Commission for
Communications Regulation

Response to Consultation and Final Decision

Leased Line Markets: Review of Urban Centres

Response to Consultation 09/86 and Final Decision

Document No:	**10/12**
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1 Foreword Alex Chisholm, ComReg Chairperson

The Leased Line Market is an important market for the business user and operators alike. It allows business users to access various key business services and facilities. It also provides the means for operators to expand their network to locations which may not be possible by other means in the required timescales. It can thereby aid operators in developing their investment strategies so that they can consolidate customer concentrations in these locations before engaging in more expensive network builds at a later stage i.e. assist them to move up the "ladder of investment".

The technologies used to provide leased lines are rapidly changing with the widespread deployment of various technologies such as Ethernet and Dense Wavelength Division Multiplexing (DWDM), which are facilitating the delivery of larger leased line circuits at far lower costs than traditional technologies. This is assisting in the generation of keener competition which ComReg wishes to foster and encourage.

In line with its stated objective of encouraging sustainable competition, ComReg's intention is to ensure that the regulatory regime imposed accurately reflects the requirements of the true market conditions to the greatest possible extent, whilst ensuring that end customers are the chief beneficiaries of any changes to regulation. To this end, the Decision published in D06/08[1] found that the markets for both the retail minimum set of retail leased lines and the wholesale trunk segment of leased lines were competitive and removed any obligations that had previously applied to Eircom. This was an important milestone in the development of the leased line markets in Ireland.

Since wholesale trunk and terminating segments exist side by side it is important to clarify the boundary between them accurately, since one is regulated and one is not. The original decision defined the boundary by reference to 15 towns and cities. Since then ComReg has received a request to amend the list. This paper represents ComReg's response to that request and ComReg's Decision in the matter is attached.

The decision is to add the town of Portlaoise to the original list thereby bringing the total number of towns and cities on the list to 16.

ComReg believes that this decision is in the best interests of industry, the end users of leased lines and the wider Irish economy. Finally, ComReg would like to thank all those who contributed to this process.

[1] D06/08 Market Analysis-Leased Lines Market Review –Response to Consultation on draft Decision Instrument- Final Decision Notice and Decision Instrument

Alex Chisholm,
ComReg Chairperson.

2 Executive Summary

A leased line is a fixed permanent telecommunications connection providing broadly symmetric capacity between two fixed points. It is permanent in that capacity is always available between the two points, however this capacity could be reserved or shared through the associated network depending on the nature of the leased line.

ComReg, has in line with its obligations, completed the most recent review of the leased line market and published a series of consultations and responses which resulted in the publication of Decision D06/08 in December 2008.

This Decision set out the definition for both the trunk and terminating segment for the leased lines market. The trunk market was found not to be susceptible to ex-ante regulation i.e. no operator had Significant Market Power ("SMP"), and therefore as obliged under law, the associated SMP obligations were withdrawn. The trunk market was defined as consisting of circuits of capacity STM-1 or greater connecting a list of 15 named urban centres. The decision allowed for the possibility of future amendment of this list of urban centres, referred to as Annex A in D06/08.

ComReg later received a request from Eircom to expand this list of urban centres and therefore decided to consult with all stakeholders on this matter.

This document follows the publication of the Consultation and Draft Decision Instrument Leased Line Markets: Review of Urban Centres, ComReg document number 09/86. This was published on foot of the above request from Eircom to expand the list of urban centres. This consultation 09/86 presented the ComReg preliminary analysis of the specific centres which were the subject of the Eircom request.

It further outlined the logic and criteria on the basis of which the list was originally derived and proposed that the same reasoning be applied to any consideration of an expansion of the list.

It is ComReg's conclusion, following detailed consideration of the submissions made to it in the responses to 09/86, that Portlaoise meets the requirements as laid out and should therefore be appended to the list of urban centres. This means that from the date of the publication of this document, SMP regulations do not apply to Eircom Wholesale Leased Lines of STM-1 and greater which connect Portlaoise to any of the other urban centres listed in Annex A as contained within Appendix A of this document.

