



Commission for
Communications Regulation

Information Notice

Notification to *eircom* of non-compliance by *eircom* with its non-discrimination obligation

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1 Introduction

Eircom Ltd. (*'eircom'*) is required under the regulatory framework not to discriminate against Other Authorised Operators (OAOs) with regard to interconnection offered to others. In particular, *eircom* must provide similar conditions in similar circumstances to interconnected organisations providing similar services and provide interconnection facilities and information to others under the same conditions and of the same quality as they provide for their own services or those of their subsidiaries or partners.

The Commission for Communications Regulation (*'ComReg'*) initiated an investigation in December 2006 in relation to *eircom's* compliance with its non-discrimination obligations as they relate to the provisioning of PSTN lines.

As part of this investigation ComReg examined the process whereby a customer moves premises but retains their telephone number (a *'premises move'*). In order to facilitate this examination ComReg made use of the subject of a complaint received in January 2007 where a customer had placed the same order for the same premises move via an OAO and also directly via *eircom's* retail arm. This allowed direct comparison between the process and procedures made available by *eircom* to OAOs for ordering wholesale services from *eircom* as against the processes and procedures used by *eircom's* retail arm for similar orders.

The examination of the relevant processes and procedures examined whether *eircom* provided its retail arm with superior access to information, a more efficient process or shorter ordering processing times than it provided to OAOs in the processing of orders for premises moves.

Such behaviour could give *eircom* a competitive advantage over OAOs as it may allow *eircom* to process sales orders and queries more quickly than could be done by OAOs and thus facilitate *eircom* gaining new customers and retaining existing customers.

ComReg found evidence that in respect of orders for a premises move, *eircom* do not provide to OAOs conditions similar to those provided to its retail arm in similar circumstances or interconnection facilities and information under the same conditions and of the same quality as is provided to its retail arm in similar circumstances.

ComReg considered the issues and all available evidence and found that *eircom* is not in compliance with its non-discrimination obligation, imposed on it by Regulation 7(1)(a) of the European Communities (Interconnection in Telecommunications) Regulations 1998 (the *'Interconnection Regulations'*), as continued by Regulation 8 of the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 (the *'Access Regulations'*).

On 19th July 2007 ComReg provided *eircom* with detail of the information and evidence obtained and notified *eircom* of its finding (as set out below).

2. Notification

The Commission for Communications Regulation ('ComReg'), in accordance with Regulation 18(1) of the Access Regulations, hereby notifies eircom of its finding that eircom has not complied with the non-discrimination obligation contained in Regulation 7(1)(a) of the Interconnection Regulations, as continued by Regulation 8 of the Access Regulations.

eircom has one month from the date of this notification either to make representations in relation to the notification or to remedy any non-compliance. In order to remedy non-compliance eircom is required to demonstrate to the satisfaction of ComReg that the SB-WLR interconnection services provisioning processes that exist for OAOs and eircom retail are equivalent and non-discriminatory.

This notification is provisional in the sense that if representations are made by eircom, and/or actions taken to comply with the non-discrimination obligation ComReg will reconsider these findings in the light of the representations and/or actions and take them into account in any opinion it may reach under Regulation 18(4) of the Access Regulations.

In accordance with the power given to it in Regulation 18(2) of the Access Regulations ComReg is publishing this notification.