Commission for
Communications Regulation

Submissions to Consultation

SMP Obligation: Retail Price Cap Remedy Fixed Narrowband Access Markets (Decision Notice and Decision Instrument)

Submissions received from respondents

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Introduction and Summary

ALTO welcomes this consultation and the opportunity to comment on the issues raised.

In general, we agree with the proposals made by ComReg as regards the structure and timing of price cap controls on eircom, however, we do have some real concerns around the level of prices for access services which ComReg has permitted/approved.

Competition in the retail access market is clearly very under-developed. ComReg has taken many different actions to promote competitive conditions but the fundamental position has not altered, with eircom retaining massive market share. The key area to tackle, in order to change market fundamentals, is to reduce price levels.

Ireland has the highest monthly LLU rental charge and the highest retail line rental in the EU. These exorbitant price levels significantly disadvantage consumers, make it very difficult for alternative operators to provide a real choice, and constrain take up of the main fixed-line telecomms services. It is an on-going concern of ALTO that such price levels are permitted by ComReg and that no serious action has been taken to force eircom to tackle its own cost base and bring its cost per line to a more efficient level.

In the context of this consultation we urge ComReg to

1. Set (and maintain) 'X' in the new price cap at a level which forces eircom to address its inefficiencies. ComReg's proposal to set the price cap(s) at CPI-CPI (no increase) and then CPI-0 will allow eircom further increases, which we believe are wholly unmerited and unjustified.
2. Undertake a comprehensive review of LLU rental charges and implement significant reductions in those charges. This move is essential to ensure that infrastructure competition is given room to develop. Such a move would be a huge benefit to competition in the (under-developed) broadband sector
3. Review the margin allowed to alternative operators for wholesale line rental. The margin is currently set at 10% below eircom's retail price – this does not allow alternative operators to undercut eircom and restricts competition in the retail access market. An increase in the margin would benefit consumers and would apply a strong competitive pressure on eircom's own retail rates for line rental.

Application of Price Cap

Q. 1. Do respondents agree with the range of services that ComReg proposes to include in a narrowband access cap? If so, do respondents agree ComReg's objectives are likely to be met with a specific cap on each of lower level and higher level access markets?

Consultation document 06/41 set out ComReg's preliminary view that some form of a retail price cap continues to be necessary for at least some of the retail services provided by eircom in fixed narrowband access markets. ALTO provided a detailed submission in response to this consultation.[1]

ComReg's view on forbearing from intervention in retail access is set out in Section 4 of the present consultation :

- to forbear in narrowband access is premature in the face of eircom's continued dominance in both lower and higher level access markets
- eircom's market share is over 83% in the lower level access market and approximately 66% in the higher level access market at the end of December 2006
- ComReg's SMP analysis noted that eircom's high market share in the lower and higher level access markets had not been appreciably mitigated by other factors including the presence of wholesale regulation (e.g. SB-WLR and CPS)
- competition is not yet effective in the retail narrowband access markets nor is it expected to be within the lifetime of the review.

In conclusion ComReg believes that there are strong arguments for maintaining a price control on both higher and lower level narrowband access services.

ALTO supports this view. In circumstances where eircom continues to hold very significant levels of market share, and where a variety of wholesale regulatory obligations have not had a major impact, the continuation of retail price controls on eircom is appropriate and necessary.

ComReg's proposal is to separately apply a CPI-X price cap on each of lower level services and higher level services. ALTO supports this approach.

[1] http://www.alto.ie/media/docs/Fixed_Price_Cap_06_41.pdf

Proposals for Setting a Price Cap

Q. 2. Do respondents believe that ComReg should continue to regulate eircom through a CPI-X price cap or should there be an adjustment to the price cap formula to permit a cost pass through?

Q. 3. Do respondents agree with ComReg's proposal to apply a CPI-CPI cap (constant prices) on each of the lower and higher level access services for a period of 12 months beginning on the start date of the proposed RPC and a CPI-0 cap (inflationary increases) in subsequent price cap years together with a sub cap (CPI-CPI and CPI-0) on basic line rental? Please elaborate your response.

Q. 4. Do respondents agree with ComReg's proposal to introduce a specific sub cap on basic telephone line rental (PSTN) within the overall basket cap on lower level access services of CPI-CPI in the first twelve months and move to a CPI-0 thereafter? Please elaborate on your response.

The proposals made by ComReg as regards the overall form of a Price Cap are set out in Sections 5.6 to 5.25 as follows:

- subject eircom's access prices to a CPI-X price control, with CPI to be used as a measure of inflation
- adjust the level of the price cap in the first year of a price control such that eircom's access prices would remain in place (constant prices or CPI-CPI) for a period of 12 months
- permit eircom's access prices to move in line with inflation in subsequent price cap years (i.e. CPI-0)
- subject basic line rental (PSTN) to a separate sub cap which would also operate on the basis of CPI-CPI for a period of 12 months and move to a CPI-0 cap for subsequent price cap years.
- ComReg does not propose to adjust the CPI-X price control at this stage to allow for an automatic pass through of changes in loop costs.

ALTO supports the imposition of a CPI-X price cap on eircom's access prices. We also support the proposal to adjust the price cap to a constant prices basis (CPI-CPI).

On the question of specific controls on eircom's retail line rental, we support the proposals made by ComReg, however, given the exorbitant level of line rental, we believe that a tighter price cap should be set which would force eircom to tackle its cost base more actively. In addition, we do not see any reason to allow the relaxation of the price cap after one year.

If ComReg intends to implement the two-phase approach outlined in the consultation document, our view is that there is considerable merit in maintaining a tighter price control for a longer period (two years) to protect consumers and to force eircom to address the massive inefficiencies in its operations.

We are strongly of the view that no provision should be made to allow automatic pass through.

Timescales

Q. 5. Do respondents agree with the approach ComReg proposes to take with regard to the start date and operation of any future price cap year?

Q. 6. Do respondents believe the removal or continuation of a price cap should be considered in line with any future assessments of SMP in retail narrowband access markets? If a specific duration is set, what period would be most appropriate? Please explain your response.

ComReg proposes to introduce a new price cap each on both the lower and higher level access markets at the end of September 2007. ComReg also proposes that any future price cap year would also operate on an annual year basis and would run from the end of September to the end of September. ALTO believes this is a reasonable approach.

ComReg proposes a price control of approximately 3 years with a review in approximately 3 years to align the review of the price cap remedy with the ongoing market analysis process and a review of SMP in these markets. ALTO believes that a three year timeframe strikes the right balance between regulatory certainty and flexibility to allow for future market developments.

Carryover provisions

Q. 7. Do respondents agree with ComReg's proposed approach to carryover? In the event that carryover over is permitted under a new price control, should carryover be constrained to unmade increases or should price reductions also be considered? Please give reasons why.

