



Office of the Director of
**Telecommunications
Regulation**

INFORMATION NOTICE

Interconnection Rates in the Irish Telecommunication Sector

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Oifig an Stiúirthóra Rialála Teileachumarsáide

Office of the Director of Telecommunications Regulation

Abbey Court, Irish Life Centre

Lower Abbey Street, Dublin 1, Ireland

Tel. +353 1 804 9600 Fax. +353 1 804 9680 E-mail info@odtr.ie

1. Introduction

The provision of interconnection on fair and efficient terms is widely recognised as an essential requirement for the creation of a competitive telecommunications market. Interconnection charges can account for a substantial proportion of operators' costs. It is therefore important that these charges are soundly derived and give proper economic signals to operators to guide their investment decisions.

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 with 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 of Telecommunications Regulation ("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 prices are properly justified, she may direct changes to be made. *eircom* is an operator designated as having SMP in the relevant market and is governed by the Interconnection Regulations.

The Director has provided guidance to *eircom* as to the calculation of cost justified charges in a series of decision notices, the most recently D7/01. This decision notice and its predecessors had been subject to a legal challenge by *eircom*. The Director now welcomes the fact that *eircom* has indicated its intention to discontinue its current legal proceedings against D7/01.

The Director is now publishing this document to provide a status report to the market on the interconnection rates contained in *eircom*'s RIO. The key positions and actions which are now being adopted include:

- The finalisation of interconnection rates for the 4 month period from 1 December 1999 to 31 March 2000.
- The finalisation of interconnection rates for the 12 month period from 1 April 2000 to 31 March 2001.

In addition to this document, two other relevant documents are being published. These are:

Document ODTR 02/39 sets out the Director's position on the interconnection rates that applied from 1 December 1999 to 31 March 2000 and the finalisation of rates for that period. In summary, the Director proposes that the rates for the 4 month period to the 31 March 2000 should be finalised at the level of the current interim rates.

Document ODTR 02/40 considers rates which will apply from 1 April 2000 to 31 March 2001. *eircom* presented the ODTR with a revised submission for this period which proposed an average reduction in RIO rates of 13%. The Director after reviewing cost information from *eircom* considers that these reduced interconnect rates should be set as the final rates for the 12 month period from the 1st April 2000 to 31st March 2001.

2. Background

Background information to this status report is set out in appendix 1 including the legislative background to the interconnection regime in Ireland and related ODTR documents and decisions on interconnection.

3. Position of the Director

Periods under consideration

In relation to the 4 month period from 1 December 1999 to 31 March 2000, the Director intends to finalise rates for this period and does not propose to review these rates further.

In relation to the 12 month period from 1 April 2000 to 31 March 2001, the Director also intends to finalise rates for this period and does not propose to review these rates further.

Next Steps

In relation to the period from 1 April 2001 to 31 March 2002, work will be undertaken by the ODTR to review the interim rates for this period.

In relation to the period from 1 April 2002 to 31 March 2003, work will be undertaken by the ODTR to determine the interim rates for this period. In the intervening time RIO rates should continue to be invoiced at the rates set in the RIO effective from 1 October 2001.

It is intended that the review of the interim rates for the periods from 1 April 2001 to 31 March 2002 and the setting of interim rates for the period from 1 April 2002 to 31 March 2003 will be completed by the end of May.

In Decision Notice D7/01, the ODTR undertook to issue a report to industry on a comparison of eircom's top down LRIC model with the ODTR's bottom up LRIC model and make any relevant recommendations for the future. The publication of this report has been delayed due to the uncertainty generated by eircom's appeal against D7/01 and the ODTR now intends to issue a summarised version of this report in May.

4. 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 essences 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.”