



Commission for  
**Communications Regulation**

## Submissions to Consultation

### **Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets**

#### **Submissions received from respondents**

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<b>Consultation:</b>	<b>06/41</b>
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**1 Alto**

# alto

alternative operators in the communications market

## **Retail Price Cap - Fixed Narrowband Access Response to ComReg Consultation (06/41)**

20 October 2006

## **General Comments**

Competition in the markets is the means by which we expect consumer welfare to be protected, and to control excessive pricing. Though the exclusive rights to provide communications services has been withdrawn for some years, the markets are still in transition and have not yet become competitive. Eircom retains a dominant position in many of the markets. Among the retail markets, competitors have found it particularly difficult to gain market share in the provision of fixed access. The markets continue to be dominated by Eircom and retail price control is needed to protect against excessive pricing.

While protecting consumers is the primary objective of retail price control, intervention in the market can impact on competition. ComReg must be careful to ensure that the retail price control implemented neither causes nor facilitates distortion in competition.

A price-cap has been the method of price control since the Telecommunications Act in 1996, and has been effective in controlling prices, while allowing a rebalancing of tariffs to cost-orientation. Eircom's tariffs are now fully rebalanced, and a revised price cap is needed to control retail prices. Of the markets now open to competition, the narrowband access markets have seen the least shift in market share from Eircom. There is little direct access provided, particularly in the lower level market where OAOs provide service either through LLU or WLR. LLU has failed to make any significant impact on the access market, and as the wholesale price for WLR is directly linked to Eircom's retail price it offers no downward pressure on Eircom's retail price.

ALTO believes a specific price cap is now required for the retail access markets. It no longer makes sense to simply include line rental as an element within a basket of other services, some of which may tend towards competition. This simply allows price reductions in the more competitive markets to be compensated for by increases in line rental.

## **Response to Questions**

*Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.*

While agreeing with ComReg's analysis of the legal provisions that provide for the price-cap, ALTO observes that a new retail price-cap can be imposed under both Section 7 of the 1996 Act, and as a remedy under the Framework Regulations. It would be preferable to maintain the obligation under the 1996 Act in addition to the Regulations, as at present there are greater enforcement powers available to ComReg under the 1996 Act (section13).

*Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.*

ALTO agrees with the objectives set out by ComReg. Avoiding distortion in competition should be given high priority. A price cap can impact on competition in a number of ways: setting a price cap too low can artificially reduce prices deterring market entry; allowing too much freedom within a price cap can allow excessive pricing in less competitive markets to compensate for reduced tariffs in the more competitive ones.

*Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above?*

While agreeing with the factors listed by ComReg, ALTO believes consideration should also be given to the impact on other closely associated markets, e.g. calls markets and broadband markets.

*Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible.*

None of the factors preclude the imposition of a price-cap.

*Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible.*

ALTO agrees with ComReg's conclusion that some form of retail price control is required. It should be noted that the current wholesale price control for WLR permits Eircom to raise its retail line rental price, and as a consequence also directly raise its competitor's input cost. This means that WLR can not act as a constraint on Eircom pricing under the current retail-10% control – there is insufficient margin. A specific wholesale cap would provide some constraint on retail prices.

*Q. 6. In the event of eircom's having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.*

ALTO agrees that the lower level access market should be subject to a price cap. Eircom is dominant in this market, and has demonstrated its ability to raise prices repeatedly – while the price for more competitive services has reduced, the line

rental price has increased on a number of occasions, and has increased by 30% since 1998. The failure of LLU means there is no effective alternative direct access method to act as a constraint on Eircom's pricing.

*Q. 7. In the event of eircom having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.*

Though OAOs have succeeded in gaining a greater market share in the higher level market, Eircom remains dominant. As is the case for the lower level market, some form of price control is required.

*Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if possible.*

ALTO believes it is now appropriate to place an individual cap on each regulated market. An overall basket cap makes sense where tariff rebalancing is required across a number of products and structural reform is also required, however this is no longer the case for Eircom. The argument in favour of collective caps no longer exists. Individual caps can be tailored to suit the specific market conditions more precisely than a general cap. They can also protect against leveraging, e.g. the higher level market is likely to become competitive before the lower level market. If a single cap spanned both markets, this would allow cuts in the higher level market to be compensated for by increases in the lower level market.

*Q. 9. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to lower level SMP markets/services should this be a narrow cap on PSTN line rental only, or should it be expanded to include other lower level access services (e.g., connections)? If so, which ones? Which combinations?*

The primary ongoing cost is the line rental. Other costs could be included but should have little impact.

*Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher*



*level access services (e.g., connections)? If so, which ones? Which combinations?*

The same considerations apply as for question 9 above.

*Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?*

ALTO does not believe there are any.

*Q. 12. In the event of eircom having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?*

ALTO does not believe a cost-orientation obligation on its own would be sufficient, though it could be imposed in addition to the price cap. The advantage of a price cap is that once established it is easier to check compliance than it is to verify cost orientation.

*Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so please specify.*

*Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?*

ALTO is not aware of any additional factors or analysis.

## **2 BT Ireland**



**BT Ireland's response to Consultation on a Retail Price Cap  
as a Potential Remedy on Fixed Narrowband Access  
Markets - Part 1.**

**Document No: 06/41**

## 1. Introduction

BT welcomes the opportunity to respond to this consultation.

In general BT agrees with the shape and tone of ComReg's analysis and thought processes. BT has first hand experiences of the difficulties of trying to develop a sustainable business model for the relevant market areas with the underlying market conditions.

BT believes that the following issues constitute a barrier to the development of competition in the market.

1. at 10% the WLR margin is the lowest in Europe and is a bar that prevents sustainable competition;
2. *eircom's* five year trench warfare to hold back LLU ever attaining its potential. This could become a 30 year period unless something very dramatic happens;
3. the level of line rental (the highest in Europe) is simply not right at an intuitive level of consideration. Is Ireland so very different to all other countries in Europe? We believe that re-balancing has simply gone too far and that *eircom* could now be enjoying monopoly profits from the first mile infrastructure that is simply not replicable in any economic manner by other Operators.

Below we have set out our comments on each question raised.

## Consultation Questions

**Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.....6**

A1. BT agrees with ComReg's analysis.

**Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.....10**

A2. BT agrees in the main with ComReg's analysis. Effective and sustainable competition is the only true mechanism by which consumers are protected from monopoly behaviour. As such, all aspects related to achieving this should be at a higher priority. *Eircom* faces some call competition. However, it is debatable whether it is sustainable or not with the limited margins available and the retail pricing opportunities open to *eircom*, i.e. via bundling.

*Eircom* faces no competition in first mile (line rental) market. At 10% the WLR margin is the lowest in Europe and will, (and has not), created sustainable competition. LLU remains, as was ever thus, a distant and tarnished dream. It is therefore unsurprising that line rental in Ireland is the highest in Europe with no doubt further pressure from *eircom* to increase yet again.

**Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above? ...11**

A3. BT agrees with ComReg's conclusion in this regard; there is no effective competition in the access market.

As well as a retail price cap remedy (of the basket type that seems to be proposed) ComReg should consider:

- a line rental sub cap of CPI-CPI. i.e. no further price increases of line rental until:
  - 150,000 LLU lines unbundled
  - WLR margins lifted to best of breed in Europe
  - ATM Bitstream prices to be lower than IP Bitstream prices
  - Margin squeeze and stack testing to be in place for all combinations of services across both retail and wholesale markets.

**Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible. ....11**

A4. The factors do not preclude the imposition of a retail price cap.

**Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible.....16**

A5. Over the years BT has repeatedly requested full and transparent stack testing of all services in all combinations. This in our opinion has yet to be achieved. Given this and our remarks as above, a retail price cap remedy is necessary.

**Q. 6. In the event of *eircom's* having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....18**

A6. BT believes that a price cap is necessary for the reasons we have set out above.

**Q. 7. In the event of *eircom* having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....20**

A7. BT agrees with ComReg's analysis that the higher level market potentially has greater competition. However, the recent instability in the market and the fragile nature of the remaining competition would lead one to come to the conclusion that consumers still require protection through a specific retail price cap.

**Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services?**

**Please explain your reasons with supporting analysis and data if possible. ....22**

A9. BT's view is that at this fragile stage in the development of the market a global basket should be employed with individual sub caps.

Moreover, given Ireland's position in the league of line rental charges, BT would again call for a sub-cap on line rental to be established to help ensure that *eircom* is not cross-subsidising its call packages via maintaining a premium on line rental. A sub-cap on line rental or a separate cap is needed. *Eircom* has, in the recent past, implemented three line rental increases within one 12-month period amounting to an increase of over 24%. This has been possible despite the presence of a price-cap on a basket of services including line rental. It has been possible because Mobile Termination rates have fallen, and fixed to mobile calls are included within the same retail basket, allowing *eircom* to compensate for falling calls revenue with increased line rental revenue. BT believes that *eircom*'s line rental prices are excessive (now amongst the highest in Europe) and that a CPI-X% sub-cap is required, where X>CPI.

The problem faced by competitors in the market is that *eircom* has been permitted to increase line rentals, lower narrowband call prices while:

1. LLU prices are related to line rental are high.
2. Interconnect prices have remained flat and we are still some way off a wholesale price cap (CPI-X%) regime.

The net effect of the above is that competitors margins are being squeezed and innovation stifled.

The introduction of separate caps for calls and access would increase the certainty around future cost and tariff paths, and minimise price shocks. All industry participants benefit from this higher level of certainty in that they are able to plan with greater confidence and lower risk. It follows that separate caps for calls and access would assist greatly in developing sustainable markets.

**Q. 9. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to lower level SMP markets/services should this be a narrow cap on PSTN line rental only, or should it be expanded to include other lower level access services (e.g., connections)? If so, which ones? Which combinations?.....22**

A9. Line rental is the most significant effect in our view. Other services should be treated in accordance with their relative contributions. (Data that appears to be only available between *eircom* and ComReg.)

**Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets 33 ComReg 06/41 level access services (e.g., connections)? If so, which ones? Which combinations?.....22**

A10. Our views are as set out above. To be able to proffer more detailed advice would require provision of data that appears to be only available between ComReg and *eircom*. We do not mean the facts that are published but the effect of those as impacted by churn and so on.



**Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?.....22**

A11. BT is not aware at this time of any change to market conditions that might alter the level of competition in the relevant market review period.

**Q. 12. In the event of *eircom* having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?.....24**

A12. Whilst in theory this might be appealing the devil lies in the detail. Detailed transparency, facts and modus operandi would need to be consulted on in this regard before any opinion could be formed.

**Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so please specify. ....25**

A13. Please see our responses above.

**Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?.....25**

A14. Please see responses above.



### **3 Eircom**

**eircom Ltd.**

**Response to ComReg Doc. 06/41**

***Consultation on a Retail Price Cap as a Potential Remedy  
on Fixed Narrowband Access Markets - Part 1***

**20 October2006**

**DOCUMENT CONTROL**

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## EXECUTIVE SUMMARY

- eircom considers that ComReg must conduct a much more comprehensive analysis of the alternative approaches to wholesale price control regulation before resorting to a retail price cap.
- Despite the regulatory framework identifying the objectives that ComReg is to pursue, ComReg lists a separate set of objectives in this Consultation, whose source is unclear. These objectives do not directly align with the universal service requirement to maintain affordability of basic services, which must have regard to the trend in incomes and to consumer prices generally.
- The market factors ComReg proposes to consider before deciding to impose a price cap are correct; they, however, suggest that there is little need for any price cap.
- Existing wholesale measures – especially, if the WLR price control is not linked to retail pricing -- are adequate to prevent any potential abuse of significant market power (SMP) in the relevant retail markets.
- This “Part 1” market analysis is incomplete and flawed, as conditions in different market segments are sufficiently different to demonstrate that a price cap remedy is less appropriate in some segments than in others.
- The analysis also does not sufficiently consider the positions of vulnerable users, those availing of the Vulnerable User Scheme (VUS) and/or Department of Social and Family Affairs (DSFA) Telephone Allowance, or of “mobile-only” consumers.
- In the event that a price cap remedy is deemed to be required, it should focus on the basket of services purchased by vulnerable users.
- 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.

## GENERAL REMARKS

ComReg is proposing that a price cap is an appropriate remedy in the event that eircom is found to have significant market power in the market(s) for Retail Narrowband Access. We, however, dispute this conclusion and find that the factors analysed and presented by ComReg demonstrate that there is little if any need for a retail price cap or other retail-level price control.

