



Commission for  
**Communications Regulation**

## Decision Notice

### **Directions to eircom: Local Loop Unbundling**

**Requirement to respond to industry request for developments to LLU processes and product range**

<b>Decision No:</b>	<b>D1/05</b>
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## Contents

1	Executive Summary .....	2
2	Background .....	3
2.1	IMPORTANCE OF LLU .....	3
2.2	INDUSTRY LLU MARKET REQUIREMENTS.....	3
2.2.1	<i>Development of the Market Requirements Document</i> .....	3
2.2.2	<i>Meetings with eircom and industry on MRD</i> .....	4
2.3	CURRENT STATUS ON THE RESPONSE TO THE MRD .....	5
2.3.1	<i>Access Seekers' Position</i> .....	6
2.3.2	<i>Eircom' Position</i> .....	6
2.3.3	<i>ComReg's Position</i> .....	6
3	Directions to eircom.....	7
3.1	STATUTORY POWERS GIVING RISE TO DIRECTIONS .....	7
3.2	DIRECTIONS TO EIRCOM .....	7
3.3	EFFECTIVE DATE OF DIRECTIONS .....	8
	Appendix 1 - Market Requirements Document (non confidential version) .....	9

## **1 Executive Summary**

Achieving the successful and widespread introduction of Local Loop Unbundling (LLU) is an important element in respect of facilitating and enhancing competition across a number of services, particularly in Broadband.

In tandem with Local Loop Unbundling (and its sub products ULMP and LS) there exist a number of other wholesale products including Carrier Pre Selection (CPS), Wholesale Line Rental (WLR), Geographic Number Portability (GNP) and Bitstream (BS). Each of these products has been developed independently in line with specific regulatory obligations on the SMP (or USO) operator to provide access or interconnection products to other authorised operators (OAOs).

As has been the experience in other countries, Access Seekers (those operators taking the wholesale ULMP and LS products from eircom) are making more substantial infrastructural investment in LLU and seeking to develop more comprehensive retail product offerings. This development requires the availability of a more integrated set of wholesale product offerings and processes.

Access Seekers requirements have been submitted to eircom for the development of LLU products and process in order to facilitate their business plans. These requirements have been discussed at industry level as well as between ComReg and eircom. However disagreement has arisen as to how to efficiently progress matters.

As a consequence, ComReg is issuing two Directions to eircom. These Directions will require eircom to respond to Access Seekers' requests and to provide a number of deliverables to them by 15 February 2005 with an intervening meeting to present on progress.

## **2 Background**

### **2.1 Importance of LLU**

EU legislation provides that national regulatory authorities ('NRAs') shall facilitate wholesale access to infrastructure if they believe that infrastructure is neither economically nor practically feasible to replicate. In the case of the access network, ComReg believes LLU to be a critical enabler for the development of competition. Access to the local loop allows Access Seekers the ability to offer narrowband and broadband services, although to date Access Seekers have focused on broadband technologies. Therefore, provision of LLU access allows operators to offer services which compete across a number of retail products. While Access Seeker(s) to date have concentrated on offering broadband products over the local loop, recent technological and cost developments have made it viable for them to offer a full suite of services (voice and broadband) over the local loop to retail customers. As a result, Access Seekers have invested and continue to invest in the roll out of LLU infrastructure. In fact, rollout has increased over the last number of months.

ComReg as part of its remit seeks to develop sustainable competition and hence infrastructure based competition is a key objective. This experience is mirrored across the EU, as is evidenced by the fact that from a legal perspective, LLU is mandated by means of a directly applicable Regulation. This highlights the undoubted importance attached to LLU throughout the EU.

LLU in Ireland has been fraught with difficulties. There have been several legal challenges and ComReg has been forced to intervene in many LLU issues. There are to date fewer than 2000 unbundled local loops and ComReg has no doubt that at least in part this is due to the serious operational issues experienced by Access Seekers.

