



Commission for
Communications Regulation

Information Notice

Output of the LLU Code Of Practice review:
Provisions not having a legal basis

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1 Introduction

The Product

Local Loop Unbundling (LLU) is the process which enables Other Authorised Operator's (OAOs) to make use of the physical copper connections between a customer and the local exchange, known as the "local loop". Eircom is obliged to provide access to the local loop and associated facilities including co-location. OAOs use Eircom's incumbent infrastructure to deliver a range of voice and broadband services to their customers. In D8/04 ComReg designated Eircom with significant market power (SMP) in the market for wholesale unbundled access to the local loop. As a consequence of the SMP decision certain remedial SMP obligations were imposed on Eircom relating to the provision of LLU services.

There are three different types of LLU; Line Share, Unbundled Local Metallic Path and Geographic Number Portability combined with Unbundled Local Metallic Path.

Line Share (LS)

LS provides OAOs with shared use of a metallic path between an Eircom exchange facility and a customer's premises. Eircom retains the voice-band frequency spectrum of the circuit and continues to provide PSTN/SB-WLR service and the OAO is able to use the remainder of the frequency spectrum. (See annex 3 for diagram)

Unbundled Local Metallic Path (ULMP)

ULMP provides OAOs with exclusive use of a metallic path between an Eircom exchange facility and a customer's premises. (See annex 3 for diagram)

Geographic Number portability and Unbundled Local Metallic Path (GLUMP)

GLUMP enables OAOs to place a single GLUMP order that will facilitate the co-ordinated delivery of a single/multi line ULMP & GNP to the end customer.

Note

For the purpose of this document LLU will refer to LS & ULMP exclusively. The third element of LLU, namely GLUMP can be referenced under the following ComReg documents:

1. Information Notice – GLUMP Code of Practice Review, (07/75),
2. Regulatory Guidance document – GLUMP Guidance for Undertakings on the provision of GLUMP, (07/75a)
3. Information Notice – Output of the GLUMP Code of Practice review; provisions not having a legal basis, (07/75b)

Background

On 18 December 2000 the European Parliament and the Council adopted Regulation (EC) No. 2887/2000 on unbundled access to the local metallic path (hereafter referred to as the "LLU Regulation". In the Decision Notice D8/01 the Director considered that the development of a Code of Practice specific to inter-undertaking

Local Loop Unbundling issues, to be a matter for the industry. In March 2003 the industry then agreed an LLU CoP and Eircom stated “for the avoidance of doubt this Code, as with the Code of Practice on CPS (Carrier Pre-Selection) and NP (Number Portability), will form part of the Eircom 'Selling Practices - A Code of Conduct for the Eircom Group', document”.

The ARO (Access Reference offer) and Undertaking’s contracts do not specifically refer to or incorporate the LLU CoP. The Eircom Code of Conduct for the Eircom Group with regard to selling practices was a requirement under the then existing General Telecommunications Licence “GTL” (replaced in 2003 by the General Authorisation). Part 3 of the GTL addressed approval of customer contracts and misuse of data amongst other things and applied to SMP undertakings only (Eircom was designated with SMP by D 15/99). The ODTR consulted on the requirements under Condition 19 at Part 3 of the GTL as regards selling practices for licensed services within the public fixed telephone and service market, to avoid unfair and anti-competitive practices in 2000 (00/85) and a selling practices Code of Conduct was introduced of which the LLU CoP was a part following D8/01. The LLU Code of Practice was never subsequently directed on as a requirement under the new framework in 2003 nor was a CoP put forward in the LLU market review or directed on under D8/04. In January 2003 ComReg directed under (03/11) that a no contact period of 3 months following the loss of a customer from Eircom to an undertaking via LLU would apply.

