



Commission for
Communications Regulation

Information Notice

Decision that Eircom has remedied the notified breach in respect of discrimination in Access to Universal Account Numbers (“UANs”)

Case #30

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Background

In May 2006, it was alleged to the Commission for Communications Regulation ('ComReg') that sales agents for Eircom retail could obtain the customer's UAN from internal Eircom systems (thus avoiding the need for the consumer to provide this information).

ComReg investigated the matter and found that Eircom retail had the ability to access wholesale information that OAOs did not have the ability to access. Therefore Eircom had failed to comply with Regulation 7(1)(a) of the Interconnection Regulations by acting in a discriminatory manner in relation to the provision of information.

ComReg in accordance with Regulation 18(1) of the Access Regulations via the Notification of Non-Compliance notified Eircom that Eircom had not complied with the non-discrimination obligation contained in Section 7(1)(a) of the Interconnection Regulations, as continued by Regulation 8 of the Access Regulations.

Eircom, without accepting the breach finding, proposed *inter alia* to undertake a review of the feasibility of introducing additional controls on what Eircom represented were the main access points to UANs in TIS and On Demand.

On 29th January 2007 ComReg, in accordance with Regulation 18(3) of the Access regulations, amended its notification of the 23rd June 2006.

ComReg conducted a review of Eircom's remediation programme on 14th May 2007 in Eircom offices in Cumberland House.

However during the demonstration on 14th May 2007 by Eircom of the Eircom Retail systems ComReg identified four instances in which UAN information was available using the normal Eircom Retail login.

Having considered Eircom's representations and the remedial action undertaken by Eircom in light of the investigations and all evidence available ComReg formed the opinion that Eircom was in breach of its non-discrimination obligation contained in Sections 6.4 and 6.5 of Decision Notice and Decision Instrument - Designation of SMP and SMP Obligations, Market Analysis: Retail Fixed Narrowband Access Markets, Decision No. D07/61, Document No. 07/61.



Legal Basis

Functions and objectives of ComReg

Section 10(1)(a) of the Communications Regulation Act, 2002 (“The Act of 2002”), identifies one of the functions of ComReg as being:-

“To ensure compliance by undertakings with obligations in relation to the supply of and access to electronic communication services, electronic communications networks and associated facilities and the transmission of such services on such networks.”

Section 12(1)(a) of the Act of 2002 provides that the objectives of ComReg in exercising its functions shall include, in relation to the provision of electronic communications networks, electronic communications services and associated facilities;

- (i) to promote competition
- (ii) to contribute to the development of the internal market,
- (iii) to promote the interest of users within the Community.’

Non-discrimination obligation

Regulation 7(1)(a) of the Interconnection Regulations provides that ‘The organisations specified in regulation 4(2)(a) which have been designated by the Director as having significant market power pursuant to regulation 5 shall:

‘adhere to the principle of non-discrimination imposed by the Directive with regard to interconnection offered to others and —

- (i) shall provide similar conditions in similar circumstances to interconnected organisations providing similar services, and
- (ii) shall provide interconnection facilities and information to others under the same conditions and of the same quality as they provide for their own services or those of their subsidiaries or partners;’

Eircom was designated with significant market power in the public fixed telephony services and networks markets pursuant to Regulation 5 of the Interconnection Regulations in ‘Significant Market Power in the Irish Telecommunications Sector, Decision No. D08/02, Document No. ODTR 02/53, dated 21st June 2002’.



This obligation was continued by Regulation 8 of the Access Regulations, pending completion of market reviews and the imposition of significant market power obligations under the new framework.

This obligation was re-imposed by way of Decision Notice and Decision Instrument - Designation of SMP and SMP Obligations, Market Analysis: Retail Fixed Narrowband Access Markets, Decision No. D07/61, Document No. 07/61.

SB-WLR is an interconnection service to which this obligation applies.

Review of Remedial Action

Following the notification, Eircom undertook another programme of work to remedy the problems identified. ComReg met Eircom on a number of occasions, to review progress. Eircom demonstrated that the work to block the remaining access routes thereby preventing unauthorised access to the UAN had been completed successfully, with one minor exception.

Eircom has confirmed via email of that all issues have now been resolved. Screen shots and detailed descriptions were also provided to confirm the effectiveness of the remedies.

Conclusion

ComReg has reviewed the information supplied by Eircom and has formed the view that Eircom has modified its systems so that Eircom has remedied the notified non-compliance within the meaning of Regulation 18(1) of the Access Regulations and Regulation 32 of the Universal Service Regulations.

In accordance with the power given to it in Regulation 17(11) of European Communities (Electronic Communications Networks and Services)(Framework) Regulations 2003, ComReg is publishing this information.