



Commission for
Communications Regulation

Eir's Regulatory Governance

ComReg Announces Review of Eir's Regulatory Governance Model

Information Notice

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Review of Eir's Regulatory Governance Model

1. Eir (formerly “Eircom”) has been designated by ComReg as having Significant Market Power in a number of wholesale telecommunications markets. This means that it is subject to various regulatory obligations including obligations to provide non-discriminatory access to its network to other telecommunications companies. As part of these obligations Eircom cannot discriminate in favour of its own retail arm and must meet reasonable requests for access to its network by other operators. A function of ComReg is to ensure compliance by undertakings with their obligations.
2. In December 2011 Eircom announced to industry¹ that it planned to implement a series of measures designed inter alia to provide assurance that Eircom’s regulated products are delivered in compliance with its obligations.
3. According to Eir, it has since then implemented a number of steps envisaged in the 2011 announcement on a voluntary basis. ComReg understands that these include an internal reorganisation such that regulated products are delivered by a specific unit within Eir; the roll out of a regulatory code of practice; oversight by an internal governance unit and various other measures collectively referred to as its Regulatory Governance Model.
4. At ComReg’s prompting², Eir recently published an update to industry on its Regulatory Governance Model³. This informs industry that Eir is in its third year of a three year programme of reforms to its Wholesale arm. The industry update provided information on the outputs from Eir’s governance process. It identified a number of areas where Eir’s retail arm did or potentially could receive a superior service compared to other operators together with timelines for remediation. While many of these instances were identified by Eir, nevertheless, they do raise questions about Eir’s compliance with its obligations. ComReg’s compliance unit will consider these matters. ComReg understands that further updates to industry will be provided by Eir in 2016.

¹ Discussion document for industry: Eircom Group proposed programme of voluntary wholesale reforms, December 2011.

² Ref ComReg 15/82 (D05/15); Market Review - Wholesale Fixed Voice Call Origination and Transit Markets – Paragraphs 9.133 to 9.141

³ Industry Update on eircom's Regulatory Governance Model (RGM), August 2015.

5. ComReg has not at this point evaluated the internal arrangements that Eir has put in place or so far placed reliance on them in framing the nature of Eir's regulatory obligations. Our compliance monitoring activities have continued as normal. We continue to evaluate whether regulatory rules in place are sufficient and proportionate in respect of the issues in question. For example, we have recently imposed additional obligations on Eir to provide "compliance statements" to ComReg which are meant to provide confirmation that Eircom is in compliance with its non-discrimination obligations and demonstrate how compliance has been achieved⁴. We will consult further on these and related matters as part of our market review process in 2016.
6. Eir's August 2015 update to industry raises a number of questions which give ComReg cause for concern. We also are concerned more generally at the long lead times experienced by alternative operators in certain cases where they have requested new or amended regulated wholesale products from Eir. In general ComReg welcomes any measures which increase the likelihood of compliance with Eir's regulatory obligations and which increases transparency as to how such compliance is assured. While the development of Eir's Regulatory Governance Model may have the potential to be such a measure, nevertheless it is not yet clear to us that Eir's internal governance arrangements are sufficiently robust to serve the needs of industry, and ultimately end users.
7. In our most recent strategy statement⁵ we noted "*At an appropriate time we will consider conducting a strategic review of the progress of wholesale reform – including reforms that have been undertaken voluntarily by Eircom as well those that have been required by various regulatory decisions. Such a review could lead to a number of different outcomes. For instance it might lead us to bring forward consultations on some of Eircom's obligations, on the way industry forums operate or even on the case for Functional Separation of Eircom Wholesale*". We note that these are not the only options available. Given that Eir has indicated the implementation of its reform programme is nearly complete, we are of the view that it is now appropriate for ComReg to initiate a review of Eir's Regulatory Governance Model including the effectiveness of what Eir has done on a voluntary basis as well as the effectiveness of regulatory obligations such as the obligation to provide compliance statements.

⁴ ComReg 15/82 (D05/15); Market Review - Wholesale Fixed Voice Call Origination and Transit Markets

⁵ Ref: ComReg 14/75 - Strategy Statement for Electronic Communications 2014 - 2016

8. We envisage that the scope of the review would address the broader effectiveness of Eir's governance arrangements as well as considering the implications of Eircom's recent update to industry and ComReg. We have initiated a process such that this review would happen in 2016.