



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Information Notice

Wholesale Dedicated Capacity Market - Extension of Timeline for Market Analysis

Information Notice

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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1. This Information Notice is to inform stakeholders that the timeline for the completion of ComReg's analysis of the Wholesale Dedicated Capacity ('WDC') market has been extended by 9 months to 24 October 2025.¹ WDC supports the provision of leased lines which are high quality, symmetric data connectivity services, typically used by medium to large enterprises, with such services supporting a range of ICT services.
2. The provision of wholesale dedicated capacity is currently regulated by ComReg's Decision D03/20 notified to the European Commission (the 'Commission') under Case IE/2019/2214 and adopted by ComReg on 24 January 2020².
3. Regulation 49(9)(a) of the ECC Regulations³ (which transposes Article 67(5)(a) of the European Electronic Communications Code) requires that a new market analysis must be notified in draft to the Commission no later than 5 years from the adoption of the previous decision. That 5 year period may, however, be extended for a period of up to one year where ComReg notifies a reasoned proposal for an extension no later than four months before the expiry of the 5 year period and the Commission does not object within one month of receipt of the notified extension proposal.
4. On 19 April 2024, ComReg notified a reasoned proposal to the Commission in respect of a 9-month extension for completion of the WDC market analysis ('Notified Reasoned Proposal'). A non-confidential copy of the Notified Reasoned Proposal is attached at Annex 1 of this Information Notice.
5. There have been significant delays in the provision of critical WDC information by certain operators in the market. This information is required by ComReg to complete the WDC market analysis and concerns, in particular, the provision of accurate and complete geolocation information setting out the locations of connected leased lines customers, this being a key input to ComReg's assessment. The delay has impacted the timeline for the completion of the WDC market analysis, including the publication of a Consultation which is now scheduled for Q4 2024.

¹ The WDC market is Market 2 in the [European Commission's Recommendation 2020/2245 of 18 December 2020](#).

² Market Review – Wholesale High Quality Access Market, Response to 2018 Further Consultation and Decision, ComReg Document 20/06, [Decision D03/20](#), 24 January 2020.

³ [S.I. No. 444/2022](#) - European Union (Electronic Communications Code) Regulations 2022 (the 'ECC Regulations') which transpose into Irish law the [European Electronic Communications Code](#).

6. As the Commission did not object to the Notified Reasoned Proposal, the timeframe under Regulation 49(9)(a) of the ECC Regulations with respect to the notification to the Commission of a new draft measure concerning the WDC market analysis is now 24 October 2025. ComReg will endeavour to complete the market analysis earlier than this.

Annex 1: Notified Reasoned Proposal

Mr. Przemyslaw Kordasiewicz,
Acting Head of Unit
CNECT B.3 - Markets, Competition and Roaming
DG CONNECT
European Commission

By email: Przemyslaw.Kordasiewicz@ec.europa.eu

19 April 2024

Re.: Notification pursuant to Article 67(5)(a) of the European Electronic Communications Code with respect to the Wholesale Dedicated Capacity market (Market 2 in Commission Recommendation (EU) 2020/2245)

Dear Przemyslaw,

Please find enclosed a reasoned proposal by the Commission for Communications Regulation ('ComReg') pursuant to Article 67(5)(a) of Directive 2018/1972 ('the Code') in respect of an extension of time for the completion of ComReg's analysis of the Wholesale Dedicated Capacity ('WDC') market, being Market 2 in the European Commission's Recommendation 2020/2245 of 18 December 2020 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation.

ComReg's decision arising from its last review of this market, then identified as the Wholesale High Quality Access ('WHQA') market, was notified to the European Commission under Case IE/2019/2214 and was adopted as ComReg Decision D03/20 on 24 January 2020. As you know, Article 67(5)(a) of the Code requires that a review of a previous measure be carried out and a draft measure notified to the European Commission no later than 5 years from the adoption of the previous measure save that the five-year period may be extended for up to one year where the national regulatory authority has notified a reasoned proposal for an extension to the Commission no later than four months before the expiry of the five-year period and the Commission has not objected within one month of the proposed extension.

The within notification explains the reasons why ComReg requires a nine-month extension for the completion of its analysis of the WDC market so that the notification of its proposed measure would take place no later than 24 October 2025. It is ComReg's intention to progress its analysis of the market and the consultation

process as expeditiously as possible and notify the European Commission in advance of 24 October 2025.

Please do not hesitate to contact me if you require further information or wish to discuss.

