



Office of the Director of
**Telecommunications
Regulation**

CONSULTATION PAPER

eircom's Reference Interconnection Offer

Miscellaneous Issues

Document No: ODTR 01/98

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Oifig an Stiúirthóra Rialála Teileachumarsáide

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Foreword

Decision Notice D7/01¹ set out proposals relating to the Consultation Process applicable for the 2001/2002 Separated Accounts and Reference Interconnect Offer (RIO) rates. The Notice referred to several items requiring further input from *eircom* before they could be finalised, for example, differential pricing for call origination and termination, transit rates and International calls. Decision 8/2 and Decision 8/7 of D7/01 invited *eircom* to make detailed proposals in respect of a range of topics. They have responded in relation to all these items with the exception of transit rates, where a partial response has been received. This consultation addresses all those items on which complete submissions have been made and, in addition, other issues raised by industry since D7/01.

During quarter 1 of 2002, I intend to issue a further Consultation Paper covering a number of RIO related process and technical issues.

The consultation process is designed to assist the ODTR in making decisions. I am keen to open debate from time to time on all material and relevant issues but, necessarily, I have to make decisions in a practical and effective way. A balance has to be struck in deciding the optimum quantity and content of issues that may be productively and effectively put to consultation. This Consultation Paper represents our best endeavours to achieve a balance.

Responses to this consultation document will be accepted up to 31st January 2002 and a Decision Notice which will also cover the RIO rate submission from *eircom* will be issued by the end of March 2002.

Etain Doyle,
Director of Telecommunications Regulation.

¹ *eircom's* Reference Interconnection Offer & Publication of Financial Information for Telecommunications Operators, (Document No. ODTR 01/24)

1 INTRODUCTION

The Director of Telecommunications Regulation ("the Director") is responsible for the regulation of the Irish Telecommunications sector in accordance with national and EU legislation. Two of the areas of importance to the sector are Interconnection and Accounting Separation.

In April 2001, the Office of the Director of Telecommunications Regulation (ODTR) published D7/01 which directed *eircom* to make changes to its RIO but also called for further submissions from *eircom* on proposals such as differential pricing for call origination and termination and transit call charges. This consultation addresses those submissions received from *eircom*. Over the intervening period, other commercial issues have arisen and have been included in this Consultation Paper for further debate.

2 BACKGROUND

2.1 LEGISLATION

The relevant legislation is contained in Appendix 1.

3 International Broadband Services

In their submission, *eircom* have defined International broadband services, often referred to as International leased lines, as permanently connected point-to-point communications links dedicated to the customer's exclusive use. They can be used to provide voice, data, or both and can be of different length and bandwidth. They are used both by final consumers, such as businesses with geographically dispersed operations (known as retail leased lines), or by other telecommunications operators, for example, mobile operators acting as intermediaries and using the capacity to provide retail services to consumers (known as wholesale leased lines). In this context, *eircom* define broadband as circuits as 2Mbts/s and above.

eircom contend that the market in Ireland for International Broadband Services is relatively competitive when compared, for example, with the national market for leased lines. Currently *eircom* is required to offer prices in line with published offerings and to publish any changes to those offerings twenty-one days in advance of implementation. *eircom* consider that this requirement does not allow them to compete in the market in Ireland for International Broadband Services because of the nature of the bidding process.

The Director is considering the removal of the requirement to publish the prices for International Broadband Services. However, such a removal would still require *eircom* to offer prices that are cost orientated on a non-discriminatory basis. The Director is also considering the proposal by *eircom* that, whilst the obligation to publish prices is maintained, the period between publication and implementation be reduced to 24 hours.

Q.3(a) Do you agree that the obligation on eircom to offer prices for International Broadband Services based only on published offerings should be removed? Please state your reasons for supporting or opposing this proposal.

Q.3(b) If you feel that eircom should retain obligation to offer prices for International Broadband Services based only on published offerings, do you agree that the period between publication and implementation be reduced to 24 hours? Please state your reasons for supporting or opposing this proposal.

4 Differential pricing for call origination and termination for Interconnection

In D7/01, the Director invited *eircom* to produce proposals for the justification of separate origination and termination rates.

eircom currently publishes in the RIO separate prices for Call Origination and Call Termination conveyance. These prices are based on the assumption that the Call Origination and Call Termination services use the same elements of *eircom*'s network for conveyance. *eircom* believe that the difference between the prices charged reflects the different mixes of those elements used by the two services and are measured in *eircom*'s routing factor studies and thus reflected in the published routing factors for each service.

eircom believe that their detailed analysis of the costs of switching and transmission assets used for call conveyance indicate that certain assets are used only in origination, some only in termination, and most in both. Of those assets used for both origination and termination some, particularly transmission assets, are used more intensively for each unit of billed traffic. They have yet to produce sufficiently robust data to support this view. Until *eircom*'s costing analysis supports a material difference between network elements used for origination and termination, *eircom* proposes to continue to use an identical set of network elements to derive the costs of both services.