ComReg states that allowing eircom a greater degree of pricing flexibility can bring benefits, particularly if carryover encourages the operator to bring forward additional price reductions or postpone price increases. ComReg's position is that it should only be allowed on a discretionary basis and not automatic, to prevent any abuses in market power by eircom. In addition, ComReg does not believe that it would not be practical to incorporate carryover from one price cap regime into an entirely new one, which may be set on a different basis to the previous one.

ALTO agrees with the approach as set out in the consultation document.

ENDS

2 BT Ireland

BT Response to Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets – Part II.

Ref: Submission re ComReg 07/48

Introduction

BT welcomes this consultation. We agree that effective competition does not take place in the fixed narrowband access market. We agree that Eircom has maintained dominance in the provision of access services to consumers even in the presence of wholesale regulatory measures.

Regulation has to be used as a proxy for competition in such circumstances and eircom has to be forced through regulation to become more efficient for the ultimate benefit of the end consumer.

We believe that retail price caps are a crude approach and must be supported by tougher wholesale regulatory measures. Effective and sustainable competition is the key. However, we recognise that that is the subject of separate consultations.

Our responses to ComReg's specific questions are set out below.

Response to ComReg questions

Q. 1 Do respondents agree with the range of services that ComReg proposes to include in a narrowband access cap? If so, do respondents agree ComReg's objectives are likely to be met with a specific cap on each of lower level and higher level access markets?

A1. BT agrees with the range of services proposed. BT agrees with a specific cap on each of the lower and higher level access markets.

We would comment that price caps are a crude method to attempt to replicate the effects of competition and the barriers to entry to competitors continue to remain too high in this market. ComReg's finding that Eircom remain dominant in this market some eight years after liberalisation must be of deep concern.

Furthermore we are concerned that eircom is not being given a sufficiently tough target to meet in terms of efficiency improvements in a market in which it is dominant. We would argue that monopolistic complacency is likely to exist in eircom.

Eircom's line rental is the highest in Europe. There is no reason why that should be the case, although we note the counter argument of population distribution. Many other European countries have similar situations of dense conurbations and less dense rural areas.

Nothing in the proposed measures would give us, or the Irish consumer, any certainty that line rentals in Ireland will not continue to be the highest in Europe for the foreseeable future.

Q. 2 Do respondents believe that ComReg should continue to regulate eircom through a CPI-X price cap or should there be an adjustment to the price cap formula to permit a cost pass through?

A2. As mentioned above we would argue that monopolistic complacency has resulted in line rentals in Ireland being the highest in Europe.

BT is opposed to any concept of pass through of higher costs. We believe that LLU prices are too high (ULMP and SL) and this is one of the contributing factors to barriers of entry remaining high and hence eircom's continued dominance in this market.

Q. 3 Do respondents agree with ComReg's proposal to apply a CPI-CPI cap (constant prices) on each of the lower and higher level access services for a period of 12 months beginning on the start date of the proposed RPC and a CPI-0 cap (inflationary increases) in subsequent price cap years together with a sub cap (CPICPI and CPI-0) on basic line rental? Please elaborate on your response.

A3. BT is not privy to the detailed information regarding eircom's costs and line-by-line comparative efficiency with its peers across Europe. We would suggest that gross inefficiency is taking place in eircom. ComReg has access to that information. We would therefore have thought that the proposed value of X is too lenient on eircom and will not drive the efficiency gains that are needed.

Furthermore we would remind ComReg of the need to reduce LLU (ULMP and SL) prices as soon as possible and to ensure ongoing margin opportunity for access seekers of sufficient levels to overcome some of the barriers to entry mentioned.

Q. 4 Do respondents agree with ComReg's proposal to introduce a specific sub cap on basic telephone line rental (PSTN) within the overall basket cap on lower-level access services of CPI-CPI in the first twelve months and move to a CPI-0 thereafter? Please elaborate on your response.

A.4. BT welcomes this approach, however, as mentioned above we believe that the value of X is too low and will not drive efficiency gains.

Q. 5 Do respondents agree with the approach ComReg proposes to take with regard to the start date and operation of any future price cap year?

A.5. BT agrees.

Q. 6 Do respondents believe the removal or continuation of a price cap should be considered in line with any future assessments of SMP in retail narrowband access markets? If a specific duration is set, what period would be most appropriate? Please explain your response.

A6. BT agrees that 3 years is appropriate at this time. Given the barriers to entry it is difficult to see how eircom's SMP in this market would change in that period.

Q. 7 Do respondents agree with ComReg's proposed approach to carryover? In the event that carryover over is permitted under a new price control, should carryover be constrained to unmade increases or should price reductions also be considered? Please give reasons why.

A7. BT agrees with ComReg's position that it should only be allowed on a discretionary basis and not automatic to prevent any abuses in market power by eircom. In addition, that it would not be practical to incorporate carryover from one price cap regime into an entirely new one, which may be set on a different basis to the previous one.

Q. 8 Do respondents agree that under a new price control, eircom should be required to comply with the cap(s) at all times?

A8 BT agrees with ComReg that eircom should be required to comply at all times.

Q. 9 Do respondents agree that the proposed decision instrument set out in Annex A adequately reflects ComReg's proposals for a price cap?

A9. BT agrees.

Q. 10 Do 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 regard to the specifics proposed? Please elaborate on your response.

A.10. BT agrees.

end

3 Eircom

eircom Ltd.

Response to ComReg Doc. 07/48

Response to Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets – Part II

Consultation and Response to Consultation 06/41

30 August 2007

DOCUMENT CONTROL

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EXECUTIVE SUMMARY

- eircom welcomes the proposed revocation of the *Telecommunications Tariff Regulation Order, 2003*, which will withdraw the Price Cap Order that applies to eircom's fixed voice telephony services.

- eircom notes that ComReg is taking into consideration now the European Commission's revised *Recommendation on Relevant Markets*, due to take effect from October 2007, in which retail fixed calls are no longer to be susceptible to *ex ante* regulation – including a price cap.

- eircom believes that the imposition of a retail price cap (RPC) remedy for narrowband access services, as proposed by this draft Decision, also is unjustified and disproportionate. Existing wholesale regulatory obligations, i.e., the "Single Billing through Wholesale Line Rental" (SB-WLR) and local loop unbundling (LLU), which for both one would expect a cost-orientation price control, are adequate to prevent any potential abuse of significant market power (SMP) in the relevant retail markets.

- In the event that a price cap remedy is deemed to be required, it should focus on the affordability of the basket of services purchased by low-usage customers and/or 'vulnerable users' – an aspect which has been completely omitted from this consultation.

- Cost orientation obligations, properly interpreted, can ensure that prices allow an adequate return to the SMP operator, encourage efficient entry of competitors and also discourage inefficient entry. Cost orientation should only be relaxed in the context of affordability for vulnerable users, where public funding can be used to achieve these social policy objectives.

