Office of the Director of
Telecommunications Regulation

eircom's Reference Interconnection Offer

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Accounting Separation and Publication of Financial Information for Telecommunications Operators

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Report on the Consultation

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Decision Notice D7/01

Document No. **ODTR 01/24** **April, 2001**

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Section **Page**

1 Introduction

This Decision Notice relates to

- the publication of separated accounts by operators having significant market power (SMP) in the "fixed public telephony network and services market" and
- certain underlying principles relating to the calculation of costs as stated in such accounts.

Separated accounts provide additional information over and above that included in statutory financial reports. The principles underlying the calculation of costs referenced in this paper have a direct impact on the level of charges for interconnection services that are set by an SMP operator in its reference interconnection offer (RIO).

This decision notice, which results from a consultation process, defines the manner in which Separated Accounts should now be prepared and presented. It also updates certain aspects of the definition of what costs may or may not be included and what calculation methods should be used when setting interconnection charges.

2 Background

In March 2001, the Director carried out a consultation[1] on Accounting Separation and publication of financial information for telecommunication operators. Eight organisations responded in writing to the consultation document. In some cases respondents only provided comments to questions of particular interest. The Director wishes to thank everybody who contributed. With the exception of responses marked as confidential, the comments are available for inspection at the ODTR's office in Dublin. These comments have played a major part in informing the decisions contained in this document.

The following organisations provided submissions:

Alcatel Ireland Ltd.
Alto
Esat Digifone Ltd.
Esat Telecommunications Ltd. / Ocean Telecommunications Ltd.
eircom plc
LM Ericsson Ltd.
MCI WorldCom (Ireland) Ltd.
PSInet transaction Solutions Ltd.

Three respondents only provided comments on a single question, two on the traffic sensitive nature of line cards and one on the impact of the introduction of two-part charging.

This document sets out the Director's current views in this area and takes account of the responses to the consultation as well as other relevant information available to the Director.

The legal background to this decision notice is given in Appendix I.

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[1] *eircom's* Reference Interconnect Offer & Accounting Separation and Publication of Financial Information for Telecommunications Operators (Document no. ODTR 01/11)

The opinions and decisions set out in this document are without prejudice to the legal position or the rights and duties of the Director to regulate the market generally.

3 The purpose of accounting separation

Both EU and Irish legislation recognise that, in the interest of developing and sustaining competition in the telecommunications industry, entrants to the market must have the facility to interconnect to the network of an incumbent operator. In order to effect this, a telecommunications operator such as *eircom*, providing fixed public telephone networks and designated as having SMP, is required to publish a RIO and to republish the offer when there is any change made to it. The RIO is a fundamental document that defines the mechanisms that allow competing operators to pass telephone traffic between each other and the prices that will apply in such cases. The RIO must include a statement of the rates at which Other Licensed Operators ("OLOs") may interconnect to the SMP operator's network. Under the Interconnection Regulation[2], *eircom* is required to publish a RIO that is in compliance with the relevant legislation, including the principle of transparency and cost orientation and that sets out the particular components of interconnection according to market needs. To assist in ensuring that these rates fairly reflect the associated costs, the legislation also requires transparency in and access to the accounts of such organisations. This transparency/access mandate includes "accounting separation".

The purpose of accounting separation is to provide an analysis of information derived from financial records to reflect as closely as possible the performance of parts of a business as if they were operating as separate businesses and for demonstrating that there is no undue discrimination between the SMP operator's own downstream arm and competing operators or between one competitor and another when providing similar services.

One of the key objectives of accounting separation is transparency in and access to the accounts of telecommunications operators providing fixed public telephone networks and designated as having SMP. The Director believes that the development of the accounting separation framework is an iterative process, and expects to issue consultations and decision notices from time to time on accounting separation. The purpose of this process will be to either further improve the current framework and/or to set out the framework for areas not previously covered. This Decision Notice and the Consultation Paper that preceded it, are a part of this iterative process.

The Director notes that SMP operators and OLOs have divergent views of what constitutes transparency. She notes the need to balance desires for complete and detailed information against commercial confidence. The Director has statutory obligations in regard to these issues and must carefully assess each matter against this background.

[2] European Communities (Interconnection in Telecommunications) Regulations, 1998 (S.I. No. 15 of 1998)

4 Scope of this decision notice

This document sets out the Director's current position on the Reference Interconnection Offer, Accounting Separation and Publication of Financial Information for Telecommunications Operators

At present, *eircom* is the only fixed network operator that has been designated as having SMP in the fixed network, interconnect and leased line markets.[3] Although any other company that becomes designated as having SMP in this market at some later date will have to comply with relevant ODTR notices, the requirements in this document currently are directed primarily at *eircom.* Eircell has been designated as having interconnection SMP but accounting separation obligations on mobile operators will be subject of a separate consultation and are not addressed here.

The decisions set out in this Decision Notice will be incorporated into *eircom's* published Separated Accounts for the year 2000/2001.

As a result of this notice, as well as certain other related work, *eircom* is now required to present revised RIO rates with justifications that comply with this decision notice. These are to be submitted for ODTR's approval in accordance with the schedule set out in this document. The rates to be submitted include those in force between 1 December 1999 and 31 March 2000 (which are to be finalised), those in force between 1 April 2000 and 31 March 2001 (which may be modified and re-issued as interim rates, although subject to finalisation when the 2000/2001 separated accounts have been published), and new interim rates that will apply from 1 April 2001.

The Director notes that certain respondents took the opportunity to raise issues in their responses that were not covered in the consultation paper. ODTR will consider all submissions made and if matters, which have not been included in consultation, have significance in relation to decisions being made then due account will be taken.

The Director believes that certain issues raised are inappropriate for inclusion in this Decision Notice. This may be either because the matters raised are of broad concern to the industry and further consideration and/or consultation is required or they are issues about which there has been prior consultation and which, having evaluated new submissions and additional information, the position taken by the Director in previous decisions has not changed. These will be appropriately dealt with through other mechanisms.

During the 2001 consultation some issues were raised which have been responded to directly to the operator who raised the questions. For the sake of transparency and completeness the position taken by ODTR on these points are described hereafter.

Weighted Average Cost of Capital

The parameters making up the calculation of cost of capital have been reviewed.

Asset Lives

In its Financial Reporting *eircom* uses asset lives as published in the Annual Report. However, for RIO rate calculation purposes the Director considers that the Asset Lives being used for

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[3] Significant Market Power in the Irish Telecommunications Sector, Decision Notice D15/99 & Report on the Consultation Paper ODTR 99/59, (Document No. ODTR 99/75)

accounting purposes prior to 1997/98 are more appropriate and has directed *eircom* to use those rates.

Exceptional Items

The Director's view is that exceptional costs would normally be excluded from RIO rates insofar as the only costs to be included should be those relating to an efficient operator. Exceptional costs will only be considered when supported by convincing arguments for their inclusion.

Retrospection of charges

A number of earlier decision notices have dealt with the subject of Retrospection[4]. ODTR position is unchanged, i.e. *"Retrospective rates shall be calculated for all services, but shall only be applied where there is a material difference between interim and final interconnection rates on the revenues of operators".*

5 Consultation Process

Some operators commented on the short period of time allowed for making submissions in the consultation process and requested that the timetable should be extended for future consultations. There is a separate issue relating to the closeness of the dates for publication of the consultation report and decision notice to the dates set for determination of RIO interconnection rates. This has an impact on the time needed for *eircom* to incorporate required changes in its calculation of proposed rates. The present timetable also results in ODTR decisions being published close to the period during which *eircom* is in the process of producing its Separated Accounts. There would be a considerable benefit if changes to accounting methodology or other matters of costing detail were known at an earlier date.

<u>Matters for inclusion in Consultations</u>
The subjects of how particular costs are accounted for and the format and content of published financial information are demanding both in technical accounting and procedural terms. There may also be particular issues that will be of concern to some operators but not to others. There arises, therefore, a question of deciding the number of issues to be included in the consultation process and also how these matters are best selected for consideration.

The consultation process is designed to assist the Director in making decisions. She is anxious to open debate from time to time on all material and relevant issues but necessarily has to make decisions in a practical and effective way. There is a balance to be struck in deciding the optimum quantity and content of issues which may be productively and effectively put to consultation.

Industry is invited to respond to the Director on this subject and to include comments on the proposed timetable described in the following section.

<u>Proposals for Future Consultations</u>
The following indicative timetable is proposed in relation to the Consultation Process applicable to 2001/2002 Separated Accounts and RIO rates:

[4] Decision 7.2.1 of D7/00 (ODTR 00/31); D2/00 (ODTR 00/14); D3/00 (ODTR 00/15)

October 2001 - Request to interested parties for prioritised list of subjects for consultation.

Mid-December 2001 - Issue of Consultation paper

End-January 2002 - Deadline for submissions

End-February 2002 - Consultation report

End-March 2002 - Decision Notice and RIO Rates Determination

6 Recalculation of Interconnection Charges

6.1 Implementation of LRIC based Core Conveyance Interconnect Rates

The ODTR with the assistance of the Industry Advisory Group (IAG) has developed a bottom up LRIC model. e*ircom* has developed a top down LRIC model which forms the basis of their current RIO core conveyance interconnect rate proposals. In ODTR 00/13[5] the ODTR informed that it would carry out a detailed comparison of the two models before LRIC based rates were used as the main input to the RIO.

ODTR with its consultants undertook the following tasks:

- review of *eircom's* top down LRIC model;
- comparison of the results of the *eircom* top down and ODTR bottom up models and explain the differences;
- identification of possible changes to the bottom up model as a result of the review of the top down model.

The main purpose of the review of the top down model was to identify any areas requiring modification or revision.

Modifications have been identified and *eircom* has been directed to incorporate those of significance into the top down model and re-submit its proposed rates.

As a result of the comparison exercise, ODTR also identified changes in the bottom up model and produced revised cost estimates using these inputs.

The bottom up model will continue to be used as an input to the analytical review of LRIC based core conveyance interconnect rates proposed by *eircom.*

Having carried out the above exercises the ODTR is satisfied that it is now appropriate to use LRIC methodology as the basis for determining core conveyance interconnection rates.

The ODTR will issue a report to the industry in June 2001, which will cover the following:

- comparison of the top down and bottom up LRIC models

[5] Interconnection Rates in the Irish Telecommunications Sector, Status Report, (Document No. ODTR 00/13)

- differentiation of specific costs of elements or aspects of the existing range of services
- extension of LRIC methodology to a further range of services.

6.2 Recalculation of RIO rates

As has already been mentioned many of the decisions in this document impact on the appropriate level of interconnection charges. e*ircom* is therefore required to recalculate its charges in a manner that is compliant with this decision notice. ODTR has also written to *eircom* reiterating its view on previously announced decisions providing clarification on how the principle should be implemented where necessary. *eircom*, in accordance with requirements set out in the Interconnection Regulations, is required to justify RIO charges to ODTR. Compliance with this notice is a necessary part of that justification.

Decision 6

***eircom* is required to calculate the core conveyance rates based on LRIC for the following periods:**

- **1 December 1999 to 31 March 2000,**
- **1 April 2000 to 31 March 2001,**
- **from 1 April 2001 onwards,**

In determining whether to accept *eircom*'s justification, the Director will take into account compliance with this decision notice, earlier decisions not updated by this Decision Notice, and other guidance provided to *eircom* by ODTR. *eircom* is to submit these rates and justification to ODTR no later than 9th May 2001.

