



Office of the Director of
**Telecommunications
Regulation**

Review of Telecom Éireann Reference Interconnection Offer (RIO)

Consultative paper

Document No. ODTR 98/19

JULY 1998

Oifig an Stiúirthóra Rialála Teileachumarsáide
Office of the Director of Telecommunications Regulation
Abbey Court, Irish Life Centre Lower Abbey Street, Dublin 1.
Telephone +353-1-804 9600 *Fax* +353-1-804 9680
Web: www.odtr.ie

Introduction

On 15 June the Director of Telecommunications Regulation (“the Director”) published a paper on the ODTR website on the framework for the liberalisation of the telecommunications market by December 1998¹. The Director welcomed the announcement by the Minister for Public Enterprise, Mrs. Mary O’Rourke T.D., that the Irish telecommunications market will be liberalised by 1 December 1998 and noted the need for her Office (“the ODTR”) to move quickly to put in place the regulatory tools to facilitate this. The Director particularly emphasised the need for consultation and input from all relevant interested parties and announced that the ODTR would be issuing a number of consultative documents in that context.

This document is one of a number of such consultation documents. The purpose of this paper is to obtain the views of interested parties on what should be included in the Reference Interconnection Offer (“RIO”) published by Telecom Éireann.

The document is structured as follows:

- section 1 sets out the regulatory background on which this consultation is based;
- section 2 details the timetable applicable from the beginning of the consultation period to approval and publication of the RIO;
- section 3 provides a top level description of the RIO;
- section 4, completed by Annex 1, sets out the elements that the Director believes should be included in the RIO. The Director welcomes comments from interested parties on the scope of the RIO and the range of services, which should be included in the RIO, based on this section.

This is not a legal document; the Director is not bound by this document and may amend it from time to time. This document is without prejudice to the legal position or the rights and duties of the Director to regulate the market generally.

This review of Telecom Éireann’s RIO does not in any way affect the rights and entitlements of organisations generally and specifically rights and entitlements to negotiate interconnection agreements pursuant to the Interconnection Regulations² and the Interconnection Directive³.

¹ “Towards Liberalisation; An agenda for Ireland to achieve an effective competitive market in the provision of telecommunications services” - available on <http://www.odtr.ie>

² European Communities (Interconnection in Telecommunications) Regulations, 1998, S.I. No. 15 of 1998.

³ Directive 97/33/EC of the European Parliament and of the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP)

Section 1: Background

Under the terms and conditions of the Interconnection Directive and the transposing Interconnection Regulations in Ireland, Telecom Éireann is obliged to publish a Reference Interconnection Offering. The RIO is defined in the Regulations as:

“an offer to provide an interconnection facility that includes a description of the interconnection offerings setting out the particular components according to market needs and all of the terms and conditions for interconnection to be satisfied by a person wishing to enter into an interconnection agreement.”⁴

In January 1998, Telecom Éireann publicised the availability of a RIO which can be obtained directly from Telecom Éireann⁵.

On receipt of the RIO, the Director requested justification from Telecom Éireann of the charges set out therein. Telecom Éireann provided material in response to this request and the Director has now engaged consultants to examine this information and the detail of Telecom Éireann's underlying cost accounting system. This exercise will enable the Director to make a determination on the level and structure of the charges set out in the RIO in accordance with its powers and obligations under the Interconnection Directive and the Interconnection Regulations. The examination of Telecom Éireann's costs is expected to be completed during the autumn and the Director intends to make a determination on the rates before full liberalisation on 1 December 1998. The examination of the rates in the RIO is therefore outside the scope of this consultative paper.

This paper is confined to examining the range and scope of the conditions set out in the RIO, having regard to:

- the requirements of the Interconnection Directive and the Interconnection Regulations,
- best practice elsewhere in Europe, and
- Telecom Éireann's existing interconnection agreements with Eircell and Esat Digifone.

⁴ Paragraph (17) of Regulation 8 of the European Communities (Interconnection in Telecommunications) Regulations, 1998, S.I. No. 15 of 1998.

⁵ Contact Carrier Services Section, Telecom Éireann, St Stephen's Green West, Dublin 2; (01) 671 4444

Section 2: Consultation procedure and timetable

Consultation: The consultation period will run from Friday 3 July 1998 until Friday 17 July 1998.