As part of an ongoing ComReg review of LLU ComReg is therefore now intervening in relation to process development. The market requirements document ('MRD') (see Appendix 1) sets out three capabilities requested by Access Seekers. In ComReg's view it is reasonable for eircom to work on the analysis and development of these requirements given the information to hand. This opinion is formed given ComReg's experience of process development in other countries advancing LLU, requirements of which mirror Ireland's, and ComReg's visit to the LLU Ordering Centre.

This intervention is required because of significant operator investment in LLU and because of ComReg's commitment to giving Irish consumers price, choice and quality in terms of broadband.

### **2.2 Industry LLU Market Requirements**

#### *2.2.1 Development of the Market Requirements Document*

As indicated earlier, new Access Seekers have entered the LLU market and have already commenced the process of collocating their equipment across a number of eircom's local exchanges. Additionally, an existing Access Seeker has commenced the process of expanding its LLU footprints/sites. Access Seekers, having made this investment in LLU intend to develop more comprehensive product offerings which

require amendments to existing wholesale products, as well as the establishment of migration paths to facilitate the easy movement of customers across products, whether it is with the same or a different service provider.

Towards the end of October, 2004, ComReg received indications from Access Seekers of the need for changes to the current LLU processes and products. One Access Seeker wrote to eircom on 26<sup>th</sup> October regarding its high level requirements for the development of the LLU products and processes. This was subsequently followed up with a meeting between the Access Seeker and eircom.

ComReg also met with eircom on 29<sup>th</sup> November to obtain feedback on eircom's meeting with the Access Seeker and to outline the LLU process changes that were required. ComReg indicated that it also intended to co-ordinate Access Seekers' requirements rather than having operators deal individually with eircom. Given that the operators' requirements are broadly similar and in order to protect the privacy of individual operator's business case forecasts, this approach was being taken to more efficiently deal with the issue.

In November 2004, ComReg requested written inputs from Access Seekers and met with them to discuss their high level business plans and order forecasts. This led to the development of a draft MRD which was circulated to Access Seekers and agreed upon early in December 2004. The MRD, which represents Access Seekers' unified requirements for the development of the LLU product/processes, which is attached at Appendix 1 (subject to the omission of confidential operator forecasts) set out 3 required capabilities:

- Capability 1: Integration of GNP into LLU so that they can be ordered and provided simultaneously.
- Capability 2: Bulk and single migrations from other wholesale products or to LLU.
- Capability 3: An ordering system/process which would cater for LLU Volume Processing.

This document was sent to eircom as a consolidated MRD on 13<sup>th</sup> December 2004.

### *2.2.2 Meetings with eircom and industry on MRD*

ComReg subsequently held a meeting with eircom on 23<sup>rd</sup> December 2004 to clarify any issues prior to eircom's formal response. At that meeting eircom stated that given the various product/operator combinations, there was a need to map the relationships between these products before consideration of the introduction of any combined LLU & GNP product. eircom also suggested that four weeks would be required to review the MRD and the relevant product combinations and that this should be completed before a meeting with industry. ComReg offered to prepare a matrix of product combinations and circulate this to industry in advance of a meeting.

An industry meeting was chaired by ComReg on 6<sup>th</sup> January 2005 at which the 'product matrix' and the MRD was discussed. All Access Seekers formally agreed that the MRD reflected their LLU requirements. ComReg also stated that, in its

view, the request from Access Seekers was reasonable and in that context eircom was required to respond to the MRD. ComReg also noted that the timelines presented in the MRD (delivery in February, 2005) were challenging and that it might not be possible to meet all the Access Seeker requirements according to that timescale.

Arising from the discussions regarding the product matrix, eircom's position is that it needs to be fully developed, an exercise which would be carried out in isolation from industry, would take 4 weeks and was a necessary precursor to the commencement of any activity to develop LLU products/processes to deliver upon Access Seekers' required capabilities. Amongst other issues, eircom also expressed their concern over resourcing priorities across other wholesale products.

