



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Information Notice

CRD-967 FTTH Tariff Structure Review

Information Notice

Reference: ComReg 23/24

Version: Final

Date: 14/03/2023

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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1. On 19 January 2023 Eircom informed Access Seekers via its Regulated Access Products ('RAP') Portal that it was conducting a review of the tariff structures of its FTTH VUA and BS+ products published as "CRD 967 - FTTH Tariff Structure Review" ('CRD-967'). Eircom explained that "*The proposed structure will lower rental charges. The reduced rates would be applicable based on the individual operators FTTH base profile.*"
2. On 1 February 2023 Eircom notified ComReg of a discount scheme for FTTH VUA & FTTH Bitstream ('the Scheme') as Wholesale Notification 23-003 ('the Notification') and in or around the same time updated CRD-967 on the RAP Portal noting its notification to ComReg on 1 February and a planned launch date of 1 May 2023¹.
3. On 10 February ComReg requested additional information including the Margin Squeeze Test model required to complete the Notification. Eircom provided the information requested by ComReg on 17 February 2023, triggering the commencement of the one month notification period applicable as provided for in ComReg Decisions D10/18² and D11/18³.
4. Under the Scheme, tiered tariff reductions were proposed to be made available to Access Seekers using Eircom's network based on the maintenance or specified growth targets of their consumption of broadband products (CGA, FTTC & FTTH) for the three separate periods May to December 2023, January to December 2024 and January to December 2025. Price rebates were to be calculated at the end of each month with a reconciliation each December to check for accuracy over the full period/year potentially leading to refunds by Access Seekers to Eircom on a retrospective basis in respect of the Access Seekers entire customer base having regard to actual annual growth achieved or not achieved.
5. ComReg, having considered Eircom's Notification of this, is of the view that the Scheme does not meet the requirements set out in ComReg Decisions D10/18 and D11/18 and raises significant concerns as regards the impact it would have on investments and competition and, accordingly, should not be put into effect.
6. In particular, the Scheme is a discount scheme within the meaning of ComReg Decision D11/18 which sets out ComReg's clear policy that Eircom may not introduce discount or promotions in respect of FTTH VUA and Bitstream services; it also creates a margin squeeze between FTTH VUA and FTTH Bitstream contrary to ComReg Decision D10/18, when tested using the Margin Squeeze Test specified in ComReg Decision D11/18.

¹ Annex 1 CRD-967

² [ComReg Decision D10/18 \(ComReg 18/94\) of 19 November 2018.](#)

³ [ComReg Decision D11/18 \(ComReg 18/95\) of 19 November 2018.](#)

7. In addition to the uncertainty for Access Seekers in relation to potential retrospective refunds following the December reconciliations, the Scheme also creates significant uncertainty for alternative operators looking to invest in infrastructure roll-out as regards their ability to attract wholesale customers onto their networks. In particular, the Scheme includes features that are characteristics of retroactive loyalty-inducing rebate schemes that have clear anti-competitive effects and raises serious concerns under Competition Law.
8. On 9 March 2023 ComReg informed Eircom of its very significant concerns with the Notification and sought confirmation from Eircom that Eircom will not proceed to publish the Scheme. Confirmation has not yet been received and ComReg is evaluating its next steps to bring certainty to the market.

Annex 1: CRD-967

CRD Reference Information (Internal Use Only)

PCRL Title	FTTH Tariff Structure Review
PCRL ID	CRD-967

Section 1 – ‘Request Details’	– To be completed by Operators/Service Providers
Section 2 – ‘Project Updates’	– To be completed by open eir
Section 3 – ‘Document Change Control’	– To be completed by open eir

Section 1 – Request Details (Operators/Service Providers)

Requestor	XXXX
Request Description	Review of FTTH (VUA and BS+) tariff structures. The proposed structure will lower rental charges. The reduced rates would be applicable based on the individual operators FTTH base profile. The rules are designed to benefit all Operators on a non-discriminatory basis.
Benefits	The proposed tariff structure could be used by Operators to incentives growth in FTTH and improve broadband sales.
Relative Priority	High
Forecast	Consistency with 2013 EC Recommendation for FTTH pricing flexibility

Please note the completed document should be approved by the operator/service provider, before being submitted via email to rapcustomerrequirements@openeir.ie.

This document will be published on the open eir RAP Customer Portal, <https://www.openeir.ie/rap-customer-portal/>

once the requirement is accepted and deemed a change to a RAP product. Any commercially-sensitive information will be redacted before this document is published to the portal.

All queries should be submitted via email to rapcustomerrequirements@openeir.ie.

Section 2 – Project Updates (Internal Use Only)

Category	Choose an item.
Relevant Market	Choose an item.
Confirmation Date	Date a developer confirmed the requirement with the operator/service provider
<p><u>19/01/2023 - Assessed to be RAP</u></p> <p>Assessed to be RAP and published on the RAP Portal. Status updated to Concept.</p> <p><u>26/01/2023 - Publication of Concept and moving to Scope</u></p> <p>The Concept for this CRD is to review FTTH (VUA and BS+) tariff structures. The proposed structure will lower rental charges. The reduced rates would be applicable based on the individual operators FTTH base profile. The rules are designed to benefit all Operators on a non-discriminatory basis.</p> <p><u>02/02/2023 – Publication of Scope and Move to Delivery</u></p> <p>The Scope is as outlined above in Concept.</p>	

Notification date – 01/02/2023
 Planned Launch date – 01/05/2023
 Exit Planning Date - 02/02/2023
 Priority Score – 100
 Planned Candidate List – 23_T1

Section 3 – Document Change Control (Internal Use Only)

Version	Request update	Status	Date
1.0	Initial Request Received	Request	19/01/2023
2.0	Assessed as a RAP Request	Concept	19/01/2023.
3.0	Moving to Scope	Scope	26/01/2023.
4.0	Moving to Delivery	Delivery	02/02/2023.