



Commission for
Communications Regulation

Decision Notice

Local Loop Unbundling

Provision of Bulk Line Data

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1 Introduction

The “local loop” is the copper pair connecting an individual telephone subscriber to the nearest point of interconnection with the main telephone network at the local exchange. This “last mile” of network is accepted to be the most difficult for new entrants to replicate. “Local Loop Unbundling” requires the network owner to provide access to this copper pair, so that OLOs can offer their services across the local loop. This allows new entrants to provide a full range of services and in particular broadband services directly to the customer. As a result, Local Loop Unbundling has the potential to increase significantly the range of competitive services available to businesses and consumers.

At the Lisbon summit of March 2000, it was agreed that Local Loop Unbundling was required as a matter of urgency in order for Europe to reap the full benefits of the Internet and electronic commerce. In less than nine months, the European Parliament and Council had adopted Regulation 2887/2000 on unbundled access to the local loop, the “LLU Regulation”, which came into effect 1st January 2001.

The LLU Regulation required eircom to publish a Reference Offer on unbundled access to the local loop and related facilities by 31 December 2000, and to answer reasonable requests from that date. Although eircom published an Access Reference Offer (ARO), significant intervention by this office was required to complete the Reference Offer¹. It should be noted that eircom has challenged the charges set for LLU in Decision Notice D12/03 by way of Judicial Review, and the relevant charges set in D4/02 continue to apply.

Since the adoption of the Regulation, ComReg has offered its support to the industry in further developing the LLU product and processes, and bi-monthly meetings are held to review products. A consistent request has been made by Esat BT on behalf of access seekers to develop a new product which provides the technical characteristics of lines.

1 • ODTR 00/99 of 22 December 2000 – Information Notice on work to that date and initial commentary on the draft Reference Access Offer.
 • ODTR 01/01 of 31 January 2001 – Information Notice outlining changes to be made to the ARO and the work programme to complete tasks by end February 2001
 • ODTR 01/15 of 9 March 2001 – Information Notice outlining progress and seeking a more focused approach to remaining items – new timetables to finish by end April 2001
 • ODTR 01/21 of 2 April 2001 – Decision Notice D5/01 – directing changes to the ARO on supply of information and detailing timetables to finish work by end April 2001
 • ODTR 01/27 of 30 April 2001 – Decision Notice D8/01 – setting interim rates for LLU services
 • ODTR 01/35 of 18 May 2001 – Information Notice setting out arrangements for Service Level Agreements
 • ODTR 02/24 of 7 March 2002 – Decision Notice D1/02 – directing the Copper Loop Frequency Management Plan
 • ODTR 02/37 of 17 April 2002 – Decision Notice D4/02 – setting final prices
 • ComReg 03/37 of 31 March 2003 – Decision Notice D7/03 – setting interim prices LLU – Review of Charges
 ComReg 03/55 of 28 May 2003 – Decision Notice D12/03 - setting final prices

Broadband technologies - and in particular DSL delivered over the copper access network – are technologies which have a significant dependency on the characteristics of the copper loop and may not be available on all lines. In this respect, DSL is not a ubiquitous technology and it is expected that a proportion of lines will not be capable of carrying DSL. For example, lines which may fulfil eircom's USO obligation – such as longer lines or those provided by way of a carrier system – may not be suitable for carrying DSL.

Therefore it is vital for operators when building their business cases to have access to reliable information in order to determine the percentage of lines which are DSL capable. This information can also assist in defining the DSL product set, for example, providing data on which the available DSL rates on the line can be calculated.

Eircom, as the network owner, holds records on the copper access network setting out technical characteristics of all lines. Eircom has recently rolled out a line test system to its key exchanges which regularly tests the lines connected to those exchanges and stores the relevant information in a series of databases. Particularly relevant for DSL deployment are the capacitance to A leg and the capacitance to B leg measures.

2 Provision of Bulk Line Data

2.1 Request for bulk line data

At the LLU Review Forum meetings of 2nd April 2003 and 17th April 2003, Esat BT, on behalf of the industry, made a formal request for the LLU Review Forum to develop a product for the bulk transfer of line test information – capacitance to A leg and capacitance to B leg- from eircom.