- eircom objects to the inappropriate benchmarking exercise undertaken by Frontier Economics, the economic consultants engaged by ComReg to support its RPC policy-making. As eircom has consistently argued when inappropriate benchmarking has been ComReg and its consultants in the past, where benchmarking is conducted account needs to be taken of any differences in the operating environment which may impact on the comparability of the data

- Without prejudice to the above views, if ComReg intends to re-establish an RPC on retail narrowband access, then it must be capable of being implemented from legal, technical and practical perspective. eircom makes suggestions and seeks clarifications in this regard.

- eircom does not believe that an adjustment should be made to the CPI-x formula to permit cost-pass through. As the cost of LLU and SB-WLR are broadly aligned, automatic changes by including an adjustment to the CPI-x formula should not be allowed.

- eircom does not agree with a CPI-CPI cap for the first year as this is effectively equivalent to a 'price freeze' for 14 months (July 2007 to September 2008). eircom has a similar view on the CPI-CPI period for PSTN rental, as with the CPI-CPI period for the baskets of lower level and higher level services.

- If ComReg indeed is imposing the proposed RPC as a remedy in the context of its market analysis of the retail fixed narrowband market, then yes, removal or continuation of a price cap should be considered in line with any future assessments of SMP in retail narrowband access markets.

- If ComReg re-establishes an RPC on retail narrowband access, the control should be limited in duration (e.g., 2-3 years) and should expire if ComReg does not replace it with a revised control.

- eircom is unclear as to how the proposed carryover would work for decreases and increases. That said, eircom considers that carryover should continue to be allowed. Failure to allow any carryover would tend to encourage early increases and to delay reductions.

- Clarity is need to the proposed statement “under a new price control, eircom should be required to comply with a cap(s) at all times.”

GENERAL REMARKS

Principles for imposing remedies under European Union Regulatory Framework

Article 8 of the Access Directive[1] requires that remedies must be based on the underlying (competition) problem identified, proportionate and justified in light of the objectives set out for national regulatory authorities (NRAs) in Article 8 of the Framework Directive[2]. Regulatory controls on retail services – even when considered in the context of the Universal Service Directive[3] -- can only be imposed where relevant wholesale or related measures would fail to achieve the objective of ensuring effective competition.

Proposed retail price cap

eircom believes that the imposition of a retail price cap (RPC) remedy for narrowband access services, as proposed by this draft Decision, also is unjustified and disproportionate. eircom does not believe that ComReg has met it statutory duty of demonstrating that this RPC remedy is based on the nature of the problem identified, proportionate and justified in the light of the basic regulatory objectives of promoting competition, contributing to the development of the internal market, and promoting the interest of citizens.

Existing wholesale regulatory obligations, i.e., SB-WLR and LLU, which for both one would expect a cost-orientation price control, are adequate to prevent any potential abuse of SMP in the relevant retail markets. As a general rule and in the spirit of the new regulatory framework, excessive prices on the retail market should first be addressed at the wholesale level, e.g. by ensuring access at cost-oriented prices. Only if excessive prices on the retail market cannot (or only in the long run) be eliminated by regulation at the wholesale level, a retail price regulation according to Art 17 (2) USD appears appropriate ("... requirements that the identified undertakings do not charge excessive prices").

Universal service objectives vs. remedy in retail fixed narrowband market

The Universal Service Directive's aim is to ensure the availability of good quality publicly available services through effective competition and choice and to deal with circumstances in which the market does not satisfactorily meet the needs of end-users. In the event that a retail price control remedy, including any form of retail price cap, is deemed to be required, it should focus on the affordability of the basket of services purchased by low-usage customers and/or 'vulnerable users' – an aspect which has been completely omitted from this consultation.

Cost orientation obligations, properly interpreted, can ensure that prices allow an adequate return to the SMP operator, encourage efficient entry of competitors and also discourage inefficient entry. Cost orientation should only be relaxed in the context of affordability for vulnerable users, where public funding can be used to achieve these social policy objectives.

Benchmarking used by ComReg consultants Frontier Economics

eircom would like to comment on elements of the "Narrowband Access Retail Price Control: a Report Prepared for the Commission for Communications Regulation" (July 2007), ComReg Doc. 07/48a, which is annexed to the Consultation. In particular, eircom is concerned about the operational and financial benchmarks from other jurisdictions and how they are applied.

In Section 2.1.6, "Repair," Frontier Economics (FE) assesses the eircom repair costs, including both the cost of fault reporting and handling and the costs associated with any repairs result from reported faults or other identified faults. Frontier Economics (FE) conclude, "It is not

[1] Directive 2002/19/EC.
[2] Article 8 of Directive 2002/21/EC (the Framework Directive) sets out the objectives of the NRA, which are to promote competition, to contribute to the development of the internal market and to promote the interests of EU citizens.
[3] Directive 2002/22/EC.

feasible to construct a bottom up model of the level of faults, and hence repair costs, for an MEA network. However we can compare eircom's fault rate with a sample of comparable operators."

- FE then compare eircom's fault rate to a panel of nine European incumbent telecommunications operators ("telcos"), for which data is available in the public domain or via inquiries with the telcos.
- No indication is given that FE actually has applied the 'rule' of benchmarking that it cites in the Introduction to its report: "Benchmarking against operators in other jurisdictions requires finding operators <u>who have similar operating environments</u> and <u>who have comparable information available</u>" [our emphasis].
- An "average," the methodology for which is not explained, is then presented. FE then use this average to derive an "efficiency factor," again for which no methodology is explained, to take account of the "relatively high fault rate reported by eircom."

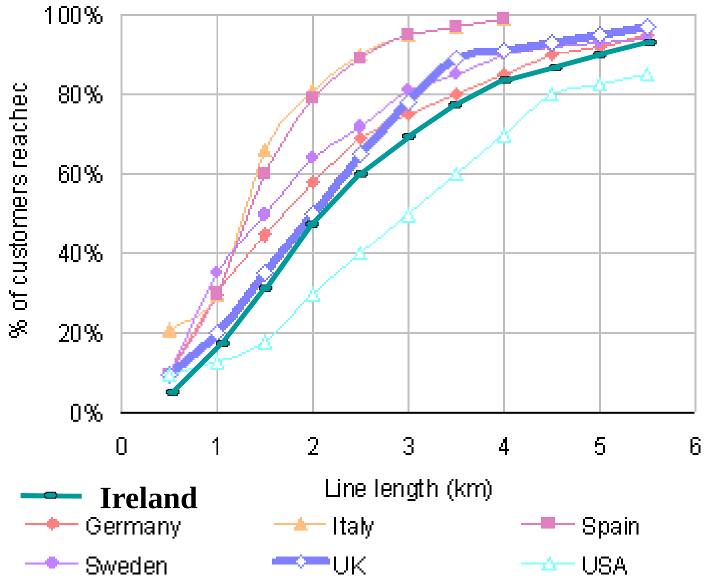
Any comparison that is drawn between the performance of the eircom network with that of other operators must be considered in the context of the unique nature of the environment in which eircom operates, including variables such as population density, line length, and economic scale. For example, with a population of 4.1m, and area of ~70,000 square kilometres, Ireland is the least densely populated country in Europe, making any comparison with a European operator unreasonable without an appropriate compensation factor. This equates to longer average line lengths between customers and their serving exchange with eircom having longer line lengths than its European peers. Hence an appropriate adjustment factor must be determined (if feasible) where there is divergence in any or all of these factors.