3 Background

2008 review of Leased Line markets

3.1 ComReg completed the review of the set of leased line markets in line with its statutory obligation[2] and published the resultant Decision Notice and Decision Instrument D06/08 on 22 December 2008. This analysis found that Eircom had SMP (Significant Market Power) in the market for the Terminating Segment of Wholesale leased lines, but no longer had SMP in the markets for:

- The Trunk Segment of Wholesale Leased Lines and
- The Minimum Set of Retail Leased Lines (analogue lines and leased lines up to a bandwidth of 2Mb/s.)

3.1.1 In the Decision Instrument of D06/08, ComReg defined the trunk segment market as constituted by high capacity connections between major centres of population, specifically of capacity STM-1 (155Mb/s) or greater.

3.1.2 The terminating segment was described as being constituted by those segments of a leased line which connect an end-user to the part of the leased line that is prospectively competitive i.e. the trunk segment. In effect the terminating segment is that which is not specifically described as trunk above.

3.1.3 ComReg has previously set out that "the cut-off point between trunk and terminating should be where there is a distinct break in the economics of demand for, or supply of, these respective segments such that appreciably different competitive conditions can be observed."[3]

3.1.4 Decision Number D06/08 is currently in effect.

3.1.5 For clarity, and to ensure efficiency in the day to day operation of the wholesale market, ComReg specifically provided a list of the major centres of population which defined the Trunk Market (referred to as Urban Centres) in a list attached to the Decision Instrument, referred to as Annex A. These centres were as follows: Arklow, Carrick-on-Shannon, Cork, Drogheda, Dublin, Dundalk, Ennis, Galway, Letterkenny, Limerick, Mullingar, Shannon, Sligo, Waterford and Wexford.

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[2] Regulation 25, 26 & 27 of the European Communities (Electronic Communications Networks and Services)(Framework) Regulations S.I. No. 307 of 2003, as amended

[3] Paragraph 3.52, ComReg Document 08/63 3.52

Analysis Method for Annex A list

3.1.6 In paragraph 5.7 of the Decision Notice in D06/08, ComReg set out the reasoning by which it arrived at the list of urban centres contained in Annex A of Decision No. D06/08, as follows:

> Circuits which are provided using established infrastructure, between certain urban centres (as listed in Table 1 below), and which are of a capacity equal to or greater than STM-1 (155Mb/s) fall into the market for trunk segments of wholesale leased lines. …… OAO investment on these routes reflects the difference in the underlying economic conditions of supply and demand.

3.1.7 ComReg has further noted that "*the supply of terminating segments, which relies on a widespread network which can reach individual customers, requires different economic inputs to the supply of trunk segments*"[4]

3.1.8 ComReg noted throughout its consultation process that its analysis found that the boundary between the market for wholesale trunk segments and wholesale terminating segments was determined by a break in the economic conditions of demand and supply, and that this break was associated with high capacity connectivity between major urban centres. The actual pattern of OAO investment supports this assessment. While the presence of alternative infrastructure provision does not define the market, it does confirm the applicability of the analysis. The urban centres which were identified in Annex A of the Decision Instrument all have two or more sets of competing infrastructure in addition to Eircom present, indicating that the prevailing economic conditions have encouraged actual or prospective competitive supply.

3.1.9 As per paragraph 5.8 of the Decision Notice and section 3.2 of the Decision Instrument, ComReg reserved its right to amend this list of urban centres from time to time.

[4] Paragraph 3.57, Ibid

Request to expand the list of urban centre

3.1.10 Subsequently, as outlined in 09/86, ComReg received a request from Eircom to expand the D06/08 Annex A list of urban centres to incorporate the following urban centres: Athlone, Bray, Carlow, Clonmel, Naas, Portlaoise and Swords.

