



Office of the Director of
**Telecommunications
Regulation**

DECISION NOTICE

eircom's Reference Interconnection Offer

Miscellaneous Issues

Response to Consultation Paper

Decision Notice

and

Further Consultation

Decision No: D3/02

Document No: ODTR 02/30

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Oifig an Stiúirthóra Rialála Teileachumarsáide

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Foreword

Consultation Paper ODTR 01/98¹ set out proposals received from Industry concerning various financial aspects of *eircom*'s Reference Interconnect Offer (RIO). This Decision Notice seeks to address and summarise the views of the respondents on the range of issues and give the reasoning behind the decisions which I have taken.

A further Consultation Paper covering a number of RIO related process and technical issues has just been issued (Document 02/27).

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 Decision Notice represents our best endeavours to achieve a balance.

Etain Doyle,
Director of Telecommunications Regulation.

¹ *eircom*'s Reference Interconnection Offer Miscellaneous Issues

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. *eircom*'s RIO is the pivotal feature of the interconnection of networks in this sector.

In December 2001, the Office of the Director of Telecommunications Regulation (ODTR) published Consultation Paper 01/98. Five organisations and one private individual replied to the Consultation Paper, namely:

Chorus

Eircell Vodafone

Eircom

Esat Telecommunications/Ocean Telecommunications

An individual not wishing to be named

Worldcom

2 BACKGROUND

2.1 LEGISLATION

The relevant legislation is shown in Appendix 1.

3 International Broadband Services

In their submission, *eircom* 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. Leased lines 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 through which such services are commonly purchased.

The Director has considered 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 has also considered the proposal that, whilst the obligation to publish prices continues to be 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.

Views of the Industry

One respondent considered that there is not sufficient reason to require *eircom* to publish International broadband prices believing that prices are already disciplined by competition and the need to publish puts *eircom* at an unfair disadvantage in a market where competitive tendering is the norm due to the ability of competitors to use *eircom*'s tariff information to undercut bids.

Furthermore, the market is characterised by:

- Low barriers to entry
- Many competitors
- Strong buyer power
- Frequent entry and exit
- Unstable and falling sales
- Rapidly depreciating investments

During 2001, *eircom* commissioned a report by Case Associates to look at the regulatory requirements for broadband and International voice wholesale services. The report concluded that the provision of both services is now effectively competitive and there are no barriers to entry and with a number of active Operators in the market

Another respondent agreed with the proposal subject to *eircom* still being required to offer prices that are cost orientated and non-discriminatory.

A number of respondents were concerned at the lack of market information available to support the proposed change and two respondents did not believe that there are competitive market conditions for International Broadband Services in Ireland. Concerns were expressed that, as *eircom* still held more than 95% of the National leased lines

market in Ireland, it would allow them to leverage the market in terms of price and quality of service.

One respondent further commented that, although National links only represent a small proportion of the price of an International leased circuit, these circuits are price sensitive and the impact of any National price change could be significant. A view was expressed that the criteria for non-discrimination and cost orientation could best be resolved by wholesale offerings such as partial leased line circuits. The ODTR is exploring this matter further in the current RIO operational issues consultation paper.

ODTR Comment

Having considered the arguments put forward, the Office accepts the contention that the International element of the Broadband service is substantially competitive and *eircom* does not have Significant Market Power in this area. With regard to the issues raised in respect of the National element of the service, the Director does not consider that *eircom*'s dominance of this market does allow them substantially greater leverage in the market for International leased lines than their competitors in this market. Wholesale, National leased line products are currently available as products whose prices are regulated by the ODTR and will be reviewed again in the near future. As mentioned above, partial leased lines are currently subject to consultation.

The Director does not consider that *eircom*'s position in the National Leased Line market is sufficient to justify withholding the liberalisation of International Broadband Services.

License obligations indicate that *eircom* must continue to publish prices for International broadband services. However, given the level of competition in this market, the Director wishes to minimise the burden on *eircom* and some relaxation is provided for in decision 3(b) below.

Decision 3(a)

eircom shall continue to be obliged to offer International broadband services only on the basis of published offerings.

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.

Views of the Industry

Most respondents reiterated the views expressed in response to question 3(a).

