



Commission for
Communications Regulation

Information Notice

**ComReg accepts request from Towerhouse
LLP for the resolution of a dispute with Eircom
Limited**

Information Notice

Reference: ComReg 15/127

Version: Final

Date: 02/12/2015

1 Case 850

1. Towerhouse LLP (**Towerhouse**) submitted a dispute on 16 November 2015 (the **Dispute**), published as an appendix to this Information Notice as ComReg Document No 15/127a¹, on behalf of Sky UK Limited, BT Communications Limited, Vodafone Limited and Magnet Networks Limited (the **Referring Parties**). The Dispute was allocated Case 850.
2. Eircom Limited, henceforth Eir Limited, (the **Respondent**) has been provided with a copy of the scope of the dispute as well as a non-confidential copy of the Dispute.
3. ComReg will consider the Dispute pursuant to Regulation 31(2) of the European Communities (Electronic Communications Networks and Services)(Framework) Regulations, 2011² (the **Framework Regulations**).

Case 850: scope of the Dispute:

4. The Referring Parties at section 4.2 of the Dispute have submitted that ComReg resolve Case 850 by way of:
 - a. *“A direction under regulation 36 of the Framework Regulations fixing the terms of the Regulated Contracts by increasing the performance target for each SLA to the levels requested by the Referring Parties as set out in Table 3;*
 - b. *A determination under regulation 31(2) of the Framework Regulations stating that, under the current terms of the Regulated Contracts, eircom is in breach of the SMP conditions set by ComReg in the 2007 RNA Decision, the 2015 FACO Decision, the 2010 WBA Decision and the 2010 WPNIA Decision, in particular, the requirement to offer and provide network access to CGA services in a fair, reasonable and timely manner; and*
 - c. *A direction imposing an obligation which is enforceable against eircom by each Referring Party which purchases Regulated Services from eircom, to enter into a transaction between each relevant Referring Party and eircom on the terms and conditions fixed by ComReg (consistent with the*

¹ ComReg Document No 15/127a: “ *Dispute relating to Eircom’s Current Generation Access regulated contract terms*” dated 16 November 2015

² European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011)

approach taken above) within a specified period of not more than two weeks.”

5. In section 9.3 of the Dispute, the Referring Parties highlight that that “*the discussion on the appropriate level of service level guarantees (SLGs)...are an essential component of any measure designed to encourage improved performance by a service provider such as eircom. Advancing the discussion on the appropriate level of SLGs cannot commence until the appropriate level of the SLAs has been determined.*”
6. ComReg has considered the scope of the dispute referred to it and has concluded that the appropriate scope for the dispute in relation to the repair time performance metrics is as follows:
 - a. (above)

ComReg is of the view that it is not appropriate to resolve this matter pursuant to Regulation 36 as the relevant legislation for resolution of disputes is Regulation 31 of the Framework Regulations. ComReg therefore intends to progress this under Regulation 31.

ComReg will consider the terms of the regulated contracts for the products specified below:

- i. Local loop unbundling in the form of unbundled local metallic path (**ULMP**); line sharing (**LS**); combined GNP and ULMP (**GLUMP**) in the Wholesale (Physical) Network Infrastructure Access (including shared or fully unbundled access) at a Fixed Location (**WIPNIA**) Market; and
- ii. Single billing wholesale line rental (**SBWLR**) in the Wholesale Call Origination on the Public Telephone Networks Provided at a Fixed Location (**FACO**) Market.

ComReg considers that bitstream managed backhaul in the Wholesale Broadband Access (Market 5) is out of the scope of this investigation as the Referring Parties have not presented any evidence of engagement or dispute.

- b. (above)

ComReg is of the view that a breach determination is out of scope in the

context of a dispute. In resolving this dispute ComReg will consider and respond, where appropriate, to the points raised by the Referring Parties. ComReg will assess whether it is appropriate to adjust the relevant SLA metrics with a view to resolving the dispute, and if so determine the relevant metrics. ComReg will take the relevant significant market power (**SMP**) obligations into consideration in any such determination under Regulation 31(2).

c. (above)

In relation to the Referring Parties' point (c) above, a consideration of any determination made under the Referring Parties' point (a) above will also address the appropriate timescale for implementation.

7. Finally, in relation to section 9.6 of the Dispute, ComReg notes that in its view service level agreements (**SLAs**) and SLGs are linked, however, it notes the Referring Parties' views that SLGs are not in scope and as such the SLGs are considered out of scope.
8. The dispute will be handled according to ComReg's Dispute Resolution Procedures set out in ComReg Document No 10/18R "*Dispute Resolution Procedures - Framework Regulations - (Response to Consultation Document No. 09/85)*"³ (**ComReg Decision D03/10**).

³ http://www.comreg.ie/_fileupload/publications/ComReg1018.pdf