3.1.11 In considering whether the list of urban centres should be expanded, ComReg proposed in section 3.5 of 09/86 to follow the approach which was used in the previous analysis: "*This involved considering the presence and extent of high capacity connectivity between urban centres and other major urban centres, and it is likely that the presence of these characteristics would be reflected in the presence of significant competing infrastructure. ComReg's previous analysis determined that, for connectivity to and from an urban centre to fall within the wholesale trunk market, there are likely to be two or more sets of competing infrastructure present between the urban centres. Furthermore, in order that the competing infrastructure can affect a competitive constraint on the dominant operator (Eircom), those intending to use this infrastructure must be able to do so in a technically and economically efficient manner. Therefore the infrastructure needs to be physically located close enough to the Eircom exchange in the relevant urban centre. If the Points of Presence (POPs) of the individual infrastructures are located so far apart that it would be uneconomic to use that infrastructure, the potential competitive constraint is negated*"[5]. ComReg stresses that the two or more sets of competing infrastructure referred to above are assumed to be in addition to the presence of the incumbent which is presumed to have a ubiquitous network. This is one of the tenets applied in the analysis and was used consistently in the ComReg approach in these considerations. The other major consideration was that this alternate network should provide a competitive constraint on Eircom; that an operator could avail of the use of this competitive infrastructure in an efficient manner and that this would therefore logically incorporate the requirement that the infrastructure should be sufficiently near or *"close enough"* to an Eircom exchange. The reasoning was that if it was not close enough to effect interconnection with Eircom, if such was deemed necessary by an operator managing this competitive infrastructure i.e. the ability to connect to the Eircom terminating segment if required, then it would not pose a competitive constraint.

3.1.12 ComReg holds the view that this approach is still valid and reflects the current economic and competitive characteristics of the market. This does not mean that the approach cannot change or be modified appropriately in the future as the market itself changes and develops. The criteria are not ends in themselves but useful indicators which ComReg considers are currently suitable.

3.1.13 The preliminary analysis completed by ComReg and published in 09/86 is reproduced below.

[5] Paragraph 3.6 of 09/86: Leased Line Markets: Review of Urban Centres

	Eircom	AltNet1[6]	AltNet2[6]
Athlone	√	√	
Bray	√	√	
Carlow	√	√	
Clonmel	√	√	
Naas	√	√	
Portlaoise	√	√	√
Swords	√	√	

[6] The first column, AltNet1, indicates that there is one competing infrastructure provider present. The second column, AltNet2, indicates that there are 2 or more competing infrastructure providers present.

4 Consideration of Responses to Consultation 09/86

Views of Respondents and Commission Position

The following discussion summarises the responses to the Consultation and details ComReg's views on the issues raised and thereby shows how ComReg was informed by these contributions. ComReg would like to thank all the respondents for their time and effort invested in their responses. These contributed greatly in assisting ComReg to reach a position on the issue under consideration.

ComReg received four submissions from the respondents listed below:

- Vodafone Ireland
- IrelandOffLine
- Eircom
- BT Ireland

4.1 ComReg Document Number 09/86 Questions 1 & 2

Q. 1. Should any or all of the proposed urban centres be appended to the list set out in Annex A of the Decision Instrument? If you agree, please provide reasons why this is the case.

Q. 2. Are there reasons why these urban centres should not be appended to the list set out in Annex A of the Decision Instrument?

4.1.1 The first response considered by ComReg stated in its introduction that it believed that all 7 urban centres listed in ComReg's document should be added to the original list of 15 urban areas in the Annex to decision D06/08. This respondent expected the list to expand with future competition.

4.1.2 This respondent disagreed with the ComReg analysis which described a competitive landscape as requiring 2 sets of competing infrastructures and the presence of Eircom. It then alluded to the presence of a MAN (the Government sponsored Metropolitan Area Networks) in an urban centre as providing the necessary conditions conducive to a competitive environment. Later in its response the respondent expanded this point and cited specific MANs which were used by a number of operators for connectivity to end customers. As evidence to support this point it quoted the DCENR study "The Value for Money and Policy Review of the MANS[7]" published in June 2008.

4.1.3 This respondent also opined that the criterion of interconnection to Eircom, as well as the presence of alternate infrastructure, was not an essential element for an alternative trunk network supplier.