Yours sincerely,

Sent electronically and accordingly bears no signature

Donal Leavy
Director of Wholesale
ComReg



**NOTIFICATION TO THE EUROPEAN COMMISSION OF A 9-MONTH EXTENSION
TO THE FIVE YEAR PERIOD ALLOWED FOR MARKET ANALYSIS IN RESPECT
OF THE MARKETS REGULATED UNDER COMREG DECISION D03/20 OF 24
JANUARY 2020**

**REASONED PROPOSAL TO THE EUROPEAN COMMISSION
PURSUANT TO ARTICLE 67(5)(a) OF DIRECTIVE 2018/1972 OF 11 DECEMBER
2018**

NON-CONFIDENTIAL

19 April 2024

INTRODUCTION

1. This is a notification by the Commission for Communications Regulation ('ComReg'), Ireland's National Regulatory Authority, for the purpose of Directive 2018/1972 of 11 December 2018 establishing the European Electronic Communications Code (Recast) ('the Code'), pursuant to Article 67(5)(a) of the Code. By this notification, ComReg sets out its reasoned proposal of a 9 month extension to the maximum time period for its review of the market for wholesale high quality access which is regulated under ComReg Decision D03/20 of 24 January 2020.
2. Pursuant to Article 67(5)(a) of the Code, where a national regulatory authority has designated an undertaking with Significant Market Power ('SMP') on a relevant market and imposed specific regulatory obligations on that undertaking, it shall carry out an analysis of the relevant market and notify the corresponding draft measure in accordance with Article 32 of the Code within five years from the adoption of the previous measure, save that the five-year period may, on an exceptional basis, be extended for up to one year where the national regulatory authority has notified a reasoned proposal to the Commission no later than four months before the expiry of the five-year period and the Commission has not objected within one month of the notified extension.
3. ComReg is currently in the process of carrying out the analysis of the wholesale high quality access markets regulated under its Decision D03/20. Following notification of the draft measure to the European Commission under Case IE/2019/2214, ComReg's Decision D03/20 designated Eircom Limited ('Eircom') as an operator with SMP on a number of wholesale high quality access markets and imposed a full suite of obligations as a result. The markets that are currently regulated under Decision D03/20 remain markets that are listed as markets susceptible to ex ante regulation (Market 2 – Wholesale Dedicated Capacity) in European Commission Recommendation 2020/2245 of 18 December 2020).
4. The five year period referred to in Article 67(3)(a) expires in respect of Decision D03/20 on **24 January 2025**. However, for the reasons set out below, ComReg proposes that the period is extended by **9 months** and that it notify the Commission with its draft measure pursuant to Article 32 **no later than 24 October 2025**.
5. ComReg sets out below the reasons for its proposal and the exceptional nature of the delays in the market analysis which have rendered this notification necessary.

EXCEPTIONAL DELAYS ARISING IN THE COLLECTION OF THE INFORMATION REQUIRED FOR MARKET ANALYSIS

6. The market analysis underpinning the review of the markets regulated under Decision D03/20 was initiated in Q3 2022 with the view to notifying the European Commission no later than 24 January 2025. ComReg's workplan anticipated that following a data gathering exercise and an analysis of the market based on the collected data, a draft decision would be prepared, and a consultation would be published in Q4 2023 prior to notification under Article 32 of the Code. However, there have been significant delays in receipt of critical information from relevant operators including [X ██████████ X]. As a result, ComReg does not believe that it will be in the position to notify a draft measure by 24 January 2025. This is explained in further detail below.

7. For the purpose of its WDC market analysis, ComReg requires precise geographic locations of networks and customers of leased lines, in order to monitor developments and assess the conditions for competition, at a level that is sufficiently local so that ComReg may define the geographic scope of the relevant markets and assess market power and carry out an SMP assessment. Given that over 35% of addresses in Ireland are not unique, general addresses are insufficient for that purpose and the exact geolocation of each leased line circuit is required. This means the latitude/longitude details or Eircodes (the latter being Ireland's postcode system which provides a unique geographic location identifier for premises) are required for each circuit, thereby allowing ComReg to identify the precise geographic locations of the premises at which leased lines are provided ('Connected Premises'). This data is a key input to ComReg's mapping exercise and network proximity analysis which underpins the definition of the relevant product/geographic scope of the market(s) and SMP assessment.
8. In or around July 2022, ComReg issued a statutory request for information to operators seeking, among other things, leased lines data by circuit, requiring for each circuit the Eircode or the latitude/longitude for the Connected Premises termination point or, where such information was not available, a specific address (including building number, street, town and county) that allows the termination point of the circuit to be identified. The data was required to be provided by 28 September 2022 for the period between January 2022 to June 2022 ('H1 2022') and by 29 March 2023 for the period between July 2022 and December 2022 ('H2 2022').
9. However, on receipt of the data for H1 2022 (received in September 2022) and having spent a number of months cleansing and aggregating the data, ComReg found that approximately [X █████ X]¹ of the leased line data provided by the operators did not have geo-location information attached to it. To address this gap, ComReg engaged external experts, in addition to internal resources, to obtain the missing geo-location information using a variety of geo-locating tools. This had limited success.
10. On the basis of that exercise, ComReg produced a database of circuits for which no geolocation information had been provided by the operator concerned. There were 5 categories:
 - a. Type 1, for which geolocation information had been secured by a third party;
 - b. Type 2, for which ComReg had secured geolocation information using google map search;
 - c. Type 3, for which ComReg had secured geolocation information using internal resources;
 - d. Type 4, for which ComReg had secured geolocation information using google map search but results were unreliable; and
 - e. Type 5, for which ComReg had not been able to secure any geolocation information.
11. In June 2023, ComReg provided each operator with a copy of the data within the database relevant to that operator and asked that operators verify the geo-location information and obtain any missing geo-location information by 20 July 2023. ComReg