7 Future Direction of Accounting Separation

eircom's Separated Accounts, published for 1999/2000 were based on a fully allocated cost basis. The figures for the Core Network included costs which were not relevant to RIO pricing, therefore the figures published in the RIO (which include only relevant costs) were not directly comparable with the figures set out in the Statement of Cost of Network Services in the Separated Accounts. The question was asked in the Consultation whether the Separated Accounts should continue to be prepared on a fully allocated basis or on a basis that is directly comparable with the RIO.

The Director proposed that the format and content of the information set out in the Separated Accounts for the year 2000/2001 would be comparable with the RIO for 2000/2001. This would require that the method for calculating call conveyance and RIO services costs would be incorporated in the Separated Accounts.

A number of options were suggested as set out below.

(i) The HCA and CCA Separated Accounts would continue to be prepared on a fully allocated cost basis, but an additional Network Statement of Costs and the Statement of Costs of Network Services would be published with adjustments required by the ODTR (these adjustments would be the same as the adjustments that the ODTR require *eircom* to make in respect of Interconnection rates). This has the advantage of continuing to prepare the Separated Accounts on a fully allocated cost basis as well as containing rates that are comparable with the RIO.

(ii) The HCA and CCA Separated Accounts for the Core Network would include adjustments required by the ODTR and the figures relating to the other business units in the accounts would be on a fully allocated cost basis. The difference between the Core Network costs on a fully allocated basis and the adjusted figures would be shown as a reconciling item between the Separated Accounts and the Statutory Financial Statements. This approach is consistent with Decision 6.1 as set out in D9/00[6].

(iii) All aspects of the Separated Accounts would include adjustments required by the ODTR. The difference between the costs on a fully allocated basis and the adjusted figures would be shown as reconciling items.

Do you agree that the format and content of the information set out in the Separated Accounts should be comparable with the RIO for the year 2000/2001 and following years? If you do not agree, please specify your reasons. ***(Q 3.1)*** [7]

Views of the Industry
Four respondents agreed with the proposal in the question. One respondent differed and adverted to differences between the RIO and Separated Accounts arising from timing differences on the one hand and, on the other, methodology differences which were specifically required by the Regulator for pricing purposes. It was also suggested by this respondent that there should be a clear linkage between the RIO rates and the Separated Accounts and that the rates for a specific year should be indicated by the LRIC statements published in the Separated Accounts for that year.

ODTR Comment
At this stage of development of financial systems and processes it is inevitable that there will be differences which give rise to some varying treatment of costs between the Separated Accounts and the RIO rates. Reflecting this reality, it is considered appropriate that the existing arrangements should continue for the present time. That is "*from 2000/2001 onwards, operating costs for the Core Network shall be the relevant costs as determined or agreed by the Director for the calculation of the rates in the RIO that is applicable to the accounting period. Non relevant costs would be disclosed as a reconciling item in the statement of reconciliation between the Separated Accounts and the Financial Statements.*" (as per Decision 6.1 of D9/00)

Decision 7.1

For 2000/2001, operating costs for the Core Network as included in the Separated Accounts shall be the relevant costs as determined or agreed by the Director for the calculation of the rates in the RIO, applicable to that accounting period.

Which of the options listed (i) to (iii) above in relation to non-relevant costs do you consider would be the most appropriate? Please explain you reasons. ***(Q 3.2)***

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[6] Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision Notice D9/00, (Document No. ODTR 00/59)

[7] The numbering convention for questions is the same as that used in the Consultation Document on *eircom's* Reference Interconnect Offer & Accounting Separation and Publication of Financial Information for Telecommunications Operators (Document no. ODTR 01/11)

Views of the Industry

One respondent, who commented as above in Q 3.1, saw no requirement for any additional statements. Two respondents favoured option (iii) while each of the other options was supported by one respondent.

ODTR Comments

Decision 6.1 of D9/00 requires that, for 2000/2001 onwards, non-relevant costs should be disclosed as a reconciling item in the statement of reconciliation between the Separated Accounts and the Financial Statements. The ODTR position on this point has not changed.

Decision 7.2

As indicated in D9/00, operating costs for the Core Network shall be the relevant costs as determined or agreed by the Director for the calculation of the rates in the RIO that is applicable to the accounting period. Non-relevant costs should be disclosed as reconciling items in the statement of reconciliation.

Do you consider that there are other options? If so, please specify in detail any other options. ***(Q 3.3)***

Views of the Industry

In general it was the industry view that there were no other options. One respondent commented that an ideal situation would be one where there was a published LRIC standard, identifying incremental costs and common costs for each service.

ODTR Comments

The RIO rates effective for 2001/2002 will be calculated using *eircom's* top down and the Industry Advisory Group's bottom up model. The results of the two models will be reviewed together with any other relevant information which will be considered before determining Interconnection rates (see section 6.1)

Decision 7.3

There are no alternative approaches to Accounting Separation which merit further consideration at this time.

8 Statement of Costs of Network Services

8.1 Two-part Charging

For some time and, in various publications, the Director has recognised that the nature of the telecommunications market has changed and that there has been a movement away from traditional call distribution patterns. The introduction of two part charging should, in the light of these changes, send correct signals to the market concerning the underlying costs driving call charges. The Director has also been concerned that *eircom* has not been able to provide a robust estimate of call set up costs and provide sufficient transparency of how the costs have been derived. The Director has sought to get the views of industry and other interested parties.

Should two-part charging be introduced from 1st April 2001? If you disagree, please specify your reasons in detail. ***(Q 4.1)***

Views of the Industry

With one exception, respondents accepted the general principle that two-part charging be introduced but had concerns about the timing and manner of the introduction.

One respondent considered that two-part charging, properly cost justified, should apply from the effective date of any revised RIO and that all changes to the RIO should take effect on the first day of a calendar month following a notice period of not less than 21 days. This respondent went on to say that changes in price levels or structure should never be retrospective.

Two respondents strongly disagreed that two-part charging should be introduced from 1st April. In their view, such a move could damage the development of competition and would not benefit customers, as there could be significant negative effects on the cash flows of new entrant operators. They further believe that:

- Any move to two-part charging should not be imposed on a reciprocal basis but that OLO termination rates should, as now, be based on commercial negotiation.
- Any move to two-part charging should not be undertaken until the industry has agreed adequate arrangements for the implementation of the NTC regime[8].
- The use of two-part charging should be applied to all *eircom's* network (i.e. both the RIO services and the retail conveyance services using the network) in an entirely fair and non-discriminatory way and should include the application of two part charging principles within the NTC regime.

One respondent believed that the ODTR's analysis of two-part charging is flawed, claiming that:

- There is no evidence to support the ODTR's assertion as to the existence of three "call types", nor is there any information in the public domain concerning average durations of such calls over a significant period of time.
- The issue about the lack of transparency in determining any two-part charge remains and it is still far from clear that *eircom* is yet in any position to provide robust figures for such a charge.
- The practical implications, such as the need for additional billing testing between *eircom* and OLOs must be taken into account. A notice period of six months would be required.

One respondent considered that two-part charging should not be introduced because of the disproportionate effect that call set-up charging has on short duration calls. If two-part charging is to be introduced, it should only apply to calls using number translation codes that have been designated for Internet access.

[8] This matter has been under discussion by ODTR, eircom and the OLO for some time.

ODTR Comment

It is necessary to consider whether two-part charging should be adopted, if so how costs should be allocated between set-up and per minute charges, and when any such regime should be adopted.

In D7/00 (ODTR 00/59)[9], the ODTR indicated that it was persuaded of the principle of two part charging. It remains so. However, the ODTR also indicated that inadequate justification had been put forward at that time supporting the manner in which costs were derived. In particular, no credible mechanism had been advanced for calculating the relative extents of call set up and call duration related costs.

In response to the current consultation, the ODTR has received from *eircom* and its switch manufacturers an extensive, detailed, methodological justification of the allocation of costs to call set-up and duration. Having carefully reviewed these submissions, ODTR accepts that a credible method of allocating costs can now be defined and should, furthermore, be applied to originating, terminating, transit, and NTC interconnection so as to achieve a more cost oriented approach.

However, reflecting on the concerns raised in this consultation and the detailed review of allocation methods, ODTR believes that a number of adjustments to the computations as proposed by *eircom* must be made. These changes require that the cost of elements, for example cards within switches, (ODTR considers that at this moment cards represent the lowest level of disaggregation that can occur in a deterministic fashion) be allocated to call set up only if that is their predominant purpose. The effect of this is to reduce the proportion of costs allocated to call set-up from that proposed by *eircom*. In deciding for this approach, ODTR has also taken regard of the relative scale of set-up charges versus duration charges in other countries, as well as the fact that there is no one answer acceptable to all, and that any allocation method could be subject to legitimate counter-arguments. Furthermore, given industry concerns and the fact that this will be the first time that two-part charging is introduced, ODTR believes that this approach is the most appropriate at this time. ODTR will nevertheless continue to review how costs are split and will consider further arguments in future determinations.

We now consider the date for implementation.

ODTR accepts, in this instance, that applying such a major structural change to a date that has already passed would be inappropriate. Indeed, this has never been considered an option. Immediate introduction, too, would appear inappropriate. ODTR has decided that two-part charging should be introduced from 1st October 2001. There are arguments for and against a different date but, in reaching this conclusion, ODTR has taken account of concerns raised including the need to:

- move to a system that better reflects costs
- consider modifications to business plans
- modify billing systems and procedures
- allow a reasonable time in which to resolve concerns raised in connection with the NTC regime.

[9] *eircom's* Reference Interconnect Offer, Decision Notice D7/00 & Report on the Consultation, (Document No. ODTR 00/31)

ODTR notes that this decision is directed at SMP operators only. ODTR strongly believes that interconnection arrangements should be reciprocal but notes that interconnection services offered by non-SMP operators should, in the first instance, be a matter for commercial negotiation.

Decision 8.1

Two part charging will be introduced on 1st October 2001. The RIO when republished shall include a one-part charge that will apply prior to 1st October 2001 and the two-part charge that will apply thereafter. **When allocating costs to call set-up charges, only those components that are predominantly related to call set-up will be included.**

8.2 Differential pricing for Call Origination and Call Termination for Interconnection

eircom have argued that there are different cost elements associated with Call Origination compared to Call Termination in terms of network hardware facilities, network capabilities used, and the proportion of unsuccessful calls. Therefore the cost based charges for each type of service should be distinguished.

The Director has previously accepted that there may be different costs for Call Origination compared to Call Termination and has considered the views of other interested parties.

In ODTR 00/31 (D7/00) the issue of whether Call Origination and Call Termination should be charged at different rates in the context of setting the RIO rates was discussed. In Decision 5.2.1 of D7/00 the Director decided that *"eircom shall continue to charge the same rate for call termination and origination until it provides evidence to support the materiality of any difference which may exist in network cost elements used in the provision of call origination and termination"*.

Do you consider that there are material differences in network cost elements used in the provision of Call Origination and Call Termination, please state in detail your reasons. ***(Q 4.2)***

Views of the Industry

Whilst recognising certain theoretical differences (for example the treatment of unsuccessful calls), the OLO community generally felt that insufficiently detailed information on the costs was provided to enable them to comment on whether different charges were appropriate. Particular concern was raised about whether routing factors reflected ‘best practice’ especially for call origination and whether routing of originating calls favoured calls remaining within the *eircom* network. Other concerns were whether ‘non-conveyance facilities’ were justified and also the level of service unbundling offered.

One OLO went much further and questioned whether call origination should be regulated at all. It argued that doing so was likely to discourage competitive provision of originating services.

One respondent reiterated that different costs existed, were material, and could be quantified in the following areas:

- Different network components – for example ringing current generators are only provided on terminating calls.
- Different routing factors – because, for example, OLOs can choose how to migrate large volume customers from CPS to other 'self-provided' solutions.
- Different failure rates – because, for example, some calls fail before a terminating circuit is seized.
- Certain specific cost items require different treatment – for example CPS and number portability costs.

