



Review of Eir's Regulatory Governance Model

Publication of Reports and Call for Input

Information Notice

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On 15 March 2017, the Commission for Communications Regulation (“ComReg”) published an Information Notice¹ providing an update on its review of the regulatory governance of Eircom Limited (trading as “eir”) including, but not limited to, eir’s Regulatory Governance Model (“RGM”). ComReg had previously appointed KPMG and Cartesian Limited (the “Advisors”) as independent advisors to assist ComReg with its review.

In that Information Notice, ComReg noted that Phase 2 of the review had commenced in September 2016 and that the fieldwork had been completed. The Advisors’ reports have now been completed and have been checked with eir for factual accuracy. Comments and observations on these reports were also invited from eir, but none have been supplied. The Advisors’ reports are annexed to this Information Notice.

In considering the conclusions to these reports, ComReg is mindful of their context. In 2011, eir announced to industry (and ComReg) that it intended to proceed on a voluntary basis to implement a process of “Wholesale Reform”.

To deliver these its Wholesale Reform objectives eir committed to the development of an enhanced Regulatory Governance Model (“RGM”). It has published three *Industry updates on eir’s Regulatory Governance Model*² the most recent being in June 2017.

Separately, ComReg has been addressing ongoing problems with eir’s compliance with its regulatory obligations. It has initiated court proceedings³ against eir in respect of five findings of breaches of its regulatory obligations over a period from July 2011 to July 2015⁴. A number of other investigations are also ongoing, including investigations which are concerned with matters addressed in the Advisors’ reports.

¹ ComReg Document No. 17/17.

² <https://www.eir.ie/regulatoryinformation/regulatory-governance-model/>.

³ ComReg Wholesale Compliance Case No. 481 (High Court Record No. 2017/187/MCA) and ComReg Wholesale Compliance Case No. 568 (High Court Record No. 2017/186 MCA).

⁴ See ComReg Information Notice No. 17/57

The contents of these reports, published today, raise serious concerns about the quality of eir's regulatory governance. Based on ComReg's review of the Advisors' reports it is apparent that eir's regulatory governance arrangements including its RGM are not likely to enable eir to ensure compliance with its regulatory obligations. This is a matter of significant concern to ComReg. Given the seriousness of the contents of the reports ComReg believes that it is appropriate to initiate a project to identify what regulatory measures would be appropriate, having regard to its powers including under Regulations 8 (and in particular 8(5)), 9, 10, 12 and 14 of the Access Regulations⁵.

eir has indicated to ComReg that it will come forward with a proposed response to the recommendations in the reports. If eir were to make detailed and legally enforceable proposals to implement the recommendations in the Advisors' reports (and any other matters that ComReg may identify as requiring remediation), then ComReg would consider this response.

As an input to this project, ComReg is seeking the views of interested parties in respect of the contents of its Advisors' reports.

Responses to this document should be provided by 13 October 2017 and sent to RGM-call-for-input@comreg.ie. It is ComReg's intention to publish non confidential versions of the responses shortly thereafter.

⁵ European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 (S.I. No. 334 of 2011) ("the Access Regulations").