



Commission for
Communications Regulation

Information Notice

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

Document No:	06/27
Date:	23rd June 2006

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland

Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

1 Introduction

Eircom Ltd. (*eircom*) is required under the regulatory framework not to discriminate against other operators 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.

In the context of provision of the Single Billing Wholesale Line Rental ('SB-WLR') interconnection service¹, operators (both *eircom* and other authorised operators 'OAOs') require, amongst other things, the customer's Universal Account Number ('UAN') before they can progress an order for services². The UAN is a unique identifier utilised by operators in the context of retail services and is printed on the customer's bill.

In early May 2006, it was alleged to the Commission for Communications Regulation ('ComReg') that sales agents for *eircom* retail can obtain the customer's UAN from internal *eircom* systems (thus avoiding the need for the consumer to provide this information). It was further alleged that several sales agents for *eircom* retail, when processing sales orders for *eircom* telephone and/or broadband services had obtained the customer UAN from internal *eircom* systems. In contrast, the only method an OAO can use to obtain a customer's UAN and thus progress an order for services is directly from the customer.

ComReg was concerned as providing access to customer's UAN numbers to *eircom* retail and not to OAOs, if confirmed, would be discriminatory and would involve firstly *eircom* failing to provide similar conditions in similar circumstances to OAOs and *eircom* retail and secondly *eircom* failing to provide information to OAOs under the same conditions and of the same quality as they provide to *eircom* retail. This behaviour would be contrary to Regulation 7(1)(a) of the European Communities (Interconnection In Telecommunications) Regulations, 1998 to 2000 (the 'Interconnection Regulations'), as continued by Regulation 8 of the Access Regulations³ pending completion of market reviews and the imposition of significant market power obligations (if any) under the new framework. This behaviour would give *eircom* a competitive advantage over OAOs as it would allow *eircom* to process sales orders for telephone and/or broadband services more quickly and thus facilitate *eircom* gaining new customers (and market share). In

¹ See Annex C Service Schedule 401 Single Billing through Wholesale Line Rental of *eircom*'s Reference Interconnect Offer, Version 3.15, 16th September 2005

² See 3.8.1.2 of Single Billing through Wholesale Line Rental (SB-WLR), Inter-Operator Process Manual, Issue 3.55, February 2006

³ S.I. No. 305 of 2003 the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 which transposes Directive 2002/19/EC of the European Parliament and the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities

accordance with its objectives to promote competition and to promote the interest of users⁴, ComReg initiated an investigation.

ComReg investigated the matter, considered the issues raised and the evidence available and finds that *eircom* has failed to comply with Regulation 7(1)(a) of the Interconnection Regulations, by acting in a discriminatory manner in relation to the provision of information. ComReg is notifying *eircom* of its finding of non-compliance in accordance with Regulation 18(1) of the Access Regulations, as set out fully herein.

2 Notification of findings

2.1 Finding of discrimination by *eircom*

Regulation 7(1)(a) of S.I. No. 15 of 1998 European Communities (Interconnection in Telecommunications) Regulations, 1998 (the ‘Interconnection Regulations’) provides that *eircom* (as an organisation designated as having significant market power pursuant to regulation 5 of the Interconnection Regulations in ‘Significant Market Power in the Irish Telecommunications Sector, Decision No. D08/02, Document No. ODTR 02/53, dated 21st June 2002’) shall ‘(a) adhere to the principle of non-discrimination imposed by the Directive with regard to interconnection offered to others and (i) shall provide similar conditions in similar circumstances to interconnected organisations providing similar services, and (ii) shall 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;’

Following an investigation by ComReg into *eircom* sales practices, ComReg found evidence that a number of sales agents within *eircom* retail have access to systems which contain UAN information which OAO sales agents do not have access to in similar conditions. The ability of *eircom* to access this UAN information gives *eircom* a competitive advantage in the market as it allows *eircom* to process sales orders more quickly and therefore facilitates *eircom* gaining new customers (and market share).

ComReg has considered the issues and all available evidence and finds that *eircom* is not in compliance with its non-discrimination obligation, imposed on it by Regulation 7(1)(a) of the Interconnection Regulations, as continued by Regulation 8 of S.I. No. 305 of 2003 the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 (‘the Access Regulations’).

ComReg has formally notified *eircom* of its findings as set out in this information notice providing detail of the information and evidence obtained.

⁴ See s.12(1)(a)(i) and s.12(1)(a)(iii) of the Communications Regulations Act 2002, Number 20 of 2002

2.2 Notification

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 Section 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 remedy any non-compliance. In order to remedy non-compliance *eircom* is required to demonstrate to the satisfaction of ComReg that systems have been put in place to ensure that members of *eircom* retail (including employees contracted to *eircom*) only have access to the same information under the same conditions as that provided to interconnected operators providing similar services.**

This notification is provisional in the sense that if representations are made by *eircom*, ComReg will reconsider these findings in the light of the representations and take these representations 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.