



Office of the Director of
**Telecommunications
Regulation**

DECISION NOTICE

**Review of *eircom*'s Access Reference Offer
– Sub Loop Unbundling**

Decision No: D12/02
Document No: 02/60
Date: 1st July 2002

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CONTENTS

1 BACKGROUND2

2 LEGISLATION3

3 REVIEW OF SERVICE SCHEDULE 104.....4

 3.1 Product issues.....4

 3.2 Pricing Issues4

1 BACKGROUND

Local Loop Unbundling was introduced in Ireland following the adoption of Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop. The ODTR has issued a number of documents on this important issue most recently Document 02/36¹ which approved final prices for the period until 31st March 2003.

The LLU Regulation requires *eircom* to publish a reference offer for unbundled access to the local loop and related facilities, and to meet reasonable request for such services. This includes sub-loop unbundling which is defined as “a partial local loop connecting the network termination point at the subscriber’s premises to a concentration point or a specified intermediate access point in the fixed telephone network”. However *eircom*’s Access Reference Offer (ARO) did not explicitly include sub loop unbundling, and on 28th March 2002 Ireland received formal notification that, together with four other countries, the European Commission was opening an infringement action for failure to include this provision.

Despite the fact that there was no industry demand for this product, and a work programme had already been identified to meet the LLU priorities for 2002, the ODTR and *eircom* indicated that a reference offer for sub loop unbundling would be developed to comply with the decision of the Commission.

eircom published Service Schedule 104 as part of v1.10 of their ARO on 28th May 2002. In this Decision Notice, the ODTR directs amendments to these prices set out in the ARO and provides for industry refinement of the Schedule.

Separately the Director is pleased to recognise the rapid progress being achieved in delivery of collocation space in *eircom*’s exchanges leading to the launch of a retail DSL service by one access seeker.

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- ¹ ODTR 00/99 of 22nd December 2000 – Information Notice on work to that date and initial commentary on the draft Reference Access Offer.
 - ODTR 01/01 of 31st January 2001 – Information Notice outlining changes to be made to the ARO and the work programme to complete tasks by end February 2001
 - ODTR 01/15 of 9th March 2001 – Information Notice outlining progress and seeking a more focused approach to remaining items – new timetables to finish by end April 2001
 - ODTR 01/21 of 2nd April 2001 – Decision Notice D5/01 – directing changes to the ARO on supply of information and detailing timetables to finish work by end April 2001
 - ODTR 01/27 of 30th April 2001 – Decision Notice D8/01 – setting interim rates for LLU services
 - ODTR 01/35 of 18th May 2001 – Information Notice setting out arrangements for Service Level Agreements
 - ODTR 02/24 of 7th March 2002 – Decision Notice D1/02 – directing the Copper Loop Frequency Management Plan
 - ODTR document 02/36 Decision Notice D4/02 Local Loop Unbundling Review of *eircom*’s Access Reference Offer – approving LLU prices

2 LEGISLATION

Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop ('the LLU Regulation') was published in OJL 336 of 30 December 2000.

eircom, as the operator designated by the Director as having significant market power in the provision of fixed public telephone networks and services under Annex 1, Part I, of Directive 97/33/EC, is a notified operator within the meaning given to that term in Article 2(a) of the LLU Regulation.

A "beneficiary" is defined in Article 2(b) of the LLU Regulation as a third party duly authorised in accordance with Directive 97/13 EC or entitled to provide communications services under national legislation, and which is eligible for unbundled access to a local loop.

Article 3(1) of the LLU Regulation requires *eircom* (as the notified operator) to publish from 31 December 2000, and keep updated, a reference offer for unbundled access to their local loops and related facilities. Article 3 (3) states that charges are to be set on the basis of cost orientation. Recital 11 of the Regulation states that charges should be transparent, non discriminatory and objective in order to ensure fairness. The Annex to the LLU Regulation includes a minimum list of items to be included in such a reference offer, under the following headings: conditions for unbundled access to the local loop, collocation services, information systems, and supply conditions.

