



Commission for  
**Communications Regulation**

Draft Direction

## **Bitstream Port Transfer**

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## 1 Foreword

Broadband is a critical service for consumers and vital to the ongoing development of the economy. Whilst broadband products are now available for residential consumers and businesses there is still a long way to go before the level of take up of these services is comparable to other countries in the EU. ComReg's aim has been to promote competition in a manner that will benefit end users.

In order for Ireland to become an efficient and effective information based economy, it is important that Internet subscribers have a variety of products to choose from and that these products are offered by various companies in a competitive market. In order to ensure competitiveness and to improve consumer choice, it is important to remove the barriers which subscribers face when they decide to switch from one product to another or from one provider to another. In other words, it is key that an end user can seamlessly switch between operators as new products are developed. This can be achieved in the broadband DSL area using a feature known as port transfer - an efficient means by which a customer with an existing DSL service can switch to an alternative operator without the need for a significant break in service

In this regard, ComReg sees the provision of effective and efficient port transfer facilities by eircom to operators providing DSL products as critical since they enable the prompt and uninterrupted switching by DSL subscribers from one provider to another.

eircom has previously proposed such a service and has published a price for the feature but has recently indicated that it no longer intends to make this available.

Due to the lack of any progress despite over 12 months having elapsed, ComReg has decided to issue this draft Direction requiring eircom to implement a bitstream port transfer product. This document sets out the proposal along with the reasons for its introduction and the features ComReg considers are key to a product that will enable efficient and effective port transfer in relation to DSL products without the need for physical disconnection and reconnection (and consequent service interruption) each time a subscriber decides to change their DSL product provider.

ComReg is issuing this Direction in draft form in light of the fact that the port transfer process is of interest to both consumers and industry alike. This will allow interested parties to comment on the process, which will, in turn, ensure that the port transfer process meets market needs and is implemented in a speedy manner.

## 2 Bitstream Port Transfer

eircom provide a wholesale product to other operators which is known as bitstream. This product is made available to operators who then repackage the product and sell it on to retail consumers. The eircom retail equivalent of this product is known as i-stream. Where a retail customer of an operator taking the bitstream service wishes to move to an alternative operator also availing of the bitstream service, this port transfer product allows an efficient and low cost migration without a significant break in service.

Following discussions between ComReg (then the ODTR) and eircom in August 2002, eircom proposed to ComReg revised bitstream pricing which included a feature defined as “Port Transfer” or “Transfer (per port)” whereby a charge of €60 would be raised by eircom on an operator to whom a customer transferred their DSL service.

The feature was based upon a customer being able to migrate between service providers without the need for eircom wholesale to incur the costs of building new network elements for this customer to receive service. This approach to the migration of customers between operators was viewed as an efficient and cost effective solution to management of customer churn between operators and was considered by eircom to be a suitable approach to avoid the over recovery of costs on infrastructure which was put in place for wholesale customers.

Section 1.6 of the ADSL Bitstream Price List 1.1 as published on eircom wholesale’s website (<http://www.eircom.ie/bveircom/pdf/adslpricelistv1.1.pdf>) sets out a charge of €60 for transfer of a bitstream port. However v1.5 of the corresponding ADSL wholesale bitstream reference offer does not detail the product or the process relating to ‘port transfer’

### 3 What is the problem?

On 29<sup>th</sup> October 2003 it was brought to ComReg's attention by an Other Authorised Operator (OAO) that eircom, whilst having a published price for this Port Transfer feature, was refusing to make the feature available for transfer of a customer from the eircom retail arm to an OAO.

eircom has recently confirmed to ComReg that the processes for the Port Transfer product feature do not exist despite over 12 months having elapsed since making its commitment to ComReg. Throughout this period however eircom have continued to publish the price for this feature on their wholesale website. Despite numerous requests both verbal and in writing, eircom has refused either to make this product available to operators or to give ComReg an undertaking that they would do so within any reasonable timeframe. This lack of commitment is now deemed by ComReg to be a refusal by eircom to provide the product.