FE appears to 'wave away' these critical harmonisation and adjustment steps in its benchmarking by making the assumptions:

- "There is no obvious explanation in terms of operating environment for the differences in reported fault rates between operators. "
- "There is no obvious explanation in terms of operating environment for the differences in reported fault rates between operators. This suggests that the differences in part reflect differences in the quality of the access infrastructure."

For example, FE could have formulated and tested causal relationships, such as the hypothesis that line length [see Figure 1] and fault rates are positively correlated.

Figure 1



Source: Analysys, IEEE, Telefonica as reported by the Scottish Executive, Dec. 2006
http://www.scotland.gov.uk/Publications/2006/12/20130045/2

eircom thus calls into question the validity of Frontier Economics' overly simplified benchmarking exercise. We remind ComReg that non-comparable benchmarks and their use has caused significant difficulties between eircom's and ComReg's advisors in the past in similar cost-oriented pricing policy making.

RESPONSE TO CONSULTATION QUESTION

Q. 1. Do respondents agree with the range of services that ComReg proposes to include in a narrowband access cap? If so, do respondents agree ComReg's objectives are likely to be met with a specific cap on each of lower level and higher level access markets?

eircom does not consider that a price cap on retail services is justified since competition is established in the market, and a price cap risks constraining the further development of effective competition. However, should ComReg wish to apply a retail price control then the control should be set to ensure an adequate return on capital for eircom and other operators. There is a need to for pricing flexibility similar to the mobile market. Consumers do not buy access, they purchase the ability to make calls.

In eircom's view, fixed and mobile telephony comprise a single market, and the market is competitive. The two technologies compete for call volumes, and customers' willingness to purchase fixed line service is price sensitive. eircom's share by revenue of this market is falling. Ongoing price controls are therefore unnecessary – indeed harmful to the further development of competition.

eircom does not consider that a price cap on retail services is justified as effective competition is well established in the retail market. eircom is simply one player with a large, but not dominant, share of the total market for voice calls. Imposing a price cap on one player risks constraining the further development of effective competition in the combined fixed and mobile market.

The withdrawal of a RPC would not release eircom completely from regulatory control. eircom will still be subject to regulation at the wholesale level, in relation to access (where ComReg believes there remain significant barriers to competition) and in relation to universal service obligations.

We note that the impact of the Vulnerable User Scheme (VUS) has been to reduce the bill of the target user (i.e. with a typical bill of €5 per month for calls) by nearly 6% from January 2003 despite inflation of nearly 17% in the period. These vulnerable users have thus experienced a reduction in price of 23% in real terms. The substantial saving for this user group must be taken into account when considering overall price levels. We concede that there may be merit in maintaining some form of control for this specific user group.

Q. 2 Do respondents believe that ComReg should continue to regulate eircom through a CPI-X price cap or should there be an adjustment to the price cap formula to permit a cost pass through?

eircom does not believe that an adjustment should be made to the CPI-x formula to permit cost-pass through. As the cost of LLU and SB-WLR are broadly aligned, automatic changes by including an adjustment to the CPI-x formula should not be allowed.

If the regulated price of LLU were to reduce (not necessarily implying a reduction in LLU costs), it would offer OAOs a bigger margin between the LLU price and the retail access price(s). In this situation, the price cap control becomes a safety cap preventing increases larger than inflation, or consumer price index (CPI), and cost pass through adjustment is unnecessary.

It is eircom's view that it is unlikely that increases greater than CPI will occur each year in the LLU price over the likely period of any future price cap. If ComReg has concerns about a possible margin squeeze between LLU and SB-WLR, the regulated price of WLR should be set on a cost basis rather than a retail-minus basis[4].

Q. 3 Do respondents agree with ComReg's proposal to apply a CPI-CPI cap (constant prices) on each of the lower and higher level access services for a period of 12 months beginning on the start date of the proposed RPC and a CPI-0 cap (inflationary increases) in subsequent price cap years together with a sub cap (CPICPI and CPI-0) on basic line rental? Please elaborate your response.

eircom does not agree with a CPI-CPI cap for the first year as this is effectively equivalent to a 'price freeze' for 14 months (July 2007 to September 2008).

One option available is to change the duration of the first 'year' of the price cap to last a period of 10 months. Therefore the CPI-CPI condition would equate to only a 12-month 'price freeze.' The cap of CPI-0% would apply for each period of 12 months thereafter.

Q. 4 Do respondents agree with ComReg's proposal to introduce a specific sub cap on basic telephone line rental (PSTN) within the overall basket cap on lower level access services of CPI-CPI in the first twelve months and move to a CPI-0 thereafter? Please elaborate on your response.

eircom has a similar view on the CPI-CPI period for PSTN rental, as with the CPI-CPI period for the baskets of lower level and higher level services. The period of the CPI-CPI should be for a duration of 10 months which results in an effective price freeze on PSTN rental for 12 months. As with the proposal for CPI-CPI for a period of 12 months on lower level and higher level services, the result is a 'price freeze' for a period of 14 months.

In the absence of a specific control for vulnerable users, especially those who do not qualify for the Department of Social and Family Affairs Telephone Allowance, as is currently in place under the *Telecommunications Tariff Regulation Order, 2003*, eircom agrees with a specific cap on PSTN rental to prevent those vulnerable users with low telecommunications spend being exposed to large increases in their bill. However, it is preferable to have a specific measure for protection of vulnerable users as is in place under the current Price Cap Order than to have a blanket measure to protect a minority of customers in the market. eircom thus would urge ComReg to bring in specific protection for vulnerable users and remove the sub-cap on PSTN rental.

Q. 5 Do respondents agree with the approach ComReg proposes to take with regard to the start date and operation of any future price cap year?

As outlined in responses to questions 3 and 4, the first relevant year of any new RPC should be for a period of 10 months which results in a 'price freeze' for 12 months. Any subsequent relevant year should be for a period of 12 months. eircom welcomes the changes in the start dates in any future price cap as the period for the relevant revenue weights will have passed. This would provide a greater certainty than the situation with the current Price Cap Order, where the price cap year begins while still in the period for the relevant revenue weights[5].

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[4] See pp.4-5, "Retail minus vs. Cost plus" section of "Commission for Communications Regulation SB-WLR ComReg Letter of 9 July 2007 Response by eircom Limited (Covering Note)", submitted 17 August 2007.