4.1.4 Another respondent stated that none of the proposed centres should be added to the list. It further stated that ComReg should be consulting on the removal of sites from the list rather that adding to it, due to what it described as obstructive behaviour in the wholesale Ethernet market on behalf of Eircom.

4.1.5 This respondent argued that for ComReg to consider what it termed "*any further deregulation of the trunk market*", ComReg should firstly ensure that there are no extant issues with the handover of terminating segments to OAOs by Eircom. The respondent cited the disputes lodged with ComReg by both Colt[8] and BT[9] with regard to Ethernet access and the resulting determinations. It opined that the absence of an acceptable wholesale Ethernet product is of sufficient significance to constitute a market failure. The respondent asserted that ComReg should therefore not countenance any further deregulation until this market failure was remedied and that ComReg should in fact be considering the reintroduction of regulation in this market where it was previously withdrawn. It offered a five step test which required the posing of five questions in order to establish if competition exists in an area.

4.1.6 Another respondent commenced their submission by stating that it agreed with the market definition for Wholesale Trunk Segments of Leased Lines and the boundary split between Trunk and Terminating segments. It further agreed with ComReg that any extension of the Annex A list should be subjected to analysis as to whether there are two or more competing sets of infrastructure and whether they can be used in a technically and economically efficient manner.

4.1.7 The respondent claimed that the analysis as set out by ComReg in the consultation did not demonstrate that any of the centres listed meet the criteria as laid out in Section 3.6 of the consultation and that no additions should be made to the list.

4.1.8 It also opined that if what it termed *"any further deregulation*" was to occur, then this would have the effect of removing connectivity between these 7 centres and the existing 15 centres on the list from the Terminating Segment Market and would move it to the Trunk Segment Market.

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[7] "Value for Money and Policy Review of the Metropolitan Area networks (Phase 1)" published by the Department of Communications, Energy and Natural Resources, June 2008

[8] ComReg Document 09/30: Determination in Dispute between Colt Telecom Ireland and Eircom, published April 2009

[9] ComReg Document 09/58: Determination in Dispute between BT Ireland and Eircom, published July 2009

4.1.9 The respondent also stated that ComReg did not consider whether a single Altnet could provide matching connectivity to Eircom.

4.1.10 This respondent then opined that the analysis should be completed only on “established infrastructure” as proposed by ComReg. It appeared to suggest that this wording should limit the consideration of the ComReg analysis to all plant and equipment installed and in service at a particular point in time. It went on to postulate a particular requirement whereby all fifteen urban centres on the original Annex A list would require connectivity with each other i.e. 210 possible connections –“*allowing for no daisy chaining*”.

4.1.11 This respondent then claimed that there was an absence of any analysis by ComReg which clearly indicates that there is alternate infrastructure located in, or close in proximity to, the additional urban centres. It cannot therefore form a view as to the basis for ComReg’s proposed changes. The respondent further considered that there was no analysis offered in the consultation that supported the ComReg criterion that “*those intending to use this infrastructure must be able to do so in a technically and economically efficient manner*”.

4.1.12 The respondent went on to state that the ubiquity of Eircom’s network provides it with a natural advantage as opposed to Altnets which have a more difficult business case to meet. It opined that this difficulty was particularly acute where end-user demand is low and that the “*mere existence*” of latent infrastructure at one of Eircom’s exchanges is not sufficient to indicate that an Altnet can use this to provide trunk segments. It also stated that Eircom’s various offers limit the uses to which this connectivity can be deployed.

4.1.13 The respondent then referred to a perceived difficulty in recent industry fora to achieve commitments from Eircom. This was in regard to In-Span and In-Building Handover for wholesale Ethernet. It suggested that for these reasons an assessment of the access criteria must be carried out so as to demonstrate that an Altnet can access these services in a technically and economically efficient manner.