Esat BT contends that provision of this data in bulk format is desirable. Esat BT will then be able to readily identify the suitability of lines for DSL rather than relying on the current process which involves a pre-order request to eircom for each individual line. This is a highly manual and time consuming process for both Esat BT and eircom resulting in inefficiencies and poor service to consumers wishing to identify whether their lines can be DSL enabled.

Following the forum meeting of 20th May, eircom agreed to provide this data in an interim format followed by a final format. For the first six months and in the interests of timeliness, eircom proposed to supply a cd each month giving the capacitance to A and B legs for each working PSTN and ISDN line in the eircom network where the information was available electronically. Following that eircom proposed a move to a more robust solution using a remote access database.

Despite originally agreeing to provide this information, eircom have failed to complete their actions arising from LLU Review Forum 9 (2nd July 2003) and LLU Review Forum 10 (16th July 2003) to provide the first cd containing this information. On 18th July 2003 eircom confirmed to ComReg that it did not intend to provide this data in a bulk transfer.

ComReg considers this information to form a related facility as defined under the LLU Regulation. A related facility means the facilities associated with the provision of unbundled access to the local loop, notably collocation, cable connections and relevant information technology systems, access to which is necessary for a beneficiary to provide services on a competitive and fair basis. ComReg considers that eircom are failing to provide this to industry at present.

The Annex to the LLU Regulation sets out the minimum list of items to be included in a reference offer for LLU. This includes in Section A3 the technical conditions related to access and use of local loops, including the technical characteristics of the twisted metallic pair in the local loop. ComReg considers that eircom are failing to provide this to industry at present.

In particular ComReg notes Recital 12 of the LLU Regulation which states that notified operators – in this case eircom – should provide information and unbundled access to third parties under the same conditions and of the same quality as they provide for their own services or to their associated companies. ComReg notes that eircom provide this raw data to populate a database for their bitstream (and hence i-stream) products and therefore use the data to determine whether a line qualifies for their DSL wholesale and retail products. ComReg believes it is therefore appropriate

for eircom to provide similar information to industry to enable them to develop a similar qualifying tool.

ComReg considers a request for this associated facility as reasonable, and is intervening under Article 4 (3) of the LLU Regulation to ensure non discrimination, fair competition, economic efficiency and maximum benefit for users. ComReg further considers that such information should be available as part of the generic information set out in Annex G of the Access Reference Offer and requires that eircom amend its offer within five (5) days of the date of this Decision Notice.

Decision 2.1

Pursuant to Article 4 of Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop, the Commission for Communications Regulation directs that eircom provide bulk information setting out the Capacitance to A leg and Capacitance to B leg information on each working PSTN/ISDN line to industry, subject to the data being held by eircom electronically. Reference to provision of bulk data should be set out as Generic Information in Annex G of the Access Reference Offer within five (5) days of the date of this Decision Notice.

2.2 Format of provision of information

2.2.1 Ex-directory customers

ComReg is aware that there are certain issues in respect of the treatment of ex directory customers, and recognises that industry must comply with certain legislation in respect of contact of these customers. ComReg believes that this is best covered by eircom drafting an amendment to the current non disclosure agreement required for LLU.

Decision 2.2

Pursuant to Article 4 of Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop, the Commission for Communications Regulation directs that eircom provide a draft non disclosure agreement to industry to govern the treatment of ex-directory customers. This should be provided to requesting access seekers by 23rd July 2003.

2.2.2 Provision by cd – interim solution

Eircom originally proposed to provide this data in a two stage proposal. For the first six months and in the interests of timeliness, eircom proposed to supply a cd each month giving the capacitance to A and B legs for each working PSTN and ISDN line in the eircom network where data is held electronically. Six months following

provision of the first cd, eircom proposed a move to a more robust solution using, for example, a remote access database.