ComReg and industry did not accept that the development of the product matrix, product set and associated processes were serial activities and stated their belief that industry needed to be involved at an early stage from a transparency perspective, to provide any clarifications necessary and to ensure that eircom's response to the MRD would deal with operators' requirements.

In an effort to progress matters, industry agreed to meet on 13<sup>th</sup> January, 2005 to discuss the work programme/process development aspects associated with the implementation of the MRD.

eircom also requested a meeting with ComReg in the interim to explain its rationale for having a full analysis of the product matrix as a serial activity before commencing product/process development work. This meeting took place 11<sup>th</sup> January. eircom maintained its position as stated above, i.e. that the development of the product matrix and response to the MRD would take 4 weeks, was a precursor to the product development process and would be completed in isolation from industry. eircom also stated that it would be issuing a regulatory response to the MRD, including its view as to the reasonableness of the Access Seekers' request. eircom also indicated to ComReg that its proposed 4 weeks work stream to develop the product matrix and respond to the MRD would not commence until ComReg accepted its position.

ComReg, while accepting that the development of the product matrix is a necessary aspect of product development considered that engagement with Access Seekers was the best way to achieve this, particularly as it allows any erroneous assumptions to be corrected at an early stage and gives them sight of issues and/or actions they must contend with. ComReg also recognised that eircom would need a period of time to review the MRD but this is not a serial activity to engagement.

The meeting ended with ComReg and eircom maintaining their respective positions. ComReg also indicated that it would explore alternative avenues to progress matters as appropriate. In light of this ComReg cancelled the industry meeting scheduled for 13<sup>th</sup> January, 2005 as it would have been counter productive to hold it.

### **2.3 Current Status on the Response to the MRD**

The positions of the various parties with respect to the MRD are summarised below.

### *2.3.1 Access Seekers' Position*

Access Seekers have and continue to invest significantly in LLU and have submitted a request to eircom regarding their requirements for the development of LLU product/processes which are critical enablers for the fulfilment of their business plans. This was presented to eircom on 13<sup>th</sup> December 2004 and formally agreed by Access Seekers at an industry meeting on 6<sup>th</sup> January 2005. Access Seekers do not accept that the serial nature of the eircom proposed activities and that this will give rise to significant delays in terms of the fulfilment of their requirements.

### *2.3.2 Eircom' Position*

eircom has noted the Access Seekers' requirements and in order to respond to these it considers that the first step is to fully develop a product matrix. This activity, which will take 4 weeks, will commence once ComReg accepts its position and should be completed in isolation from Access Seekers. Product/process development will only commence once this activity is completed. During this time eircom also intends to prepare its regulatory response to Access Seekers' requirements in terms of its reasonableness.

### *2.3.3 ComReg's Position*

ComReg considers that it is reasonable for eircom to respond to Access Seekers' requirements in an efficient and timely manner. While the product matrix is an essential part of the product development process (and not having debated the timeframe), ComReg considers it is unacceptable that

- It should be completed in isolation from Access Seekers.
- It is a serial and separate activity to the product/process development process.
- The 4 week period eircom referred to for this phase will not start until ComReg agrees to eircom's approach.

In light of the above, ComReg is taking the necessary, reasonable and proportionate measure of issuing Directions to eircom to ensure an efficient, timely and fit for purpose response to Access Seekers' requirements for the development of LLU products/processes.

### **3 Directions to eircom**

While ComReg agrees that the development of the product matrix is necessary, ComReg considers it to be part of, rather than a precursor to, the product development process. ComReg does not accept eircom's position that Access Seekers should be precluded from participating in this work.

ComReg is concerned that eircom's approach is predicated on a series of separate activities, namely, development of the product matrix and a response to the MRD to be followed by the product/process development to deliver upon Access Seekers required capabilities. Access Seekers are also to be excluded from this process and therefore not afforded the opportunity to clarify their requirements in order to ensure a fit for purpose response from eircom.

