



Office of the Director of
**Telecommunications
Regulation**

Interconnection Rates in the Irish Telecommunications Sector

Decision Notice D2/00
on rates to apply to 1 December 1999

Document No.

ODTR 00/14

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1 Introduction

This document considers interconnection rates applicable during the first year of liberalisation of the Irish telecommunications market. Rates were set and announced during November 1998 on an interim basis. The Director of Telecommunications Regulation (“the Director”) is now in a position to determine the final rates that should apply during this period.

The context for this decision is set out in ODTR Document 00/13¹ which should be read in conjunction with this document.

In summary, *eircom* has proposed that the interim rates set in November 1998 should be used as the final rates for the period from 1 December 1998 to 1 December 1999. The Director considers this is an acceptable position in accordance with the legislation governing interconnection. The reasons for this decision are set out in this paper.

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 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*, as an SMP operator, is bound by these rules.

2 Background

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 1998/99 and documents on developments since then.

In the context of the development of the interconnection regime over that period, the Director has indicated her intention to move rapidly to the use of Long Run Incremental Costs (“LRIC”) as the basis for determining interconnection rates. However, the Director has always recognised the need for complex modelling work to be completed before LRIC rates can be used as the main input to any such decision. Document ODTR 00/13 describes the timetable for further LRIC work and the application of LRIC to interconnection rates in the future.

3 Scope of this Decision

Interim rates were announced during November 1998, and have remained at the same level until now. This document considers rates from 1 December 1998 to 1 December 1999 and sets out the Director’s position on final rates for this period. The Director does not propose to consider the rates for this period further.

For other periods please refer to ODTR 00/13 and 00/15.

All RIO services applicable during the period in question are addressed by this determination.

¹ Interconnection Rates in the Irish Telecommunications Sector – status report

4 *eircom*'s Proposal

eircom has proposed that the interim rates for 1998/1999 be accepted as final rates for the period under consideration.

5 The Director's Position

The Director and her advisers have 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.

The review of historic costs suggested a wide range of adjustments to *eircom*'s cost justification based on their regulatory accounts. An assessment of conditions prevailing immediately before the issue of D12/99 resulted in some small increases in certain rates relative to the interim levels of those rates which could be offset by decreases in other rates. The overall net change was immaterial when considered in terms of the disruption that would result from a readjustment.

Furthermore, the Director notes that key conveyance rates have remained largely within EU best practice benchmarks throughout the period.

In this context the Director has concluded that *eircom*'s proposal to fix the rates at the level of the interim rates for the period is acceptable.

<p>Decision 1. The Director considers that <i>eircom</i>'s proposal that the interim rates announced in November 1998 should be finalised at their interim level for the period from 1 December 1998 to 1 December 1999 is appropriately cost justified.</p>

The decision in this document relates to the levels of charges for the relevant period and does not fix or set precedents in the area of detailed underlying principles of calculation of rates, including the application of LRIC to rates or the ongoing adjustment and consideration of the principles underlying the calculation of rates. These matters will continue to be subject to consultation and adjustment in accordance with the ODTR's ongoing analysis of interconnection and the RIO.

APPENDIX 1: Background Information

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 an operator who is designated by the Director as having SMP. The essence of these obligations is:

- 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 set out in accordance with market needs shall be published and the Director may direct changes to this offer, where appropriate.

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.

Linkages between costs and interconnection rates

The linkages between costs and interconnection charges are complex. Examples of some of the issues to be considered include the following:

- whether to use historic costs, historic costs adjusted for modern equivalent assets and their current costs or forward looking costs;
- the period over which investments (capital expenditure) are recovered and the manner (depreciation and amortisation policy) in which recovery occurs;
- the revenue streams that are considered to contribute to the funding of particular investments or operating expenses;
- the way capital and operating costs which are not directly attributable to a single product

are allocated to the different products (including retail products);

- the extent to which cost-orientation should be based on the costs of a reasonably efficient operator and what constitutes efficiency;
- assumptions about the way call are actually, or would be efficiently, routed through the network (routing factors) and therefore the manner in which individual elements of equipment are used to deliver particular services;
- the way total costs are apportioned throughout the day (tariff gradients).

Cost-orientation is not a simple matter and there is often a variety of ways – each of which may have validity – of establishing a cost-oriented charge. Indeed, it is a very easy matter to manipulate an allocation assumption, a set of routing factors, or any other input assumption to change, possibly in a substantial way, the final ‘price’. There is, therefore, no single answer that will be recognised as being correct by all parties and the Director, in considering whether *eircom* has justified its interconnection charges seeks not only satisfy herself that the arithmetic is correct, but also considers the assumptions made – and the alternatives that could have been made – having regard to the principles set out in law as well as other consideration that might reasonably be taken into account.

Related decisions and documents

Prior to liberalisation, *eircom* (then Telecom Éireann) published a set of interconnection rates. These had been submitted to the Director and she felt that they were acceptable as interim rates. The Director’s views were set out in two documents on interconnection² which recognised that a number of matters warranted further consideration. These matters were considered in a number of consultations that occurred during 1999. Notable amongst these were:

- A consultation and decision notice on the introduction of Long Run Incremental Costs (LRIC) as a basis for calculating interconnection rates^{3 4}.
- A number of consultations and decision notices relating to *eircom*’s separated accounts^{5 6} and on costing methodologies⁷.
- A broad ranging consultation on the RIO generally that was also initiated in March 1999⁸ that resulted in suspended decision notice D12/99.

² “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

³ ODTR 99/17 “The Development of Long Run Incremental Costing for Interconnection”, March 1999

⁴ ODTR 99/38 containing Decision Notice D6/99 and Report on Consultation Paper ODTR 99/17

⁵ ODTR 99/35 “Accounting Separation and Publication of Financial Information for Telecommunications Operators - Decision Notice D5/99, Consultation Report and Issues for Further Consideration

⁶ ODTR 99/52 “Accounting Separation and Publication of Financial Information for Telecommunications Operators - Decision Notice D10/99

⁷ ODTR 99/43 “Costing Methodologies for use in Accounting Separation - Decision Notice D8/99 and Report on the Consultation”,

⁸ Telecom Éireann’s Reference Interconnection Offer, Consultation Paper; ODTR 99/16.