



Office of the Director of
**Telecommunications
Regulation**

MEDIA RELEASE

For Immediate Release
Wednesday 10th May 2000

Statement by the Telecommunications Regulator, Etain Doyle Re: FWPMA (Fixed Wireless Point to Multipoint Access) licences.

The Telecommunications Regulator, Etain Doyle today (Wednesday 10th May 2000) welcomed the settlement reached in the High Court in respect of the FWPMA Competition. The solution reached today means that 7 licences will be issued by end of July, six of which may be issued in June.

The Regulator thanked all the parties for their co-operation in bringing about today's solution and said that the real winner today is the consumer.

Background

On Tuesday 21st September 1999 the Telecoms Regulator Etain Doyle announced the top ranked companies following a competition for the right to operate FWPMA services . Four broadband and four narrowband licences were offered. The regulator announced that *eircom*, Esat Telecommunications , Formus Communications Ireland Ltd and Princes Holdings Ltd were the higher ranked applicants in the broadband competition. In the narrowband Competition *eircom*, Princes Holdings Ltd and Esat Telecommunications were the higher ranked applicants . There was no eligible applicant for the fourth licence, type D, in the narrowband competition.

Subsequently, the FWPMA competition held by the ODTR has been subject to legal challenge by BroadNet and Formus.

The High Court has ordered BroadNet to provide security for costs and damages in the judicial review. BroadNet had appealed this order to the Supreme Court. Formus has withdrawn an application it had made for an injunction preventing the granting of the narrowband FWPMA licences. BroadNet has also issued a statutory appeal under the relevant legislation. As a result of today's settlement all these proceedings have now been stopped.

- In the course of these proceedings, it has come to light that five members of the ODTR Steering Group evaluating the competition hold or held directly or in trust shares in *eircom*, purchased at the time of the floatation last summer. The Regulator had no prior knowledge of this and the matter only came to her attention on the 6th April 2000.
- The Regulator is satisfied that the competition was run fairly and that no member of the Steering Group allowed their shareholding affect his/her judgement in any way. However, it is her stated view that ODTR staff should not hold shares in any company that is subject to, or applying to become subject to regulation by the ODTR. Since the shareholdings have come to light the Regulator's Office is carrying out a review of shareholding in the ODTR, which will be completed shortly. The Regulator noted that her concerns relate to personal shareholdings and any under the control of those employed by the ODTR.
- The Regulator has agreed with the parties to the actions – BroadNet, *eircom*, ESAT Telecom, Formus, and Princes Holdings Ltd – that broadband licences will be issued to ESAT, Formus and Princes Holdings. The applications by BroadNet and *eircom* will be reviewed by an evaluation committee led by Mr. Jim Norton, a distinguished telecommunications expert and senior adviser to the ODTR, and comprising Mr. Keith Bernard, Head of the Market Framework Division of the ODTR and AMI consultants. This work will commence shortly and be completed by July.
- The release of some of the licences is very valuable to the market and the prospect of the release of the fourth licence within months is also very attractive.
- As previously signalled at the conclusion of the ranking process, the Regulator intends to re-advertise the D block of spectrum shortly. She has also decided to review the availability of spectrum for WLL (wireless local loop) and will issue a consultation paper on the matter shortly.
- Regulating telecoms is a very important and exciting responsibility, involving unrelenting changes to the status quo in the telecoms market within very complex legal and technical constraints. The work of regulatory staff is difficult and demanding.
- The ODTR team has moved much faster than normal Irish consensus building allows and has tackled many highly sensitive and controversial issues successfully in response to the critical national need for a liberalised telecoms market

Finally, the Regulator thanked her legal team led by Mr Donal O'Donnell SC and Mr Paul Sreenan SC instructed by Ms Carol Plunkett of A&L Goodbody for their work on this settlement.

ENDS

ISSUED BY

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