



Office of the Director of
**Telecommunications
Regulation**

DECISION NOTICE

Interconnection Rates in the Irish Telecommunication Sector

Decision Notice D5/02 on rates to apply
from 1 December 1999 to 31 March 2000

Decision No: D5/02
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1. Introduction

This document sets interconnection rates applicable for the 4 month period from 1 December 1999 to 31 March 2000. Rates were first set and announced in February 2000¹ on an interim basis and these interim rates were subsequently revised in July 2001.² The Director of Telecommunications Regulation (“the Director”) is now in a position to approve the final rates that should apply for this period.

eircom had proposed revised rates for the 4 month period to 31 March 2000 be used as the final rates for that period. As these revised rates were not significantly different from the current interim rates, the Director therefore considers the current interim rates to be appropriate as the final rates for this period. The reasons for this decision are set out in this paper.

eircom has also signalled its intention to discontinue its current legal proceeding against Decision Notice D7/01.

Appendix 1 sets out some background information, including the legislative background and details of ODTR documents on interconnection which were published prior to the introduction of the interim rates for 4 months period to 31 March 2000 and documents on developments since then.

Appendix 2 sets out the final interconnect rates which will apply for this period.

2. Scope of this Decision

This document considers interconnect rates for the 4 month period from 1 December 1999 to 31 March 2000 and sets out the Director’s position on final rates for this period. All RIO conveyance services applicable during the period in question are addressed by this determination.

3. *eircom*’s Proposal

eircom had proposed rates for the period which were not significantly different from the current interim rates.

4. The Director’s Position

The ODTR has undertaken the following actions:

- A detailed review of the submissions from *eircom* of its costs and its justification for rates for the period in question,
- A consideration of the relevance of particular costs during the period concerned and
- A comparison of rates in the context of EU benchmarks and other market data.

¹ ODTR Document 00/15 “Interconnection Rates in the Irish Telecommunication Sector- Decision Notice D3/00 on rates to apply from 1 December 1999 to 31 March 2000.

² ODTR Document 01/48 “Eircom’s Reference Interconnect Offer Interim rates December 1999 to September 2001- Information Notice.”

eircom's submission has been prepared in accordance with Determinations as set out in D7/01 and its predecessors, together with additional correspondence between the ODTR and *eircom*. The overall net change as proposed by *eircom* was considered to be immaterial when considered in terms of the disruption that would result from a readjustment.

The Director refers to D7/00 which states- "*The Director will apply retrospection on an annual basis following calculation of final interconnect rates. Retrospective rates shall be calculated for all services, but shall only be applied where there is a material difference between interim and final interconnection rates on the revenues of operators*" and considers the overall net change as proposed by *eircom* not to be material and therefore retrospection of rates should not be applied in this case.

The Director recognises the benefits of stability of rates in the market place in facilitating efficient investment decisions.

The Director also noted that key conveyance rates have remained largely within EU best practice benchmarks throughout the period.

In this context the Director has concluded that the rates shall be finalised at the level of the current interim rates as per ODTR 01/48.³

Decision 1. The Director after reviewing cost information from *eircom* considers that the current interim rates for the 4 month period to the 31st March 2000 should be adopted as final rates. These rates were previously set out in ODTR Document 01/48 and are reproduced in the appendix 2. This decision is made under Regulation 8(5), 8(9), 8(10) and 10(3) of the European Communities (Interconnection in Telecommunications) Regulations, 1998, SI 15 of 1998.

³ ODTR 01/48- *eircom*'s Reference Interconnect offer Interim Rates December 1999 to September 2001

APPENDIX 1: Background Information

Background

Under Irish telecommunications law, which is in turn developed from European law, an operator who is designated as having significant market power (“SMP”) is required to permit other licensed operators (“OLOs”) to interconnect to its network. To facilitate this process, the SMP operator must publish a reference interconnect offer (“RIO”) that sets out the terms and conditions for interconnection and the prices to be charged. The contents and production of the RIO are subject to statutory requirements, compliance with which is overseen by the Director and her Office (“the ODTR”). In particular, an SMP operator must justify to the Director’s satisfaction that the prices set are in accordance with legal requirements that notably include the need for these prices to be cost-oriented, non-discriminatory and transparent. If the Director is not satisfied that price are properly justified, she may direct changes to be made. *eircom*, as an SMP operator, is bound by these rules.

