



Commission for
Communications Regulation

Provision of Universal Service by Eircom

2015 Quality of Service Performance

Information Notice

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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

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1.1 The universal service

1. The Commission for Communications Regulation (ComReg) is responsible for the regulation of the electronic communications sector in accordance with national and EU legislation. One of ComReg's functions in this regard is to regulate the Universal Service Obligation ("USO") for the Irish market and decide which undertaking(s) should be designated as the Universal Service Provider(s) ("USP"). On 7 July 2014, following a public consultation, ComReg designated eircom as the USP for the provision of telephony services at a fixed location for a period of 18 months – from 7 July 2014 to 31 December 2015.
2. On 28 May 2008 ComReg set legally binding performance targets in relation to Eircom's quality of service performance with respect to certain aspects of the USO. These targets relate to timescales for connection, fault rate occurrence and fault repair times.¹
3. Subsequently Eircom established a number of USO quality of service performance improvement programmes (PIPs). The key principle underpinning all of the PIPs was to encourage improvements in Eircom's USO quality of service performance and with a view to meeting the legally binding targets stipulated in ComReg D02/08.

1.2 Performance improvement programme 2014 – 2015 (PIP3)

4. Eircom and ComReg established a third performance improvement programme (PIP3) in 2014. The PIP3 includes targets in respect of timescales for connection, fault repairs and fault rate occurrence which are shown in **Appendix 1**.
5. Eircom also put in place a financial security mechanism (cash deposit) for the annual period 1 January 2015 to 31 December 2015. Eircom's maximum annual financial liability for failure to meet any of the PIP3 performance targets is €10m for 2015.

¹ ComReg Decision No: D02/08: Decision Notice (And Decision Instrument): Response to Consultation – eircom's Universal Service Obligation : Quality of Service Performance Targets

6. In addition, Eircom estimated that it would make an investment of €32m over the period 1 July 2014/30 June 2015 and €26m over the period 1 July 2015/30 June 2016.
7. It was also agreed that ComReg's compliance assessment in respect of the PIP3 performance targets would be based on the annual period from 1 January 2015 to 31 December 2015.

1.3 Eircom's USO quality of service performance for the period 1 January 2015 to 31 December 2015 and assessment of compliance

8. Regulation 10 of the Regulations requires Eircom to publish data in relation to its USO performance. ComReg also publishes this USO performance data on a quarterly basis and monitors compliance therewith. A review by way of an independent audit of the performance data is undertaken at Eircom's expense.²
9. In accordance with PIP3, compliance with the USO performance targets for the period 1 January 2015 - 31 December 2015 is determined solely by Eircom's annual performance data.
10. On 3 June 2016 Eircom agreed 2015 annual data for publication in the following Information Notice, "*Provision of Universal Service by Eir - Performance Data – Q4 2015 (1 October 2015 to 31 December 2015) and Annual (1 January 2015 to 31 December 2015)*"
11. At the same time ComReg signalled Eir's intention to submit a claim for force majeure (as provided for in the PIP3) and ComReg published Eir annual performance data for Q4 2015 and 2015 Annual performance data in ComReg Document No 16/46.

² Regulation 10(6) of the Regulations.

12. Under PIP3 and as previously signalled to ComReg, Eircom submitted a force majeure claim on 9 June 2016. The submission set out the basis for Eircom's force majeure claim as being the "*exceptional weather events in January, November and December 2015.*" Eircom's force majeure claim sought relief in respect of fault repair time performance only. In addition Eircom submitted an expert report on the weather conditions associated with the force majeure claim.
13. Having evaluated the information submitted by Eircom on 9 June 2016 ComReg was of the view that the information was inadequate.
14. ComReg engaged with Eircom to determine if there was further information to substantiate the force majeure claim and correspondence between the parties continued over a period of time. ComReg also engaged an independent expert to review Eircom's submission in respect to the force majeure claim and report to ComReg with its findings.
15. ComReg's expert formed the view, based on the evidence provided by Eircom, that it could be considered that force majeure conditions applied in the month of December 2015 but that the January and November 2015 weather events did not constitute force majeure events within the meaning of PIP3.
16. In considering how to calculate the appropriate level or allowance to be given for December 2015, ComReg considered a number of options and decided on a method that provided for seasonal trend variations for quarter four over the previous six years to cover the month of December.
17. Final calculations for quarter four 2015, having computed for the adjustment allowed for December 2015, showed that the total payment due to be paid by Eircom to ComReg under PIP3 for the period 1 January 2015 - 31 December 2015 was €3,094,000.
18. The final calculated annual performance achieved by Eircom, allowing for force majeure claim in respect of fault repair performance, for the period 1 January 2015 to 31 December 2015 is presented at **Appendix 2**.

19. While a number of the targets for the USO quality of service performance improvement programme were achieved by Eircom in relation to connections targets and the fault occurrence target was achieved, Eircom did not achieve all of its fault repair targets.
20. **Appendix 2** data³ shows that Eircom did not achieve certain targets, as denoted in column three with “**(No)**” in brackets. Accordingly, Eircom is required, under the terms agreed in PIP3, to make payments to ComReg because of its failure to achieve those targets.
21. Eircom paid ComReg €3,094,000 in December 2016 for its failure to meet the PIP3 agreed USO quality of service performance targets for 2015.
22. In light of the above, ComReg does not intend to take further enforcement action against Eircom for the 2015 period.