[5] The period for relevant revenue weights is April to March while price cap year begins in February. If eircom want to make a change at the beginning of a price cap year, a forecast must be made for the remaining time period which also needs to take account of the effect of the price change

Q. 6 Do respondents believe the removal or continuation of a price cap should be considered in line with any future assessments of SMP in retail narrowband access markets? If a specific duration is set, what period would be most appropriate? Please explain your response.

If ComReg indeed is imposing the proposed RPC as a remedy in the context of its market analysis of the retail fixed narrowband market, then yes, removal or continuation of a price cap should be considered in line with any future assessments of SMP in retail narrowband access markets.

eircom maintains that ComReg truly conduct prospective market review, taking into account trends from advanced markets and forecasts for Ireland for supply- and demand-side market developments, it would have not determined the need for an RPC remedy in the market for retail fixed narrowband access.

eircom thus hopes, given the fast-pace of developments in the electronic communications markets – in particular, the practice of customers purchasing bundles of services, that ComReg will conduct its next relevant market analysis in due speed. With would thus provide the opportunity for the proposed RPC to be withdrawn as soon as possible.

Without prejudice to the above views, if ComReg intends to re-establish an RPC on retail narrowband access, the control should be limited in duration (e.g., 2-3 years) and should expire if ComReg does not replace it with a revised control.

Q. 7 Do respondents agree with ComRegs proposed approach to carryover? In the event that carryover over is permitted under a new price control, should carryover be constrained to unmade increases or should price reductions also be considered? Please give reasons why.

eircom is unclear as to how the proposed carryover would work for decreases and increases. We also have concerns over how discretion would be applied. There is a need for greater certainty and a more transparent framework.

That said, eircom considers that carryover should continue to be allowed. Failure to allow any carryover would tend to encourage early increases and to delay reductions.

Automatic carryover gives greater flexibility, lower average charges over the control period and greater regulatory certainty, which gives the ability to plan properly over the control period. eircom believes that automatic carryover should apply to any price caps.

If carryover is allowed, then the upper limits in second or later years should be those set at the start of the control period. If this is not the case, service providers are discouraged from making reductions before increases, all else being equal.

By not allowing carryover for price reductions, it may inhibit introducing lower prices to determine the market effect. For example, if PSTN rental was to reduce in year 1 by 20% (from 100 to 80), the true market effect is better gauged by implementing a permanent price rather than a promotion. Economic theory suggests that demand for a product increases with a price reduction and a firm would make the price reduction if the revenue from additional demand at a lower price is greater than lower demand at a higher price. If the additional demand created is less than expected and therefore overall revenue is less, a firm may wish to increase the price or return to original higher price. If a new price cap year has started, -- without carryover for reductions being allowed, and evaluation of the market effect concludes that the original price or a higher price should be implemented, this option would not be available; the price cap would allow only increases at the rate of inflation. This would result in the firm not undertaking the risk of introducing a lower price. If carryover for reductions is allowed, the risk to the firm is reduced and the firm would be more likely to test the market with lower prices.

Hence, carryover should include price reductions as well as unmade increases for any overall cap and sub-caps

Q. 8 Do respondents agree that under a new price control, eircom should be required to comply with a cap(s) at all times?

eircom is unclear as to the meaning of the references to "compliance will be required at all times.” There appears to be a suggestion that eircom did not comply with price controls in the past. eircom’s early reductions in 2000 ensured compliance at all times throughout 2000, 2001 and 2002.

Suppose that the price for a service is 100m and that CPI is 5%, such that CPI-1% allows the service price to increase to 104m. Would “compliance at all times” mean simply that on any day of the relevant year, the price could not exceed 104m, as shown in Figure 2? Or would it mean that the price could only increase gradually from 100m on day 1 to 104m on day 365, as per Figure 3?

Figure 2: Step-up

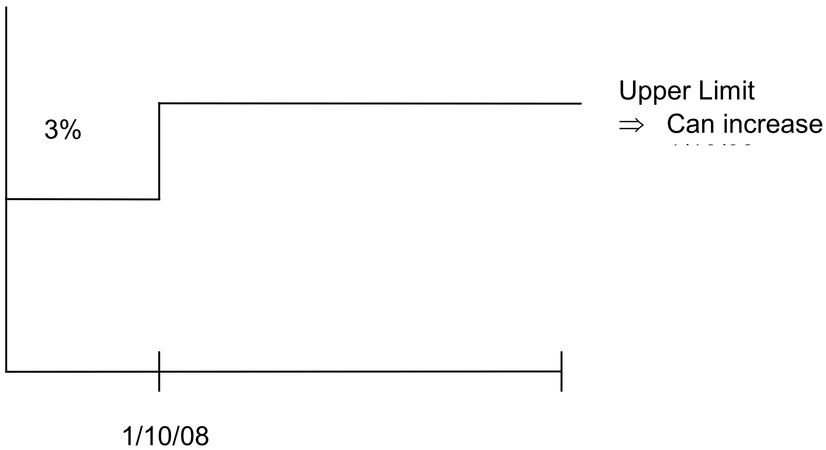
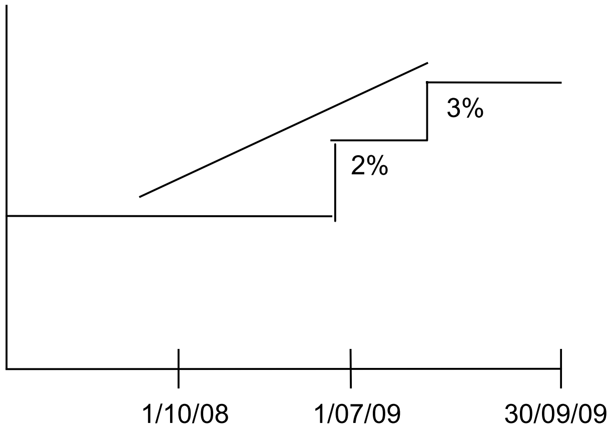


Figure 3: Graduated increases



Q. 9 Do respondents agree that the proposed decision instrument set out in Annex A adequately reflects ComReg's proposals for a price cap?

eircom suggests the following text changes [see highlighted edits] of the proposed Decision Instrument set out in Annex A:

Definitions

1.2 In this Decision Instrument:

"BRA" means basic rate access;

"ISDN BRA" means ISDN Basic Rate Access which consists of two Bearer Channels and one Delta Channel

"ComReg" means the Commission for Communications Regulation, established under section 6 of the Communications Regulation Act, 2002;

"connection and takeover charge" means a charge made by the company eircom retail for the connection of a customer to the company's networks or to services on the company's networks
"Δ CPI" means the annual percentage change in the CPI;

"△CPI" means the annual percentage change in the CPI from July to June each year as published in the month of July;

"CPI" means the consumer price index number, as compiled by the Central Statistics Office;

"CPI" means the consumer price index number, as complied and published by the Central Statistics Office Ireland;