Written comments should be submitted before 5 p.m. on Friday 17 July 1998 to:

Lise Paklet
The Office of the Director of Telecommunications Regulation
Abbey Court
Irish Life Centre
Lower Abbey Street
Dublin 1

Finalisation of the Director's Position: The Director will consider comments received in response to this consultative document before publishing a final position paper on the Telecom Éireann RIO. A final position paper will be published by 31 July 1998. The Director will formally request Telecom Éireann to amend its RIO accordingly.

Approval and publication of the RIO: The revised RIO should be submitted by Telecom Éireann before 5 p.m. on 21 August 1998 to:

Lise Paklet
The Office of the Director of Telecommunications Regulation
Abbey Court
Irish Life Centre
Lower Abbey Street
Dublin 1

The Director will issue a final decision no later than 2 weeks after receiving the revised RIO from Telecom Éireann.

Telecom Éireann should publish the revised RIO no later than 21 August 1998.

Section 3: Description of the Telecom Éireann Reference Interconnect Offer (RIO)

The Telecom Éireann RIO comprises 24 pages and currently applies to national mobile operators and to European operators who terminate traffic presented at Interconnect Nodes which originated in other EU Member States. The document consists of 11 clauses numbered from 1 to 11 and three annexes numbered A to C. A reference is made to clause 18 (on dispute resolution) but this clause is not included in the document reviewed.

The RIO is available from Telecom Éireann, Carrier Services Section, St Stephen's Green West, Dublin 2, Telephone: 671 4444. Since the publication of the RIO, Telecom Éireann has publicly stated that the rates published therein are available to all licensed operators and service providers who are entitled to negotiate interconnection with Telecom Éireann (see ODTR Document No. 98/11 "Wholesale Rate Review - Telecom Éireann Charges to Service Providers").

The RIO is significantly less detailed than the actual interconnect agreements signed between the two mobile operators and Telecom Éireann.

Section 4: Scope and Range of services which should be included in the RIO

In this section, the Director sets out the range and scope of services which she considers should be included in the Telecom Éireann RIO. In setting out these services, the Director has regard, *inter alia*, to the definition of RIO which is contained in the Interconnection Regulations. That Statutory Instrument defines the RIO with reference to "market needs". The Director would be very pleased to receive comments from market players on what they consider those needs to be.

Legal framework

Description: It is important for interconnecting operators to understand the general legal terms and conditions attached to the agreement. This ranges from the description of those organisations to which the RIO applies to the specification of limitation of liability. This certainty about the legal framework is necessary in particular for new entrants to plan and determine their approach to the provision of services and networks. Lack of information disadvantages new and smaller entrants while favouring the incumbent.

Telecom Éireann RIO: Governing law, limitation of liability, breach, suspension and termination conditions are not currently specified within the RIO.

Suggested duration of any agreement is clearly stated in sections 1. 2., and 3. It is stated that the document is valid from 1 January 1998 to 31 December 1998. Procedures to renew, review or terminate the agreement (other than expiry) are not specified.

Section 1 describes the types of operators the RIO applies to. These are licensed mobile telecommunications operators and operators who are licensed in another EU Member State who present traffic at the Telecom Éireann Interconnection node which originated in another EU Member States. This does not include Service Providers or operators licensed within Ireland.

DTR View: The RIO should be extended to clearly specify the legal framework in which the Offering applies. The following non exhaustive list of conditions should be addressed in the RIO:

- Governing law;
- Limitation of liability/force majeure;
- Breach, suspension and termination;
- Duration of the agreement;
- Right to renew or review the agreement: there are a number of situations (that may or may not be dependent on the operators) that could require a review of the agreement, including when the agreement (or part of it) has ceased to be reasonable;
- Procedures for termination other than expiry;
- Details of services covered: the RIO should cover at a minimum the principal services⁶ to be provided, including, but not limited to:
 - basic telephony services,
 - freephone services,
 - premium rate services, and
 - leased circuits (including rates up to 34 Mbit/s or higher to be agreed);
- Ancillary services which may be availed of as part of an interconnection agreement but which need not form part of the

⁶ An indicative list of services to be included in the RIO is attached in Annex 1.

agreement if they are not required by the interconnecting party;

- Provision of Calling Line Identification, including specification of the purposes for which CLI can be used by each party, e.g. routing calls or bill compilation (CLI shall not be used for any other purpose than those stated in this section);
- Specification of the operators which the agreement applies to: in accordance with appropriate legislation this should include all network operators and service providers who are licensed to provide (and actually do so) telecommunications services to the public as well as operators licensed in other EU Member States.