4.1.14 The final respondent was of the opinion that some of the centres were competitive, some non-competitive and some “*partially competitive*” or “*competitive to partially competitive*”. It claimed that the analysis was not sufficiently rigorous and expressed concern that ComReg did not take into account the Government’s “National Spatial Strategy”.

4.1.15 The respondent also suggested an alternate list of criteria: there is capacity of 2.5Gbs or higher connecting the town; there is a functional MAN; there is a presence of a contiguous mast and co-location to a data centre of Tier1 or Tier 2 standard with route redundancy. However, it goes on to suggest that forbearance should be applied if a particular capacity formula is met.

4.1.16 The respondent also urges ComReg “to *go back and do this analysis properly*” and conveyed the belief that all the data upon which the ComReg analysis was based was gathered solely from Eircom with a cursory desk-top exercise to compare this against other networks.

ComReg Position

4.1.17 ComReg disagrees with the proposition put forward by the respondent that the "Eircom plus one" scenario automatically constitutes a competitive environment and the views of the majority of respondents supports this opinion. ComReg believes that the experience of industry to date and the market intelligence supplied by operators supports the ComReg position on this point. Also the fact that multiple operators may use a particular MAN does not mean that all these operators have actually built alternative infrastructure in that MAN area, or connected their network directly to the MAN in the particular urban area under consideration. Whilst the presence of a MAN can be an aid to producing a competitive landscape, its presence in itself is not the definition of competition. If there are not sufficient alternate operators providing backhaul to connect to a MAN, then competition is severely limited and therefore what ComReg considers genuine competition does not exist in such an area as set out in the decision.

4.1.18 The interconnection issue was then raised and the respondent appeared to have interpreted that existing interconnection with Eircom was one of the criteria required for competition to exist in an urban centre. ComReg did not propose that interconnection in itself was essential. The criterion enunciated by ComReg in 09/86 was that the alternate infrastructure was sufficiently close to the Eircom exchange in the relevant urban area so that interconnection could be established as set out in section 3.6; *"the infrastructure needs to be physically located close enough to the Eircom exchange in the relevant urban centre."* ComReg did not specify that any connectivity had to be already established as a prerequisite, but that in effect, the possibility of interconnection of the competing infrastructure with the dominant operator should be sufficient to act as a constraint (i.e. that the competitive infrastructure is "*close enough to the Eircom exchange"*).

4.1.19 The second respondent suggested that there should be no consideration given to any additions to the list due to what it described as a market failure in the handover of Ethernet services by Eircom. Whilst ComReg recognises that major challenges have arisen in respect of Ethernet, this is a different matter to the question under consideration. ComReg fully expects a workable Ethernet handover to be available to OAOs in due course and on a non-discriminatory basis.

4.1.20 This respondent then suggested a 5 step test to establish the existence of competition or otherwise. These tests and corresponding questions are worthy of consideration but it is ComReg's belief that they were already essentially incorporated in the ComReg analysis, particularly with regard to the number of operators with alternate infrastructure within an area. As already set out above, the issue of connectivity is that the infrastructure should be sufficiently close to the Eircom exchange to enable connectivity, but it is not essential that this connectivity is already established. ComReg is cognisant of its duty to ensure that Eircom meets its obligations with regard to providing access to the terminating segment. To this end, ComReg has issued Determinations on the disputes referred to above in ComReg Documents 08/30 and 08/58 and Eircom has published various wholesale ethernet offerings. ComReg has also initiated various workstreams, via the Leased Lines and PPC Forum and also via further impending consultations on pricing methodologies and models, upon which industry has been briefed at the forum.

4.1.21 The third respondent opined that the ComReg analysis was not rigorous or transparent and that expanding the list would remove all regulated connectivity between all these urban centres. ComReg is of the view that the analysis, though the original market definitions and boundary issue is complex, is laid out in sufficient detail in section 3.7 of the consultation. Crucially, the trunk market is confined to circuits of capacity STM-1 or greater. Any circuits of bandwidth less than STM-1 connecting these urban centres would still fall within the terminating segment and Eircom is subject to the full rigors of the obligations and remedies as set out in D06/08 which apply to this, the terminating market. ComReg considers that this is an important point i.e. that the Trunk or unregulated part of the overall market is narrow in scope and regulation still extends to the major portion of the wholesale market.