ODTR Comments

This question has raised a number of points that require to be addressed separately.

Applicable routing factors. The Director believes that while the establishment of points of interconnection and routing arrangements are appropriate for bilateral negotiation, OLO's should not be disadvantaged if *eircom* chooses to handle interconnecting calls in a deliberate or excessively inefficient manner (for example, by not implementing primary-to-primary interconnection, even if volumes justify this). Previous decisions have assumed a greater incentive to route terminating calls efficiently. The Director, noting decisions made with respect to Question 4.6 and the strength of comments made by OLOs, remains concerned that recorded routing factors, especially for call origination, do not reflect efficient principles. The development of bottom-up LRIC indicates no reason why terminating and originating calls would be routed differently in an efficient network. In this model, routing arrangements were such that if a PoI was established it would be available in both directions. This principle should be adopted when forecasting routing factors. Generally, termination occurs at lower levels in the hierarchy and has, therefore, lower routing factors. In the absence of alternative proposals, the lowest of terminating or originating routing factors may be used as a proxy for efficiency.

Different failure rates and cost elements. The Director recognises that differences exist and could lead to different rates but has yet to see whether these alone are material. However, other decisions in this document (notably relating to line cards and two-part charging) must be reflected in any justification for introducing different charges and assessment of materiality. For similar reasons as those cited in section 8.1 on two part charging, the Director also proposes that only those elements or costs that are predominantly used for, or result from either termination or origination, be candidates for different treatment.

Should there be different termination and origination rates or should an average be used? The Director has not changed her position that different origination and termination rates can be accepted if fully justified. However, in line with the decision on two-part charging and, for similar reasons, she proposes that should separate rates be accepted introduction will be delayed until at least 1st October 2001.

Decision 8.2

Justification for separate termination and origination rates will be considered but may not be introduced before 1st October 2001. The revised RIO, with separate rates, will be published at least six weeks prior to this date.

Proposals with justification should be presented to ODTR not later than mid-July 2001.

When allocating costs to termination or origination, only those elements that are solely related to one service may be considered for separate treatment.

In line with Decision 8.7 on routing factors, ODTR requires that forecast routing factors be used that assume efficient routing. This should be based on the assumption that all PoIs are available for use in either direction.

8.3 RIO Services

The Director proposed that the RIO services disclosed in the Separated Accounts should be the services listed in the RIO which was in operation for the duration of the accounting year, and for which routing factors can be calculated. For example, the services listed in the RIO for the year 2000/2001 should be disclosed in the Separated Accounts for the year 2000/2001. The services included in the RIO document can change from year to year. This proposed amendment would have two advantages:

(i) The Decision Notice on Accounting Separation would not have to be changed every year to include the list of RIO services that have to be disclosed in the Separated Accounts.

(ii) *eircom* would know in advance which RIO services have to be disclosed in the Separated Accounts.

Do you agree with the proposed amendment to Decision 4.3.5 of D9/00 in respect of the RIO services to be disclosed in the Separated Accounts? If you disagree, please specify your reasons. ***(Q 4.3)***

Views of the Industry

Two respondents agreed with the proposal in the question. One response indicated that some services might be excluded on the basis of immateriality or absence of necessary costing information, such absence to be justified to ODTR.

Two respondents agreed in general terms but felt that the description of services needed to be modified to include all services and not just those for which routing factors can be calculated. This would ensure transparency in relation to all services that make use of network components and facilities, for example, interconnection circuits.

ODTR Comment

ODTR agrees that all services should be capable of cost reporting and should be included in the Separated Accounts. Some aggregation of closely related services may be necessary to ensure a practical approach, but the underlying principle is that there is adequate disclosure at an appropriate level.

Decision 8.3

The services listed in the published RIO applicable to the accounting period being reported should be accounted for separately in the published statements.

8.4 Non Conveyance Costs

eircom was required under Decision 4.3.3 of D9/00 to analyse the costs of Carrier Administration and Carrier Billing on a per minute basis in the HCA, CCA and LRIC Separated Accounts. The information published by *eircom* in the Supplemental Information published on 15th December 2000 did not disclose the required information. All of the costs for Carrier Billing and Carrier Administration were allocated to Interconnect Connections and Rental. The reason for this is that, initially, the focus on LRIC calculations was on basic inland Conveyance Services covering Call Origination, Call Termination and Domestic Transit.

The Director recognised in ODTR 00/16[10] that the provision of interconnection can result in costs (such as Carrier Administration and Billing services) that are over and above the actual cost of conveyance. These costs should be fully justified and identified as being incremental to interconnection and recovered through a per minute charge on all minutes of relevant traffic over the network.

The Consultation Paper requested data in relation to Carrier Administration and Carrier Billing to be collected in respect of the RIO services that incur Carrier Administration and Carrier Billing costs. These costs should be calculated on an appropriate basis.

Do you agree with the Director's position that Carrier Administration and Carrier Billing should be calculated for each relevant RIO service on an appropriate basis? If you disagree, please specify your reasons. ***(Q 4.4)***

Views of the Industry

All respondents were broadly in agreement with the proposal in the question. Two respondents commented in some detail. One submission emphasised that cost allocations should not only take account of fair attribution to all relevant services but should also take account of the beneficiaries of the costs, i.e. the incumbent as well as OLOs. The high level of the cost of providing these services was also subject to criticism and the need for robust analysis of costs was highlighted. The cost category of "Non Conveyance Other Costs" was also questioned both in terms of content and justification.

ODTR Comment

It is the Director's view that non-conveyance costs should be analysed and apportioned by product and subsequently reflected in the appropriate billing mechanism for each respective product and service.

Decision 8.4

Appropriate non-conveyance costs, subject to review by the Director, including appropriate carrier billing and carrier administration, should be apportioned by product and reflected in the RIO rates for each respective service / product.

[10] eircom's Reference Interconnect Offer, Consultation Paper, (Document No. ODTR 00/16)

8.5 LRIC Statements

The LRIC statements published in *eircom's* Separated Accounts complied with the format of the Network Statement of Cost and the Statement of Cost of Network Services as set out in D9/00. In addition, *eircom* also published 3 further statements which were as follows:

(i) Inland Core Conveyance Network – Statement of Costs including CCA Adjustment Distributed LRIC.

(ii) Inland Core Conveyance Network – Statement of Costs including CCA Adjustments Distributed Long Run Incremental Cost plus Recovery of Inter Increment Fixed Costs and Joint Costs.

(iii) Reconciliation of Incremental Cost Results.
This statement summarised the results from the statements mentioned at (i) and (ii) above together with the Inland Core Conveyance Network Statement of Cost Including CCA Adjustments - Long Run Incremental Costs.

The Director proposes that these statements be formally incorporated into the forthcoming Separated Accounts.

Do you agree that the LRIC statements mentioned above (i) to (iii) should be included in the Separated Accounts? If you disagree, please state in detail your reasons. ***(Q 4.5)***

Views of the Industry

Three respondents agreed with the proposal to include the statements in the Separated Accounts. Two respondents also agreed with the inclusion but requested that ODTR state its plans for price setting based on LRIC methodology, including:

- The account to be taken of both top-down and bottom-up LRIC data.
- The nature and extent of any reconciliation exercise.
- The extent of industry involvement in the process.
- Time scales for the above.

ODTR Comment

ODTR agrees that the statements described above add clarity and transparency and should be included in the Separated Accounts. Comments of the use of the top-down and bottom-up model are addressed in section 6.1.

Decision 8.5

The statements described as (i) Inland Core Conveyance Network-Statement of Costs including CCA Adjustment Distributed LRIC, (ii) Inland Core Conveyance Network-Statement of Costs including CCA Adjustments Distributed Long Run Incremental Cost plus Recovery of Inter Increment Fixed Costs and Joint Costs and, (iii) Reconciliation of Incremental Cost Results above, are to be included in the Separated Accounts for 2000/2001 and subsequent years.

8.6 Routing Factors

During the ODTR's review of the Separated Accounts (HCA, CCA and LRIC) it was noted that the routing factors used in the RIO were different from the routing factors used in the Separated Accounts. The ODTR is aware that there could be differences between theoretical routing factors for efficient operators, *eircom's* forecast routing factors and the outturn routing factors as measured or sampled.

Comparison can be made between the expected routing factors as set out in the forecast RIO statement and outturn routing factors as measured. The difference between the two sets of routing factors could be caused by inefficient routing of calls or routing factors used in the RIO which are not representative of the actual routing of calls within the network.

All services sold by the Core Network to OLOs or to Retail are built up from a combination of one or more network components using routing factors. Currently, the routing factors used in the RIO are based on "efficient operator" principles whereas, to date, the routing factors in the Separated Accounts are the actual routing factors generated from samples.

Q 4.6 Should routing factors used in the Separated Accounts be the same as the routing factors used in the RIO which was in operation for the relevant accounting year? please specify your reasons.

Views of the Industry

Two respondents agreed, with an additional comment by one, reiterating that the routing factors should be those of an efficient operator.

One respondent felt that the same routing factors should be used both for Separated Accounts and RIO pricing and that they should be based on the network planning matrix and take account of current studies. This is essentially an approach that uses not actual routing factors but planned routing factors that relate to network dimensioning. Internationally recognised standards would be used to define the associated rules for design and dimensioning. It is also argued that the way OLOs use *eircom's* network could result in inefficiencies and additional costs, and that these should be recoverable.

Two respondents agreed that there should be consistency between the RIO and Separated Accounts. In these responses it was suggested that the finalised RIO rates for a period should be based on actual outturn measured routing factors, costs and volumes. If the routing factors for both RIO and Separated Accounts were to be based on forecast rather than outturn costs, then the effect of any material differences should be reflected in the interconnect rates.

ODTR Comment

There is unanimity that both the RIO rates and Separated Accounts should be based on the same routing factors. Where differences arise is whether the routing factors should be based on historic actuals or forecasts.

The ODTR view is that routing factors should reflect efficient operator status. ODTR reviews the forecast factors (on which interim rates are set) and requires that they are developed from principles that are reasonable and reflect efficient planning. Actual measured routing factors may for valid reasons, such as network management intervention, not reflect this theoretical efficiency. ODTR therefore believes that the factors used to finalise rates should also be based on efficient routing principles (which may well be those underpinning the forward-looking forecasts used to set the interims) updated, as necessary, to reflect *actual* volumes and costs.

The routing of calls for call origination raises particular concerns. The interpretation of efficiency in this case is discussed in section 8.2.

Decision 8.6

The Separated Accounts for a given year and the finalised RIO rates relating to those accounts are to be based on the same Routing Factors.

Routing factors on which interims are based will be forward looking and reflect an efficient operator approach. The routing factors used to finalise rates will be based on appropriate efficient principles but shall be updated to reflect actual costs and volumes.

8.7 Transit Rates

Currently, *eircom* charges a single rate for all calls transiting their network. Various operators have commented that different types of call have different paths through the *eircom* network and utilise different amounts of equipment. To reflect this it would be possible to subdivide the existing single transit call category into three types:

- Geographic call transit
- Non – geographic call transit
- Transit calls to mobile

In addition *eircom* is being called upon to handle peak hour overflow traffic on transit routes. Priced at the average transit rate, *eircom* say that this traffic under-recovers its costs, the burden being transferred to other transit traffic and *eircom's* retail traffic. This could be avoided by further subdividing transit call charges into:

- First choice route transit calls
- Second choice route transit calls

Each choice category could be applied to each call category creating six charge rates

Should the existing single Transit call charge be split into the following?