1.4 Conclusion

23. The measures that ComReg has taken since 2008 to bring about improvements in Eircom’s quality of service performance for the provision of the USO have clearly shown progress which ComReg welcomes.
24. ComReg has recently published its Decision regarding USO quality of service performance targets for 2017 and 2018⁴.
25. ComReg remains fully committed to ensuring the quality of the universal service and believes that the measures it has taken will continue to give benefits to large numbers of consumers in the State.
26. ComReg will continue to closely monitor Eircom’s USO performance and will publish quarterly reports on Eircom’s USO performance.

³ The fourth and final quarterly data for the period 1 October 2015 to 31 December 2015 were received from Eircom on 22 April 2016 and published in an Information Notice on 3 June 2016 – ComReg Document 16/46.

⁴ ComReg Document 17/10 – Access at a Fixed Location – Universal Service – Quality of Service

Appendix: 1 USO Quality of Service Performance Improvement Programme 2014 – 2015 (PIP3)

Description of Target	Annual Performance Improvement Programme (PIP) Target 2015 (1 January - 31 December)	Annual Financial Security €
In-situ connections within 24 hours of request	80%	€5,000 per 0.1% deviation below PIP Target
In-situ connections within 2 weeks of request	99.5%	€4,000 per 0.1% deviation below PIP Target
In-situ connections within 2 months of request	99.8%	€5,000 per 0.1% deviation below PIP Target
All other connections within 2 weeks of request	80%	€5,000 per 0.1% deviation below PIP Target
All other connections within 4 weeks of request	85%	€5,000 per 0.1% deviation below PIP Target
All other connections within 8 weeks of request	90%	€5,000 per 0.1% deviation below PIP Target
All other connections within 13 weeks of request	95%	€5,000 per 0.1% deviation below PIP Target
All other connections within 26 weeks of request	99.8%	€5,000 per 0.1% deviation below PIP Target

Connections completed by Agreed date	94.2%	€5,000 per 0.1% deviation below PIP Target
Fault repairs completed by Agreed Date	95%	€2,500 per 0.1% deviation below PIP Target
Fault repairs completed within 2 working days	82%	See Table A below
Fault repairs completed within 4 working days	95%	€5,000 per 0.1% deviation below PIP Target
Fault repairs completed within 5 working days	96%	€5,000 per 0.1% deviation below PIP Target
Fault repairs completed within 10 working days	99%	€2,500 per 0.1% deviation below PIP Target

Table A

Fault Repairs completed within 2 working days Target	Financial Penalty per 0.1%	Aggregate Financial Penalty*
75% or less	-	€2,500,000
75.1-76%	€50,000	€2,500,000
76.1-77%	€50,000	€2,000,000
77.1-78%	€50,000	€1,500,000
78.1-79%	€25,000	€1,000,000
79.1-79.9%	€25,000	€750,000
80-81.9%	€25,000	€500,000

***The Financial Penalty for which Eircom may be liable, as a result of failure to meet the 2 working days Fault Repairs Target, is capped at a maximum of €2,500,000 for the annual period 1 January 2015 – 31 December 2015.**

Fault Rate Occurrence

A maximum fault rate of line faults per 100 lines	1 January 2015 – 31 December 2015
Annual Performance Improvement Programme (PIP) Target	14.5
Annual Financial Penalty	€1,000,000 per 0.1 above the target

The Financial Penalty for which Eircom may be liable, as a result of failure to meet any or all of the PIP3 Performance Targets, is capped at a maximum of €10m for the annual period 1 January 2015 – 31 December 2015.

Annual Indicative Investment Levels

01 July 2014- 30 June 2015	01 July 2015- 30 June 2016
CAPEX (Access Network Remediation) €32 million	CAPEX (Access Network Remediation) €26 million

Appendix: 2 2015 Annual quality of service performance achieved by Eircom against the PIP 3 Targets

Description of Target	Annual PIP 3 Target Value %	PIP 3 Target Achieved % (Yes/No)
In-situ connections		
Within 24 hours of request	80.00	83.0 (Yes)
Within 2 weeks of request	99.50	98.9 (No)
Within 2 months of request	99.80	100.0 (Yes)
All Other Connections		
Within 2 weeks of request	80.00	86.1 (Yes)
Within 4 weeks of request	85.00	94.7 (Yes)
Within 8 weeks of request	90.00	98.2 (Yes)
Within 13 weeks of request	95.00	99.2 (Yes)
Within 26 weeks of request	99.80	99.8 (Yes)
Connections completed by agreed date	94.20	91.1 (No)

Fault Repairs		
Fault Repairs completed by agreed date	95.00	96.8 (Yes)
Description of Target	Annual PIP 3 Target Value	PIP 3 Target Achieved (Yes/No)
Fault Repairs		
Within 2 working days	82.00	75.1 (No)⁵
Within 4 working days	95.00	89.5 (No)⁵
Within 5 working days	96.00	92.6 (No)⁵
Within 10 working days	99.00	98.2 (No)⁵
Description of Target	Annual PIP 3 Target Value	PIP 3 Target Achieved (Yes/No)
Fault Occurrence		
Line faults per 100 lines	14.5	13.4 (Yes)

⁵ adjusted to take account of force majeure claim