ComReg considers that such a serial and non inclusive approach may lead to a response which does not adequately deal with industry requirements, unduly delays the development and implementation process, and might ultimately give rise to economic and operational difficulties for Access Seekers who are seeking to implement their business plans/strategies in a timely and effective manner.

These concerns are further reinforced by eircom's position that, despite having the formally agreed MRD on 6<sup>th</sup> January and already completing some work on the development of the product matrix, their body of work will take 4 weeks to complete commencing from the point of ComReg's acceptance of their position.

ComReg therefore considers that a more timely and effective response, which includes meetings with Access Seekers to discuss progress is reasonable, proportionate and necessary.

#### **3.1 Statutory Powers Giving Rise to Directions**

The Directions set out below are issued to eircom under Regulation 17 of S.I. No. 305 of 2003 the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 ('the Access Regulations') for the purpose of further specifying requirements to be complied with relating to obligations imposed by and under the Access Regulations and by the SMP Decision<sup>1</sup> and having regard to sections 10 and 12 of the Communications Regulation Act, 2002

Regulation 19 of S.I. No. 307 of 2003 the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 ('the Framework Regulations') requires ComReg to consult on measures if they have 'a significant impact on a market for electronic communications networks or services' ComReg considers that as the Directions relate to information requirements they do not in themselves result in a significant impact on a market for electronic communications networks or services and do not therefore fall within the scope of the consultation requirements of the Framework Regulations.

#### **3.2 Directions to eircom**

##### **Direction 1:**

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<sup>1</sup> ComReg document 04/70, Market Analysis: Wholesale unbundled access(including shared access) to metallic loops and sub-loops.



By 5.00pm on 14<sup>th</sup> February 2005, eircom shall provide to ComReg and Access Seekers, a fit for purpose response that deals with the efficient and timely implementation of the Access Seekers' requirements (3 capabilities) contained in the MRD (set out in Appendix 1 hereto) as agreed by industry on 6<sup>th</sup> January 2005. This response shall include as a minimum, but is not limited to:-

- The development and analysis of a 'product matrix' which:-
  - Maps the migration paths from all relevant existing wholesale/retail product combinations to and from the ULMP/LS products in the context of the requirements sets out in the MRD. The scope of this matrix is to be initially as identified by eircom at the meeting with ComReg on 11<sup>th</sup> January and amended as advised by ComReg following the first presentation of progress by eircom to Access Seekers and ComReg.
  - The analysis shall include but not necessarily be limited to
    - Impact on existing Product/Processes (which identifies all the operator and interoperator issues that will have to be addressed in order to implement fit for purpose products and processes in line with the MRD)
    - Impact on contracts with existing Retail and Wholesale customers
    - Issues regarding return paths to eircom and other Operators for relevant services
- A draft Product Description(s) for Access Seekers' capability requirements, with associated milestones for achieving the MRD requirements

### **Direction 2:**

eircom shall engage with ComReg and Access Seekers on 1st February or such time as eircom have completed 50% of the analysis work, if sooner than 1<sup>st</sup> February, regarding the work being, or to be, carried out to implement their requirements. This engagement shall be chaired by ComReg and shall take the form of a detailed update as to the content and progress of eircom's response to the MRD and its associated work streams. The object of the meeting will be for eircom to indicate where Access Seekers need to provide additional information and to receive feedback from Access Seekers and ComReg with a view to factoring this into the remaining work. This meeting will also allow Access Seekers to further their awareness of issues which are likely to be raised as a result of the eircom response.

### **3.3 Effective Date of Directions**

The above Directions are effective as of 18 January, 2005.