One respondent did not think that there is a need to publish prices at all and considers that it is other Operators' knowledge of *eircom*'s prices, coupled with the fact that

customers operate tenders on a sealed bid basis, that allows other Operators to reduce or raise their price according to *eircom*'s published offering. Further, without *eircom* in the Irish market, Irish corporates will have less choice and be dependent on global suppliers.

Support for the proposal was given by one respondent, another believed that 5 working days was the bare minimum that should be allowed and the remainder did not accept the proposal. A comment was made that a competing operator, using *eircom*'s International Broadband Service as part of their bid to a retail customer, is very unlikely to have enough time in 24 hours to amend their bid to reflect the prices to be passed on to the customer.

ODTR Comment

License obligations indicate that *eircom* must continue to publish prices for International Broadband services. Given the level of competition in this market the Director wishes to minimise the burden on *eircom*.

Decision 3(b)

With effect from 1st April 2002, *eircom* are required to give a minimum of 24 hours notice of tariff rate changes in respect of International Broadband services.

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 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. 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.

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.

Views of the Industry

All respondents to this question agreed with the proposal in principle but concerns were expressed about the need for data provided by *eircom* to demonstrate fully transparent costs and a complete explanation of the routing factors employed in both interconnect call types. There was also a call for a detailed explanation as to how current methodologies would be altered to support the proposal. A question was raised as to whether Operators would be able to choose which network elements to purchase for each service, thus ensuring Operator efficiency in cost and network usage.

A concern was raised that any breakdown of costs needs to be compatible with the LRIC costing model recommended by the European Union.

One respondent raised the issue of call termination and reciprocity. Whilst not proposing that price levels for call termination be reciprocal between fixed and mobile networks with Significant Market Power (SMP) status in the interconnect market, they did consider that the principle of call termination prices being cost orientated should be the same regardless of network technology. As a consequence, the expectation is that the prices for termination on all networks with SMP obligations will be set to recover the same set of costs.

ODTR Comment

The Director is of the view that *eircom*'s current routing analysis is sufficiently robust to allow separate prices to be charged for origination and termination and sufficient information, at this stage, is available within the Separated Accounts and the supplementary information (some 70/80 pages) to support this proposed change.

Decision 4(a)

With effect from 1st April 2002 all future interconnection rates published by *eircom* are to show origination and termination charges as separate elements.

*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.*

Views of the Industry

This question was largely covered in the responses to question 4(a) but a view was expressed that, if it is recognised within the industry and by manufacturers that specific costs can be allocated to different services, then a reasonable approach should be taken for the separate recovery of these costs. The comment was tempered by the observation that continuously modifying costing systems for greater granularity may not result in the most efficient means of allocating and recovering relevant costs.

One respondent was supportive of the idea of Element Based Charges as used in the UK. This allows specific base network elements for transmission and functionality etc. to be paid for by the Operator whatever route the call takes. As a result, the SMP operator is required to charge for the call as if it had used the shortest and most efficient route available, in accordance with the OLOs reach with that SMP operator.

ODTR Comment

The Director is of the view that, if this change is to take place, *eircom* must provide clear and adequate costs to support the proposal.

eircom's costs are already based on element based charges using measured routing factors to derive unit costs and theoretical routing factors to ensure that the SMP charges for the call as if it had used the most efficient route available. The charges are calculated as shown in the Separated Accounts and the basis of calculation has been laid out in Decision Notice D7/01.

Decision 4(b)

eircom are required to provide sufficient and relevant information to support the proposed change to meet the timescale referred to in 4(a) above.

5 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.

Views of the industry

While there was a measure of acceptance of the proposal, there were also substantial reservations. There were major concerns raised over the fact that the level of the IN charge is too high and has acted as a barrier to effective competition, especially in the case of NTC-based services. As call volumes increase, economies of scale could be expected. There were also concerns over the lack of transparency of *eircom*'s current IN charge and the way it will be applied if the proposal is accepted. In particular, it was commented that an Operator might wish to see these charges itemised in order to allow it to recover its costs should it decide to offer its own IN service, thus avoiding double charges if it were contributing to another Operator's costs.

Concern was expressed that the routing protocol and allocation methodology for the attribution of IN costs to each call must demonstrate the need for the functionality. In addition, the attribution methodology would need to take into account future network and call volume growth, including changes to call profiles.