- *Geographic call transit*
- *Non – geographic call transit*
- *Transit calls to mobile*

Please specify you reasons. ***(Q 4.7.1)***

Views of the Industry

Two respondents agreed. One respondent indicated that it was unable to form a conclusion without additional background information. In support of the proposed segmentation of transit traffic, statistical data has been provided which indicates that Transit traffic is being switched through multiple stages. The number of switching stages has been shown to be associated with the destination service type. It is further argued that the present pricing arrangement does not incentivise OLOs to route originating traffic efficiently. There is also a claim that Mobile and Geographic Transit traffic delivered over *eircom* interconnect paths do not recover the costs of the paths used in the process.

By contrast, the proposal was not supported by two respondents who felt that the substantive issues were not being properly addressed. In this context it was argued that the drivers of transit costs were the number of switches transited, the number of transmission links and the average length of those transmission links. It was not seen that the proposed solution had recognised the true cost causation of transit calls. These respondents suggested that Transit charges should be split between single transit and double transit without delay, but that three months notice must be given for implementation of billing changes. This approach would be based on simple algorithms to identify calls between "single" and "double".

ODTR Comment

ODTR would accept that the present single-rate Transit charge does not effectively take account of the complex nature of traffic access, routing and delivery. Consequently it is agreed that the charges should be split into a more cost-reflective structure. However, it is the ODTR view that the replacement charges should take full and detailed account of the nature of traffic being transited and, therefore, rates should be based on the number of switches and links used and the distances between links. The rates should, also, include an incentive to OLOs to interconnect on an efficient basis.

It appears therefore that a considerable amount of further analysis will be required before a viable proposal can be put forward.

eircom is requested to develop a new proposal that meets all of the requirements described above and in the following paragraphs. This proposal should also deal with *eircom's* arrangements for billing the proposed charges.

The Director notes that single-rate transit charges are unlikely to reflect adequately the complexities of traffic access, routing and delivery. Because of the number of issues involved, *eircom* is requested to provide a comprehensive proposal prior to final determination. The proposal should take due regards to OLOs' concerns.

Should the existing single Transit call charge be split into the following:

- *First choice route transit calls*
- *Second choice route transit calls* ***(Q 4.7.2)***

Views of the Industry

One respondent questioned the practicalities of the proposals and three respondents strongly disagreed with the proposal. The opposition is based on the absence of a definition of how the process would work and how traffic would be measured and billed. There is also a perception that OLOs would not have sufficient visibility of overflow routing.

ODTR Comment

ODTR would concur that there is not a sufficiently well defined methodology available at this stage. However, the concept merits further development and should be included with the proposal requested above in relation to transit traffic.

The Director notes that single rate transit charges are unlikely to adequately reflect the complexities of traffic access, routing and delivery. Because of the number of issues involved, *eircom* is requested to provide a comprehensive proposal prior to final determination. The proposal should take due regard to OLOs' concerns.

If Transit Call charges are to be split, from what date should this split be introduced? ***(Q 4.7.3)***

Views of the Industry

One respondent did not feel that a sufficient case had been presented to consider development. Two respondents replied, as already mentioned, that Transit charges should be split between single transit and double transit without delay, but that three months notice must be given for implementation of billing changes. However, they also stated that the splitting of transit between first and second choice routes should not be introduced until an industry proposal has been agreed in relation to process and costs.

ODTR Comment

ODTR agrees in principle with the transit call split, but notes that there is not, at present, a sufficiently well defined proposal. It notes that the general concept appears to be acceptable to industry provided that there is an adequate level of transparency and justification in relation to the areas of concern. e*ircom* should therefore proceed on the basis of presenting a service package including pricing and billing proposals.

Decision 8.7

***eircom* should submit detailed proposals for sub-divided Transit Call charges to the Director.**

8.8 International Calls

In earlier RIO consultation exercises and, subsequently, *eircom* have represented that they are not dominant in the wholesale/interconnect market for International Call conveyance because their market share is currently almost zero. They have indicated a desire to offer services at a price below that arrived at after including gross international accounting rates as part of the cost base for the call.

Do you consider that eircom should publish a RIO price for International Calls including the gross international accounting rate as part of its cost base? ***(Q 4.8.1)***

Do you agree that eircom should be able to offer de-averaged rates for conveyance of International Calls. ***(Q 4.8.2)***

Views of the Industry

Two respondents questioned whether, or did not feel, that *eircom* had significant market power in this market segment and consequently agreed that there should not be a requirement to publish RIO rates. There were suggestions that *eircom* might publish indicative maximum rates but would be free to offer service at lower prices. Another respondent expressed concern that the conveyance market remains competitive and, as such, required safeguards to avoid the abuse of market position. This might include a defined "floor" price below which *eircom* would be prevented from pricing.

ODTR Response

When *eircom's* own retail arm is taken into account it cannot be accepted that its market share is zero. Nevertheless there is some evidence that the wholesale international voice market is now substantially open to competition and is served by a wide range of alternative carriers. The Director has already recognised the good prospects for development of effective competition in provision of retail international calls (see ODTR document 99/78). The Director is therefore sympathetic to less control but recognises that the Interconnection Directive requires publication of international rates. In particular, the Director would wish *eircom* to be able to avail of, and make available to OLOs wishing to interconnect with it, special rates available from time to time on the international conveyance market. The Director would welcome proposal from *eircom* on how it may be able to publish and offer such rates that reflect this dynamic market in a non-discriminatory basis that avoids below cost selling.

8.9 Gradients

The Director considered the relative merits of:

- Backward looking or Historical retail gradients
- Contemporaneous (real-time) gradients that are adjusted as retail prices change
- Forward looking gradients based on expected future retail traffic

Whilst accepting that there is merit in the concept of contemporaneous gradients, the Director considers that there might be practical difficulties.

The main difficulty with the contemporaneous gradients would be caused by *eircom* changing its retail prices during the year. It may be onerous to require changes to be made to the retail and interconnection gradients every time a price change occurs. The Director suggested that it may be sufficient to change gradients at regular intervals, say every six months. The other issue of concern is that numerous changes to gradients would cause uncertainty for OLOs.

eircom have represented that changes which were not matched by changes to the interconnect price gradients have created some anomalies. They propose that a contemporaneous interconnect gradient regime be adopted for substantial price changes to prevent a recurrence.

Do you consider that a contemporaneous (real time) system of interconnect price gradients should now be adopted and, if so, how would it work in practice? (Q 4.9.1 & 4.9.2)

Views of the Industry

The responses indicated that, whilst the principle of contemporaneous interconnect price gradients was accepted, all respondents have concerns about how the process will operate.

One respondent believed that a contemporaneous system of interconnect price gradients should be adopted, but only where there is a material difference of 1% or more. They proposed that recalculation should take place either when a substantial price change is announced, or where a substantial change in call patterns occurs and using the same gradient for all network charges. They further propose that, when the ODTR is notified of impending price changes, they should also be advised of the likely impact on gradients and, if the change is agreed to be material, require revised RIO prices to be published 21 days before the change becomes effective.

Four respondents considered that there were practical issues to be addressed and that the proposal would need to ensure that:

- Gradients are calculated in a transparent and reasonable way.
- Gradients should only be calculated and applied in aggregate and there should not be different types of gradients for different types of services.
- There is a reasonable process to ensure that there are not too many changes.
- The timescale for the introduction of such a regime is reasonable and that the notice periods for each individual change are acceptable to OLOs.
- There is independent scrutiny of the gradient calculations.

ODTR Comments

The ODTR accepts that the interconnect price gradient may need to be altered between interconnect determinations in order to avoid distortions produced by large changes in retail prices. This needs to be balanced by the need to keep the number of changes to a minimum so as to limit the degree of commercial uncertainty that would be created by continually changing rates.

To this end, the ODTR feels that a materiality test is required to see if a change in retail prices justifies a change in interconnection price gradients. We believe that any retail price change that, singly or cumulatively, caused any element of the interconnect price gradient to change by more than 5% should be considered material.

The ODTR is also concerned that OLOs are given sufficient notice of changes to the interconnect rate in order to have the opportunity to consider these rates without being disadvantaged in the market place.

Decision 8.9

When *eircom* proposes new prices the gradient should be recalculated and detailed workings submitted to the ODTR. If any element of the gradient is more than 5% different then revised interconnect prices should be published applying the contemporary gradient. Notification of the change shall take place at least 21 days in advance of the change being

effected and at the same time as the publication of the retail price. The interconnect gradient change will be published no later than 21 days after the retail price has been published.

8.10 Primary to Tertiary Link

The Separated Accounts published by *eircom* for the year ended 31st March 2000 included an additional network element called a "Primary to Tertiary" link, as a result of a change in *eircom's* network structure which routes traffic between the primary and tertiary node. The Director proposed that the RIO forecasts included in the Separated Accounts should also include this "Primary to Tertiary" link so that comparisons can be made between the RIO and the Separated Accounts.

Do you agree that the RIO Forecast included in the Separated Accounts should use the "Primary to Tertiary" link in calculating costs? If you disagree, please state in detail your reasons. ***(Q 4.10)***

Views of the Industry

The proposal was accepted by two respondents and given a qualified acceptance by one other insofar that the "Primary to Tertiary" link be used in calculating costs but the information should be published as supplemental to the audited Separated Accounts.

Two respondents expressed concerns that there is a wider issue relating to efficient network topology. It is essential that there is consistency between the RIO and Separated Accounts but the routing arrangements also need to be efficient.

ODTR Comments

The separated accounts and the RIO forecasts should be consistent, and both should reflect efficient network routings.

The creation of the "Primary to Tertiary" link category is a result of an improvement to the efficiency of the *eircom* switching hierarchy; therefore it is appropriate to amend the separated accounts format.

Decision 8.10

The Statement of Costs of Network Services shall be amended to include "Primary to Tertiary" links.

8.11 Double Tandem

The RIO for the year 2000/2001 does not distinguish between Double Tandem > 50km (long) and Double Tandem < 50km (short). These services are a subdivision of Call Termination and Call Origination. The RIO is based on the expected handling of traffic. The switching for Double Tandem short (<50km) is similar to that for Single Tandem. Therefore the Double Tandem short option was eliminated from the RIO charges set in June 2000 which reverted to a single Double

Tandem charge. The Director suggested that the Separated Accounts for 2000/2001 should be presented on a basis similar to the RIO which was in operation for 2000/2001 i.e. there is only one set of costs for Double Tandem.

Do you agree that the Statement of Costs of Network Services should only include one set of costs for Double Tandem (Call Origination and Call Termination)? i.e. the distinction between Double Tandem long and short should be eliminated in the Separated Accounts. If you do not agree, please state in detail your reasons. ***(Q 4.11).***

Views of the Industry

One respondent agreed that, as the distinction between Double Tandem Long and Short has been eliminated from the RIO, it is no longer required to be published in the Statement of Cost of Network Services.

Two respondents raised a number of concerns which conclude that the averaging of costs of Double Tandem may result in charges which are to the disadvantage of some operators.

Two respondents agreed with the proposals.

ODTR Comment

The current presentation in the separated accounts no longer reflects the underlying service provision and is inconsistent with the RIO rates offered.

Decision 8.11

The Separated Accounts should reflect the underlying service provision and be consistent with the RIO. Therefore the Separated Accounts should use a single double tandem rate.

8.12 Retail Services

The Director proposed that Internet Service Supply and Leased Lines be excluded from the Statement of Cost of Network Services, on the basis that these services are not sold on a per minute or per call basis.

Do you agree that Internet Service Supply and Leased Lines should be excluded from the Statement of Costs of Network Services? If you disagree, please specify your reasons. ***(Q 4.12)***

Views of the Industry

One respondent believed that Internet Service and Supply and Leased Lines should be included in the Statement of Costs of Network Services for completeness and reconciliation.