## Appendix 1 - Market Requirements Document (non confidential version)



### Market Requirements Document

## Local Loop Unbundling

### High Level Statement of Requirements Document

Document/Version	Date	Author/Reviewer	Description
Version 4	5/1/04	Aileen Canning	OAO forecasts and assumptions removed
Version 3	13/2/04	Aileen Canning	Approved by OAOs. Sent to eircom for comment
Version 2	13/2/04	Aileen Canning	Reviewed by OAOs. For review by eircom
Version 1	8/12/04	Aileen Canning	Approved by internal WG For review by OAOs

## Contents

1	Introduction .....	11
1.1	PURPOSE OF DOCUMENT.....	11
2	Capability 1: Integration of GNP into LLU .....	12
2.1	HIGH LEVEL STATEMENT OF REQUIREMENTS.....	12
2.2	PRINCIPLES FOR CAPABILITY 1 .....	12
3	Capability 2: LLU Migrations.....	13
3.1	HIGH LEVEL STATEMENT OF REQUIREMENTS.....	13
3.2	PRINCIPLES FOR CAPABILITY 2 .....	13
4	Capability 3: LLU Volume Processing .....	14
4.1	HIGH LEVEL STATEMENT OF REQUIREMENTS.....	14
4.2	PRINCIPLES FOR CAPABILITY 3 .....	14
5	Appendix I – Forecasts .....	15

## 1 Introduction

The continuing development of competition in the fixed line telecoms market has seen the introduction of number of wholesale products including Carrier Pre Selection (CPS), Wholesale Line Rental (WLR), Local Loop Unbundling (LLU and its sub products ULMP and LS), Geographic Number Portability (GNP) and Bitstream (BS). Each of these products has been developed independently in line with specific regulatory obligations on the SMP (or USO) operator to provide access or interconnection products to OAOs.

As has been the experience in other countries<sup>2</sup>, OAOs are now seeking to develop more comprehensive product offerings, making more substantial infrastructural investment and establishing a migration path for customers to a position of total customer management. This shift will require operators to avail of multiple product types and consequently the development of more integrated wholesale product offering and processes from the incumbent.

Consolidated forecasts from the industry as at December 2004 are set out at **Appendix 1** but indicate that capabilities for bulk migrations and increased throughput of LLU orders need to be put in place by February 2005.

### 1.1 Purpose of document

ComReg, at the request of the industry<sup>3</sup>, has developed this document which is intended to represent a high level market requirements document to guide the LLU product and process review. This document is by no means exhaustive in terms of detail and is intended as a guide to development.<sup>4</sup>

A statement of requirements is set out for each of the 3 required capabilities:

- Capability 1: Integration of GNP into LLU
- Capability 2: Migrations to LLU
- Capability 3: LLU Volume Processing

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<sup>2</sup> As an example Telefonica in Spain, Telecom Italia in Italy, and France Telecom in France both offer the facility to order GNP together with LLU, and offer bulk and single migration processes. Similar features are on the workplan for BT in the UK.

<sup>3</sup> This document has been prepared by ComReg following meetings and submission of written statements of requirements by access seekers. It therefore represents OAO access seekers unified requirements for the development of the LLU product/processes and will be circulated to eircom on Xth December 2004 for formal response. If necessary, ComReg will facilitate a conference call/meeting between OAOs and eircom between date of submission to eircom and date of eircom response to clarify any issues prior to eircom's formal response.

<sup>4</sup> As a consolidated document it protects the privacy of forecasts but also ensures that OAO requirements are set out in a consistent manner.

## **2 Capability 1: Integration of GNP into LLU**

### **2.1 High Level Statement of Requirements**

An access seeker can order GNP<sup>5</sup> together with LLU<sup>6</sup> and have the two services delivered together i.e. have the loop unbundled together with its number simultaneously ported to their network.

The current LLU and GNP products should remain as standalone products. The integrated product will form a new LLU product and should be available by February 2005<sup>7</sup>.