One respondent had concerns over the application of IN charges in certain instances, for example, in respect of calls to 1891 OLO services which do not employ IN but table look up. A number of issues were raised, both of principle and detail, covering, inter alia:

- the precise definition of IN
- the rationale behind the current proposal
- the likely effect of the proposal
- the ability of the proposal to meet the Interconnect Regulations requiring cost orientation, transparency and non-discrimination
- the failure to meet Regulatory Accounting principles such as cost causality, objectivity and consistency of treatment

Another respondent considered that to apply any changes retrospectively would not be a practical option.

ODTR Comment

It is expected that the roll out of IN capability to all primary exchanges will be completed by the first half of 2002. While the Director respects *eircom*'s planning rules and processes and their right to exercise routing protocols that they deem to be expedient, she does not wish to see unexpected consequences arising in the interconnect market.

IN should be a general facility capable of offering a wide range of functions without adding significantly to interconnect costs.

As respondents have noted, *eircom*, like other EU incumbent telcos, can implement a range of non-standard traffic routings through either of two principal mechanisms. They can either utilise data table look-up facilities at primary exchanges or interrogate the IN. With the roll-out of the IN to all primaries these alternatives are becoming increasingly equivalent in operational terms. *eircom*'s decision as to which mechanism to use in a particular instance should be guided by practical and operational considerations and the Office has no wish to place artificial constraints on its freedom to make the best choice in the interests of all those affected.

Unfortunately, the network costing system used by *eircom* to identify network element costs and attribute these to wholesale and retail products lacks sufficient granularity to reflect this operational equivalence to a representative degree. IN costs are discrete and easy to trap. Database costs are locked within the primary switch costs and, although these costs are disaggregated, this is not in sufficient detail to allow convincing identification of all the LRIC costs which should be associated with the use of primary switch data tables to route non-standard calls. Although the ODTR will work with *eircom* to progressively refine its network element costing, the Director considers that the current position sends distorting economic signals to the marketplace. She prefers the treatment proposed by *eircom*, the IN should be treated as a ubiquitous constituent of *eircom*'s network and recovered over all calls accordingly. Having reviewed the submissions received, the Director wishes to clarify that the proposal refers to all calls making use of the *eircom* network.

Decision 6

With effect from 1st April 2002 IN costs are to be treated by *eircom* as a general network overhead to be recovered over all calls on an efficient basis.

6 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. 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.

Views of the Industry

Opinions appear to be divided over this issue. Some respondents were concerned at the cost and relevance of providing additional information. Some felt that further information should be provided e.g. the time periods applicable in cases of back billing, more detailed breakdown of CPS charges and, to retail customers, more specific details on the hand off of calls which should be provided on a cost recovery basis only and the information provided within specified timescales.

One respondent agreed, in principle, with the proposal but did not see a paper-based but rather an electronic transfer solution as being more viable. Specifically, they would like *eircom* to detail:

- calls to OLO geographic numbers which transit the *eircom* network
- calls into an OLO freephone service
- calls to International destinations

Another respondent believed that there are very strong reasons why itemised billing should not be extended to inter-operator bills because:

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

- they do not believe that the Regulatory framework supports this proposed extension of itemised billing
- *eircom* has not been requested by any OLO to date to provide itemised billing
- historical billing difficulties and inter-operator dissatisfaction have been process rather than presentation related
- *eircom* and other Operators have worked jointly to remedy the historic process deficiencies
- the current RIO requires a level of detail that makes the bills comprehensible
- the introduction of itemised billing will complicate rather than solve the reconciliation process
- the cost of introducing this service is disproportionate to the benefit that would be gained
- many OLOs systems and staffing levels could not support the requirement

Another respondent saw the solution as being a more vigorous approach to billing testing problems and better dispute procedures. Two respondents believed that there is a need for further discussion at Industry level, one of whom perceived the need to set up a National group to agree CDR formats and exchange media formats together with setting up bi-lateral agreements between Operators. This respondent sees an alternative as the exchange of detailed information using daily summaries for all interconnect products which would require major modifications to interconnect billing systems and a move to a National reconciliation scheme such as the Spanish CODEFI scheme.

