



Commission for
Communications Regulation

Information Notice

Clarification further to "Market Analysis: Leased Lines Markets Response to Consultation and Consultation on Draft Decision" (ComReg Document No. 08/63)

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1 Introduction

Following the publication of the "Market Analysis: Leased Lines Markets Response to Consultation and Consultation on Draft Decision", ComReg Document No. 08/63, on August 6th 2008, the Commission for Communications Regulation ("ComReg") has received a request for clarification from an operator on certain issues. ComReg in this document has set out its responses to each of the requests for clarification.

It should be noted that any clarification set out by ComReg on this occasion is for information purposes only. Its definitive view is contained in the formal "Response to consultation / Draft Decision Instrument" published in ComReg Document No. 08/63. However, it is important to note that this clarification does not in any way change the view set out in ComReg Document No. 08/63.

2 Operator Request for Clarification

The following questions were raised by the operator with ComReg:

- 1. Market Definition: can ComReg clarify the boundary between trunk and terminating segments that eircom should use in defining mandated wholesale services, and in developing the cost basis for those services*
- 2. Revision of the PPC End User Link (EUL) service: if the terminating segment market is limited to the service provided between an eircom node and the end users served from that node then EUL need only be offered at cost within that catchment area. EULS that cross secondary catchment area boundaries will be offered at commercial prices. The operator wishes to discuss the implementation issues around this consequence of the market analysis.*
- 3. The PPC product will change to reflect this and the cost model to support the pricing for the mandatory EUL services will exclude the component volumes and costs for circuits that cross secondary catchment area boundaries.*
- 4. The Wholesale Leased Line (WLL) service as currently provided also offers circuits that cross catchment area boundaries. Does ComReg agree that only WLL services originating and terminating within a single catchment area amenable to the proposed remedies? Once again where the service includes an element in the competitive trunk segment market can ComReg confirm that eircom's offering will be on a commercial basis?*
- 5. After the last market review the market for national leased lines above 2 Mb/s was found to be competitive and eircom ceased to publish prices for leased line services above 2 Mb/s. Can ComReg confirm that the new requirement to publish a reference offer for WLL only includes services up to 2 MB/s?*
- 6. What is the ComReg view on the nature of the Ethernet presented wholesale access services that eircom must provide arising out of SMP in the terminating segment market? This operator's view is that these are limited to an Ethernet PPC service within each catchment area.*

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Following on from this request, the operator in question clarified its understanding of a "catchment area", as follows:

"A possible definition of a Catchment Area might be:

A geographically defined area containing an urban centre to which at least one alternative infrastructure provider has built transmission facilities. It must also contain at least one node at which the full range of regulated products can be provided. The number of Catchment Areas should be determined with respect to the availability of alternative competitive infrastructure providers but the precise definition of each Catchment Area should be done with respect to the structure of the eircom network. The definition of each Catchment Area must be clearly evident to the OAO community and it may be appropriate to use the minimum numbering areas or the STD codes areas as the building blocks to define each Catchment Area."

3 ComReg Response to Request for Clarification

For the avoidance of doubt, ComReg wishes to clarify that where infrastructure is used to provide more than one service, ComReg bases its analysis on the product or service being provided. Thus, infrastructure may be used to provide multiple products or services that fall into different markets. Specifically in the case of the markets for leased lines, the same infrastructure could support the delivery of both trunk and terminating segments. However, the application of remedies is based on the competition problems experienced in the individual market.

ComReg's responses/clarifications to the preceding questions are as follows:

1. Market Definition: can ComReg clarify the boundary between trunk and terminating segments that eircom should use in defining mandated wholesale services, and in developing the cost basis for those services.

As set out in paragraphs 3.69 and 3.70 of ComReg Document No. 08/63, the boundary between trunk and terminating segments is defined as follows:

"3.69 ... trunk segments would connect all double-tandem and tandem exchanges, and may include connectivity between tandem exchanges. Trunk segments would generally involve capacity of STM-1 and above. Trunk segments on OAO networks would exhibit equivalent features.

3.70 Everything outside of the trunk segment market, and the main points of handover, is considered to be part of the terminating segment market..."

For the avoidance of doubt, ComReg's position is that there is insufficient evidence at this time to identify connectivity between all tandem exchanges as being in the trunk market, but is prepared to consider such connectivity on a case by case basis.

2. Revision of the PPC End User Link (EUL) service: if the terminating segment market is limited to the service provided between an eircom node and the end users served from that node then EUL need only be offered at cost within that catchment area. EULS that cross secondary catchment area boundaries will be offered at commercial prices. The operator wishes to discuss the implementation issues around this consequence of the market analysis

As clarified in the response to consultation document and above, *"Everything outside of the trunk segment market, and the main points of handover, is considered to be part of the terminating segment market..."*.