The ComReg decision Document No: ComReg 03/11 (30 January 2003) was based on Article 4 (3) of the LLU Regulation (Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop). ComReg may intervene on its own initiative in order to ensure non-discrimination, fair competition, economic efficiency and maximum benefit for users and a no contact period directed by that means. But Following the passage of the new regulations in July 2003 and the LLU market review in 2004 this decision was not continued or redirected as an obligation under the new legislation or the LLU obligations imposed by D8/04. Further absent being incorporated into a contract or industry agreement it was not enforceable by ComReg or by industry as and between themselves. ComReg has not been asked to enforce any aspect of the CoP or the no contact period nor has it sought to do so.

In September 2007 ComReg under took a review of the LLU Code of Practice in line with the review of GLUMP CoP already completed.

Regulatory Guidance Document

ComReg’s Regulatory Guidance document entitled “*Regulatory Guidance for Undertakings on the Provision of LLU* ” (08/11a) (hereafter the “Guidance document”) for Undertakings providing telephony and broadband services through LLU to customers in Ireland, highlights the key legal obligations which undertakings are required to meet in providing service to customers. The Guidance document is intended to replace the previous LLU Codes of Practice.

The Guidance document is intended as a reference for Undertakings, drawing on some of the legal and regulatory obligations some of which may fall under the remit of ComReg and other agencies, including the Office of the Data Protection Commissioner and the National Consumer Agency.

The prior LLU Code of Practice also dealt with a number of product specific features and required undertakings to engage in, or desist from, specific activities in relation to the inter-undertaking processes and end-user communications in the provisioning of telephony and/or broadband service to customers through LLU. The original LLU Code of Practice was an industry agreed document and in some instances contained provisions not having an independent legal basis outside of the Code.

ComReg proposes that while the Guidance document will give Undertakings some legal certainty on some of the key obligations which are enforceable for instance by ComReg and other agencies, there are other provisions which lack legal certainty but ComReg is of the opinion that such provisions would be of value to industry to improve the customer experience of the LLU product.

The Output Document

The Output document includes provisions from the original LLU Code of Practice and the original GLUMP Codes of Practice (following a review of same) that are thought not to have any independent legal basis and accordingly ought not to be contained in the Guidance documents for GLUMP or LLU¹. However many of these provisions in the Output document were developed and agreed by Industry as part of the original LLU & GLUMP Codes of Practice, as industry felt that these provisions had value and assisted in the efficient delivery of services.

This document solely reflects the output of the review at this point in time and in no way reflects how, or whether, an Undertaking may decide to implement these provisions.

A link to this document as well as the Guidance document is available on ComReg's website www.comreg.ie

¹ LLU and GLUMP are intrinsically linked.

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2 LLU Output Review: Existing Provisions without legal basis

2.1 Customer Contracts

Undertakings are required to conclude a contract with consumers for the provision of services. ComReg recommends that best practice in providing such a contract should include the following:-

- Set out clearly payment options and the billing frequency
- Undertakings should ensure that all text is of a print size that is clearly legible.

2.2 Product & Process Features

Where relevant, the impacts of the following on the customer services or categories of service must be communicated to the customer.

- a. The customers Network or Ancillary services may be affected by the switching of service provision from one Access Seeker to another Access Seeker. During the development of the LLU process certain services and categories of services have been identified as being affected by LLU. The extent of the impact on the customer will depend on the LLU sub-process in question, and the service suite the customer uses.
- b. Where a customer has specific services on their line, undertakings should advise customers that the relevant services, including the following, will be affected:
 - Flat Rate Dial-up Internet Access.
 - Voice Mail - Customer will not be able to retrieve any unheard or stored voice mails.
 - Ancillary Services - All ancillary services will be disabled once the ULMP order is completed.
 - Where a customer has specific services on their line, undertakings should advise customers that the relevant services, including the following, may be affected and the customer should be advised to consult the provider of these to ascertain if any changes need to be made to the settings of these systems, listed below. Following the completion of the LLU order, it may be necessary to carry out these checks again.
 - Monitored Alarms
 - Medical Alert Systems
- c. The process for a customer to report a LLU fault must be clearly explained to the customer. At the point where the fault management transitions between Undertakings the customer must be provided a number to call to report the fault, as per the Customer Authorisation form (CAF). The customer should be advised to retain a copy of the CAF.