ODTR Comment

While the Director sees merit in the principle of introducing inter-Operator billing it is clear that Industry have a number of concerns. A clear consensus has yet to emerge and a further round of consultation is required to allow reaction to the suggestions set out below which are necessarily tentative given the fluid nature of the overall position.

Respondents attention is drawn to the section on inter operator billing disputes procedures contained in the current Consultation (02/27, section 4.2).

Decision 7(a)

The Director makes no determination at this stage but requests comments on the proposals set out below.

The Director considers that *eircom* should be required to provide itemised billing at no additional cost on request by an OLO. The medium through which that information should be provided should be specified by the OLO.

The Director sees merit in requiring itemised billing from *eircom* to all OLOs for NTC settlements, that is to say, Option 1 of those set out below.

To facilitate a clearer understanding of the NTC settlement regime, the ODTR held an Industry meeting in order for *eircom* to present and discuss their proposals.

The following options were proposed:

Option 1 - to calculate settlement on a call by call basis.

This is theoretically the correct way to implement the settlement regime mandated in D4/00, it calculates settlement on a call by call basis. However, *eircom*'s interconnect billing system currently does not have the capability to calculate settlements on per call basis.

Option 2 - to calculate retention on a per call basis.

This option calculates retention on a call by call basis and settlement based on average revenue per minute x total minutes – total retention. This approach, however, lacks transparency and predictability.

Option 3 - to calculate settlement based on an Industry average.

This option develops an industry average revenue per minute and average retention per minute per NTC and settles on the difference between these. This is the regime which is currently in place, However, one of the drawbacks is that there is a lack of recognition of savings that should be available to OLOs taking traffic from *eircom* at a low level in their network.

Option 4 – to develop hosting network average retail values.

This option develops hosting network average revenue per minute and average retention per minute per NTC and settlement is based on the difference between these i.e. De-averaged settlements.

The Director considers that the most appropriate way of introducing this settlement regime is to incorporate option 1 as this creates a level playing field across all operators and encourages them to benefit from their infrastructure rollout. The Director does not believe that there is merit at this time in introducing an option that does not provide an equitable solution across the industry as a whole and is seeking the views from interest parties regarding these options.

Q.6 Do you agree that eircom should be required to provide itemised billing, at no additional cost, on request by an OLO? If you agree, which of the above options do you consider to be appropriate? Please give your reasons for agreeing or disagreeing and provide justification for your choice of options 1 to 4 above.

D9/01 set out a number of detailed decisions in respect of provision of itemised billing. *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 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.

Views of the Industry

Two respondents relied on the comments made in answer to Q7(a) and did not support the proposal. One response remained broadly supportive.

A concern was expressed that the ODTR has not carried out an analysis of the capability of OLO billing systems to provide such information. To change their own billing system would require significant further investment and was seen as to be purely for the benefit of the incumbent operator. Concerns were also expressed about the legislative background for such a change and the likely benefits to competition in the Irish market.

One respondent did not believe that the exchange of CDR's would be workable due to the sheer volume of calls involved. Approximately 50m calls are captured on their wholesale system each month. Were they to be required to provide information to other Operators, they would expect to have to produce in the order of 1m. pages of information per month. To send the information electronically would require them to employ extra staff to run comparisons for verification purposes and they do not believe that these costs are justified where disputes are only approximately 5% of total billed traffic.

ODTR Comment

In view of the opinions expressed in response to question 7(b) the Director considers that the provision of itemised interconnect billing by OLOs can be left to the initiative of those companies themselves but that she will continue to monitor the situation

Decision 7(b)

Decisions whether to provide itemised interconnect billing by Other Licensed Operators will continue to rest with those operators themselves in the light of commercial negotiations between operators

7 Submitting Comments

All comments are welcome in response to question 6, the requirement for *eircom* to provide itemised billing, at no additional cost, on request by an OLO. The consultation period will run until 26th April 2002 during which the Director welcomes written comments on this issue. 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. Respondents are requested to clearly identify any confidential information submitted 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 item should be clearly marked “Reference: ODTR *eircom*’s Reference Interconnect Offer, Miscellaneous Issues 02/30” and sent by post, facsimile or e-mail to:

FREEPOST

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to arrive on or before 5pm on 26th April 2002.

Office of the Director of Telecommunications Regulation

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)

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.

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.

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.