installation of new lines and automatic rebates in the event of missed targets by Telecom Eireann.

The final service level agreement offered to service providers availing of the SwitchLink facility will be subject to the approval of the Director and will be available before the introduction of the service. A draft service level agreement is attached at Annex 1 for information.

Wholesale Rates

The Director welcomes the introduction by Telecom Eireann of wholesale rates which will apply to services supplied by licensed service providers. The rates, which will be applied to bills from 20 October 1997, are as follows:

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|--------------------------|---|---|
| Leased Lines | : | 5% reduction on Telecom Eireann's lowest, discounted rate. |
| Termination call charges | : | 30% reduction on Telecom Eireann's lowest, discounted rate. |

⁵ including access to emergency services

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|---------------------------------|---|--|
| Access call charges | : | 60% reduction on Telecom Eireann's undiscounted retail rate. |
| Line rental for new SwitchLinks | : | £20 per month. |

Connection fees related to the administrative costs of service apply. However, pending review of these charges Telecom Eireann has agreed to suspend their application.

In the event that Telecom Eireann introduces amended rates on the above services, these changes will apply to the service providers also.

These rates will be subject to reviews by the Director from time to time in the period up to 1 January 2000. As part of the review process, the Director may request submissions from service providers, to include such matters as costs and pricing of services.

The Director believes that the new rates which can be availed of by licensed third party resellers of telecommunications services will offer substantial new opportunities.

Reserved Services

In the light of these developments in the market, the Director wishes also to ensure that there is clarity about those services which are reserved to Telecom Eireann and which are therefore not permitted by licence at present. The use of router or autodialler technology to provide real-time voice services to the public on a commercial basis involves simultaneous break in and break out of the PSTNs and constitutes voice telephony as defined and is therefore reserved to Telecom Eireann until 1 January 2000. This service is not permitted under the terms of telecommunication services licences issued under section 111(3) of the Postal and Telecommunications Services Act, 1983.

The services which are permitted under licence are set out in the preceding paragraphs and the Director wishes to make it clear that the introduction of the new measure expands the range of services which service providers can provide under the terms of those licences.

5. Implementation and Enforcement

The Director is aware of the possible use of routers or autodiallers for the provision of voice services and is concerned to ensure that this does not occur as it is not in accordance with the terms of the EC Derogation on voice telephony. Clarity is in the interest of all players in the market and will benefit the development of the telecommunications sector in Ireland generally. It is important that all players are fully aware of their obligations and entitlements.

This is particularly relevant where service providers have been using router or autodialler technology for the provision of voice services prior to this paper. In such circumstances the Director recognises the need for transition arrangements taking account of the position as outlined here and the extent level of service to current end-users of services.

Service providers who operate outside the principles set out in this notice risk action by the Director to suspend or revoke their licence and/or criminal prosecution.

Transition Arrangements

The control mechanisms set out below will be used by this Office to monitor and ensure compliance with the regulatory principles generally and the following transition timetable in particular;

- From 3rd October, service providers must not enter into any new contracts for the provision of real time voice services to the public using router or autodialler technology.
- Any outstanding contracts for such services must be finalised by 15th October.
- By 30 October service providers must have ceased all marketing of real time voice services based on router or autodialler technology

The ring fence audit

An audit of such services providers' customers and other information will be undertaken rapidly, to allow a register of relevant details to be compiled by the ODTR. This will effectively 'ring fence' the position regarding certain value added services at this point in time. Details will be also required on access lines into and out of service providers' switching nodes, e.g. DDIs, DDOs and PRAs.

Typically the information to be provided by the Service Provider will include the following:

1. All customers' names and addresses, together with details of equipment, access methods and other services provided to the customer;
2. For each customer, the number of ordinary lines equipped with routers or equivalent technology installed;
3. For each customer, the number of SwitchLinks installed;
4. Details of changes to marketing plans/strategies in light of agreement, and copies of relevant documents. This shall include dates for meetings with sales force, including copies of internal notification of changes to be sent to all relevant personnel ect.

In addition to the customer and technical details required from service providers, other information including existing sales and marketing material, standard customer contracts and copies of such materials subsequently introduced from the cut-off date onwards will be inspected by the ODTR.

All information provided to the Director will be kept strictly confidential.

Arrangements after cut-off date

After 30 October growth in traffic originating from an existing customer, which give rise to additional line requirements, will be accommodated by means of SwitchLinks. For new customers, all real time voice traffic to be routed from the customer's premises to the service provider's node via the PSTN must use SwitchLink.

On-going Audit Requirement

The Director may request service providers to submit up-to-date information of the type for the ring-fence from time-to-time.

Telecom Eireann will be requested to provide a listing of SwitchLinks in service from time to time.

The ODTR will carry out an examination of the audit returns, and the Telecom Eireann data.

6. Conclusion

The Director has issued this notice in the interests of providing clarity and certainty for all players in the telecommunications sector in Ireland. The notice sets out what the telecommunications services are permitted under licence in Ireland prior to full liberalisation on 1 January 2000 as well as those services which are not permitted.

The new access offering and the wholesale rates open up more of the market to competition than was previously the case. The Director believes that these major new developments will benefit the telecommunications market in Ireland generally and users of the service in particular.

This document sets out the position of the Director and does not constitute legal advice.