"first relevant year" means any period of 12 calendar months beginning from the date of this Decision Instrument;

"first relevant year" means [any] the period of 10 consecutive calendar months beginning from the date of this decision instrument

"Formula" means $\Sigma^{n}_{i=1} \Delta Pi * (Ri / Rt)$

Where,
n is the total number of services in either all of the higher level services, or the lower level services;

'n is the total number of services in either [all of] the higher level services, or the lower level services;'

Δ Pi is the percentage change in the tariff (before discounts) for telecommunications service "i" based on the base of the tariff pertaining on the day preceding the beginning of the first relevant year, or thereafter, on the day preceding the beginning of a relevant year;
eircom understands that before discounts also means before inclusion in bundle product(s) and excludes promotional offer(s)

Ri is the total revenue before discounts for the telecommunications service "i" in eircom's financial year ending on or about 30 June preceding the first relevant year, or a relevant year

Rt is the overall total revenue before discounts in eircom's financial year ending on or about 30 June in eircom's relevant year for all telecommunications services preceding the first relevant year, or a relevant year, for the total number of services in either all of the higher level services, or the lower level services

"FRA" means fractional rate access;

"ISDN FRA" means ISDN Fractional Primary Rate Access which consists of 30 Bearer Channels and one Delta Channel where a minimum of 16 Bearer Channels and a maximum of 28 Bearer Channels are available for use;

"higher level services" means the provision of ISDN FRA and ISDN PRA lines, (those being services for which a recurring charge is made by eircom for the availability of such lines) and FRA and PRA connection and takeover;

"higher level services" means the provision of ISDN FRA and ISDN PRA lines, (those being services for which a recurring charge is made by eircom retail for the availability of such lines) and ISDN FRA and ISDN PRA connection and takeover;
[Note: The recurring charge relates to the standard price and excludes the price of a bundle that may include one or more of higher level services as a bundle element and promotional offer(s).]

"ISDN" means integrated services digital network, that is a network whereby telephone calls are made over switched end-to-end digital transmission paths;

"lower level services" means the provision of telephone exchange lines and ISDN BRA lines, (those being services for which a recurring charge is made by eircom retail for the availability of such lines) and telephone exchange line and ISDN BRA connection and takeover;
[Note: The recurring charge relates to the standard price and excludes the price of a bundle that may include one or more of lower level services as a bundle element and promotional offer(s).]

"PRA" means primary rate access;

"PRA" means ISDN Primary Rate Access which consists of 30 Bearer Channels and 1 Delta Channel with all Bearer Channels available for use;

"relevant year" means any period of 12 calendar months beginning after the first relevant year;

"relevant year" means [any] period of 12 consecutive calendar months beginning after the first relevant year;

"the provision of Integrated Services Digital Network lines" means a service for which a recurring charge is made by eircom retail for the availability of Integrated Services Digital Network lines (but does not include connection and takeover charges
[Note: The recurring charge relates to the standard price and excludes the price of a bundle that may include one or more of lower level services as a bundle element and promotional offer(s).]

"the provision of telephone exchange lines" means a service for which a recurring charge (but does not include connection and takeover charges) is made by eircom retail for the availability of such lines;
[Note: The recurring charge relates to the standard price and excludes the price of a bundle that may include one or more of lower level services as a bundle element and promotional offer(s).]

[Note: Connection and takeover includes for example, initial connections to eircom's network and/ or services, in situ connections and re-connections. Connection and takeover is subject to a separate charge.]

2 RETAIL PRICE CONTROL

2.1 The retail price controls in this section 2 relate to the markets for higher level and lower level retail narrowband access from a fixed location. The retail price controls in this section apply to higher level services and lower level services provided by eircom and as defined in section 1.2.

2.2 eircom shall not increase tariffs by more than Δ CPI- Δ CPI in respect of lower level services in the first relevant year.

2.3 eircom shall not increase tariffs by more than Δ CPI – 0 % in respect of lower level services in a relevant year.[Reference: the Δ CPI as published by CSO in the June preceding a relevant year]

2.4 Without prejudice to section 2.2, the following adjustment to the Formula shall apply**:** in respect of the provision of telephone exchange lines, eircom shall not increase tariffs by more than Δ CPI- Δ CPI in the first relevant year.

2.5 Without prejudice to section 2.3, the following adjustment to the Formula shall apply**:** in respect of the provision of telephone exchange lines, eircom shall not increase tariffs by more than Δ CPI- 0 in a relevant year.

2.6 eircom shall not increase tariffs by more than ΔCPI- ΔCPI in respect of higher level services in the first relevant year.

2.7 eircom shall not increase tariffs in respect of higher level services by more than ΔCPI – 0 % in a relevant year.

2.8 For the purpose of determining compliance with the price controls in sections 2.2, 2.3, 2.6 and 2.7, the Formula shall be applied.

2.9 eircom shall comply with sections 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7 at all times throughout the first relevant year and a relevant year.

2.10 ComReg may make the following adjustment to the Formula: to the extent that eircom has made, during the first relevant year, or a relevant year, in respect of higher level services, or lower level services, a reduction in tariffs [that is greater than the reduction required], or an increase in tariffs that is less than the increase that is permitted by sections 2.2, 2.3, 2.4, 2.5, 2.6 and 2.7, the difference may be taken into account by ComReg in applying sections 2.3, 2.5 and 2.7 in a relevant year, subsequent to a relevant year in which the reduction was made, or the allowable increase was not availed of.

3 WITHDRAWAL OF CERTAIN OBLIGATIONS

3.1 Pursuant to Regulation 9 of the Access Regulations, the obligations on eircom relating to transparency and cost orientation under Regulation 21 of the European Communities (Voice Telephony and Universal Service) Regulations, 1999 are withdrawn immediately upon the revocation of the Telecommunications Tariff Regulation Order, 2003.
[Note: eircom withdraws with immediate effect the undertaking that it made to ComReg for the provision of a Vulnerable User Scheme, which was offered in lieu of a lower quartile control being included in the Telecommunications Tariff Regulation Order, 2003. eircom may continue to offer the existing Scheme or a revised Scheme at its own discretion; ComReg, however, cannot compel eircom to offer such a Scheme.]

Q. 10 Do 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 regard to the specifics proposed? Please elaborate on your response.

eircom believes that certain aspects of the Draft Decision set out in Annex A require clarification and in some instances further assessment and amendment as set out below.

Technical and practical perspective
As highlighted in our response to Question 9, eircom believers that the proposed Decision Instrument should be revised to make it sufficiently detailed, clear and precise.

Legal perspective
eircom would like to request clarification in relation to the following two clauses in Paragraph 1 regarding the statutory powers under which ComReg is issuing this decision instrument:

> "1.1.4. Having taken account of the submissions received in relation to Document Nos. [the first and second consultation documents on proposed retail price control];
> 1.1.5. Having had regard to the analysis and reasoning set out in Document No. [the final decision on retail price control] which shall be construed together with this Decision Instrument."