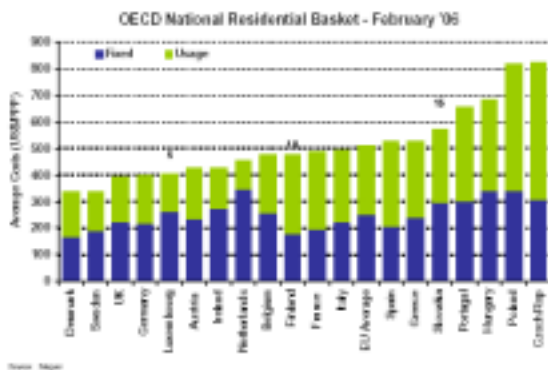
### Current market situation

eircom accepts that access prices in Ireland are relatively high when compared to those in other EU Member States. But prices for an overall basket of services, as regularly presented in the “PSTN Basket, Fixed Pricing Data” figures that ComReg presents in its *Quarterly Key Data Report* (see figures below<sup>1</sup>), are below average when calls and lines taken together.

This fact merely confirms that eircom has, in accordance with the requirements of the 1998 framework, rebalanced tariffs to reflect costs. This fact allows eircom to offer cost oriented prices for unbundled local loops (LLU), Single Billing - Wholesale Line Rental (SB-WLR) and retail prices, which do not constitute any price squeeze for competitors and allow efficient competitors to compete on a level playing field.

It further illustrates that customers consider lines and calls to be elements of a communication package. The increased prevalence of bundles of line and calls, and the increasing taking-up of SB-WLR (as opposed to CPS), makes clear that consumers prefer the convenience of a single operator and a convenient package.

As of end-August of this year, there were over 144,000 CPS users and close to 260,000 SB-WLR installations<sup>2</sup>. As ComReg recently reported in latest *Quarterly Key Data Report*<sup>3</sup>, year-on-year growth (June 2005 – June 2006) in indirect access was 6%. There is evidence to suggest a migration from CPS-only lines to SB-WLR. ComReg also reported strong growth in LLU lines, noting, “This may have an impact on CPS and WLR access as some OAOs migrate customers to LLU as a means of offering differentiated services to customers.”



<sup>1</sup> ComReg 06/52, (26 September 2006).

<sup>2</sup> Data cited as of week ending 31 August 2006.

<sup>3</sup> See footnote n.1.



## RESPONSES TO CONSULTATION QUESTIONS

**Q. 1. Do respondents have any observations in relation to ComReg’s assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.**

Regardless of the form any price cap would take, before ComReg could impose any such remedy, the criteria set out in Regulation 14 of the *Universal Service Regulations* (S.I. 308 of 2003), must be met. ComReg must therefore take into account all competitive constraints that are or may be exercised on eircom at the retail or wholesale levels, including any constraint exercised by any possibility of fixed-mobile substitutability were eircom to raise line rental charges.

Regulation 14 appears to be the correct legal basis for the imposition of a price cap. However, as the 1996 Act has not been repealed, Section 7 remains relevant to the extent that ComReg decides to propose a price cap taking the form specified by the 1996 Act. In this case, Section 7 applies insofar as it is compatible with the 2003 regulatory framework.

Therefore, ComReg proposes to inform providers of telecommunications services of its proposals to modify the Price Cap Order, and to allow a two-month statutory consultation period within which to make representations to ComReg. We note that Section 7 does not require ComReg to inform all providers, but does require those affected by the order be informed. ComReg must take into consideration any representations made by or on behalf of the provider, if made within two months of the date on which the provider was informed of the intention to make or modify an order. We would expect that ComReg would require a suitable time period in which to consider the representations made before any order would commence.

**Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.**

ComReg considers the objectives to be :

- to address SMP in retail markets by preventing a dominant operator from charging excessive prices and ensuring that the prices of SMP services reflect efficient costs;
- to facilitate the rapid development of effective competition in the supply of telecommunications services; and
- to achieve the above objectives by the least intrusive means.

Regulation 14 of the *Universal Service Regulations*, however, allows price controls, which are: “justified in the light of the objectives set out in section 12 of the Act of 2002 and may include requirements to ensure that the undertaking concerned does not –

- (a) charge excessive prices,
- (b) inhibit market entry or restrict competition by setting predatory prices,
- (c) show undue preference to specific end-users, or
- (d) unreasonably bundle services.

The objectives of the Commission are set out clearly in Section 12 of *The Communications Regulation Act, 2002*:

“Objectives of Commission.

**12.—(1)** The objectives of the Commission in exercising its functions shall be as follows—

- (a) in relation to the provision of electronic communications networks, electronic communications services and associated facilities—

- (i) to promote competition,
- (ii) to contribute to the development of the internal market, and
- (iii) to promote the interests of users within the Community,

(b) to ensure the efficient management and use of the radio frequency spectrum and numbers from the national numbering scheme in the State in accordance with a direction under section 13, and

(c) to promote the development of the postal sector and in particular the availability of a universal postal service within, to and from the State at an affordable price for the benefit of all users.

(2) In relation to the objectives referred to in *subsection (1)(a)*, the Commission shall take all reasonable measures which are aimed at achieving those objectives, including—

(a) in so far as the promotion of competition is concerned—

- (i) ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality,
- (ii) ensuring that there is no distortion or restriction of competition in the electronic communications sector,
- (iii) encouraging efficient investment in infrastructure and promoting innovation, and
- (iv) encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources,

(b) in so far as contributing to the development of the internal market is concerned—

- (i) removing remaining obstacles to the provision of electronic communications networks, electronic communications services and associated facilities at Community level,
  - (ii) encouraging the establishment and development of trans-European networks and the interoperability of transnational services and end-to-end connectivity,
  - (iii) ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services and associated facilities, and
  - (iv) co-operating with electronic communications national regulatory authorities in other Member States of the Community and with the Commission of the Community in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of Community law in this field,
- and

(c) in so far as promotion of the interests of users within the Community is concerned—

- (i) ensuring that all users have access to a universal service,
- (ii) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved,
- (iii) contributing to ensuring a high level of protection of personal data and privacy,
- (iv) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services,
- (v) encouraging access to the internet at reasonable cost to users,

- (vi) addressing the needs of specific social groups, in particular disabled users, and
- (vii) ensuring that the integrity and security of public communications networks are maintained.