¹ In the range 35%-40%.

also asked that operators update their records and embed location information into their systems so that the updated geocodes can be used in future submissions to ComReg.

12. Separately, ComReg issued a new statutory request for information requiring that the same leased lines data by circuits be provided by 27 September 2023 for the period January to June 2023 ('H1 2023') and by 20 March 2024 for the period July to December 2023 ('H2 2023'). The statutory request reflected amendments to ComReg's data gathering powers brought about by the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023, which came into effect on 9 June 2023, enabling ComReg to require operators not only to provide data available to them but also to require them to gather together, generate or obtain the information (such as Eircodes or latitudes/longitudes) (this ability did not exist under ComReg's previous statutory information gathering powers).
13. Efforts to obtain geolocation information was hindered by further delays on the part of operators, including [X ██████████ X]. In particular there were delays in the provision of the verification and additional information requested by ComReg in June 2023. The deadline of 20 July 2023 and subsequent deadlines passed, and the process and engagement continued into late 2023 and early 2024. In particular, ComReg engaged with [X ██████ X], whose data contained a high proportion of missing geo-location information. For example, [X ██████████ X]² revised H1 2023 data submitted in December 2023 did not contain the required geo-location data and displayed inconsistencies relative to what had been submitted previously. [X ██████ X] provided an updated H1 2023 data set on 17 January 2024 with improved quality of the geo-location information but with still approximately [X ██████ X]³ of records missing geo-location data.
14. ComReg again reverted to [X ██████ X] regarding the gaps in the geo-location information and simultaneously sought through its own efforts to try and address the gaps. ComReg is now satisfied that approximately [X ██████ X]⁴ of the [X ██████████ X] data has correct geo-location information.
15. Other providers, such as [X ██████████ X] equally had issues with the provision of leased line data to ComReg. The resolution of these problems continued into April 2024.
16. As a result of the difficulties encountered in obtaining and verifying geolocation information, a complete dataset, including reliable geolocation information, has only been available to ComReg since April 2024. ComReg notes that the delays encountered are exceptional and unlikely to recur for the following reasons:
 - a. The coming into effect of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 has strengthened ComReg's information gathering powers. In particular amendments to section 13D of the Communications Regulation Act 2002 means that ComReg can require an operator,

² In the range 20% to 25%.

³ In the range 5% to 10%.

⁴ In the range 90%-95%.

not simply to provide information that is readily available to it, but also to gather together, generate or obtain the information.

- b. The geolocation information that has been collected is equally relevant to the subsequent data collection periods and an exercise of that scope need not be repeated in future on the basis that operators now seek to include the geolocation information within their systems.

NINE MONTH EXTENSION NECESSARY TO CARRY OUT ANALYSIS AND CONSULT WITH INDUSTRY

17. Given that ComReg has only had a complete data set since April 2024, ComReg is of the view that a nine month extension is necessary to complete its market analysis, undertake a public consultation of same and notify the European Commission in accordance with Article 32 of the Code.
18. In particular, as a result of the delays in the data gathering exercise, ComReg is only now in the position to proceed with its data analysis and the first step in the market definition exercise. This has a knock-on effect on its project timeline which ComReg anticipates will run as follows:
 - Analysis: March – September 2024
 - Consultation: October 2024
 - Analysis of Consultation responses and drafting of Decision: December 2024 to September 2025
 - Notification of Decision to Commission: October 2025
19. It may be possible to complete the market analysis process in advance of October 2025. However, ComReg believes that it is prudent to allow for an additional 9 months for completion of the market review.