Two respondents believed that the current format is inappropriate because Leased Lines and ISS are non-switched services, purchasing reserved capacity, and are not on a ppm basis. As a result, they have concerns over the ‘cost orientation’ of these charges and, as ISS and LL incur interconnect connection and rental charges, would wish to see an analysis of all the underlying component unit costs, component usage factors and, hence, total and unit costs. They want to see published:

- The underlying Leased Line "components" (i.e. operating and capital costs, volumes and, hence, unit costs) as part of the "Core Network Business Statement of Costs".
- Appropriate information on the costs of services using the leased line components, as part of (or an extension of), the "Statement of Costs of Network Services".

One respondent considered that the fact that these services are not charged on a ppm basis is not sufficient for their exclusion and views them as an essential input component to competitors businesses without which (or if they are overpriced) it is impossible for other operators to compete. They want:

- Full LRIC pricing of Leased Lines.
- Availability of wholesale terminating segment Leased Lines at non-discriminatory prices in the sense that the internal transfer charge is the same as the price charged to other operators.
- The inclusion of Leased Lines in the Separated Accounts.

ODTR Comment

Respondents made a number of valuable points, requesting additional information, which the ODTR will attempt to satisfy in an appropriate context. However, the Statement of Costs of Network Services (p65) is not an appropriate context. *eircom,* correctly, show no values against these headings on this sheet, reflecting the appropriateness of removing these line titles.

Decision 8.12

Internet Service Supply and Leased Lines shall be excluded from the Statement of Costs of Network Services

8.13 Payphones

The format adopted in Payphones treats *eircom's* retail arm on the same basis as external competition and shows the transfer from *eircom's* retail calls at the wholesale rate applicable to external operators. Whilst this presentation directly addresses the issues of discrimination, cross subsidy and fair competition, it presents an incomplete picture in relation to assessing the extent of *eircom's* universal service obligations.

To address this second issue, the Director proposed that a memorandum note be added to the payphone statements indicating the level of returns achieved by public payphones, including the returns earned elsewhere in Retail, Access and the Core Network.

Do you agree with the proposal that eircom be required to produce a memorandum to the payphone services as specified. If you wish to add to the specification, or you disagree with it, please give your reasons. ***(Q 4.13)***

Views of the Industry

One respondent considered that a memorandum to the Payphone Services may be of some use to the ODTR but did not believe that such information should be published as it might lead to a misinterpretation of Payphone Services with particular regard to USO.

Two respondents fundamentally disagreed with the way in which the current charges are built up. They maintained that it is not possible to see from the Separated Accounts what the total or unit network charges are for the Payphones activity. They also maintained that it is not possible to see that the network charges attributed to Payphones are based on the same component unit costs as apply to other retail services and the RIO services.

They would wish to see the Core and Access network charges attributable to Public Payphones directly identified as part of the "Statement of Costs of Network Services". The P&L for Public Payphones should identify all network transfer charges, along with the retail operating costs and capital employed attributed on a cost causation basis.

The two respondents considered that assessing *eircom's* USO obligations should be a separate exercise and should take account of USO "benefits".

One respondent agreed with the proposal.

ODTR Comment

The Director believes that the Separated Accounts are intended for assessing issues of non-discrimination, cross subsidy and fair competition and as such the proposed reporting arrangements are adequate for the time being. The need for further information that may be required for evaluation of USO is a separate matter and will be dealt with accordingly.

Decision 8.13

***eircom* will be required to publish a memorandum note indicating the level of returns achieved by public payphones, including the returns earned elsewhere in Retail, Access and Core Network.**

9 Boundary between Local Access Network and Core Network

The Director has sought the industry's view in relation to the boundary between the Local Access and the Core Network. In preparing the HCA Separated Accounts for 1999/2000, *eircom* included only *'a share of line cards and ports located at concentrators and/or exchanges'* whilst the definition in the Decision Notice D5/99[11] and the Separated Accounts for the year ended 1st April 1999 included the entirety of "*line cards and ports located at concentrators and/or exchanges*".

eircom claimed that the treatment of the line card in the Separated Accounts was underscored by manufacturing studies that suggested that a portion of the line card costs should be attributed to the Core Network.

[11] Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision Notice 5/99 & Consultation Report and Issues for Further Consideration, (Document No. ODTR 99/35)

The Director wishes to reconsider the issue of where the boundary lies between the Core Network and the Local Access Network in light of changing technology and developments. Appendix II sets out the original definition for the Local Access Network and the Core Network as set out in ODTR 99/10.[12]

*Do you agree with the definition of the Core Network as set out in Appendix II and do you agree with the definition of the Local Access Network as set out in Appendix II? **(Q 5.1&2)***

Views of the Industry

One respondent agreed in general with the ODTR but believes that, as *eircom's* Retail business does not, in itself, own any switches, it does not interconnect with the core network but merely resells it. They wish to define the core network revenue as "derived principally from the sale of both its services to the Retail business and interconnection to other operators".

They further disagreed on one specific point and consider that line cards located at concentrators and/or exchanges exist simultaneously in the line sensitive and traffic sensitive domains and, whilst accepting that the line card exhibits a direct causal cost relationship with the number of lines, they remain adamant that, at a functional level, line cards perform operations related to traffic.

Two respondents believed that the *eircom* proposal is counter to good engineering practice that line cards are provided on the basis of customer connections and are not caused by, or incremental to, call conveyance and, as in the case of most regulatory costing regimes, they are part of Access, not Core network. They consider that the Consultation Document does not provide them with sufficient detail upon which to comment.

Two respondents believed that some proportion of the line cards are traffic sensitive in the case of *eircom's* network.

One respondent felt that it would not be feasible to revise the definition at this point as any amendment would be a major undertaking and would have knock-on implications in other areas such as LRIC modelling of interconnection charges.

One respondent agreed with the definition.

ODTR Comment

The two definitions are inextricably linked as the choice of an appropriate boundary between the core and access networks affects both definitions.

Depending on the design chosen by the switch manufacturer the line card may contain additional functional blocks but its elemental function remains that of line connectivity. The line card is provided on the basis of lines connected and the provision is not affected, in an **efficiently engineered network**, by any traffic considerations. The Director considers that where there is a single driver (e.g. line quantity) which determines the provision of a network element then the cost of that element should be solely attributed in accordance with the driver. The boundary

[12] Accounting Separation and Publication of Financial Information for Telecommunications Operators, Consultation Paper (Document No. ODTR 99/10)

between the core and access networks will therefore be at the switch side of the line card. This is in accordance with the decisions of other NRAs who treat the line card as part of the access network and create the boundary accordingly.

The Director continues to believe that *eircom* Retail avails of interconnection services to access the Core Network and cannot accept *eircom's* proposed modification to the definition of core network revenues.

Decision 9

The access network boundary shall remain at the switch side of the line card.

The definitions of the business areas will be those set out in Appendix II of this Decision Notice.

10 Notional Debtors/Creditors

The subject of whether the Notional Debtors/Creditors should be specifically excluded from the Separated Accounts is discussed below. In the past, this issue has mainly been discussed in the context of setting Interconnection rates. Set out below is a brief summary of the issues previously discussed and the conclusions reached.

Interconnection Rates

(i) In ODTR 98/52[13] it was decided that Notional Debtors should be excluded in the calculation of capital employed for the network business. Decision 4.7 prohibits *eircom* from including these assets in its calculation of RIO rates.

(ii) In ODTR 00/31, Decision 8.3.1 states that Notional Debtors are removed in the calculation of Customer Sited Interconnection circuits.

Separated Accounts

The purpose of including Notional Debtors / Creditors in the Separated Accounts was to try to reflect the conditions that would apply if each business unit operated as a stand-alone entity. This would imply that retail units bought wholesale services from the network divisions on the same commercial terms as other operators and would therefore assess their return on capital employed on the basis of total assets including working capital.

The issue of excluding Notional Debtors in an Accounting Separation context has not been discussed previously. The ODTR requested *eircom* to separately disclose Notional Debtors/Creditors within each business unit balance sheet in the unaudited Supplemental Information that *eircom* published on 15th December 2000.

The proposal set out in the consultation paper was that Notional Debtors/Creditors should be excluded in the Separated Accounts for the following reasons: -

(i) If the Separated Accounts are to be prepared on a basis comparable with the RIO, then it is necessary to exclude Notional Debtors/Creditors.

(ii) The inclusion of Notional Debtors/Creditors in the Separated Accounts can make business units appear as if they are making a greater loss than in reality, due to the effects

[13] Interconnection Rates in the Irish Telecommunications Sector, (Document no. ODTR 98/52)

of transfer charges from the Core Network and Local Access Network being inflated by the inclusion of Notional Debtors within those networks. Conversely, meaningless negative working capital figures were being created elsewhere.

(iii) Notional Debtors/Creditors are an artificial figure that can be calculated on an arbitrary basis.

The decision to include/exclude Notional Debtors/Creditors is influenced by whether Industry believes that the HCA Separated Accounts should be presented on a basis compatible with the RIO calculation.

*Do you agree that Notional Debtors/Creditors should be excluded from the Separated Accounts to ensure consistency of treatment with the method of calculating RIO charges? If you disagree, please state in detail your reasons**. (Q 6.1)***

Views of the Industry

Four respondents agreed with the proposal in the question. One respondent submitted that finance charges in this context are valid and should be included both in the RIO rate determinations and in the Separated Accounts preparation. The basis for this position is that calculation of working capital can be executed in a manner which correctly takes account of the distinction between wholesale and retail debtors and creditors. In support of its argument it is stated that a similar approach has been accepted by other telecommunications regulators.

ODTR Comment

ODTR is convinced that there is sufficient evidence that inclusion of notional working capital in the Separated Accounts presents a distorted view of results for individual services. Creation of Notional Debtors and Creditors consists of accounting adjustments but does not generate actual cash flow movements. The principal reason for preparation of the Accounts is to provide greater transparency and to promote industry confidence in the manner in which rates are justified. The conclusion therefore is that the inclusion of Notional Debtors and Creditors in the Separated Accounts is not of benefit and diminishes the usefulness of statements and on this basis should not be included in future publications.

However, there is a valid argument that actual debtors for wholesale customers can be accurately identified for relevant services and should be disclosed in the Separated Accounts.

Furthermore there is a real cost to *eircom* of extending appropriate credit terms to operators, the cost of which may appropriately be recovered through wholesale rates. Costs of a longer period are not, however, appropriate for inclusion.

Decision 10.1

Notional Debtors and Creditors should not be included in the Separated Accounts. However, Debtors in respect of provision of interconnect services to wholesale customers (OLOs) is a real working capital requirement and should be included in the separated Accounts. Recovery by *eircom* of the cost of funding credit, provided to wholesale customers, will apply, except in exceptional circumstances, only to debtor levels based on standard credit terms.

If you consider that Notional Debtors/Creditors should be included in the Separated Accounts, how should the figures be calculated? ***(Q 6.2)***

Views of the Industry

The only respondent proposed that there should be different rates between OLOs and the incumbent which would enable recovery of the finance charge from OLOs only.

ODTR Comment

The Director's decision, indicated above, is that the appropriate cost of funding external debtors should be recovered across all relevant services. As Nominal Debtors are not to be included in the Separated Accounts, it is not now necessary for Notional Debtors to be calculated.

Do you consider that Notional Debtors/Creditors should only be separately disclosed as unaudited Supplemental Information in the published HCA Separated Accounts? **(Q 6.3)**

Views of the Industry

Three respondents agreed with the proposal in the question. The other respondent felt that there was no requirement to publish unaudited supplemental information.