(3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.

(4) In carrying out its functions, the Commission shall, without prejudice to *subsections (1), (2) and (3)*, have regard to policy statements, published by or on behalf of the Government or a Minister of the Government and notified to the Commission, in relation to the economic and social development of the State.

(5) In carrying out its functions, the Commission shall have regard to international developments with regard to electronic communications networks and electronic communications services, associated facilities, postal services, the radio frequency spectrum and numbering.

(6) The Commission shall take the utmost account of the desirability that the exercise of its functions aimed at achieving the objectives referred to in *subsection (1)(a)* does not result in discrimination in favour of or against particular types of technology for the transmission of electronic communications services.

(7) In this section, "national numbering scheme" means the scheme administered by the Commission which sets out the sequence of numbers or other characters used to route telephony traffic to specific locations."

It thus is not clear where the objectives listed by ComReg in 06/41 arise. These objectives do not directly align with the USO requirement to maintain affordability of basic services, which must have regard to the trend in incomes and to consumer prices generally.

These objectives must be considered if an extension of the price cap, or a new control, are contemplated. Therefore, we consider that a price cap might have the following objectives:

1. to prevent excessive prices for vulnerable users;
2. to ensure services remain affordable (taking into account some can afford more than others);
3. to ensure prices reflect "efficient" costs;
4. to facilitate competition while ensuring network integrity, and encouraging investment in infrastructure and innovation (but there is no objective for "rapid development of effective competition");
5. minimise market distortions.

**Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above?**

We remind ComReg that a price cap can only be imposed under Regulation 14 of the Universal Service Regulations, rather than simply a finding of no effective competition in the context of a market review consultation. A price cap should only be imposed if ComReg can find evidence that eircom has the ability to set or maintain prices at a level higher than if competition were effective.

ComReg will consider the current situation, and also

- prospects for an increase in competition;
- scope and effects of existing legislation;
- potential impact of a price cap on competition;
- administrative costs.

We note that there is currently no sub-cap on any of the access services, so that increases in connection and rental of telephone lines and ISDN lines are possible.

We note that the current price control allows increases of in the range of 2.87% to 6.7% (if carry-over from 2005/06 price cap is permitted) in the basket of services in 2006/07.

Connection fees could have increased massively, but instead no connection fee was increased, several were reduced, and several connection promotions have been offered by eircom in recent years. We would consider that there is ample evidence that eircom cannot act unilaterally and the connection prices are constrained by market forces, including the availability of mobile services, and the reluctance of customers to pay connection fees.

We consider there is no evidence of SMP with regard to connection prices, and ample evidence that in the absence of a price control, eircom would not be able to charge excessive prices.

Similarly, with regard to ISDN rental, prices have not increased for several years. In particular, in 2005 and 2006, when the price cap basket was fully available to any service, ISDN prices were not increased. This is equivalent to a reduction in real terms.

Regarding PSTN line rental, no increase has been applied since February 2004, a period of over 31 months.

This history of price evolution in recent years gives a clear indication that eircom does not have a unilateral ability to increase prices, but rather is constrained by market forces.

ComReg must explain to what extent these forces fail to bring prices to a competitive level, and should establish what that competitive level might be before setting any price control.

We agree that ComReg should carefully consider whether a price cap would discourage competition in access services, or encourage investment by eircom or others.

ComReg must also consider the effect of existing legislation, including the existence of LLU at regulated prices which increase with CPI each year, the availability of WLR and CPS, the requirements of the VUS, the obligations regarding billing detail and other obligations faced by retail providers serving consumers.

Finally, we agree that in conducting the cost benefit analysis to compare the costs and benefits of a price cap against the counterfactual, ComReg must consider the administrative costs, including the costs of conducting consultations, of service providers and consumers preparing responses, of measuring the potential x-factors in any CPI-x% control, and any opportunity costs arising from such administration. These should of course be compared with the

administration costs arising from any alternative approach, such as cost orientation or withdrawing all controls.

**Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible.**

We consider that ComReg must demonstrate that any price cap is justified, and that it cannot be the case that ComReg will impose one unless eircom or another party find reasons which preclude a price cap.

The existing retail prices are clearly constrained by factors other than the existing retail price cap. These include the existence of local loop unbundling, and the fact that the total telecommunications needs of many customers can be met cost effectively by mobile services. We note that consumers can use mobile services at their homes or office: mobile services can, and do, substitute for fixed services, even if the converse is not true.

Even if ComReg's own criteria were to be used, it is possible that the very existence of a price cap and obligation for geographic averaging of prices may deter competitive entry. We consider ComReg is in error if it excludes the competitive impact of alternative networks including Mobile, Wireless Broadband and Cable networks, often running voice applications such as VOIP, on eircom's fixed telephony services. These services already offer real competition, and the prospects of increases in this level are good, especially as several mobile operators seem intent on marketing converged home/mobile services, where existing fixed numbers can be ported to a mobile phone. ComReg must consider carefully whether the existence of a price cap on eircom's prices would encourage or deter additional entry by alternative providers.

The impact of existing legislation bears careful examination. The obligation to provide CPS and to have cost-oriented tariffs has created upward pressure on line rental charges and largely denied eircom the ability to charged bundled prices in the manner of the mobile operators. Mobile companies do not have to offer CPS or SB-WLR and have no obligation to have separate access and call charges, each "cost-oriented". Clearly ComReg must consider the effects of the continuing obligations and ensure they do not conflict with a potential price cap.

It is possible that ComReg's analysis suggests that a price cap would conflict with a cost orientation obligation, and that this is the reason behind ComReg's proposal to remove the cost orientation obligation if a price cap is imposed. This approach is inconsistent with one of ComReg's stated objectives for a price cap: to ensure the prices of SMP services reflect efficient costs. This objective might be better met by maintaining the cost orientation obligation, and ending the price cap.

Finally, ComReg must consider whether a price cap of the form CPI-X% can ever be consistent with cost orientation. eircom's access cost are related primarily to capital costs of property and copper prices, and to labour rates. The mix of these costs is quite different from the mix in the Consumer price index. Alternative indices such as the services index or building cost index might better reflect eircom's costs, but consumers do not readily understand such indices. It may be the case that a narrow cap of the form CPI-X%, aimed primarily at vulnerable users, would protect those consumers most in need while allowing eircom the commercial freedom to set prices that reflect both costs and competitive conditions.

**Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible.**

eircom considers that regulation should be minimised. Where regulation is required, retail regulation should be avoided wherever possible if wholesale remedies can be made sufficient. ComReg therefore needs to consider several options, and not just the retail price cap or not alternative presented in section 4 of 06/41.

	<b>Retail</b>	<b>Wholesale</b>	<b>LLU</b>
Option 1	No cap	No control	Regulated, price cap
Option 2	No cap	WLR at retail-10%	Regulated, price cap
Option 3	No Cap	WLR at LLU+costs	Regulated, price cap
Option 4	No Cap	WLR w/ price cap	Regulated, price cap
Option 5	Cap	No Control	Regulated, price cap
Option 6	Cap	WLR at retail-10%	Regulated, price cap
Option 7	Cap	WLR at LLU+costs	Regulated, price cap

The table shows several alternatives, but does not address alternative approaches to LLU pricing. We suggest that even this limited set of alternatives has not been properly considered, and that ComReg has not correctly identified the relative attractiveness of regulating WLR and/or LLU instead of retail prices. ComReg must examine the potential price levels that might emerge in each scenario, taking into account the relative bargaining position of eircom and the countervailing buyer power of the various retail and wholesale customers. ComReg has also neglected to consider the potential impact of a separated access network, or a separate wholesale network, including access, and the feasibility of maintaining retail-minus controls in such a scenario.

In particular, ComReg proposes that because wholesale line rental prices are set using a retail-minus rule, this cannot deter eircom from charging excessive prices for retail access. ComReg therefore concludes that a retail price control is required. We consider this is the wrong conclusion.

Firstly, LLU prices are regulated at cost, and LLU prices can and do influence whether competitors build their own infrastructure, or choose to use LLU or WLR on eircom's network. Thus, wholesale regulation at the LLU level is an additional constraint on eircom's retail prices, alongside the existence of competitive infrastructure. There is a strong case that WLR is not required in a market which can choose LLU, and therefore WLR prices are irrelevant.

Secondly, even if WLR is required, there are several alternative ways in which it might be priced. WLR could have a cost based price (made up of LLU and additional inputs) or indeed the WLR price could be subject to a wholesale price cap. We consider that any potential margin squeeze between WLR and retail prices for access or bundles of lines and call could be adequately addressed by means of *ex post* competition analysis.

Therefore, we cannot agree with ComReg's conclusion that any control at the wholesale level needs to be supplemented by a retail price cap. ComReg has not examined the potential wholesale controls exhaustively. When they do, they will find no retail control is needed.

**Q. 6. In the event of *eircom's* having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.**

As identified above, eircom does not consider there is a case for a retail price cap.

We have a serious concern with the ComReg statement that “it will no longer be necessary for eircom to increase lower level access prices to rebalance costs”. No data has been provided to support this unfounded conclusion. The fact of past increases (in an amount less than the limits allowed under the retail price controls in force at the time) on a loss making price does not illustrate that no further increases will ever be needed.

eircom is required by ComReg to publish Regulatory Accounts, and these show clearly that the return on capital employed in running the retail access business and the telephony rental business in particular are well below the allowed rate of return of 11.5%, while return on certain other retail services are above this level. Thus these accounts, as directed by ComReg, clearly illustrate that it may be necessary to increase some prices to rebalance costs.

Despite increases in the Consumer Price Index (CPI) of almost 40% during the period, ISDN prices have never increased since the services were introduced in 1994. ISDN BRA rental prices have in fact reduced by 16%, while PRA rental has reduced by 28% in nominal terms. If the price was merely maintained in line with inflation, it would now be over 90% higher. Throughout the period from 1994, Telecom Eireann and eircom consistently set prices well below the limit required by the price caps, so that the price cap did not require the reductions, nor prevent increases. Market forces, and cost alignment, drove the price changes.

We therefore consider that ComReg has not provided any evidence to support its conclusion that there is potential for eircom to exploit its SMP position through excessive pricing of ISDN services. There is no need for a price cap on these services.

We dispute ComReg's assertion that a specific control on lower level access will ensure “the alignment of costs and prices in respect of retail line rental is maintained”. The growth in the Irish economy has resulted in a substantial increase in the number of residential dwellings and business premises. This increase in building locations requires eircom to increase the size of the access network pro-rata. Given the increasing proportion of housing which is on one-off rural sites, the cost of the network may increase at a faster rate than the growth in the number of units. Conversely, the number of active, rent-paying lines is static. The growing cost must therefore be carried by a fixed number of lines, increasing unit costs. Thus, prices might have to rise just to maintain the current alignment. We have already made the point that the access network costs are dependent on property and building costs, on copper prices, and on labour rates. All of these costs are increasing faster than CPI, but several elements may be quite volatile. We conclude that a simple price cap of CPI-x% on telephony line rental is unlikely allow price changes to match the evolution of unit costs.

Regarding PSTN telephony services, ComReg argues that a specific price cap on lower level access is needed despite the fact that no price increases applied to connection or rental in the past 31 months. Market forces prevent eircom from acting without regard to its competitors or consumers. ComReg's primary reason for a specific price cap is given as “the predominance of Residential users”. ComReg argues that this could offer consumers better protection where concerns over exploitation of market power may be most significant.

We are surprised that ComReg has apparently abandoned the concept of vulnerable users, or those with special needs. In the 2002 price cap review, ComReg considered this segment deserved additional safeguards. Now, ComReg seems to be proposing a control on the prices paid by all users without regard to the impact on the most vulnerable sections of society. If

these is any positive impact from a price cap, it must be in reassuring those least able to afford it that any increases will be limited to their ability to pay.

We note that the impact of the vulnerable user scheme 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.

We consider that no other price cap is needed for ISDN or PSTN.

**Q. 7. In the event of *eircom* having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.**

eircom considers that the higher level access products (i.e. ISDN PRA and FRA) face a different competitive environment from the lower level. Substitution by individual mobile phones is less relevant, but provision of alternative services including IP services over own-build fibre, radio, leased line, partial private circuits (PPCs), LLU and bitstream are all well developed and increasing. While we accept that LLU may have a role to play, we consider that other technologies (CPS/WLR, wireless, leased line, PPC, and own build) already offer effective competition.