### **2.2 Principles for Capability 1**

- GNP and LLU should be capable of being ordered by the access seeker on a single order, provide a single acknowledgement/verification to the access seeker and be provided in a single co-ordinated delivery
- LLU orders which also trigger the ordering of GNP should be provided as 'standard' LLU orders in no worse a timescale than the current LLU provisioning SLA. Any provisioning improvements achieved as a result of Capability 3 should be reflected in these timescales.
- There should be minimal downtime to the customer (max 1 hour). This should also be able to be scheduled in advance i.e. pre-advised or pre-set to the access seeker to allow for their customer management. An out of hours option will be required.
- The LLU Code of Practice should apply to such orders; the retail defence window of GNP orders ordered as part of LLU should be removed.
- Charges for this capability must recognise any efficiency gains that can be made

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<sup>5</sup> The GNP product description is currently set out in Issue 1 of the manual process product description dated 30/11/2000 and will remain as a standalone product

<sup>6</sup> For the avoidance of doubt the LLU products set out in the Access Reference Offer will remain as a standalone product

<sup>7</sup> The product descriptions will be set out as new Service Schedules of the Access Reference Offer and the processes will be set out in the LLU IPM

### **3 Capability 2: LLU Migrations**

#### **3.1 High Level Statement of Requirements**

This describes the major process steps allowing an access seeker to order both bulk and single migrations<sup>8</sup>. This may take the form of

Existing or new WLR<sup>9</sup>/CPS only customer to ULMP

New or existing WLR<sup>10</sup>/CPS only and existing/new Bitstream customer to ULMP

Existing Bitstream only to LS

LS to ULMP<sup>11</sup>

#### **3.2 Principles for Capability 2**

- All migration orders automatically cancel the retail and wholesale services they replace
- There will be two types of migration orders: bulk and single.
- The definition of ‘bulk’ is to be defined at industry but should be assumed to represent a capped number of orders (in the range of 100 per OAO per MDF per day) to be completed on a day of the access seeker’s choice in each MDF.
- There should be minimal downtime to the customer (max 1 hour). This should also be able to be scheduled in advance i.e. pre-advised or pre-set to the access seeker to allow for their customer management. An out of hours option will be required. It is likely that bulk migrations will have to be project managed
- Capability 2 orders may also trigger GNP orders if required and hence avail of Capability 1
- A new CAF will not be required if the end customer continues to receive the same service set, regardless of the wholesale product from which it is provided
- Where WLR is provided by one OAO and bitstream by another this needs to be dealt with and requires a CAF/TPV. Where new services are provided CAFs/TPVs are required.
- Backward paths will have to be developed, both OAO – OAO and OAO – eircom
- Charges for this capability must recognise the efficiency gains that can be made
- Integrated fault repair capabilities should be developed

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<sup>8</sup> The product descriptions will be set out as new Service Schedules of the Access Reference Offer and the processes will be set out in the LLU IPM

<sup>9</sup> WLR includes all calls CPS

<sup>10</sup> WLR includes all calls CPS

<sup>11</sup> Please note this currently exists but the reverse path does not

## **4 Capability 3: LLU Volume Processing**

### **4.1 High Level Statement of Requirements**

Appendix 1 sets out increased volume orders forecasts for LLU. Capability 3 requires an LLU ordering process which can accommodate scale. This is required by February 2005.

### **4.2 Principles for Capability 3**

- A volume system accommodating throughput of X orders per day is required
- This is required to be in place by February 2005. This may necessitate a two phase approach for example manual ramp up moving to automation if warranted
- Ordering timescales should be no worse than the current provisioning SLA
- The current process points leading to order acknowledgment (e.g, instantaneous rather than current Day 1 or Day 4) and delivery notification (e.g. instantaneous rather than one day delay) should be the focus of timescale improvement if any
- Systems should allow for order tracking and statusing by OAOs
- Capability 3 should also allow for migrations; although it is likely that bulk migrations will be project managed
- Allowing OAO access to systems such as LTS, account code checker, eircom own systems should be allowed.

## **5 Appendix I – Forecasts**

**Forecasts have been removed for reasons of confidentiality**