4.1.22 When considering installed infrastructure, ComReg believes that the effect of a very literal interpretation of this would be to consider all networks in a condition of “suspended animation”. ComReg believes that this is not how industry actually operates and it would expect that operators are constantly changing and upgrading their networks to meet business requirements, both for self supply and customer needs. ComReg considers that the example cited whereby all the listed urban centres are cross-connected to each other in a fully meshed network at STM-1 or above (i.e. 210 connections) would constitute a perfect example of where this competitive network would provide a competitive constraint on Eircom. The more recent data and that supplied previously to ComReg indicated that this is indeed the case. It has further clearly demonstrated that specific centres are competitive in the wholesale trunk market. ComReg therefore believes that in order for competition to flourish the existence of a single national Altnet provider with similar network ubiquity to that of Eircom, is not required.

4.1.23 This respondent again raised the important issue of connectivity to Eircom by the competing infrastructures. ComReg has laid out its research with regard to the level of infrastructure located in, or close in proximity to, the additional urban centres proposed by Eircom in section 3.7 of the consultation. ComReg obtained this commercially sensitive information regarding Operator networks by using its legal powers. It would not be appropriate for ComReg to divulge more specific geographic information as it may be possible for observers to deduce information on a specific operator’s network location. The Altnets considered in this analysis were those which were already active in the wholesale leased line market, have successful product offerings currently available and also have a considerable wholesale customer base. ComReg would also again state that it is keenly aware of the issues in relation to handover and connectivity and has expended considerable resource to ensure successful outcomes to these issues and will continue to do so.

4.1.24 ComReg agrees with the respondent that it is always a challenge for Alnets to compete with an incumbent with a ubiquitous network, particularly in areas of low customer density and that is why ComReg has undertaken this consultative process when considering any change to the list of urban centres.

4.1.25 The criteria as laid out by ComReg were clear and based on readily understood tests i.e. the existence of sufficiently competitive infrastructure and that the use of this competitive infrastructure should be available for use by an operator in "*a technically and economically efficient manner*" and further that *"therefore the infrastructure needs to be physically located close enough to the Eircom exchange in the relevant urban centre"*, as set out in section 3.6 of the consultation. Hence, the output or decisions in relation to each urban centre were also sufficiently clear. ComReg believes that to introduce any new and opaque definitions such as "competitive to partially competitive" would introduce significant confusion in the day to day operation of the market. Such terms or definitions have also not been the subject of any preceding consultations and would represent a change to the documented approach to the market analysis already completed.

4.1.26 This respondent considered that the ComReg analysis was not robust and raised Government policy specifically in relation to "spatial strategy". ComReg considers that it always takes government policy into account where appropriate and relevant. The functions of ComReg in regard to the conduct of a market analysis are clearly laid out in statute both at EU level in the Framework Directive (Doc 200/21/EC) and at National level, in S.I No. 307 of 2003 in a clear and prescriptive manner. ComReg is also cognisant of its role based on its stated aims and functions in the wider context, especially in relation to relevant Government policies.

4.1.27 In response to the alternate criteria to test for competitiveness proposed by this respondent, ComReg is of the view that they are overly prescriptive, complicated and unwieldy and would therefore be impractical to apply in practice.

4.1.28 ComReg also wishes to confirm that the data upon which its analysis was based, was gathered from the relevant operators and infrastructure providers both active and nascent in the relevant markets and ComReg is satisfied that the data supplied was accurate.

4.1.29 ComReg has considered all the responses to consultation and the points made in detail. It has also repeated the analysis of the data whilst taking into account the issues raised regarding the criteria; location of alternate infrastructure, connectivity issues etc. ComReg considers that it is justified in expanding the list to include Portlaoise.