Rates and Billing

Description: To reflect efficiency gains, it is crucial that the interconnection agreement provides for the new entrants' right to request and obtain re-negotiation of the rates. The RIO should also provide for escalation procedures where one party wishes to re-negotiate the charges and the other does not.

In accordance with European and Irish legislation, and having regard to best practices in Europe, interconnect rates should be cost-oriented, transparent, non-discriminatory and based on a price level closely linked to the long-run incremental cost (LRIC)⁷.

Telecom Éireann RIO: The RIO details rates for interconnect paths and conveyance (Annexes B and C).

Provisions for review of rates are not clearly stated and therefore the RIO does not allow service providers to start re-negotiation when they wish to do so. It is understood, but not explicitly stated, that rates can only be reviewed as part of the re-negotiation of the overall agreement when it expires (31 December of every year).

Payment terms and resolution procedures for billing disputes are not covered.

DTR View: The RIO should be amended to include top level clauses dealing with:

- the review and re-negotiation of rates, including timing and

⁷ Interconnection Directive (97/33/EC) recital (10)

duration of re-negotiation;

- escalation procedures in the event of the timing of review not being agreed;
- procedures for referring any dispute to the ODTR in the event of failure to agree on rates, including timetable;
- procedures in the event of a dispute on bill accuracy;
- details may then be negotiated on a case by case basis between operators;

The level of interconnect charges should be calculated on a LRIC basis. The actual level of charges will be the subject of a separate determination by the Director following the completion of the current examination of Telecom Éireann's cost and cost accounting system in the Autumn.

Network Management and Planning

Description: For new entrants to efficiently plan for interconnection with an incumbent operator, some indication of the network design and the planning and management of the network to network connection is necessary. Without this information, the new entrant is at a disadvantage with regard to the incumbent in negotiating terms and conditions.

Telecom Éireann RIO: The RIO does not include the network plan. The plan is referred to as annexed to the agreement but no such annex is included. It is understood that Telecom Éireann considers this element of interconnection agreements to be confidential to the interconnecting parties. It is inferred that procedures for capacity forecasting are included in the annexed network plan.

DTR View: The Director would welcome the view of the industry, including Telecom Éireann, as to which information, contained in the network plan, should be made public and which information should remain business confidential.

The view of the ODTR is that the RIO should explicitly address planning and operations procedures, including but not limited to:

- detailed routing principles for both national and international traffic;
- procedures for traffic measurement;
- procedures, including timetable, for capacity forecast and

provision of capacity;

- timetable for provisioning additional capacity;
- procedures to ensure accurate forecasts and timely responses, including but not limited to appropriate penalty clauses for either party in default;
- network design, alterations, safety and protection (including timetables).

Network Interconnect

Description: When interconnecting two networks, the operators need to agree on the number and location of the Points of Interconnect (PoI) as well as who should supply the interconnect equipment. These are the fundamental building blocks of physical interconnection between two networks. Information on the available offering is of critical importance to new entrants.

Level of connection permitted

Interconnect charges are based on the extent to which the call originating from one network is carried over the other party's network. An incumbent operator could, in specifying the points in its network where other operators may interconnect, include only switches which are relatively high in the network switching hierarchy. As a result, new entrants would be obliged to use more of the incumbent's network (and incur charges for doing so). If interconnect occurs at the level of the national switch, the interconnecting operator would have to pay a national interconnect rate, if the connection occurs at the level of the local switch, a local rate only would be charged.

Co-location

Co-location becomes an issue when operators need to decide where to house interconnect equipment. Operators can reduce costs by sharing a single site where each will install and run telecommunications equipment and where they will connect their networks.

The right to co-locate gives the new entrants the choice to rent part of the interconnect equipment to the other operator or build its own infrastructure. The new entrant can enjoy the freedom of choosing the least costly solution. It also allows the new entrant to control and maintain the vital link between its network and the other operator's network. A number of issues pertaining to co-location have to be addressed within the agreement, for example, those required to ensure availability of space, security of the network and equipment and

access of the second operator's staff to the incumbent's premises.