Additionally, Article 3(2) of the LLU Regulation requires *eircom*, from 31 December 2000, to meet reasonable requests from beneficiaries for unbundled access to their local loops and related facilities under transparent, fair and non discriminatory conditions. Access to sub loops (defined as a partial local loop connecting the network termination point at the subscriber's premises to a concentration point or a specified intermediate access point in the fixed telephone network) should also be made available. Requests may only be refused on the basis of objective criteria, relating to technical feasibility or the need to maintain network integrity.

The LLU Regulation also obliges the National Regulatory Authority (NRA), under Article 4 (1), to ensure that charging for unbundled access to the local loop fosters fair and sustainable competition. In the case of Ireland, the ODTR is the NRA. Furthermore, Article 4 (2) (a) provides that the NRA shall have the power to impose changes on the Reference Offer, including prices, where such changes are justified; and under Article 4 (2) (b) require notified operators to supply information relevant for the implementation of the Regulation. Under Article 4 (3) the NRA may intervene on its own initiative in order to ensure non-discrimination, fair competition, economic efficiency and maximum benefit for users.

3 REVIEW OF SERVICE SCHEDULE 104

3.1 Product issues

Service Schedule 104 was developed in a short timeframe and the ODTR is aware that some elements of it, in particular the product description for sub loop unbundling may benefit from industry review. To allow for this, the ODTR will arrange for this to be set as an agenda item at the next LLU Review Forum. Access seekers are invited to submit any comments in relation to the product description or associated issues, by 5pm on 19th July 2002, to

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3.2 Pricing Issues

The Director has reviewed the prices proposed by *eircom* for consistency with the full loop costs used in approving charges in ODTR document 02/36. In this regard she is of the opinion that amendments to the prices set out in Service Schedule 104 of the Access Reference Offer are required.

The Director therefore makes the following direction for *eircom* to amend the ARO. These charges should be regarded as final until 31st March 2003. The exception to this is the charge applicable for cabinet site preparation which may be reviewed in the conclusion of the work which the ODTR is undertaking to review site preparation fees and licence fees for collocation space.

Direction 1

Pursuant to the powers set out in Article 4 2 (a) of Regulation 2887/2000 of the European Parliament and of the Council on unbundled access to the local loop, *eircom* are directed to amend the charges set out in Service Schedule 104 to:

Survey Charges

Cabinet Survey €99.17

Offer

Cabinet Site Offer €81.96

Cabinet Site Preparation (incl Process Charge) Actual Cost of Materials and Labour plus a process charge 15% of the direct costs

Connection Order with Successful Completion

Sub Loop ULMP (with survey for spare pair) €168.65

Sub Loop ULMP (without survey) €135.92

Sub Loop LS (with survey for spare pair) €172.51

Sub Loop LS (without survey) €139.78

Connection Order Failing Validation

Sub Loop ULMP (with survey for spare pair) €45.21

Sub Loop ULMP (without survey) €17.38

Sub Loop LS (with survey for spare pair) €45.43

Sub Loop LS (without survey) €17.60

Cancel Order

Sub Loop ULMP €24.12

Sub Loop LS €24.12

Monthly Rental

Sub Loop ULMP €15.25

Sub Loop LS €8.22

Line Test

Sub Loop ULMP €49.18

Sub Loop LS €18.09

Fault Clearance

Sub Loop ULMP €110.86

Sub Loop LS €110.86

Disconnection

Sub Loop ULMP €69.03

Sub Loop LS €92.34

Attendance Charges

Planned Access Standard Hrs	First 30 Mins	€60.46
	Subseq. 15 mins	€12.12
Planned Access After Hrs	First 30 mins	€100.77
	Subseq 15 mins	€20.19
Unplanned Access Standard Hrs	First 30 Mins	€121.04
	Subseq. 15 mins	€18.17
Unlanned Access After Hrs	First 30 mins	€217.90
	Subseq 15 mins	€33.32

These charges are set as final to the period ending 31st March 2003.