2.3 DSFA

The mechanism to access Department of Social and Family Affairs (DSFA) client information is currently available to customers served either directly by Eircom or indirectly via Single Billing via Wholesale Line Rental (SB-WLR) or via LLU. As a consequence, Gaining Undertakings should ensure that customers are clearly informed that they may continue to have DSFA applied if they opt to have their retail services provided through Unbundled Local Metallic Path (ULMP/LLU).

2.4 Customer Transfers

As per the GNP CoP, operators should facilitate the orderly transfer of businesses and/or premises between customers by allowing the direct transfer of existing numbers between the former and new owners of the premises, provided the business activities being carried on do not change.

Note: This is not of itself considered to be Number Portability.

2.5 CPE

A customer opting to cease service with an undertaking as a result of taking LLU will be treated as a ceasing customer by the Losing Undertaking. Upon cessation of service by the customer, the Losing Undertaking shall be allowed to implement all reasonable efforts pursuant to its normal policy of Customer Premises Equipment (CPE) recovery.

All CPE rented by the Losing Undertaking is assumed to be the property of the Losing Undertaking until it is purchased or returned by the customer.

2.6 Training

Undertakings shall implement such staff training and appropriate procedures and shall put in place such safeguards as can reasonably be deemed necessary to ensure their adherence, and that of their re-sellers, with this document.

3 Annex

Fig 1 – Unbundled Local Metallic Path - Diagram

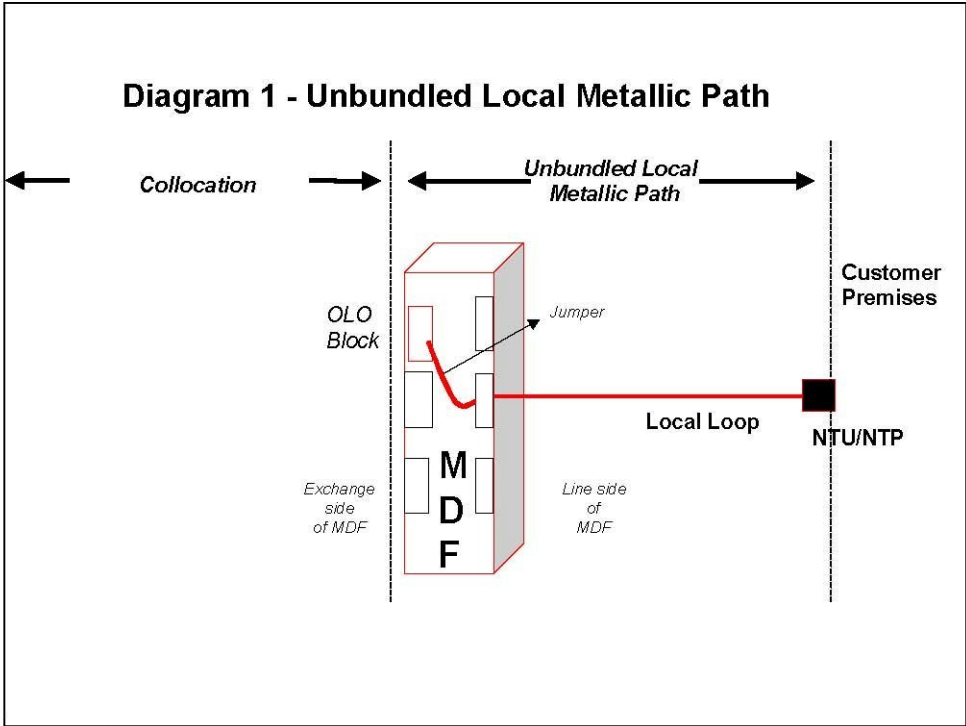


Fig. 2 – Line Sharing - Diagram