Several co-location models have emerged. In the UK there has been a move towards virtual co-location or 'in-span' connection and this model seems to meet industry needs. BT has introduced a footway box that is adjacent to the trunk exchange for traffic delivered into the incumbent's network. The new entrant manages a transmission link to the box for interconnect and controls the costs until the exchange.

The reverse is true for traffic entering the new entrant's network.

Who pays for equipment at PoI

Cash flow problems may make a new entrant inclined to let an incumbent operator pay for the equipment at the point of interconnect. It may however be in the interests of the new entrant to supply and maintain its own equipment at the point of interconnect to avoid incumbent charges which are not in its control.

**Telecom Éireann
RIO:**

Level of connection permitted

It is understood from the RIO document (Annex 1) that interconnection is offered at the primary, tandem and international levels of the network.

Co-location

It is understood from the RIO that interconnect is offered only through an interconnect link. Telecom Éireann provides the link and charges the second operator for the path from which its traffic is sent.

Who pays for equipment at PoI

It is not clear from the RIO what options are available.

DTR View:

Level of connection permitted

The RIO should explicitly state that operators are free to request PoIs at any Telecom Éireann switch.

Interconnect conditions for international operators (to which the agreement also applies) should be described explicitly.

Co-location

An interconnecting operator should be entitled to build its own link (the operator's own circuit would go straight into the point where interconnect takes place) and co-location should be allowed.

Who pays for equipment at PoI

Given the view on co-location (or virtual co-location) as set out above, the Director's view is that new entrants should have the choice of leasing or buying the equipment at PoI.

Quality of Service and Dispute Resolution

Description: Interconnect not only drives the prices that a new entrant can offer its subscribers but also the quality of service. Given the importance of quality to a new entrant, this must be carefully covered within an interconnect agreement.

The framework for this co-operation should typically be described in a detailed service level agreement as a sub-section of the overall interconnection agreement. Both parties should be bound by their contractual obligations and sanctions should apply when they do not meet them.

Telecom Éireann RIO: The RIO refers to a "clause 18 hereof" that deals with dispute resolution but this clause is not in the document reviewed (the RIO stops at clause 11.2).

There is no clause on quality of service.

DTR View: The RIO should be expanded to include dispute resolution procedures, either in the body of the Offering or as an annex. Such procedures should include, but not be limited to:

- a detailed service level agreement;
- defined quality of service and delivery targets;
- provision for penalty payments in the event of targets being missed;
- escalation procedures.

The views of interested parties are requested on the terms and conditions which should be included in a service level agreement ("SLA") and the extent to which that agreement should be published in the RIO.

Introduction of New Services

Description: For new operators to compete with the incumbent operator, they must have rapid access to new services. Otherwise the incumbent operator will have a competitive advantage in lead-time to market which will cause an imbalance between the players.

Telecom Éireann RIO: The RIO specifies that operators must provide all services to interconnecting operators that they provide themselves. An indicative (i.e. not binding) timetable is provided.

DTR View: The RIO should be expanded to:

- list the conditions under which operators must agree to provide a new service (a service that the requested party already provides or an additional service that should be made available under legislation/licence conditions);
- provide detailed procedures from request to provision of the new service, including timetable and escalation procedures if agreement cannot be reached.

Confidentiality and Publication of Information

Description: An interconnection agreement is a contract signed between two parties and involves the exchange of commercially sensitive information. Strict confidentiality rules should apply limiting publication of the information, and also the use of the information within interconnecting organisations for any purpose other than effecting interconnect.

Telecom Éireann RIO: There is no clause dealing with confidentiality in the RIO.

DTR View: The RIO should be expanded to include a clause covering confidentiality. The clause should include, but need not be limited to:

- prohibition to use confidential information to gain commercial advantage on the retail side;
- conditions for disclosure of confidential information to third parties.

Annex 1 - Indicative list of services to be included in Telecom Éireann RIO

1. National Interconnection Links
2. International Facilities Access

3. Fixed termination rates⁸
4. Indirect access calls to the operator's system
5. International outgoing calls to overseas systems including Northern Ireland via Telecom Éireann's system
6. National transit via Telecom Éireann's system
7. Premium rate services
8. Freephone service
9. Transfer charge calls
10. Special local call (LoCall) rate (01850) and national call rate
11. Packet services access
12. Paging services access
13. Voice Messaging Service
14. National operator assistance service
15. International operator assistance service
16. Directory enquiry service
17. International directory enquiry service
18. Emergency service

⁸ including CLI