There is no evidence to suggest eircom could exploit SMP, if it existed, in this market. If higher level prices were even maintained at the 1994 starting point in real terms, the price would now be 90% higher. There has been no price increase for over 12 years, but many price reductions. It is absurd to suggest that consumers (in particular SMEs) require confidence that some level of price restraint would remain, if competition developed less rapidly than expected.

The fact that prices in this market have never increased surely indicates that there is no danger of SMP being abused. By ComReg's own admission, eircom's market share is falling rapidly. We do not agree that the higher level market is "demonstrably not effectively competitive". We reject ComReg's assertion that absent retail regulation, eircom would likely be in a position to act to an appreciable extent independently of its competitors and consumers.

A retail price control is not required to prevent increases but might require reductions. In the latter case, it is possible that the effective competition already present might be severely damaged.

We consider there is no benefit to any form of retail price cap in this market, but there may be substantial damage to competition and significant administration costs.

**Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if possible.**

eircom does not consider any price cap is required. However, if a cap were to be imposed, a global basket gives more flexibility in pricing, and reduces the probable error in modelling cost movements. At the other extreme, individual caps on every service (e.g., PSTN connection, PSTN rental for residential users, PSTN rental for business users, ISDN BRA connection etc.)



requires great precision in allocating costs, and in modelling cost and volume trends at fine detail level.

An exception might be made for services to vulnerable users and those with special needs. These users are most in need of predictability, and the burden of a control could be offset by flexibility elsewhere.

We urge ComReg to remove controls wherever possible, and to limit any control to vulnerable users of PSTN line rental.

**Q. 9. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to lower level SMP markets/services should this be a narrow cap on PSTN line rental only, or should it be expanded to include other lower level access services (e.g., connections)? If so, which ones? Which combinations?**

**Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher level access services (e.g., connections)? If so, which ones? Which combinations?**

Connection costs could be categorised into three broad categories:

- administration costs in processing the connection order (and eventually, the cease order). These costs are independent of any physical work. For example, verifying direct debit details, or checking directory entries and preferences are required whether a brand new line is installed, or a recently ceased line reprovided
- general network provisioning, such as providing cables from the exchange MDF to an apartment block, or pre-cabling a housing estate
- line specific costs, such as a drop wire from an overhead DP to an individual dwelling or business

The latter categories are usually recovered in rental charges, rather than connection fees. This practice reduces entry barriers for customers joining the network. A similar practice is followed in other product areas, such as broadband. The assumption is that another customer might use the line, if the first one moves on. However, for some specialised products, such as leased lines, a larger proportion of the initial costs are recovered from the connection fee, allowing lower ongoing rental. This reflected the expectation that one type of business might have a demand for data services, while a later occupant of the same premises might not.

If connection prices were to be capped separately, this would require a detailed examination of which costs are proper to connection, and which to rental. In competitive markets, a supplier should have some flexibility in deciding whether to recover initial costs from a connection fee or from rental. If a price cap were to be imposed, it should allow this flexibility.

If separate caps were imposed in a situation where an SMP operator could benefit from price increases, the operator would be tempted to maximise revenue by increasing both connection and rental to their upper limits as allowed by the control. A competitor trying to gain a foothold might conclude that the connection fee will not be reduced in response to its actions, so there is little value in undercutting the incumbent's charge. The end result of this game might be to maintain both connection and rental charges at a higher level than if there were no price control, or a global control on connection and rental.

Similar arguments apply to the situation regarding PSTN and ISDN.

Greater flexibility creates uncertainty, and makes the outcome more like a true competitive market. ComReg could allow and encourage this uncertainty by using global caps, which still have the effect of protecting

ComReg should tease out the positions adopted by each party in this n-player game to determine how outcomes might differ with individual controls, global controls or no controls. The available evidence of price trends and history over the past ten years should inform the analysis. eircom's analysis suggest the best outcome for end-users, competitors and eircom (the win-win outcome) arises in the case with no controls.

**Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?**

There may be a case to have a separate control for low users/vulnerable users, so that the Vulnerable User Scheme (VUS) remains after other controls are lifted.

**Q. 12. In the event of *eircom* having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?**

By virtue of Regulation 13 of the Universal Service Regulations, *eircom* is obliged to continue to comply with any obligations that were applicable to it relating to retail tariffs for the provision of access to and use of the public telephone network under Regulation 21 of the European Communities (Voice Telephony and Universal Service) Regulations 1999 ("the 1999 Regulations") until such time as obligations under Regulation 14, 15 or 16 under the Universal Service Regulations are imposed on any undertaking.

Under Regulation 21 (2) of the 1999 Regulations, *eircom* is obliged to ensure that the tariffs for the use of its fixed public telephone networks and fixed public telephone services follow the basic principles cost orientation (as specified in Annex II of Directive No. 90/387/EEC).

So, for many years, cost orientation and price caps have co-existed. The tensions that arose when regulations required price rises to comply with cost orientation (consistent with Competition Law) were resolved by modifying the retail price caps accordingly. We are therefore surprised that ComReg might consider cost orientation and price caps incompatible in the future.

ComReg has interpreted cost orientation in different ways in various contexts. In many retail cases, ComReg considers prices must be above some cost floor to be cost oriented. Cost orientation acts as a lower limit. In several wholesale contexts, cost orientation or cost justification are used interchangeably. Here it means an upper limit. In this context, ComReg clearly considers that cost orientation is an alternative, and indeed despite industry calls for a wholesale price cap, ComReg has preferred cost orientation.

In response to the question, therefore, we find a cost orientation obligation may be either a complement to a price cap (allowing ceilings and floors, as for retail prices in Ireland since 1996) or a substitute for it (as for interconnection prices in Ireland from 1998). We would be very concerned if the removal of a cost orientation obligation was considered as a means to impose a price cap which could result in prices below cost. Such an outcome would be extremely damaging to eircom and to other operators investing in their own infrastructure. We note however that an SMP operator would continue to be bound by competition law, and so would be unable to engage in predatory prices even if a price cap were to require these.

**Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so, please specify.**

We have suggested above that ComReg must consider several alternative options, and must use the appropriate economic tools to analyse them. These tools would at least include the analysis of the countervailing buyer power held by users in various market segments when negotiating with eircom, and the n-player games involved in setting prices in each price control scenario.

**Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?**

ComReg had made several unfounded assertions in its proposals.

Key issues to be addressed are:

- the level of costs in Ireland: if costs in Ireland are high, then the prices may actually reflect competitive levels, or could even be held artificially below them by the threat of regulation such as ComReg Doc. 05/23<sup>4</sup>. ComReg cannot draw any conclusion without understanding the actual costs.
- Related services such as voicemail, call forwarding, and SMS text messages could be regarded as part of the calls or access markets. ComReg must be clear about inclusions and exclusions in each market, and in any price cap proposed.
- The existence of the DSFA allowances, VUS or social tariff alternatives (as implemented in UK and elsewhere) has not been properly considered. Maintenance of these schemes may be the least intrusive means to achieve the regulatory objectives
- Binding voluntary undertakings may be less intrusive than regulatory obligations and have been used in several other countries. ComReg should clearly indicate the basis on which this approach has been rejected for Ireland.

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<sup>4</sup> Directions to enable Opening of Access to VoIP Services based on 076 Number Ranges

## **4 Imagine Group**

## Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets 32 ComReg 06/41

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### Appendix B– Consultation Questions

Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.

No - We believe that these have been satisfactorily outlined in the Consultation

Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.

Yes, in broad terms we would agree. However we would prioritise these objectives in terms of 'future proofing' the roll out of the

1. Efficient provision of Services - to ensure that the best available telecoms services' are available to all consumers and competitors thereby reducing their dependence on Narrowband technologies and instilling greater competition for broadband services on a national level
2. Do not endanger the provision of high quality services
3. Do not distort or restrict Competition
4. Eliminate and potential discrimination of undertakings in the market and ultimately end users
5. Ensure appropriate Regulation

Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above?

Yes, in Broad terms we would agree with the factors listed however we believe that ComReg should include an additional factor in ensuring that effective competition is available to end users in a manner required for either their home or business usage.

Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible.

No.

Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible.

Yes we would agree since it allows for measured control at the different levels (wholesale & retail) in the market. In this way we allow the market to grow and that the end consumer is not inhibited whether they are considered to be in the higher-level or lower level access within the market definitions. In essence we need to ensure that the most modern services are available to all users without discrimination and regardless of their 'classification' in either the higher or lower levels.

Q. 6. In the event of *eircom's* having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.

Absolutely. If we do not, we reject the principal of an open market available to all consumers on an equitable basis. The purpose of this consultation is to provide ComReg with market views on what is believed to be the most appropriate action and in this area we must ensure that Regulation is not a place that can lead to (in reality or by perception) the exclusion of consumers to affordable services in actual fact it should be an area where (as intended) services are available to all consumers on similar terms without any one entity with SMP having the ability to effect change to their own advantage, nor the ability to provide services on a discriminatory basis by virtue of the customers geographic location nor the ability to achieve this through the wholesale market.

Q. 7. In the event of *eircom* having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.

Yes. We believe that although Eircoms market share has diminished in terms of customer ownership it is also true that many of the consumers that have migrated away from Eircom using OAO's, who intern employ Eircoms bitstream product and other interconnect services, thereby providing Eircom with wholesale as opposed to retail revenues. In this way if Eircom has the ability to influence this wholesale revenue & in the absence of any regulatory price cap they can influence this segment of the market to the detriment of both OAOs and ultimately end users this could have a negative impact on competition.

Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if possible.

We would consider a global price cap to be more appropriate as it would provide competing enterprises with the ability to service the entire market, (Higher & Lower Level Access) and thereby force competition across the market as a whole.

We do have some reservations in our response in that we are not furnished with any information with regard to the make-up of the market in relation to specific areas

- How appropriate is it to compare ISDN & PSTN products?
- What percentage of the market employs either product?

- If we consider line rental how can we be assured that we are working towards the unbundling of the Local Loop thereby creating greater competition at the 'last mile' and driving competition at this level.

Q. 9. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to lower level SMP markets/services should this be a narrow cap on PSTN line rental only, or should it be expanded to include other lower level access services (e.g., connections)? If so, which ones? Which combinations?

We believe that any form of regulation in this area has to be so that it promotes competition through a 'level playing field' for all competing enterprises and that no one entity is preferred or can influence market structures and in this way consumers have an array of services available and an array of suppliers willing to compete for their business.

With this in mind it would be more prudent to include all relevant lower level access services and at a later review make a determination having reviewed the market response.

Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets 33 ComReg 06/41 level access services (e.g., connections)? If so, which ones? Which combinations?

Again we believe that it should be expanded to include all Higher Level Access services thereby facilitating the market and its participants in establishing the market equilibrium in an environment where there is still one dominant player. In this way we progress the market development without undue influence being extolled by any one Operator, namely Eircom.

Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?

This is an open-ended question, which is not supported with any data to assist respondents in formulating a considered response. We believe that there are of course individual circumstances that would support any argument here but without a 'real' proposition we believe it would be unwise to speculate as it could lead to incorrect decisions being made and the overall decision can only be taken have considered all permutations and carry out a benefit analysis to cover the whole market.

Q. 12. In the event of *eircom* having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?

This can be difficult to assess due to the fact that it is possible that where a price cap is in place and Eircom has the potential to reduce its costs they benefit but there is no corresponding reduction in costs to OAOs and ultimately consumers as we are working under a regime of a price cap. It is also possible that where there is a cost orientation obligation and Eircom could successfully demonstrate an increase in costs these could ultimately be passed on to OAOs.

The real answers lie in proportionality. Is it possible to administer either system and be able to affect the best result for the market? The obvious answer lies in being able to have more operators replicate what Eircom does and ultimately unbundled the local loop, which would allow us to see (with market forces) where the equilibrium lies.

#### **Additional Comment**

In recent weeks we have seen some dramatic changes in the market and the interruption of service to almost 40,000 consumers, yet we still see the majority of consumers electing to revert to Eircom, which is a natural consequence since most of these consumers will have had a previous relationship with Eircom.

Nonetheless it does demonstrate that (leaving aside the actual circumstances for their migration) that this 'dramatic change' occurred as a result (certainly in part) of the failure to efficiently unbundled the local loop where we as market participants can develop the market by being able to compete with Eircom at every level including the last mile.

