



*Smart Telecom - Retail Price for shared
LLU - consultation reply*

Smart

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Retail price for access to the shared local loop – Consultation reply

Dear Tom,

Smart Telecom welcomes Comreg's consultation on "Retail price for shared access to the local loop".

Main Points :-

- **Smart Telecom is Ireland's largest provider of LLU services.**
- **Smart Telecom offers next generation services over LLU including Voice, Data, TV and Business services.**
- **LLU has failed in Ireland to date, due to extremely high pricing and extremely high barriers to entry.**
- **All failures in LLU must now be addressed if LLU is going to succeed at all. Given that LLU is vital in moving to an NGN environment, Smart Telecom see "LLU success" as a critical path item to ensure the correct investment decisions are made.**
- **We look forward to Comreg's decision and future direction on this matter.**

Kindest Regards,

John Quinn

Answers to consultation questions

Q. 1. Do you agree or disagree that in order for ComReg to meet its objectives it must review the current pricing and act on the conclusions of the expert report commissioned? Please explain in detail your response

Smart Telecom support the view that ComReg needs to review the current shared LLU pricing in order to meet its stated objectives. While we agree entirely with the conclusions reached in the expert report commissioned we would state that even without the expert report, that a total anomaly existed in Ireland regarding how both the full and partial LLU price was derived. This has led to a situation where LLU in Ireland has not become a major influence in the market and as a result Ireland has lacked the level of platform competition that has led to a high degree of competition in other markets. The expert report simply copper fastens the logic behind the revised proposed price but the expert report is not the only validation that exists.

Q. 2. Do you agree or disagree that the existing obligation of cost orientation is not being met by the existing charging mechanism adopted by Eircom? i.e. 50/50 allocation of common costs of the local loop to LS. Please explain in detail your response.

Smart Telecom fully supports this view. The 50/50 allocation was simply used as a tool of convenience at a time when shared LLU was not used to any degree, it was neither scientific nor cost orientated.

3. Do you agree or disagree that the Full LLU monthly rental price has up to now allowed Eircom to recover the full cost of the Local loop based on FL-LRIC principles? Please explain in detail your response.

Smart Telecom fully supports this view based on the very same principles outlined both by ComReg and the expert report.

Q. 4. Do you agree or disagree that the existing price methodology for LS could act as a barrier to further investment by OAOs to the detriment of competition and overall consumer welfare? Please explain in detail your response.

There is no question that over cost recovery leads to higher wholesale pricing which must be passed on at the retail level to consumers. This reduces the element of competition and subsequently the level of investment. None of this benefits consumers nor the market in general.

Q. 5. Do you agree or disagree that the current implementation of the previous ODTR Decision D8/01, insofar as it relates to LS recurring charges and the methodology for the calculation of LS recurring charges, creates an anomaly when compared to the recovery of costs through Full LLU monthly rental charges. Please explain in detail your response.

Smart Telecom agrees with this statement. Please see the answer provided in question "2" above.

Q. 6. Do you agree or disagree that the methodology adopted in 2001 is not appropriate in 2008 or going forward to comply with the cost orientation obligation as set out in D8/04. Please explain in detail your response.

Smart Telecom agrees that the methodology adopted in 2001 is neither appropriate or correct in 2008 and in fact has not been the correct mechanism for many years. The simple fact that LLU only accounts for a few percentage points in the overall broadband penetration is proof in itself of the failure in LLU in the market.

Q. 7. Depending on your answer to the above do you agree or disagree that ComReg should withdraw D8/01, insofar as it relates to LS recurring charges and the methodology for the calculation of LS recurring Please explain in detail your response.

Smart Telecom supports the view that the LS recurring charging mechanism and methodology outlined in ODTR D08/01 should be withdrawn.

Q. 8. Do you agree or disagree that based on the information analysed to date by various experts, namely Frontier Economics and Tera on behalf of ComReg that Eircom fully recovers all costs of the Access network through either retail line rental, SB-WLR or LLU monthly charges through FLRIC cost recovery principles.

Smart Telecom fully support this view and in fact would state that over cost recovery still exists on full ULMP pricing and ancillary costs such as fault handling.

Q. 9. Do you agree or disagree that the above criteria (and as further set out in the Tera Report) forms a sound basis for assessment when reviewing regulated prices? Please detail in full your response

Smart Telecom agrees that the criteria forms a sound basis for assessment when reviewing regulated prices insofar as it provides a clear set of principles when looking at regulated prices.

Q. 10. Do you agree or disagree that HCAs are generally not an appropriate basis on which to set regulatory pricing decisions and that few regulators have used them in the past without detailed analysis and transparency. Please detail in full your response.

Smart Telecom agrees that HCAs are generally not appropriate means of setting regulated prices. While HCAs are useful when looking at trends over a long time the level of fluctuation year on year can vary to a large degree thus leading to incorrect regulated prices being set. As regulatory prices need to create a degree of certainty and stability over a longer period there is a natural mismatch between HCAs and regulated pricing.