ComReg does not agree that the terminating segment market is limited to the service provided between an eircom node and the end users served from that node. The fact that the infrastructure used to provide terminating segment services is also used to provide trunk segment services is not relevant; it is the services that fall into different product markets. As clearly set out in ComReg Document No. 08/63, the supply of terminating segments of leased lines has very different characteristics to the supply of trunk segments of leased lines. Furthermore, the market for trunk segments pertains to circuits of high capacity (i.e. STM-1 and above).

It is ComReg's position in the consultation that, to use the example put forward by the operator, a 2Mb/s circuit from Grafton St., Dublin to Main St., Wexford would fall entirely into the market for terminating segments of leased lines, and would therefore, under ComReg's proposal be susceptible to the remedies outlined in ComReg Document No. 08/63.

- 3. The PPC product will change to reflect this and the cost model to support the pricing for the mandatory EUL services will exclude the component volumes and costs for circuits that cross secondary catchment area boundaries.**

PPC costing will be a matter for more detailed consultation. ComReg draws attention to the response to question 1 above.

- 4. The Wholesale Leased Line (WLL) service as currently provided also offers circuits that cross catchment area boundaries. Does ComReg agree that only WLL services originating and terminating within a single catchment area amenable to the proposed remedies? Once again where the service includes an element in the competitive trunk segment market can ComReg confirm that eircom's offering will be on a commercial basis?**

ComReg's position in the consultation is that for capacities below STM-1 (155Mb/s), the WLL product as currently defined is entirely contained within the market for terminating segments of leased lines, and as such is subject to the remedies outlined in ComReg 08/63. For STM-1 capacities and above elements of the WLL may fall into the Trunk market depending upon the route of the WLL.

- 5. After the last market review the market for national leased lines above 2 Mb/s was found to be competitive and eircom ceased to publish prices for leased line services above 2 Mb/s. Can ComReg confirm that the new requirement to publish a reference offer for WLL only includes services up to 2 MB/s?**

ComReg can confirm that the obligation to publish a reference offer continues to apply for all WLLs. The requirement to publish prices applies to WLL services up to and including 2Mb/s continues to apply. For the avoidance of doubt this includes 2048Kb/s circuits.

6. What is the ComReg view on the nature of the Ethernet presented wholesale access services that eircom must provide arising out of SMP in the terminating segment market? The eircom view is that these are limited to an Ethernet PPC service within each catchment area.

As noted in paragraph 3.122 of ComReg Document No. 08/63, "*It is ComReg's view that products which offer dedicated, symmetric, point-to-point connection to a network termination point at least on one end belong in the market for terminating segments. This is the case irrespective of the technology used to deliver the product.*"

As noted above, it is not ComReg's position that the terminating segment market is limited to the service provided between an eircom node and the end users served from that node. This view applies regardless of the technology used to provide this service.

4 Further clarification

Furthermore, ComReg wishes to clarify paragraph 5.35, which says "*that there are large parts of the country where there is not a competitive trunk market, and where OAOs are still reliant on their ability to purchase WLLs as a wholesale end-to-end product*".

Using the market definition as set out in paragraphs 3.69 and 3.70 ComReg Document No. 08/63, "*...trunk segments would connect all double-tandem and tandem exchanges, and may include connectivity between tandem exchanges. Trunk segments would generally involve capacity of STM-1 and above. ...Everything outside of the trunk segment market, and the main points of handover, is considered to be part of the terminating segment market.*"

It was not intended that the use of the phrase "competitive trunk market" in paragraph 5.35 would imply the existence of another "uncompetitive" trunk market. The word "competitive" can be considered to be superfluous in this context. As discussed in paragraph 3.57 of ComReg Document No. 08/63, it is a distinguishing feature of the trunk market, as defined, that it always has an OAO presence. It is clear that there are large parts of the core network where investment in alternative infrastructure has not occurred and where competitive products and services are unavailable. Where these (i.e. uncompetitive) supply conditions exist, as more fully detailed in paragraphs 3.48 through 3.70 of ComReg Document No. 08/63, exist, the services provided are regarded as being in the terminating segment market.

5 Timescales

In order to ensure that stakeholders have sufficient time to consider this clarification, ComReg has again extended the deadline for submission of responses to ComReg Document 08/63 entitled "Market Analysis: Leased Lines Markets Response to Consultation and Consultation on Draft Decision". The consultation period will now run to 5.30pm on Friday, October 3rd, 2008.