



Commission for
Communications Regulation

Information Notice

Mobile Accounting Separation and Costing Methodologies

Next Steps following Consultation

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Contents

1	Introduction	2
2	The Future Change in Legislation	3
3	Accounting Separation	4
4	Next Steps.....	5

1 Introduction

Last year, the Office of the Director of Telecommunications Regulation, now the Commission for Communications Regulation, (ComReg) consulted on proposals for the form and content of accounting separation and costing methodologies to apply to the Mobile Network Operators in Ireland.

A number of submissions were received in response to document ODTR 02/86¹ from Fixed Network Operators, Mobile Network Operators and other interested parties. The arguments and views submitted by the respondents varied significantly regarding both the form and content of future accounting separation and costing methodologies to apply to Mobile Network Operators. While the mobile operators generally argued that a low level of information was appropriate, other respondents were strongly in support of detailed cost accounting information being provided to ComReg.

ComReg welcomes the views and arguments from all of the respondents and believes the process to have been both worthwhile and informative. ComReg has reviewed and analysed all of the arguments submitted. The discussion has contributed significantly to our understanding of what the concept of accounting separation might mean. Given the timelines involved, ComReg believes that it is appropriate that any further action in relation to accounting separation be within the context of the new regulatory framework for telecommunications to take effect on 25 July 2003.

¹ Document ODTR 02/86 Mobile Accounting Separation and Costing Methodologies, October 11th 2002

2 The Future Change in Legislation

On 24 April 2002, the EU Commission published four legislative Directives namely, the Access Directive, the Framework Directive, the Authorisation Directive and the Universal Service Obligation Directive. The new Directives laid down the powers, available to National Regulatory Authorities in the various EU countries, to regulate undertakings which provide an electronic communications network or an electronic communications service. The Government has indicated that the Directives will be transposed into Irish law by 25 July 2003.

The introduction of the new legislative framework within the State from 25 July 2003, alters the regulatory framework within which ComReg regulates both Fixed Network Operators and Mobile Network Operators. Before the new regulatory regime can be implemented by ComReg, a process of market definition, market analysis and identification of Significant Market Power (SMP) must be completed.

Taking the utmost account of the EU Commission guidelines on market analysis, ComReg is in the process of conducting a market review in order to identify the relevant markets for sector specific regulation. Once this exercise has been completed the status of the Mobile Network Operators regarding Significant Market Power will be revisited with regard to those markets.

In the meantime, the SMP status of both Vodafone and O2 remains in force as at present.

3 Accounting Separation

Under the new framework, Accounting Separation is an obligation that may be imposed on operators, be they Mobile Network Operators or Fixed Network Operators, designated as having SMP in a particular market. ComReg had set out a proposed framework for accounting separation in its consultation to provide it with information which would cover a range of issues, including the cost orientation of interconnect rates. This is an obligation that the SMP operators have under the existing EU framework and which they may have under the new framework, depending on the outcome of the market reviews and consideration of remedies. Consultation will take place in due course in respect of the imposition of new obligations in that context.

ComReg recognises that the provision of accounting separation information is a detailed task and would take time for the operators to complete. It is clear from the responses to the consultation by other market players that termination rates constitute their immediate concern. ComReg is aware of the time needed to produce full separated accounts and considers that at this point, it is more appropriate to concentrate resources on the issue of termination rates.

It should be noted that the current obligations on all operators, such as accounting separation, cost orientation, non discrimination and provision of information, are maintained until such time as the market review exercise is complete. ComReg will review the existing obligations placed on SMP operators with a view to maintaining, amending or withdrawing them as appropriate.

4 Next Steps

An important issue evident from the responses received to the consultation was the perceived high level of Mobile Termination Rates (MTRs) within the State. ComReg has the power under Article 7 (2) of the Interconnection Directive (97/33/EC) and Regulation 8(3), 8(4) and 8(5) of SI 15 of 1998 (the Interconnection Regulations) to require the submission of a cost justification of interconnection rates by SMP operators and to direct changes if appropriate. The two SMP mobile operators have indicated to Comreg that they are prepared to take steps to move MTRs to a cost oriented level. ComReg will monitor developments in the area in the next two weeks. If it judges that insufficient progress is being made it will request a submission under the Interconnection Directive and Regulations and depending on the findings arising from this submission, may make a direction on cost orientation.