The Director notes that *eircom* continues to use the same elements when allocating costs to termination and origination. Separate routing factors have been developed by *eircom* for origination and termination based on their application of what they consider to be efficient routing principles to observed traffic. They believe that these routing factors demonstrate that origination and termination use *eircom* network elements in different proportions: the difference in the prices published in *eircom*'s RIO for the two services reflect only these differences. The Director is minded that this treatment of the costs of origination and termination will continue until *eircom*'s costing systems can identify separately elements that are used exclusively for termination or origination.

Q4(a). Do you agree that eircom should be allowed to charge separate prices for termination and origination only to the extent that it can demonstrate the different proportions of the common cost elements used in delivering those services are distinct when calls are routed efficiently Please state your reasons for supporting or opposing this proposal.

Q4(b). Do you agree that any changes to the treatment of costs of origination and termination will only follow if eircom's costing systems can identify, separately, elements

that are used exclusively for termination or origination? Please state your reasons for supporting or opposing this proposal.

5 Transit rates

In D7/01, *eircom* were requested to submit detailed proposals for sub-divided transit call charges. The ODTR has received a submission from *eircom* on a particular aspect of interconnection charges for transit calls, but *eircom* have requested more time to prepare a submission on the other aspects.

The Director has decided to take all aspects of transit rates together and not in a piecemeal fashion and *eircom* are requested to make a full submission.

6 Treatment of Intelligent Network costs

At present, *eircom* recovers the costs of developing and maintaining its Intelligent Network (IN) capability from a charge levied on each retail or interconnect call to a service that requires look-up of the IN database to ensure correct onward routing. An increasing proportion of calls to Internet Access services will be by means of NTC which requires an IN look-up. The requirement on *eircom* to provide serving network capability for both Geographic and Non-geographic Number Portability on transit traffic from networks which choose not to build that capability themselves will also add to the proportion of calls routed using IN look-up. *eircom* are proposing that, for practical reasons, IN costs should be recovered over all calls, and thus be treated as an integral cost element in *eircom*'s core network for the purposes of developing interconnect prices.

eircom consider that the proportion of total calls to interconnect services using *eircom*'s Intelligent Network functionality has increased to the extent that the cost of this functionality may be treated in the same manner as any other cost in *eircom*'s core network. Their proposal would mean the removal of the IN charge as currently recovered by *eircom* from its retention on calls to NTC services and the recovery of IN costs from interconnect and retail services from a charge levied on all calls. The Director considers that the *eircom* proposal is worthy of serious consideration.

Q.6 Do you agree that eircom should remove the IN charge from the calculations for NTC retention and recover this cost from interconnect conveyance services in the same manner as other core network costs are recovered? Please give your reasons for supporting or opposing this proposal.

7 Itemisation of Billing for OLOs

Itemised billing is a tool that many users employ to allow verification and control of the charges incurred in their use of telephony services. Irish and European legislation emphasise that itemised billing should be available to those who wish to use it. Regulation 18 of the European Communities (Voice Telephony and Universal Service) Regulations SI 71 of 1999 (transposing Article 14 of Directive 98/10/EC) states that a basic level of itemised billing shall be available at no extra charge to the user, by 31st December 2001. Itemised bills should contain a sufficient level of detail to allow verification of charges incurred and the legislation provides for the Director to specify a

minimum level of information to be provided in itemised bills which shall be provided at no extra charge.

In May 2001 the Director issued ODTR document 01/30 'Itemised Billing by Telecommunications Operators' which sought views as to the definition of 'specified minimum level' (that is the minimum level of itemised billing that should be made available at no additional charge). The Director also sought views as to which operator(s) should be required to provide the 'specified minimum level'. The resulting Decision Notice D9/01² 'Itemised Billing by Telecommunications Operators' was issued in July 2001 and set out certain principles for itemised billing which *eircom* are required to provide by 1st January 2002 (see Appendix II). The Director has reviewed and agreed *eircom*'s plans for implementation of D9/01 in respect of retail customers.

The Director is aware of interest from Other Licensed Operators (OLOs) in extending the principle of itemised billing to the wholesale bills that they receive from *eircom*. The Director believes this may have significant benefits in rendering the OLO bills more comprehensible and allowing the OLOs visibility of detail to ensure accuracy. She considers that it may also reduce the number of queries which *eircom* currently receive from OLOs.

