



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Reg

Information Notice

Direction to Eircom Limited with respect to
Access to CEI under ComReg Decision
D10/18, including Sub-Duct Self-Install Duct
Access

Information Notice

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Commission for Communications Regulation

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Additional Information

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1. The Commission for Communications Regulation (“**ComReg**”) is the statutory body responsible for the regulation of the electronic communications sector (telecommunications, radio-communications and broadcasting transmission). ComReg has a range of functions and objectives in relation to the provision of electronic communications networks, electronic communications services and associated facilities under European Union and national legislation.
2. In 2018 ComReg designated Eircom with Significant Market Power (“**SMP**”) in the market for Wholesale Local Access in ComReg Decision D10/18¹. Among other remedies designed to address Eircom’s SMP, ComReg Decision D10/18 requires Eircom to allow other telecommunications operators to access its civil engineering infrastructure (“**CEI**”) – that is to say its ducts, poles and similar infrastructure.
3. As part of its obligation of access, Eircom must provide Duct Access, whereby Eircom allows other operators to insert a sub-duct into Eircom’s ducts in the same way that Eircom itself does when rolling out its own network. Following a review of certain aspects of Eircom’s offer for CEI, and following notification by Eircom of a proposed Sub-Duct Self-Install Duct Access product, ComReg is not satisfied that Eircom’s offer of Access to CEI, including Duct Access, allows effective access to other operators. Furthermore, ComReg is concerned that Eircom’s proposed prices for Duct Access are not consistent with the price control imposed under ComReg Decision D10/18. Accordingly, having engaged with Eircom, ComReg is now of the view that it is necessary to intervene under the Access Regulations² to ensure that Eircom provides access in an appropriate manner.
4. Regulation 18 of the Access Regulations provides ComReg with the power to issue directions as follows:

“18 The Regulator may, for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under these Regulations, issue directions to an operator or undertaking to do or refrain from doing anything which the Regulator specifies in the direction.”
5. In addition, under Regulation 9(3) of the Access Regulations, ComReg may issue directions requiring an operator subject to an obligation of transparency:

¹ Market Review: Wholesale Local Access (WLA) provided at a Fixed Location, Wholesale Central Access (WCA) provided at a Fixed Location for Mass Market Products, Response to Consultation and Decision, ComReg Decision D10/18.

² European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011, S.I. No. 334 of 2011.

“to make changes to a reference offer to give effect to obligations imposed under these Regulations and to publish the reference offer with such changes”.

6. Regulation 9(4) of the Access Regulations further provides that ComReg may specify in a direction pursuant to Regulation 9(3):

“the precise information to be made available, the level of detail required and the manner of publication”.

7. Finally, Regulation 13(4) of the Access Regulations provides that where an operator has an obligation under Regulation 13 regarding the cost orientation of its prices, ComReg may issue directions as follows:

“issue directions requiring an operator to provide full justification for its prices and may, where appropriate, require prices to be adjusted.”

8. On 3 June 2021 and further to its powers under the Access Regulations, ComReg made a decision to issue a direction³ to further specify the requirements relating to Access and conditions of Access to Eircom CEI in ComReg Decision D10/18, in particular as set out in Section 7.1 and Section 7.2 (xiii), Section 8.1 and Section 8.2 of the Decision Instrument in Appendix 20 of the ComReg Decision D10/18 (the **“WLA Decision Instrument”**). This includes a direction to Eircom to make available Sub-Duct Self-Install Duct Access from 13 August 2021, following notification to ComReg, including notification of amendments to Eircom’s Access Reference Offer for the purpose of giving effect to the requirements thus further specified, on 1 July 2021 and publication on 15 July 2021.
9. Eircom has also been directed to re-notify proposed prices for Sub-Duct Self-Install Duct Access and provide full justification for the prices to be levied, including without limitation by way of annual licence fees, process charges and any other additional or excess charges, by reference to the principles underpinning the applicable price control.
10. The effective date of the Direction is 8 June 2021.
11. ComReg reserves the right to issue further directions as may be appropriate with respect to Access to CEI and its pricing.

³ Direction to Eircom Limited with respect to Access to CEI under ComReg Decision D10/18, ComReg Document 21/20, 8 June 2021.