ComReg and industry are broadly happy with the proposed approach but note that eircom has failed to provide the first cd as agreed by end June 2003. eircom have failed to complete their agreed actions and therefore ComReg hereby directs eircom to provide this information to industry as per this proposed interim solution pending development of a final solution which is agreed by industry. To ensure that relevant measures are taken to protect ex directory customers provision of the cd is contingent on signature of a non disclosure agreement as set out above. The first cd should be made available to industry not more than 3 (three) days following signature of a non disclosure agreement, and monthly thereafter.

Decision 2.3

Pursuant to Article 4 of Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop, the Commission for Communications Regulation directs that eircom provide bulk information setting out the Capacitance to A leg and Capacitance to B leg information on each working PSTN/ISDN line to industry on a cd where eircom have access to such information in electronic data bases. The first cd should be made available to industry not more than 3 (three) days following signature of a non disclosure agreement, and monthly thereafter.

2.2.3 Final solution

ComReg notes eircom's proposal to move to a more robust IT solution for transfer of the bulk data. ComReg requires that eircom convene an industry meeting of relevant experts to agree a project plan for implementation of an agreed final solution. The target date for implementation shall be six months from provision of the first cd. However until agreement and implementation of any solution, the interim solution shall continue to apply.

2.3 Costing

ComReg requires that eircom submit proposals for the charges it intends to apply for the interim solution. Eircom's submission should be provided by 13th August 2003. ComReg is minded that eircom's allowable charges should be based on the incremental costs incurred by an efficient operator in supplying this information to industry.

Decision 2.4

Pursuant to Article 4 of Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop, the Commission for Communications Regulation directs that eircom provide proposed charges for the interim provision of bulk information on CD to ComReg by 13th August 2003.

Appendix A – Legislation

Regulation 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop ('the LLU Regulation') was published in the Official Journal of the European Communities (L 336 of 30 December 2000). eircom, as the only operator designated by the Commission as having significant market power in the provision of fixed public telephone networks and services under Annex 1, Part I, of Directive 97/33/EC, is a notified operator within the meaning given to that term in Article 2(a) of the LLU Regulation.

A "beneficiary" is defined in Article 2(b) of the LLU Regulation as a third party duly authorised in accordance with Directive 97/13 EC or entitled to provide communications services under national legislation, and which is eligible for unbundled access to a local loop.

Article 3(1) of the LLU Regulation requires eircom (as the notified operator) to publish from 31 December 2000, and keep updated, a Reference Offer for unbundled access to their local loops and related facilities. A related facility means the facilities associated with the provision of unbundled access to the local loop, notably collocation, cable connections and relevant information technology systems, access to which is necessary for a beneficiary to provide services on a competitive and fair basis

The Annex to the LLU Regulation includes a minimum list of items to be included in such a Reference Offer, under the following headings: conditions for unbundled access to the local loop, collocation services, information systems, and supply conditions. In particular Section A3 requires the provision of the technical conditions related to access and use of local loops, including the technical characteristics of the twisted metallic pair in the local loop

Additionally, Article 3(2) of the LLU Regulation requires eircom, from 31 December 2000, to meet reasonable requests from beneficiaries for unbundled access to their local loops and related facilities under transparent, fair and non discriminatory conditions.

Requests may only be refused on the basis of objective criteria, relating to technical feasibility or the need to maintain network integrity. A reasonable request for unbundled access to the local loop implies that access is necessary for the provision of the services of the beneficiary and that refusal of the request would prevent, restrict or distort competition in this sector.

Article 3(3) requires that notified operators shall charge prices for unbundled access to the local loop and related facilities on the basis of cost orientation.

The LLU Regulation also obliges the National Regulatory Authority (NRA), under Article 4(1), to ensure that charging for unbundled access to the local loop fosters fair and sustainable competition. In the case of Ireland, ComReg is the NRA. Recital

10 enunciates the principle that an NRA may, in accordance with Community law, intervene on its own initiative in order to ensure fair competition, economic efficiency and maximum benefit for end-users. Article 4(2)(a) gives effect to this principle and provides that the NRA shall have the power to impose changes on the ARO, including prices, where such changes are justified; and under Article 4(2)(b) require notified operators to supply information relevant for the implementation of the Regulation. Under Article 4(3) the NRA may intervene on its own initiative in order to ensure non discrimination, fair competition, economic efficiency and maximum benefit for users.