



Commission for
Communications Regulation

Information Notice

Opinion of Non-compliance by Eircom Limited with its obligations not to unreasonably bundle.

Document No:	09/25
Date:	2 April 2009

On 6 October 2008, Eircom Limited (“Eircom”) launched a series of promotional “TalkTime bundles” that included free calls to Meteor Ireland Limited.

The “1MB and 3MB Family TalkTime bundles” fall within the market for lower level retail fixed narrowband access. The Commission for Communications Regulation (“ComReg”) designated Eircom as an undertaking with Significant Market Power (“SMP”) in the lower level retail fixed narrowband access market in ComReg Decision D07/61, 2007 (“Decision D07/61”)¹. Sections 7.8 and 7.9 of the Annex of Decision D07/61 set out Eircom’s obligation not to unreasonably bundle pursuant to Regulation 14 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights Regulations), 2003 (“the Universal Service Regulations”)².

Following investigations into the matter, ComReg found that Eircom’s 1MB and 3MB Family TalkTime bundles were being sold below cost with potential deleterious effects on competition in the line rental markets and related markets. On this basis, ComReg made a finding that Eircom was unreasonably bundling retail fixed narrowband access.

On 11 February 2009, ComReg notified Eircom of its finding (“the Notification”) that, with regard to the 1MB and 3MB Family TalkTime bundles, Eircom had not complied with its obligation not to unreasonably bundle.

Eircom had one month, following the date of the Notification, to make representations regarding the Notification or to remedy its non-compliance.

ComReg received Eircom’s representations in relation to the Notification on 9 March 2009.

Having fully considered Eircom’s representations, ComReg is of the opinion, in accordance with Regulation 32(5) of the Universal Service Regulations, that Eircom has not complied with its obligation not to unreasonably bundle, as set out in Sections 7.8 and 7.9 of the Annex of Decision D07/61, in respect of the 1MB and 3MB Family TalkTime bundles launched by Eircom in October 2008.

ComReg has notified Eircom of this opinion.

¹ Decision Notice and Decision Instrument - Designation of SMP and SMP Obligations, Market Analysis: Retail Fixed Narrowband Access Markets (Decision No: D07/61, Document No: 07/61, Date: 24 August 2007)

² European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2003 (S.I. No. 308 of 2003), amended by European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) (Amendment) Regulations 2007 (S.I. No. 374 of 2007)