ODTR Comment

As indicated in the above decision, it is not now appropriate for notional debtors to be disclosed in the Supplementary Information.

11 Disaggregated Activities

11.1 Definitions

It was mentioned in ODTR 99/35[14] that the list of Disaggregated activities might have to be reviewed to take account of technological and commercial developments. The Industry has been asked to review the list of disaggregated activities set out in Appendix III in the light of relevant market growth, or changes in products offered by *eircom.* The list of disaggregated activities are based on the disaggregated activities included in Appendix III of ODTR 99/35 and ODTR 99/52[15].

Do you agree with the list of disaggregated activities set out in Appendix III? What disaggregated Activities do you consider should be included/excluded, and what is your reasoning for this? What is your definition of any additional disaggregated activities? ***(Q 7.1)***

Views of the Industry

One respondent was in general agreement with the definitions but has provided an appendix aimed at improving the consistency and clarity of some of them. Two respondents believed that

[14] Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision Notice 5/99 & Consultation Report and Issues for Further Consideration, (Document No. ODTR 99/35)
[15] Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision Notice d10/99, Document No. ODTR/99/52

the transparency and usefulness of the information could be enhanced by separately analysing Business Access from Residential Access. They further note that the Supplemental Service business is growing rapidly and should be kept under review as to whether any of its constituent services should be separately reported in the statements. They, also, have concerns that the list of activities published in the Separated Accounts has sufficient granularity to clearly identify key products and services.

One respondent agreed with the proposal but is unclear as to why no list of network services has been presented and believes that the Separated Accounts should ultimately aim to include:

- Disaggregated PSTN interconnect services.
- Mobile termination (in Separated Accounts for mobile operators).
- Wholesale terminating segment Leased Lines by bandwidth.
- Unbundled Local Loop.

One respondent agreed with the proposal.

ODTR Comment

- The ODTR recognises the need for on going review of definitions given the dynamic nature of the telecoms market, notes respondents' comments and will monitor further developments.
- ODTR feel that is appropriate to amend the wording of the retail service definitions to be more precise and to more accurately reflect current practice in Ireland.

Decision 11.1

The definitions of Disaggregated Activities are now as listed in Appendix III of this document.

11.2 Internet Service Provision

In D9/00, a consultation was issued in respect of Internet Service Provision (ISPs) that focused on whether ISPs should be disclosed in the Separated Accounts and what activities should be included in the ISP business unit. The ODTR issued ODTR 01/10[16] in February 2001 and ODTR01/11 in March 2001 offering interested parties the opportunity to contribute further to the issue of ISP within the Separated Accounts.

Do you agree that an ISP business unit should be separately disclosed in the Separated Accounts and, if so, what activities should be included in the ISP business unit? ***(Q 7.2.1 &7.2.2)***

Views of the Industry

One respondent believed that the ISP market is highly competitive and the publication of separate accounts could give competing ISP's a competitive advantage. They recognised the ODTR's concerns regarding unfair/cross subsidisation but felt that any disclosure made by ISPs should be made solely to the ODTR and that separate disclosure would be inappropriate.

[16] Accounting Separation for Internet Service Provision and Report on Investigation into Indigo and *eircom*.net, Decision Notice D2/01, (Document No. ODTR 01/10)

Two respondents believed that, given the power of *eircom* in the call origination/access part of the value chain, regulatory action should be focussed on:

- The obligations of an SMP operator to offer appropriate wholesale services to OLOs.
- Preventing unfair cross-subsidy and undue discrimination between different activities and levels in the incumbent operator's value chain.
- Ensuring that there is no undue discrimination/preference between internal customers (retail or wholesale).

They did not regard the provision of information on the "ISP business" as the most important issue and considered that the definition of ISP will need to remain flexible enough to cope with changes in the ISP markets and business models. The important issue is the proper identification of the different elements of the internet value chain, and ensuring the non-discriminatory treatment of network transfers between the different levels of the chain in the incumbents business, compared with the network services provided by *eircom* to OLOs.

One respondent saw no purpose in including this information in the Separated Accounts and one respondent had no comments to offer.

ODTR Comment

Whilst acknowledging the points that have been made, the Director believes that the information should be published providing the transparency of cost attribution.

Decision 11.2

The ISP business unit shall be separately disclosed in the Separated Accounts.

12 Capital Attribution for the purpose of calculating Return On Capital Employed

Until now *eircom* calculated a Return on Capital Employed (ROCE) for each business unit, based on the employed capital attributable to that unit. Where the entity in question was a discrete organisational unit, such as a subsidiary, the results were meaningful. The ROCE calculated for disaggregated Retail activity can be less meaningful. Part of the capital employed has to be apportioned on an appropriate basis as the structure of the disaggregated business units do not necessarily reflect the way in which the statutory accounting records are maintained.

Many of the disaggregated Retail businesses have shown negative Mean Capital Employed partly due to the distortions introduced by Notional Debtors/Creditors. Negative Mean Capital Employed results in a meaningless ROCE irrespective of whether the return is positive or negative.

The consultation paper included a basis for calculating ROCE which produced two results.

The first calculation used the Mean Capital Employed per the Separated Accounts. The second calculation used the existing Mean Capital Employed in the retail activity plus a reallocation of the Mean Capital Employed from the Local Access and Core Network to the various retail activities.

The restated values give a more reasonable indication of the level of return on capital being achieved in relation to the total quantity of Mean Capital Employed involved in providing the retail services.

The purpose for the proposed disclosure of this additional information was to redistribute the Mean Capital Employed from the Local Access/Core Network to the Retail business units that use the Local Access/Core Network as evidenced by the Transfer Charges from the Local Access and Core Network to the Retail businesses.

Do you agree that the publication of an additional ROCE in the format of Appendix IV increases the transparency of the Separated Accounts? If you disagree, what is the basis for your opinion. **(Q 8.1)**

Views of the Industry

Three respondents made no comment on this question and two agreed with the proposed solution. One other respondent also agreed with the general approach but had some difficulty in reconciling the numbers used in the consultation paper. The remaining respondent disagreed with the proposed approach on the basis that, by the nature of the business, retail entities did not have a significant capital investment and therefore an alternative measure, such as return on turnover, would be more meaningful.

ODTR Comment

The exclusion of notional working capital from capital employed as decided earlier in this notice removes some of the anomalies that distorted previous disclosures of Return of Capital Employed. As shown in the consultation paper there is a methodology which could allow for a calculation of ROCE in respect of each of the business units, based partly on an apportionment of network asset costs to retail business entities. This approach requires that the core and local access network assets are allocated to each of the business units using appropriate criteria. The level of accuracy achieved will depend on the level of detail employed in the generation of the asset allocation criteria. The Director is convinced that the proposal has merit and should be progressed with *eircom* to develop a methodology that will produce an acceptable allocation process.

Decision 12.1

The Separated Accounts should contain a schedule in a format to be finalised but which will be similar to appendix IV, which will disclose the Return On Capital Employed in each of the business units, including retail businesses.

Do you agree that the attribution of the Core Network and the Local Access Network Mean Capital Employed on a pro-rata basis to the Transfer Charge from the Core Network and or Local Access Network is an adequate mechanism for this purpose? If you disagree, please specify you reason and suggest an alternative approach. **(Q 8.2)**

Views of the Industry

Two respondents agreed with the proposal contained in the question. Three respondents disagreed with the proposal, one on the basis that ROCE was not an appropriate measure for retail activities as discussed above and two on the basis that the results would be meaningless or misleading without carrying out the attribution process at a lower level. The latter point is based on an assertion that capital employed as a proportion of total network costs varies from component to component and also that retail services use cost components in different proportions.

ODTR Comments

The additional comments made by respondents in this section tend to reinforce the arguments in relation to the previous question. That is, ROCE is a measure that applies mainly to capital-intensive business units. To use the same performance measure in relation to down-stream retail activities would require a detailed asset attribution process based on appropriate parameters.

Decision 12.2

Allocation of core and access network assets to business activities should be based on a sufficient level of detail to ensure that the process generates a reasonably accurate attribution of costs. *eircom* is required to include the ROCE measure, calculated on the basis that the allocation criteria used, adequately reflect the cost components and the relationship of cost components to services.

13 Supplemental Information

eircom published HCA Supplemental Information on 15th December 2000 in response to D10/00[17]. The Director gave *eircom* this derogation based on *eircom's* commitment to having developed its systems to support the provision of this information for the year ended 31st March 2001. The Director was disposed to allow additional time for publication in the year 2000 only. The Director received representation from *eircom* to the effect that some of the data required could not be presented in the Separated Accounts, due to the extensive development work required on *eircom's* accounting system to capture this data. *eircom* stated that this development work has commenced with a view to having this information in place for future Separated Accounts.

The Director requires that the information published in the HCA Supplemental Information should be incorporated into the Accounting Document and the HCA Separated Accounts with comparative figures where appropriate.

13.1 Network Statement of Costs

eircom published in the Supplemental Information the required information in respect of the Network Statement of Costs in terms of National Operator Assistance, International Operator Assistance, Carrier Administration, Carrier Billing and Intelligent Network. This information should be incorporated into the HCA Separated Accounts for 2000/2001.

[17] Accounting Separation and Publication of Financial Information for Telecommunications Operators, Supplemental Information referring to Decision Notice D9/00, Decision Notice D10/00, (Document No. ODTR 00/72)

Decision 13.1

Information in respect of the Network Statement of Costs in terms of National Operator Assistance, International Operator Assistance, Carrier Administration, Carrier Billing and Intelligent Network should be incorporated into the HCA Separated Accounts for 2000/2001

13.2 Forecast Statements

In D9/00, the Director stated that the transparency of Interconnection charges would be aided by the publication of a forecast Network Statement of Costs and a forecast Statement of Costs of Network Services which would set out the relevant forecast costs used in calculating the interim RIO rates currently in force. *eircom* published this information in the Supplemental Information. The Director acknowledges that the publication of the Forecast Network Statement of Costs that contains projected traffic volumes is commercially confidential. Therefore Decision 6.2 of D9/00[18] which requires *eircom* to publish a forecast Network Statement of Costs is amended in this Decision Notice.

Decision 13.2

For reasons of commercial sensitivity, *eircom* is not required to publish a Forecast Network Statement of Costs.

13.3 Payphone Access Charge

Decision 4.3.5. of D9/00 required *eircom* to separately identify a number of network elements, which included a payphone access charge. *eircom* included a statement in the Supplemental Information but the information disclosed could be presented in a more useful format. *eircom* published figures in respect of what the payphone access charge would have been, if the service had been in operation at 31st March 2000. The Director asked for comments in respect of the template set out in Appendix V, the format and content of which is similar to the Direction[19] issue by the ODTR in respect of the agreed Payphone Access Charge.

> *Do you agree with the format and content of the template for Payphone Access Charge included in Appendix V? If not, what additional information should be included or what information should be excluded? Please specify in detail.* ***(Q 9.3)***

Views of the Industry

One respondent did not agree with the format and content of the template in appendix V as it is too detailed and raises issues concerning commercial confidentiality. It believes that this type of detail could be presented to the ODTR for its own internal use but not for publication. The format used for the publication of the Supplemental information for 99/00 was considered to be acceptable.
Two respondents broadly accepted the format. However, the Network Costs “Line Rental”, together with any Line Connection (installation) costs, should be reconciled with the Statement of Cost of Access Services to ensure that Public Payphones are charged on a non-discriminatory

[18] Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision Notice D9/00 (Document No. ODTR 00/59
[19] Information Notice, Direction to *eircom* on Payphone Access Charge (Document No. 00/33)

basis compared with other access products. Therefore, Payphones should appear as a separate "service" within the Statement of Cost of Access Services.
One respondent agreed with the proposed format.