Including reference to previous consultations documents and submission received by ComReg in relation to those consultations would seem to imply that ComReg is of the view that the legal obligations on eircom under this draft Decision is comprised not only of the text of the decision instrument but also of the full text of the response to consultation and consultation paper(s) off of which it hangs.' While eircom understands and appreciates the attractiveness of this approach to ComReg in terms of drafting a concise decision instrument, it creates uncertainty for eircom and the market generally.

This concern was raised previously by eircom in a letter to ComReg Solicitor René Rosenstock, dated 24 July 2007, and a bilateral meeting with ComReg on 23 July regarding the draft Decision on Retail Narrowband Access Markets contained in ComReg Doc. 07/26. No reply has been received to date from ComReg in response to eircom's request for a formal statement of the legally binding text and scope of ComReg Decisions or Directions.

4 Vodafone

Vodafone Response to the ComReg Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets – Part 2

Introduction

Vodafone welcomes the opportunity to respond to this second part of the ComReg consultation on a retail price on the fixed narrowband access markets. The answers to the consultation questions below are without prejudice to Vodafone's position, set out in our submissions to ComReg consultation documents 06/39 and 06/41, with regard to matters such as the appropriate market definition and the question of the requirement for retail price regulations where wholesale regulatory measures are already in place.

Vodafone's comments on the issues dealt with in this consultation are set out fully below.

Response to Consultation Questions

Q. 1. Do respondents agree with the range of services that ComReg proposes to include in a narrowband access cap? If so, do respondents agree ComReg's objectives are likely to be met with a specific cap on each of lower level and higher level access markets?

On the basis that ComReg has defined separate markets for retail fixed higher level and retail fixed lower level narrowband access services, and determined that some form of retail price cap is necessary to address the identified competition problems, Vodafone agrees with the range of services that ComReg intends to include in a narrowband access cap.

Vodafone considers that developing competitive pressures arising from existing wholesale regulation, and the potential for fixed to mobile substitution in the lower level market, would be sufficient to preclude any significant cross subsidisation between higher level and lower level access service prices in the context of a global price cap. However the proposed separate basket price caps on the narrowband access services in each of the two defined markets would not be an unduly burdensome regulatory remedy, particularly in light of the conclusion of the Frontier Economics report in section 3.3.1 that the level of common costs between the services in the two markets is relatively small.

Vodafone, however, regards the proposed sub-cap on basic PSTN line rental within the basket cap on lower level narrowband access services to be overly prescriptive regulation and unnecessary to achieve the objectives set out by ComReg. Vodafone contends that the proposed overall basket price cap on retail lower level narrowband access services, and competitive pressures arising from existing wholesale regulatory measures are sufficient to effectively constrain the SMP operator from setting the price of PSTN line rental at an excessive level. Further, the specific issue of protecting vulnerable consumers can be more effectively addressed by alternative measures such as strengthening the existing vulnerable user's scheme rather than by imposing the proposed sub-cap.

Vodafone agrees with the proposal to withdraw the cost orientation obligation when the new retail price cap regime is fully implemented. The CPI-X price cap has superior incentive properties to a cost orientation obligation. Compliance with the proposed retail price cap regime could also be more effectively monitored than in the case of a general cost orientation obligation. A combination of the proposed retail price cap with a cost orientation obligation would be disproportionate and unnecessary and would negate most of the benefits of the former regulatory remedy in terms of creating incentives to operate efficiently.

Q. 2. Do respondents believe that ComReg should continue to regulate eircom through a CPI-X price cap or should there be an adjustment to the price cap formula to permit a cost pass through?

ComReg should continue to regulate eircom through a CPI-X price cap as the CPI measure of inflation is both widely publicised and commands general acceptance. Vodafone does not however believe that a cost pass through adjustment should be allowed as in introducing an additional element in the calculation it increases complexity and undermines the benefits of transparency and simplicity that are associated with the CPI-X price cap.

Vodafone notes that the FL-LRIC based ULMP charge is a key input into the financial modelling carried out by Frontier Economics to determine an appropriate level of X. Frontier Economics states in section 4.3.1 of its report that the level of X is highly dependent on the assumption that the cost attributed to narrowband services will move in line with the CPI. Given the central importance of the likely evolution of local loop costs for the proposed level of X, if ComReg has reasonable grounds for believing that the relationship between the evolution of local loop costs and changes in the CPI may differ from Frontier's assumption, based on currently available information, then it should conduct a full review of the ULMP charge prior to initiating the new price cap regime so that this information can be used to set the price cap appropriately at the outset. In this situation the existing price cap regime could continue pending the completion of the ULMP review and finalised determination of the RPC. This would certainly be preferable to introducing the proposed new price cap regime in September and then possibly having to revise it in a fundamental manner at an early stage following the outcome of the proposed review of the ULMP at the end of 2007.

If ComReg considers that Frontier's assumption that local loop costs will rise in line with the CPI is appropriate and reasonable on a forward looking basis then it should introduce the proposed new retail price cap regime, but should commit to not revising this subsequently irrespective of the outcome of the review of the ULMP charge. If the proposed review of the ULMP charge in this case were to find ex-post that the relationship between local loop costs and general CPI measured inflation was significantly different from Frontier Economics' current assumption then some forecast error would be revealed to be present in the current price cap regime, but this would have to be set against the benefits of the price cap regime without a cost pass through mechanism in terms of transparency and regulatory certainty. The accumulated forecast error could be fully corrected for, if necessary, at the outset of any subsequent price cap regime on foot of a market review.

Q. 3. Do respondents agree with ComReg's proposal to apply a CPI-CPI cap (constant prices) on each of the lower level and higher level access services for a period of 12 months beginning on the start date of the proposed RPC and a CPI-0 cap (inflationary increases) in subsequent price cap years together with a sub-cap (CPI-CPI and CPI-0) on basic line rental? Please elaborate your response.

Provided that there is the necessary high level of confidence around the key assumptions underpinning the calculation of the X value then Vodafone would agree with ComReg's CPI – X proposed price cap values as they relate to the separate basket caps on lower and higher level access services.

As outlined in the response to question 1, however, Vodafone regards any proposed sub-cap on basic PSTN line rental within the basket cap on lower level narrowband access services to be overly prescriptive regulation and unnecessary to achieve the objectives set out by ComReg. Vodafone contends that the proposed overall basket price cap on retail lower level narrowband access services, and competitive pressures arising from existing wholesale regulatory measures are sufficient to effectively constrain the SMP operator from setting the price of PSTN line rental at an excessive level. Further, the specific issue of protecting vulnerable consumers can be more effectively addressed by alternative measures such as strengthening the existing vulnerable user's scheme rather than by imposing the proposed sub-cap.