Q7(a): Do you agree that the concept of itemised billing should be extended to inter-operator bills? Please state your reasons for supporting or opposing this proposal.

D9/01 set out a number of detailed decisions in respect of provision of itemised billing see Appendix 11. *eircom* was directed to provide the specified minimum level by 1st January 2002. The 'specified minimum level' includes two elements:

- (1) the destination telephone number, date, time, duration and charge for each individual call made which incurred a charge over a certain fixed level (suggested as the minimum charge/call set-up fee).
- (2) any charge not relating to calls, such as rental charges for the subscriber line or customer premises equipment.

D9/01 also states that further levels of detail, such as itemisation of calls below the specified minimum level, banding, or subtotals of calls, may be offered on a commercial basis. The rights of users not to receive an itemised bill are recognised and receipt should be on an opt-in basis. Customers may choose to receive either in printed format, or through another preferred medium such as by accessing their details through the Internet. Calls that do not attract a charge should not be identified in any way in itemised bills.

The Director wishes to seek the views of respondents in extending the detailed decisions set out in D9/01 to itemised billing for OLOs. For example, the Director is aware of issues in respect of NTC calls which are *eircom* originated calls to OLO supported ISPs. Charges are billed to *eircom* by the OLOs. The Director considers that to ensure ease of interoperability OLOs may have to generate itemised double rates as well as *eircom*. This would mean that the decision set out in D9/01 which designated *eircom* as the sole operator required to provide the specified minimum level would have to be amended in respect of itemised billing for inter-operator bills.

Q7(b): If you agree with Question7(a) that the concept of itemised billing should be extended to OLOs, do you think that the decisions set out in D9/01 should apply to the

² Itemised Billing by Telecommunications Operators (Document No. ODTR 01/53)

level of itemised billing? Do you believe that any of the detailed decisions set out in D9/01 should be amended in the case of inter-operator bills? Please state your reasons for supporting or opposing this proposal.

8 SUBMITTING COMMENTS

All comments are welcome, but it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

The consultation period will run from 20th December, 2001 to 31st January, 2002 during which the Director welcomes written comments on any of the issues raised in this paper. Having analysed and considered the comments received, the ODTR will review the RIO Miscellaneous Issues and publish a report in March, 2002 on the consultation which will, *inter alia*, summarise the responses to the consultation. In order to promote further openness and transparency the ODTR will publish the names of all respondents and make available for inspection responses to the consultation at her Offices.

The Director appreciates that some of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful. Respondents are requested to clearly identify confidential material and if possible to include it in a separate annex to the response. Such information will be treated as strictly confidential.

All responses to this consultation should be clearly marked "Reference: Submission re ODTR 01/98" and sent by post, facsimile or e-mail to:

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to arrive on or before 5p.m. 31st January, 2002.

Office of the Director of Telecommunications Regulation
20th December, 2001.

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 notified³ 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)

³ 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.

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.

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 – Decisions made in Decision Notice D9/01

Decision 4.1

Pursuant to her powers under Regulation 18(1) of the European Communities (Voice Telephony and Universal Service) Regulations, the Director directs that eircom provide the specified minimum level as defined under Regulation 18(3)a and set out in Decisions 4.2; 4.3 and 4.4, by 31st December 2001.

Decision 4.2

Pursuant to her powers under Regulation 18(3)a of the European Communities (Voice Telephony and Universal Service) Regulations, the Director specifies that the minimum level of information to be provided in itemised bills which shall be made available at no extra charge shall be the destination telephone number, date, time, duration and charge for each individual call made, for those calls on which a charge over a certain fixed level as set out in Section 4.4 was incurred during the relevant billing period

Decision 4.3

Pursuant to her powers under Regulation 18(3)a of the European Communities (Voice Telephony and Universal Service) Regulations, 1999, the Director specifies that charges not relating to calls, such as rental charges for the subscriber line or equipment, should be included separately as part of the minimum level of itemised billing.

Decision 4.4

Pursuant to her powers under Regulation 14(3)a of the European Communities (Voice Telephony and Universal Service) Regulations, 1999, the Director specifies that calls below a fixed charge defined by the operator (the minimum fee/call set-up charge) need not be included in the minimum level of information to be provided in itemised bills which shall be made available at no extra charge.

Decision 4.7

Pursuant to her powers under the European Communities (Voice Telephony and Universal Service) Regulations, 1999, the Director directs all licensed operators that calls which are free of charge to the calling subscriber shall not be identified in any way in the calling subscriber's itemised bill.

