



Commission for  
**Communications Regulation**

# Notification of non-compliance issued to Eircom Limited on failure to comply with the transparency obligation regarding an Access Reference Offer for Poles

## **Information Notice**

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**Additional Information**

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1. On 21 March 2016, the Commission for Communications Regulation ('ComReg') notified Eircom Limited ('Eir') of a finding that, in the period up until and including the 9 August 2015, Eir was in breach of its transparency obligations under ComReg Decision D05/10<sup>1</sup> (sections 10.1 and 10.2 and 16.1) and ComReg Decision D03/13<sup>2</sup> (sections 9.1 and 9.2).
2. ComReg published ComReg Decision D03/13 on 31 January 2013 and notified the decision to Eir on the same day. ComReg Decision D05/10 combined with ComReg Decision D03/13 obliged Eir to publish an Access Reference Offer ('ARO') for civil engineering infrastructure, including poles.
3. The ARO for poles was published on 10 August 2015, more than 30 months after the publication of ComReg Decision D03/13.
4. Accordingly, ComReg finds that in the period up until and including the 9 August 2015 Eir was in breach of its transparency obligations under ComReg Decision D05/10 and ComReg Decision D03/13.
5. Pursuant to Regulation 19(1) of the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 ('the Access Regulations')<sup>3</sup>, ComReg has notified Eircom of its finding of non-compliance and given Eircom four weeks from the date of issue of that notification to state its views.
6. Regulation 19(4) of the Access Regulations provides that, where, at the end of the period specified under Regulation 19(1) (see paragraph 5 above), ComReg is of the opinion that an undertaking has not complied with its obligations, ComReg may, whether or not the non-compliance is continuing, apply to the High Court for such order as may be appropriate.

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<sup>1</sup> Market Review Wholesale (Physical) Network Infrastructure Access (Market 4), Document No. 10/39, Decision No. D05/10, dated 20 May 2010.

<sup>2</sup> Response to Consultation and Final Decision, Remedies for Next Generation Access Markets, Decision No. D03/13, Document No. 13/11, dated 31 January 2013.

<sup>3</sup> European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 (S.I. No. 334 of 2011).