In Vodafone's response to the first part of ComReg's consultation on a retail price cap in the fixed narrowband access markets (06/41) we argued that ComReg's second stated objective in setting a price cap – that of facilitating the rapid development of effective competition – is the best way of achieving the objective of preventing the SMP operator from charging excessive prices and must therefore have priority in ComReg's deliberations on the nature of the price cap. In this regard, Vodafone is in accord with ComReg's consideration of critical factors other than achievable efficiency gains - such as the impact on consumers, competition, and investment - in setting the level of X in the CPI-X price cap.

It is appropriate that the proposed price cap is set such that it acts as a safeguard cap protecting consumers against the risk of excessive price increases by the SMP operator while simultaneously maximising the scope for the development of competition, innovation, and long term investment. A focus on facilitating the growth of competition is key to achieving the objective of minimising prices for consumers over the long term and in leading to market conditions consistent with effective competition. This will bring forward the time when retail price regulation can ultimately be withdrawn. ComReg's proposed price cap approach is superior to setting a price cap based solely on the most optimistic scenario for achievable future efficiency gains, which may benefit consumers through lower prices in the short term, but at the risk of undermining the development of sustainable competition and investment. This would not be consistent with the maximisation of long term consumer welfare.

Q. 4. Do respondents agree with ComReg's proposal to introduce a specific sub cap on basic telephone line rental (PSTN) within the overall basket cap on lower level access services of CPI-CPI in the first twelve months and move to a CPI-0 thereafter? Please elaborate on your response.

Please see the response to question 3.

Q. 5. Do respondents agree with the approach ComReg proposes to take with regard to the start data and operation of any future price cap year?

Vodafone agrees that, if it is considered necessary for the proposed retail price cap regime to be imposed, then it would be appropriate for this to run on an annual year basis from September to September. This would of course be subject to the available information, for example relating to the likely evolution of local loop costs, being adequate for the determination of the appropriate price cap from September 2007.

Q. 6. Do respondents believe the removal or continuation of a price cap should be considered in line with any future assessments of SMP in retail narrowband access markets? If a specific duration is set, what period would be most appropriate? Please explain your response.

Vodafone agrees that the issue of removing or amending the current price cap should be reviewed in line with a future review of this market as any change in ComReg's assessment of competitive conditions or the SMP designation of operators at this later stage may have implications for the remedies that are currently imposed, including the retail price cap regime. Vodafone considers a 3 year period of review for the market to be appropriate given the likely timelines for developments in the transition to Next Generation Networks, therefore a 3 year duration for the proposed price control is appropriate. The proposed 3 year duration should also be adequate in terms of providing the necessary incentives for the SMP undertaking to operate efficiently and seek all available opportunities to minimise its costs.

Q. 7. Do respondents agree with ComReg's proposed approach to carryover? In the event that carryover is permitted under a new price control, should carryover be constrained to unmade increases or should price reductions also be considered? Please give reasons why.

No. While ComReg correctly rejects the option to prohibit carryover in any instance, and sets out the considerable benefits of flexibility in allowing carryover in terms, for example, of incentivising the SMP operator to bring forward price reductions, Vodafone contends that the proposal to allow carryover only at the discretion of ComReg is not the optimal approach.

While the proposed option of allowing carryover at ComReg's discretion is superior to a strict annual application of the price cap, the fact that carryover is not automatic would introduce a considerable degree of uncertainty for the SMP operator. If it is unclear to the operator that ComReg would permit price reductions in excess of, or price increases below, those required by the retail price cap to be carried over to later periods then the operator would be more conservative in regard to bringing forward additional price increases than if carryover were automatically available as an option. This would particularly be the case where the operator considered that there was a significant probability that there would be upward pressure on its costs in later periods. An approach to carryover based solely on ComReg's discretion would therefore undermine the benefits of flexibility as described by ComReg. In light of the foregoing, Vodafone considers that automatic carryover - by providing the greatest degree of certainty and simplicity - is the optimal approach to adopt in respect of the proposed new retail price cap regime.

Vodafone agrees that it may not be practical to permit carryover from one price cap regime to another but considers that this issue can be dealt with by restricting carryover only within a given regime rather than precluding the option of allowing automatic carryover.

Q. 8. Do respondents agree that under a new price control, eircom should be required to comply with a cap(s) at all times?

Vodafone agrees that if the proposed new price control regime is put in place then the SMP operator should be required to comply with the cap(s) at all times.

Q. 9. Do respondents agree that the proposed decision instrument set out in Annex A adequately reflects ComReg's proposals for a price cap?

Vodafone agrees that the draft decision instrument accurately reflects ComReg's proposals for a price cap.

Q. 10. Do 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 regard to the specifics proposed? Please elaborate on your response.

5 Maurice Fitzgerald

-----Original Message-----
From: Maurice Fitzgerald
Sent: 11 August 2007 19:21
To: retaillconsult
Subject: Reference Submission re ComReg 07/48

Submission/Obversations

Following your advertisement on the Irish Examiner of the 11.08.07 pertaining to (**Reference: Submission re ComReg 07/48**, I Maurice Fitzgerald, [redacted] make the following submission an observations.

(Reference: Submission re ComReg 07/48)

General Comment.

Eircom has been steadily increasing its line rental at great disadvantage to the consumer over the last two years. The Regulator should not allow this virtual monopoly to corner the market while the country remains bereft of competition. Even though Eircom have reduced call costs, line rental has offset these reductions.

Q. 1 If legislation isn't strong enough, these caps will not be broken. Caps also give the service provider a licence to put up prices when desired.

Q 2. ComReg should look for the lowest price in the EU when assessing regulatory issues and demand reasons for pricing. The Republic of Ireland has a basic line rental which amounts to a highly anti-consumer policy.

Q.3 The regulator should not allow full inflation-linked or indexed-linked costs. No service provider should be allow full inflationary increases. All allowed increases should be allowed only with justified figures, and especially given Eircom's virtual monopoly

Q.4 The current basic telephone line is massively inflated and has jumped to €40 euros from €29euros in the two years (Eircom). The regulator should not allow service providers to go any higher in the immediate future (five years at least).

Q.5 The regulator should have the flexibility to impose restrictions within the shortest time frames possible within reason. Giving operators more time will mean process are bumped up in the mean time and locked thereafter.

Q.6 Price caps should not be removed and adjusted downward until the Irish market comes in line with lower EU averages. The regulator should assess the justification for alterations on caps, and not just so-called inflationary pressures that are a matter of opinion.

Q.7 If the regulator believes that consumers will benefit from carryover and the regulator is satisfied such benefits are actual, the carryover can be permitted. The regulator must be satisfied completely that no sharp practices are allowed to creep in and severe penalties imposed for breaches outside the regulators authority to grant such discretion.

Q.8 Eircom should not begiven any special treatment whatsoever, a level playing field must be preferred as the basis of any credible system of regulation.

Q.9 No Answer

Q.10 No answer

You may may my comments public if you wish.