Q. 11. If you believe that the HCAs of Eircom are a suitable basis on which to base regulatory pricing decision, do you believe that the current presentation of these accounts allows for the determination of appropriate regulated prices? Please detail in full your response.

See answer provided to question "10".

Q. 12. Do you agree or disagree with the above summary, if not please provide any additional information you might have? Please detail in full your response.

Smart Telecom agrees with the summary provided.

Q. 13. Do you agree or disagree that the proposals of ComReg will not have an impact on infrastructure investment of alternative platforms? Please explain in

detail your response.

Smart Telecom agrees that the proposals outlined by ComReg will not have an impact on infrastructure investment in alternative platforms.

Smart Telecom would also state that the shared LLU price proposal is only one of an entire review of the WUA/WPNIA market and that at the end of the current consultations that a revised view of both shared LLU and full LLU should be provided. IF correctly done and concluded the “ladder of investment” will be preserved in the market for all infrastructure players and investment in Infrastructure will continue and in many cases actually be enhanced.

Q. 14. Do you agree or disagree that the above methodologies form an appropriate basis on which to consider the methodology options available to ComReg? Please explain in detail your response.

Smart Telecom agrees that the methodologies outlined for the appropriate basis on which to consider all options available.

The methodologies are clear and logical and provide a robust set of criteria required for setting regulated prices and controls.

Q. 15. Taking into account the table above, which methodology do you think is the most appropriate and why taking into account the regulatory objectives of ComReg as set out? Please explain in detail your response.

Smart Telecom believe that the incremental cost model is the most appropriate to avoid over-complex modeling and to accurately reflect the costs actually incurred.

Q. 16. Do you agree or disagree that the above diagram (figure 6) is a fair representation of the costs involved in providing the LS services? Please explain in detail your response.

Smart Telecom agrees that the diagram accurately reflects the cost of providing the line share service, in the main.

Q. 17. Do you agree or disagree that ComReg has considered all incremental

costs from the list above? Please explain in detail your response.

Smart Telecom agree that ComReg has considered all costs directly associated with the provision on line share and knows of no other costs involved. The addition of any other costs simply leads back to the over recovery of costs by eircom.

Q. 18. Do you agree or disagree that lines with pair gain system should be allowed to be unbundled? If so, what do you believe is a reasonable cost associated with pair gain removal and how should it be recovered? Please explain in detail your response.

Smart Telecom does not have a view on this item. While the cost looks accurate we do not know enough about pair gain/carrier systems to have an accurate view on costs.

We would however state that we are concerned about some of the language used in the consultation and what it implies. Use of the words "It is estimated that this average cost per line could be approximately €28.00" (*underline added*) is not appropriate. ComReg should be fully aware of the actual costs and if not known should use the powers bestowed on them under the Communications Regulation (amendment) Act, 2007 to obtain such costs from eircom. A full working "similarly efficient model" is required when calculating cost models and not having such a model in place may, in theory, leave ComReg open to challenge.

Q. 19. Do you consider that an incremental cost of €0.36 per line per month for pair gain removal is correct and reasonable, if it is establish that lines with pair gain systems can be unbundled? Please explain in detail your response, with additional reference to the depreciation period chosen.

Smart Telecom does not have a view on this item. While the cost looks accurate we do not know enough about pair gain/carrier systems to have an accurate view on costs.

Q. 20. Do you agree or disagree that the cost of faults relating to LS are already recovered by Eircom through fault repair charges? Please explain in detail your response.

Smart Telecom support this view. Fault costs are already provided for in the ARO price list and in fact, we believe this cost in itself to be over recover on eircom's part.

Q. 21. Do you agree or disagree that the costs of product development and management should be included in the monthly rental cost of LS? If so, please provide the appropriate costings associated with the LS service?

Smart Telecom do not agree that product development charges should be included in the monthly cost of line share at this time as little development has been done to date and is unlikely to in the future therefore the cost is negligible.

Q. 22. Do you agree or disagree that the costs of wholesale billing and administration should be included in the monthly rental cost of LS? If so, please provide the appropriate costings associated with the LS service?

Smart Telecom believe that this is a real cost that should be recovered by eircom and should be included in the line share cost.

Q. 23. Do you agree or disagree that ComReg has reasonably assessed the per line incremental costs for providing LS? Please explain in detail your response.

Smart Telecom believe that ComReg has reasonably assessed the per line incremental cost of the line share product and that the costs outlined are a fair representation of those being incurred by eircom.

Q. 24. Is there anything else in the attached report from Tera which you would like to comment on or correct? Please explain in detail any additional points you would like to make.

Smart Telecom would like to warn that all current consultation in relation to the WUA/WPNIA market now need to be rapidly concluded to avoid parts of the market looking more attractive than others. While at the end of the entire process there should be a certain regulatory position, the "overlap" and time lag during ongoing consultations and in particular consultation responses and decisions needs to be minimized.

Q. 25. Do you agree or disagree that the above proposed Decision Instrument is clear, unambiguous and practical? Please explain your view and, if relevant, propose alternative wording.

Smart Telecom agrees that the proposed Decision Instrument is clear, unambiguous and practical.