ODTR Comments

The ODTR recognises the need to balance transparency with the need to protect commercial confidentiality but, having carefully reviewed the responses to the consultation, the ODTR feels that publishing the level of detail stated in Appendix V of the consultation document compromises *eircom's* confidentiality for a modest gain in transparency.

Decision 13.3

***eircom* should continue to publish information on Payphone Access Charge in its current format, as outlined in Appendix V of this Decision Notice.**

13.4 Number Translation Codes

Decision 4.3.5 of D9/00 required *eircom* to separately identify retail costs applicable to Number Translation Code (NTC) Services. The Director asked for comments in respect of the template set out in Appendix VI, the format and content of which are based on the decision set out in ODTR 00/17.[20]

Do you agree with the format and content of the template for Number Translation Codes included in Appendix VI? If not, what additional information should be included or what information should be excluded? Please specify in detail. ***(Q 9.4)***

Views of the Industry

One respondent believed that the information published as Supplemental Information in December is sufficient for inclusion in the published statements for 00/01. Two respondents believed that the content of the table is not acceptable. *eircom* do not regard calls to the Internet access service 1891 as an NTC. For 1891 calls, *eircom* employs a completely different network solution and hence costs to other NTCs. Although *eircom* has yet to bring forward the information to the industry, it would appear that they propose that the new Internet Access Codes 1892 and 1893 will also not be NTCs but implemented on the same basis as 1891.

The respondents considered that, at a minimum, the table must include, in separate rows, the NTC "like" services 1891, 1892 and 1893 as they are developed. The cost of these calls will be different and should be identified. There is insufficient transparency of NTC and NTC "like" charges to enable OLOs to develop business cases.
One respondent agreed with the proposal

[20] Interconnect for calls destined for Internet services and Number Translation Codes, Decision Notice D4/00, (Document No. 00/17)

ODTR Comment

A number of respondents to the consultation have strongly requested that the list of services covered in Appendix VI be expanded to include "NTC like" services, in particular 1891, 1892, and 1893 services. While these services do not utilise an IN dip and one respondent argued that they are not NTC services in the strictest sense, nevertheless, the ODTR is persuaded that these services should be added to the list in Appendix VI.
The similarity of charging structure between NTC services and 189X services, i.e. retention rates, overrides any technical differences in the implementation of theses services and therefore for the purposes of accounting separation, 189X services will be treated as NTC services.

Decision 13.4

eircom **will be required to identify retail costs applicable to Number Translation Services and 189X services in the format as outlined in Appendix VI of this Decision Notice.**

14 Local Loop Unbundling and the Separated Accounts

The development of the Local Loop Unbundling (LLU) regime will have an impact on the format and content of the Separated Accounts. An Access Network Statement of Cost and a Statement of Cost of Access Network Services will have to be published. The Director requested comments on the templates set out in Appendix VII and VIII.

Do you agree with the format and content of the Access Network Statement of Costs set out in Appendix VII and, do you agree with the format and content of the Statement of Costs of Access Network Services set out in Appendix VIII? ***(10.1&2)***

Views of the Industry

One respondent agreed that the form and content of the Separated Accounts should be expanded to address the needs of Local Loop Unbundling and that the templates in the Consultative Document provide a useful starting point. However, they consider that the templates do not provide clear definitions for a comprehensive set of Local Access Network elements which is consistent with the Local Access Network business.

The level of detail required to support this statement is not likely to be available for 2000/2001 and, in the current financial year, the DSL and LLU products will have little impact on the Separated Accounts as no charges have been issued.

Two respondents supported the need for the statement but have concerns that the level of "component" detail is insufficient and that greater granularity is required, particularly with regard to demonstrating cost orientation and non-discrimination.

One respondent was in broad agreement with the proposals but has specific concerns over the way that collocation costs will be handled.

One respondent agreed with the proposed form and content of the Access Network Statement of Costs and the Statement of Costs of Access Network Services.

ODTR Comment

The ODTR accepts that there may be operational issues for *eircom* in gathering the data required for producing a detailed statement which may impact on the timing for producing such a statement. There is a clear demand for greater granularity of the information to be provided and, until the requirements are fully specified, *eircom* cannot, reasonably, be expected to make accounting process and system changes. As a result, the ODTR accepts that information for the year 2000/2001 will be published as an unaudited supplement. During the course of 2001/2002, the requirements will be clarified with a view to the information being published in the Separated Accounts for that year.

Decision 14

For the year 2000/2001, *eircom* are directed to publish an Access Statement of Costs and a Statement of Costs of Access Services in respect of Local Loop Unbundling as supplementary information.

Through consultation, the format of the statements will be refined during 2001/2002. The agreed format will be published in the Separated Accounts for year 2001/2002

15 Timeframe for the publication of the Separated Accounts

The Director is of the view that for Accounting Separation to be effective the information must be published in a timely manner.

The Director has proposed that Draft HCA, CCA and LRIC Separated Accounts should be submitted to the ODTR one-month prior to the required publication date. The Director understands that these figures may be subject to change. The following dates are being proposed for *eircom* to submit draft accounts to the ODTR.

- Draft HCA Separated Accounts to be submitted to the ODTR by 30th June.
- Draft CCA and LRIC Separated Accounts to be submitted to the ODTR by 31st August.

Also, the Director has suggested that a copy of the Accounting Document be submitted to the ODTR prior to the submission of the Draft Separated Accounts.

eircom have requested a derogation to forego the preparation and submission of the 2000/2001 half-yearly separated accounts on the grounds that the time and effort required to produce the half year results will significantly impact on *eircom's* ability to produce timely and accurate full year accounts. Given the work that *eircom* is carrying out in order to improve its accounting systems and the current time constraints the Director is considering whether to grant a derogation in respect of the half-yearly Separated Accounts and has asked for comments from interested parties. However, she is also of the view that the timetable for the production of the full year 2000/2001 financial information as outlined in Decision Notice D9/00, must be adhered to.

Do you agree with the proposed timeframe for publishing HCA, CCA and LRIC Separated Accounts? If you disagree, what is your basis for your proposed timeframe? ***(Q 11.1)***

Views of the Industry

Three respondents found the proposed ODTR timescales acceptable.

One respondent proposed a revised timetable for the publication of HCA on the 30th. September 2001 and CCA/LRIC results on 30th. November 2001. Reasons for the extension were given as:

- Publication on 31.7.01 assumes a 'right first time' approach for the first time that the company is seeking a high level audit opinion.
- It would require all detailed sampling exercises for cost and revenue allocation to be submitted, reviewed by auditors, and averaged by 31.3.01.
- All values for costs and revenues would need to be finalised and ready for upload to Telecompass, *eircom's* Management Accounting system by 30.4.01 while the Statutory Financial Accounts will not be submitted for Board approval until 20.5.01.
- The timetable assumes that *eircom* will deliver a fully reviewed set of accounts to the Auditors by 30.6.01, leaving one month to produce a set of statements and, the Audit team with one month in which to be satisfied with the results.

ODTR Comment

The Director holds the view that regulatory accounting information needs to be published to an acceptable level of quality but also needs to be made available in a timely manner. Whilst it is recognised that *eircom* are planning to obtain a higher level of audit opinion ("fairly presents in accordance with") in respect of the 2000/2001 accounts, the timetable for production of the information, granted as a derogation in D9/00, has not been improved upon.

The Director is not minded to grant a further derogation in respect of the publication of the accounting information for 2000/2001.

Decision 15.1

HCA Separated are to be submitted to the ODTR by 31st July 2001.
CCA and LRIC Separated Accounts are to be submitted to the ODTR by 30th.September 2001.

Do you agree with the proposed timeframe for submitting Draft HCA, CCA and LRIC Separated Accounts to the ODTR? If you disagree, what is your basis for your proposed timeframe? ***(Q 11.2)***

Views of the Industry

Three respondents consider that the timescales proposed by the ODTR are acceptable.
The reasons stated in Q11.1 have been used by one respondent to propose that draft statements for HCA be made available by 31.8.01 and draft statements for CCA and LRIC be made available by 31.10.01.

ODTR Comment.

The Director is not minded to grant a further derogation in respect of the publication of the accounting information for 2000/2001.

Decision 15.2

Draft HCA Separated Accounts are to be submitted to the ODTR by 30th.June 2001. **Draft CCA and LRIC Separated Accounts are to be submitted to the ODTR by 31st.August 2001.**

Do you agree that eircom does not need to produce the half-year accounts for 2000/2001. If you disagree, what is your basis for disagreement? ***(Q11.3)***

Views of the Industry

One respondent recognised the importance of producing Accounting Separation information that is as up to date as possible but has concerns that:
These accounts are not prepared to the full year audit standard.
In most instances, the parameters from the previous full year statements are run against the half-year costs which can distort the accuracy of the figures.
Production of these accounts is a time-consuming process and diverts resources away from the timely and accurate publication of the full year Separated Accounts.
These accounts are not publicly available and are, therefore, of limited use to the industry at large.
Until a stable regulatory accounting environment has been achieved they do not consider that *eircom* will be in a position to produce quarterly or half yearly accounts.

Two respondents considered that the decision to grant a complete derogation is questionable. They believe that the publication of half-year results in a compatible format with the forthcoming full year accounts would help the industry in anticipating and assessing the full year figures.
If a derogation for this year is granted:
There must be an opportunity for operators to review and comment on the full year accounts and some formal time should be included in the regulatory process for reviewing the 2000/2001 accounts.
The derogation should not be seen as setting a precedent. Once the systems development has taken place, it would be desirable for the half-year 2001/2002 accounts to be produced in reasonable timescales (especially given the anticipated growth of new services such as LLU).

One respondent agreed that *eircom* do not need to produce half-year accounts for 200/2001.

ODTR Comments
The ODTR accepts that, given the issues raised with respect to the publication of the full year accounts for 2000/2001, the enforcement of the requirement for *eircom* to produce half-year accounts would, at this stage, not provide material benefits to the regulatory process and, the Director, therefore, intends to grant this derogation.
Other respondents have expressed the view that, if the derogation is granted, there must be an opportunity for operators to review and comment on the full year accounts and that it would be

desirable that the half-year accounts for 2001/2002 be produced to reasonable timescales. The Director agrees with this view.

Decision 15.3

***eircom* are not required to produce half-year accounts for 2000/2001.** **Half-yearly Separated Accounts for the year 2001/2002 are to be submitted to the ODTR within four months of the end of the period to which they relate.**

Appendix I - Legislative Background

There is a range of relevant legislation in this area; the most relevant of which is summarised below:

Interconnection Legislation:

- *Council Directive 97/33/EC on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP) and*

- *The European Communities (Interconnection In Telecommunication) Regulations, 1998, SI No. 15 of 1998, transposing the above directive.*

Accounting Separation

This legislation states that organisations providing public telecommunications networks and/or publicly available services and which have been designated by the Director as having SMP, and which offer interconnection services to other organisations are required to keep separate accounts for their activities relating to interconnection and 'other activities'. These accounts should identify all elements of cost and revenue, 'with the basis of their calculation and the detailed attribution methods used, related to their interconnection activity including an itemised breakdown of fixed asset and structural costs.'

NRA's "may publish such information as would contribute to an open and competitive market, while taking account of considerations of commercial confidentiality."

Interconnection (obligation on operators with SMP in the fixed market)

- interconnection charges should follow the principles of transparency, non-discrimination and cost-orientation;
- the Director may direct an organisation to justify its charges and to adjust these charges where they are not in compliance with these principles;
- the burden of proof lies on the organisation providing interconnection;
- a RIO shall be published and the Director may direct changes to this offer;
- interconnection charges shall be sufficiently unbundled, so that applicants are not required to pay for anything not strictly related to the service requested.