Legislative background

EU and Irish legislation set out procedures for providing interconnection. The most important of these are the following:

- Directive 97/33/EC of the European Parliament and Council of 10 April 1997 on “a common framework for general authorisations and individual licences in the field of telecommunications service” (the “Interconnection Directive”);
- European Communities (Interconnection in Telecommunications) Regulations, 1998 (as amended) (SI No 15 of 1998) (the “Interconnection Regulations”), which transpose the Interconnection Directive into Irish law.

The Directive and Regulations place special obligations on a telecommunication industry operator providing a fixed public telephone network, who is designated by the Director as having SMP. The essence of these obligations are:

- interconnection charges should follow the principles of transparency, non-discrimination and cost-orientation;
- the Director may direct an organisation to justify its charges and to adjust these charges where they are not in compliance with these principles;
- the “burden of proof” regarding justification lies on the organisation providing interconnection;
- A RIO shall be published and the Director may direct changes to this offer, where appropriate.
- Interconnection charges shall be sufficiently unbundled, so that applicants are not required to pay for anything not strictly related to the service requested.

In addition, guidance from the European Union on interconnection and the setting of rates intended to help Member States realise the objectives of the Interconnection Directive is of relevance. Of particular note are the following:

- Commission Recommendation of 8 January 1998 on interconnection in a liberalised market, 98/195/EC, as amended by Commission Recommendation of 29 July 1998, 98/511/EC;
- Commission Recommendation of 8 April 1998 on Interconnection in a liberalised telecommunication market. Part 2: Accounting separation and cost accounting (Part 1 was published on 15 October 1997)
- Commission Recommendation of 24 November 1999 on Leased Lines Interconnection pricing in a liberalised telecommunications market, C(1999)3863.

Related decisions and documents

The ODTR has undertaken a number of consultations and issued various Decision notices on accounting separation and the RIO. Notable among these were:

- “Interconnection Rates in the Irish Telecommunications Sector”, November 1998, ODTR 98/52 and “Interconnection Rates in the Irish Telecommunications Sector – Report on Remaining Reference Interconnect Offer Rates”, November 1998, ODTR 98/60.”
- ODTR 99/17 “The Development of Long Run Incremental Costing for Interconnection”, Consultation Paper- March 1999.”
- ODTR 99/38 “The Development of Long Run Incremental Costing for Interconnection Decision Notice D6/99 and Report on Consultation Paper ODTR 99/17”
- ODTR 99/35 “Accounting Separation and Publication of Financial Information for Telecommunications Operators - Decision Notice D5/99, Consultation Report and Issues for Further Consideration.”
- ODTR 99/52 “Accounting Separation and Publication of Financial Information for Telecommunications Operators” - Decision Notice D10/99.”
- ODTR 99/43 “Costing Methodologies for use in Accounting Separation - Decision Notice D8/99 and Report on the Consultation”.
- ODTR 99/16 “Telecom Éireann’s Reference Interconnection Offer, Consultation Paper”
- ODTR 00/31 “Eircom’s Reference Interconnect Offer- Decision Notice D7/00 & Report on the Consultation.”
- ODTR 00/59 “Accounting Separation and Publication of Financial Information for Telecommunications Operators Decision Notice D9/00 & Issue for Further Consideration”
- ODTR 00/72 “Accounting Separation and Publication of Financial Information for Telecommunications Operators, Supplemental Information referring to Decision Notice D9/00, Decision Notice D10/00.”.
- ODTR 01/24 “Eircom’s Reference Interconnect Offer & Accounting Separation and Publication of Financial information for Telecommunication Operators- Report on the Consultation & Decision Notice D7/01.”

APPENDIX 2: Final Interconnection Rates for period from 1 December 1999 to 31 March 2000

Call Termination

	Day	Evening	Weekend
Primary	0.709	0.395	0.376
Tandem	1.103	0.615	0.585
Double Tandem	1.520	0.848	0.807

Call Origination

	Day	Evening	Weekend
Primary	0.705	0.393	0.374
Tandem	1.118	0.623	0.594
Double Tandem	1.560	0.870	0.828

Transit

	Day	Evening	Weekend
Transit	0.558	0.311	0.296

Euro/cents per minute