When developing and agreeing eircom's proposals for appropriate bitstream charges ComReg considered the availability of a bitstream port transfer product as a fundamental element of the overall product. Without this feature, ComReg considers OAOs to be at a competitive disadvantage when deploying bitstream. ComReg therefore considers the unavailability of this product to be a failure by eircom to perform to its obligations in its signed wholesale access bitstream agreements. Furthermore, ComReg believes that given the pricing basis of the wholesale product, failure to implement the feature would result in an over recovery by eircom of costs associated with customers moving between operators. ComReg also believes that the availability of this feature is key for consumer choice.

ComReg therefore considers that it is appropriate and necessary to direct eircom to implement, publish and offer the agreed bitstream port transfer product feature and processes.

## 4 Port Transfer Process

ComReg believes that the port transfer process would be of significant benefit to consumers and to OAOs. Accordingly ComReg considers that it should include *inter alia* the following features:

- Minimal disruption to service
- Co-ordinated service handover between operators
- The recipient operator would enter a contract with the customer which would give power of attorney to the operator to cease the contract between the current operator and the customer
- Eircom would supply the recipient operator with a date for cessation of retail billing (where the customer was an i-stream customer) and commencement of wholesale billing.

### **Draft Direction 1**

**Eircom is directed to implement, publish and offer the agreed bitstream port transfer product and process supporting a customer migration from one operator to another with minimised service outage for the customer. The price chargeable for this product shall be not more than that set out at v1.1 of the ADSL Bitstream Price List and previously approved by ComReg. This product shall be submitted to ComReg for approval no later than 28 calendar days from the date of the Direction and shall be published within 1 week of ComReg approval of the process. ComReg may consult with other operators in the review of the product feature to ensure processes meet the requirements of industry.**

### **Implementation**

In the interim, and in the interest of promoting competition and for the benefit of end users, ComReg believes that given the understanding of industry that this product was to have existed already, eircom should put in place workaround processes to facilitate the transfer of ports no later than 10 calendar days from the date of the Direction.

**Draft Decision No. 2**

**ComReg directs that eircom puts in place workaround processes to facilitate the transfer of ports no later than 10 calendar days from the date of the Direction.**

**At this time eircom shall be able to accept OAO orders for the feature and shall be able to implement the transfer within 7 calendar days of the order. No charge for the development or operation of this manual process should be levied on the OAO as an OAO will have associated costs of working to an interim process which should by now reasonably have been developed by eircom. This interim process shall allow the transfer of a customer from eircom to an OAO, not from an OAO to eircom and all reasonable efforts shall be undertaken by eircom to coordinate the transfer with the OAO in question. This interim process shall not allow any retail win back processes by eircom. This process should remain in place until the final product is in place and agreed by ComReg and OAOs.**

The detailed legislative basis pertaining to these Directions is set out at Appendix A

## 5 Next Steps

ComReg would welcome any comments from interested parties on the proposals and process outlined for the Port Transfer process. All responses to this call for comments should be returned to ComReg by post, facsimile or e-mail on or before 5:30p.m. on 5<sup>th</sup> January 2004.

**Reference: Submission re ComReg approach to Port Transfer for bitstream.**

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## Appendix A – Legislation

ComReg proposes to issue this Direction acting pursuant to its statutory objectives contained in section 12 of the Communications Regulations Act, 2002.

The supply of bitstream by eircom was mandated by Decision Notice D6/00 entitled ‘Report on the ODTR consultation on Local Loop Unbundling’. Pursuant to Regulation 20(8) of the European Communities (Voice Telephony and Universal Service) Regulations, 1999 (SI No 71) (the “Voice Telephony Regulations”), the ODTR, in Direction 5.2 of D6/00, considered that in order to ensure effective competition, eircom should offer unbundled bitstream access on non-discriminatory, fair and reasonable terms.

Regulation 8(1) of the European Communities (Electronic Communications and Services)(Access) Regulations, 2003 (SI No 305 of 2003) (the “Access Regulations”) provides that operators shall continue to comply with obligations including obligations under the Voice Telephony Regulations until a market review is completed and specific obligations pursuant to Regulation 9 of the Access Regulations are imposed. This market review has not been completed to date and therefore, no obligations have been imposed pursuant to Regulation 9.

Regulation 17 of the Access Regulations permits ComReg, for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under the Access Regulations to issue directions. ComReg proposes to issue this Direction in accordance with Regulation 17 specifying requirements in relation to *inter alia* the obligation of eircom set out in Direction 5.2 of D6/00 which has been carried over by Regulation 8 of the Access Regulations.