4.1.30 Two of the respondents agreed with ComReg that Portlaoise constituted a competitive urban centre, although both expressed strong reservations with regard to the ComReg criteria and analysis. One of the respondents also supplied information which confirmed the ComReg data that there were at least two Altnets active in the wholesale market with live infrastructure and customers in this area. A table of the summary of responses specific to each of the 7 urban areas can be found in Appendix B of this document.

4.2 ComReg Document Number 09/86 Question 3

Q. 3.	**Do the respondents believe that the draft text of the proposed decision instrument is from a legal, technical and practical perspective, sufficiently detailed, clear and precise with regards to the specifics proposed? Please elaborate on your response.**

Views of Respondents

4.2.1 One respondent stated that the draft decision notice should be amended to remove the all the urban centres originally listed in Annex A due to "the anti-competitive behaviour" of Eircom with regard to Ethernet.

4.2.2 Another respondent considered that ComReg was acting outside its powers and without legal basis in contemplating any change to the list.

4.2.3 The remaining respondents were either silent or stated that they did not have issues with the Draft Decision on any of the bases outlined.

ComReg Position

4.2.4 ComReg is of the view that is acting entirely within its powers as the possibility of amending the list was specifically envisaged in D06/08. Other points raised here have already been addressed earlier in this document.

Decision	**Portlaoise should be appended to the list of Urban Centres**

Appendix A–Decision and Decision Instrument

1 STATUTORY POWERS GIVING RISE TO THIS DECISION INSTRUMENT

1.1 This Decision Instrument relates to the market for wholesale terminating segments of leased lines defined in Decision No. D06/08 Market Analysis – Leased line Market Review dated 22nd December 2008 and is made by the Commission for Communications Regulation (“ComReg”):

(i) Having had regard to sections 10 and 12 of the Communications Regulation Act 2002:

(ii) Having had regard to ComReg Decision No. D06/08 and more particularly to paragraph 5.8 of the Decision Notice and section 3.2 of the Decision Instrument contained therein;

(iii) Having taken account of the submissions received in relation to Document No. 09/86;

2 SCOPE AND APPLICATION

2.1 This Decision applies to Eircom Limited and its subsidiaries, and any undertaking which it owns or controls and any undertaking which owns or controls Eircom Limited, and its successors and assigns (“Eircom”).

2.2 This Decision Instrument is binding upon Eircom and Eircom shall comply with it in all respects

3 STATUTORY POWERS GIVING RISE TO THIS DECISION INSTRUMENT

Annex A of Decision No. D06/08 is hereby substituted by the list of urban centres listed below so as to expand the list of urban centres to include Portlaoise. Thus the amended Annex A will read as follows:

Annex A List of Urban Centres

Arklow
Carrick-on-Shannon
Cork
Drogheda
Dublin
Dundalk
Ennis
Galway
Letterkenny
Limerick
Mullingar
Portlaoise
Shannon
Sligo
Waterford
Wexford

Appendix B Table of summary of responses for each urban area

Urban Centre	Respondent A	Respondent B	Respondent C	Respondent D
Athlone	Competitive- Append to list	Not Competitive- Do not append to list	Partially Competitive to Competitive- Inconclusive	Cannot form a view- Do not append to list
Bray	Competitive- Append to list	Not Competitive- Do not append to list	Not Competitive- Do not append to list	Cannot form a view- Do not append to list
Carlow	Competitive- Append to list	Not Competitive- Do not append to list	Competitive- Append to list	Cannot form a view- Do not append to list
Clonmel	Competitive- Append to list	Not Competitive- Do not append to list	Not Competitive- Do not append to list	Cannot form a view- Do not append to list
Naas	Competitive- Append to list	Not Competitive- Do not append to list	Partially Competitive- inconclusive	Cannot form a view- Do not append to list
Portlaoise	Competitive- Append to list	Not Competitive- Do not append to list	Competitive- Append to list	Cannot form a view- Do not append to list
Swords	Competitive- Append to list	Not Competitive- Do not append to list	Partially Competitive to Competitive- Inconclusive	Cannot form a view- Do not append to list