Voice Telephony Legislation

- *Council Directive 98/10/EC on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment, and*

- *European Communities (Voice Telephony and Universal Service) Regulations, 1999, SI No. 71 of 1999, transposing the above directive and Directive No. 97/33/EC*

This legislation states that an organisation with SMP, which has an obligation for its tariffs to follow the principles of transparency and cost orientation in accordance with the legislation, shall operate and maintain a cost accounting system based on generally accepted accounting practices and which is suitable for compliance with the legislation's requirements.

Compliance by an organisation with the cost accounting system referred to in the above paragraph shall be verified by a person or body independent of the organisation and selected by the organisation with the prior approval of the Director.

The Director may issue directions establishing standards for cost accounting systems required pursuant to this legislation and an organisation subject to this legislation shall comply with any such directions.

Leased Lines

- *Council Directive 92/44/EC on the application of open network provision to leased lines as amended by 94/439/EC and Directive 97/51/EC*

- *European Communities (Leased Lines) Regulations, 1998, SI No. 109 of 1998, transposing the above directive*

This legislation states that, for SMP or notified operators, tariffs for leased lines must follow the basic principles of cost orientation and transparency, and are independent of the type of application, which the users of the leased lines implement. A notified[21] organisation shall operate and maintain a cost accounting system suitable for the implementation of these and other principles set out in the legislation.

Licence Condition

Pro Forma General Telecommunications Licence (ODTR Document No. 98/50R)

Condition 15 of the General Telecommunications Licence applies to organisations that have been designated as having SMP in the fixed telephone network and services market. The condition provides, inter alia, that the licensee shall maintain accounting records in a form which enables the activities of any business unit specified in any direction given by the Director to be separately identifiable, and which the Director considers to be sufficient to show and explain the transactions of each of those business units.

European Commission Recommendations

In addition, the Commission has published recommendations on the pricing of interconnection as well as on costing methods that could be used to calculate such prices. The relevant documents are:

Commission Recommendation of 8 January 1998 on interconnection in a liberalised telecommunications market (as amended) – Part 1 Interconnection Pricing (98/195/EC as amended by 98/511/EC)

This Recommendation states that interconnect costs should be calculated on the basis of forward-looking long run average incremental costs since these costs closely approximate those of an efficient operator employing modern technology.

Commission Recommendation of 8 April 1998 on interconnection in a liberalised telecommunications market – Part 2 – Accounting separation and cost accounting (98/322/EC)

This Recommendation concerns the implementation of accounting separation and cost accounting systems by operators designated by their NRA as having significant market power in accordance with Article 8(2) of Directive 97/33/EC for implementation of interconnection obligations, with particular regard to the principles of transparency and cost orientation.

[21] An organisation directed by the Director to provide at any point within a specific geographic area, a type of leased line that is specified in Annex II, as amended by Article 1 of Commission Decision 94/439, of Council Directive 92/44.

The Commission Recommendation (the “recommendation”) suggests that notified operators provide a disaggregation of their operating costs, capital expenditure and revenue into at least the following main business areas: -

-Core Network (Transmission and Switching)

-Local Access Network (Local Loop infrastructure)

-Retail

-Other Activities

The recommendation also states that disaggregated accounts within the above main business areas may be considered appropriate by NRAs, having regard to the transparency and competitive requirement of national and /or community law.

Appendix II - Definitions of Business Areas

Core Network

The Core Network business provides a range of interconnection services internally and externally in order to allow the customer of one operator to communicate with customers of the same or another operator, or to access services provided by another operator. These services include the switching and conveyance of calls.

In addition, the Core Network business may provide other services to operators e.g. engineering services related to the development and maintenance of private networks.

The accounts for the Core Network business will include the costs; revenues and capital employed associated with the provision of these services. The revenues of the Core Network business will derive principally from the sale of interconnection services to the Retail business and to other operators.

Local Access Network

The Local Access Network provides connections to the Core Network. The accounts for the Local Access Network business will include the costs and capital employed associated with providing and maintaining these connections.

For accounting separation, the Local Access Network business will include all the customer-dedicated components of the network including, for example, the line cards and ports located at concentrators and/or exchanges.

The Core Network business will include all other network components. Customer line rental will be a service provided by the Retail business. The revenue from line rental provided to end users will therefore be recorded in the Retail accounts. The cost of providing customer lines will be recorded against the Local Access Network business and there will be a transfer charge of costs to the Retail business in order to match revenues with their associated costs. The costs transferred to Retail should be net of any possible local access revenue.

Appendix III - Definitions of Disaggregated Activities

The following definitions of Disaggregated Activities should now be used.

Retail – Access
The business relating to the PSTN and ISDN connection, supply and maintenance of customer telephone exchange line rental and its associated costs.

Retail – Local Calls
Local (inland calls, including calls to Northern Ireland, charged at local rates, including calls to internet using geographic numbers) dialled calls originating from any telephone exchange line, including a public telephone exchange line.

Retail – National
National (inland calls, including calls to Northern Ireland, charged at national or regional call rates, including calls to internet using geographic numbers) dialled calls originating from any telephone exchange line, including a public telephone exchange line.

Retail – Calls to Mobile
Calls to National Mobile telephones originating on any telephone exchange line, including a public telephone exchange line.

Retail – International calls
International dialled calls (excluding calls to Northern Ireland) originating from any telephone exchange line, including a public telephone exchange line.

Retail – Directory Enquiry
Calls to the Directory Enquiry Service originating from any telephone exchange line, including a public telephone exchange line, whereby a telephone caller may be advised of telephone numbers of persons identified by the telephone caller.

Retail – Leased Lines
Business of connection, rental, maintenance, and change of national and international leased lines which provide for transparent transmission capacity between network termination points and which do not include connection the PSTN network.

Retail – Public Payphones
Local, national to national mobile, and international dialled calls, originating from public payphones, using cash, phone cards or credit cards.

Retail – Calls to Internet
Calls to the 1891, 1892, 1893 (and equivalent numbers as and when brought into service) internet service originating from any exchange line, excluding public telephone exchange line.

Retail – Internet Services Supply
The business relating to the supply of Internet services

Retail – Supplemental Services Business
The business relating to the supply of certain data and value added services. Examples of these services are data networks, messaging services, mobile messaging communications, fax network services, electronic information services, broadcast and visual services, internet multimedia services, managed answering services and telemarketing.

Retail – Remaining Activities
All other telecommunications services that are within the Retail Business.

Other – Apparatus Supply
The business relating to the rental, sale and maintenance of customer premises equipment in the Republic of Ireland.

Other – Remaining Activities
All other remaining activities.

Other – Subsidiary Activities
Subsidiary activities for accounting separation purposes should comply with the definition as outlined in the Companies Acts, 1963 to 1990, the European Community (Companies: Group Accounts) Regulations, 1992 and relevant Accounting Standards. For Accounting separation purposes the following subsidiaries need not be disclosed separately:-
Non trading subsidiaries;
Subsidiaries not offering licensable telecom services within Ireland.

Appendix IV - Capital Attribution for the purposes of calculating ROCE

	Total Retail	Access	Local Calls	National Calls	International Calls	Calls to Mobile	Directory Enquiry	Leased Lines	Public Payphones	Calls to Internet	Internet Services Supply	Supplemental Services	Remaining Activities
Turnover	1,364,464	x	x	x	x	x	x	x	x	x	x	x	x
Total Operating costs	1,611,132	x	x	x	x	x	x	x	x	x	x	x	x
Less:													
Exceptional Operating Costs	(53,221)	(x)	(x)	(x)	(x)	(x)	(x)	(x)	(x)	(x)	(x)	(x)	(x)
Exceptional Transfer Charge from Core Network	(41,957)		(x)	(x)	(x)	(x)	(x)	(x)		(x)		(x)	(x)
Exceptional Transfer charge from Access Network	(301,341)	(x)						(x)					
Recalculated Return	149,851	x	x	x	x	x	x	x	x	x	x	x	x
Mean capital employed	81,148	x	x	x	x	x	x	x	x	x	x	x	x
ROCE per above figures	185%	%	%	%	%	%	%	%	%	%	%	%	%
ROCE after Capital Attribution	13%	%	%	%	%	%	%	%	%	%	%	%	%
Access													
From other Operators													
Transfer to retail	523,100	x	-	-	-	-	-	x	-	-	-	-	-
Mean capital Employed	806,714												
Attributed capital	806,714	x	-	-	-	-	-	x	-	-	-	-	-
Core Network													
From Other Operators	94,808												
Transfer to retail	477,107	-	x	x	x	x	x	x	-	x	-	x	x
Mean capital Employed	372,610												
Attributed capital	310,841	-	x	x	x	x	x	x	-	x	-	x	x

Appendix V - Payphone Access Charge

Other Operating Costs	
Network Costs	
Depreciation	
Total Allowable Costs for Payphone Access Charge	X
No. of Traffic Minutes	M
Average Cost per Traffic Minute in cents	X/M

Appendix VI - Retail Costs applicable to Number Translation Codes and Internet Access

Allocated to Number Translation Code Services	**Number of Calls**	**Call Related Costs**	**Revenue Related Costs**	**TOTAL Costs**
		€	**€**	**€**
Access to Premium Rates Services	x	x	x	X
Access to Freefone Services	x	x	x	X
Access to Shared Cost Timed Services	x	x	x	X
Access to Shared Cost Fixed Services	x	x	x	X
Chargecard	x	x	x	X
Allocated to Internet Access				
1890	x	x	x	**X**
1891	x	x	x	**X**
1892	x	x	x	**X**
1893	x	x	x	**X**

Appendix VII - Access Network Statement of Costs

For the year ended dd mm yyyy	Operating Costs €'000	Exceptional Costs €'000	Mean Capital Employed €'000	Rate of Return %	Capital Costs €'000	Total Operating and Capital Costs €'000	Volume (Line Equivalents)	Cost per Line Equivalent
Line Sensitive								
Subscriber Unit	x	x	x	x	x	x	x	x
DSLAM	x	x	x	x	x	x	x	x
Line Splitter	x	x	x	x	x	x	x	x
Non-Length Dependant								
Main Cable Network	x	x	x	x	x	x	x	x
Distribution Cable Network	x	x	x	x	x	x	x	x
Length Dependant								
Main Cable Network	x	x	x	x	x	x	x	x
Distribution Cable Network	x	x	x	x	x	x	x	x
Drop Wire	x	x	x	x	x	x	x	x

Appendix VIII - Statement of Costs of Access Network Services

For the year ended dd mm yyyy	Line Sensitive			Non-Length Dependent		Length Dependent			
	Subscriber Unit	DSLAM	Line Splitter	Main Cable Network	Distributed Cable Network	Main Cable Network	Distributed Cable Network	Drop Wire	Co-Location
Average Cost/Line Equivalent	x	x	x	x	x	x	x	x	
Total Cost	x	x	x	x	x	x	x	x	
Usage factors									
Retail Services									
Access Lines PSTN	x	x	x	x	x	x	x	x	
Access Lines ISDN	x	x	x	x	x	x	x	x	
Analogue Leased Lines 2 Wire	x	x	x	x	x	x	x	x	
Analogue Leased Lines 4 Wire	x	x	x	x	x	x	x	x	
Digital Leased Lines	x	x	x	x	x	x	x	x	
Wholesale Services									
Bitstream	x	x	x	x	x	x	x	x	
Physical Access									
Full	x	x	x	x	x	x	x	x	
Sub-loop	x	x	x	x	x	x	x	x	
Line Sharing	x	x	x	x	x	x	x	x	
Co-Location									x