If we can achieve greater access to this sector of the market and creating more competition we will actually be able to find the market equilibrium more effectively and therefore permitting ComReg to require less intervention. Nonetheless it has to be stated that one of the architects for this slowing of LLU is Eircom and this needs to be resolved urgently if we are to prevent any other participants from leaving the market thereby reducing competition and providing the incumbent with an even stronger hand. It is also true that many others may be deterred from seeking access to the LLU.

Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so please specify.

Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?



## **5 Vodafone**



**Vodafone Response to the ComReg Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets – Part 1**

## Introduction

Vodafone welcomes the opportunity to respond to this first consultation on a retail price cap as a potential remedy in fixed narrowband access markets. Vodafone must assert at the outset its view, as set out in response to ComReg's consultation on Retail Narrowband Access Markets (06/39), that fixed access and fixed calls are in the same market. The answers to the consultation questions below in relation to a proposed retail price cap are without prejudice to Vodafone's position regarding the definition of the relevant market.

Vodafone does not agree with ComReg's preliminary conclusion that some form of a retail price cap is necessary in order to prevent the SMP operator from raising prices. Regulatory remedies at the wholesale level and the growing level of competition in the retail market are sufficient in themselves to constrain the SMP operator's pricing behaviour. The imposition of a retail price cap in any form going forward is therefore neither proportionate nor necessary.

Vodafone's views are set out in further detail in response to the consultation questions below.

## Response to Consultation Questions

**Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.**

Vodafone agrees with ComReg's assessment of the statutory basis for the imposition of a new price cap and any associated procedures that would have to be complied with in that regard.

**Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.**

Vodafone considers that the objectives set out by ComReg with respect to its review of the price cap are comprehensive and would be appropriate if a retail price cap were required to achieve these objectives. It must however be emphasised that the second objective set out by ComReg at paragraph 3.17 of the consultation document, that of facilitating the rapid development of effective competition, is in fact the best and most sustainable way of achieving the first stated objective of preventing the SMP operator from charging excessive prices. The objective of facilitating the development of competition must consequently have priority in considering the nature of a retail price cap where it is necessary.

Vodafone believes however that the maintenance of existing regulatory measures at the wholesale level, and developing competitive pressures at the retail level, are sufficient to ensure that no retail price cap in any form is required going forward on those telecom services listed in Table 1 of the consultation paper.

Vodafone considers it appropriate at this juncture to refer to the rationale provided by ComReg for the existing price control in place since 2003. The relaxation of the retail price cap relative to that existing prior to 2003 was explained by ComReg as due to factors such as a well established wholesale regime at cost orientated prices allowing the competitive provision of CPS, and the introduction of the WLR product. Vodafone notes that most of the factors mentioned by ComReg as driving the relaxation of the price control are still very relevant. It would be perverse, in Vodafone's view, if the strong take-up of the WLR product and a considerable improvement in general competitive conditions that has taken place since the introduction of the existing price cap were to be followed by a tightening of the retail price control. A strengthening of the price cap in terms of the introduction of sub-caps or the extension of the scope of the cap to include additional services is not warranted given the improvement in the competitive environment. A move toward micro-management of the level and structure of individual tariffs would be overly prescriptive and would also impede tariff innovation. At a minimum, the development of competition since 2003 requires a further considerable relaxation of the retail price cap.

Vodafone considers that the growing competitive constraint on the SMP operator is evident from the fact that in both 2004 and 2005 the change in the price of the overall basket of services subject to the price cap appears to have lagged considerably behind the cumulative increase in the consumer price index. The SMP operator has not raised its prices to the maximum extent permitted by the price cap in a manner consistent with an undertaking able to price its services to a large degree independently of its competitors and customers.

With regard to the price of PSTN line rental in particular, Vodafone notes that the re-balancing reflected in the increase in the price of this service element occurred in the course of a twelve month period and that no price increases have been implemented since 2004. Vodafone considers that a significant factor constraining the price of PSTN line rental is that, despite the fact that fixed and mobile services are not in the same market, mobile services are particularly competitive for those users that ComReg is most concerned to protect from price rises. The consumer segment characterised by those who require access but have a low volume of call usage are particularly likely to find mobile services to be a competitive alternative given the full incorporation of the cost of access in the call charge. Vodafone considers that the necessity for fixed operators to try to limit the growth of fixed to mobile substitution for this customer segment is, together with the availability of WLR, sufficient to effectively constrain the price of PSTN line rental in the absence of a retail price control.

**Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above?**

Vodafone agrees with the factors listed by ComReg and considers that they encompass all the main issues relevant to reaching a conclusion on the appropriateness of the imposition of a price cap.

**Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible.**

Vodafone contends that the first factor listed by ComReg at paragraph 3.19 of the consultation – the prospects for an increase in the level of competition arising from any changes in market circumstances - precludes the imposition of a retail price cap given that the level of competition, albeit present in large measure due to regulatory measures at the wholesale level, is both currently and prospectively sufficient to ensure that the imposition of a retail price cap is unnecessary.

**Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible.**

No. Vodafone considers that wholesale regulatory measures such as an obligation on the SMP operator to provide the WLR product to OAOs on a retail-minus basis are sufficient on their own to stimulate effective competition in the retail market and restrain access prices. The reasons for Vodafone's position are set out below.

As described in the response to question 2, the fact that the change in the price of the overall basket of services subject to the current price cap has lagged significantly the cumulative increase in the consumer price index since 2003 indicates that competitive pressures have restrained the ability of the SMP operator to set prices for access products at the upper limit permitted by the cap. Direct connection together with wholesale regulatory measures such as the mandating of the WLR product must be regarded as the main drivers of the observed significant competitive pressure on pricing. The effect of these factors in facilitating competition will only strengthen going forward, even in the absence of a retail price cap.

ComReg considers that wholesale only intervention is not sufficient of itself to adequately protect consumers from rising access prices as the retail-minus mechanism for WLR does not constrain the level of retail prices, only the differential between them. Vodafone considers however that a move by the SMP operator to raise its retail price, by raising the *absolute* differential between the wholesale and retail charges, would give efficient alternative operators in the increasingly competitive retail market wider scope to undercut the SMP operator's retail price and gain market share. The mere prospect that this would occur in the event of a retail price increase acts to constrain the SMP operator from increasing access prices.

With regard to PSTN line rental, the increase in the level of this charge has been due to a necessary re-adjustment from a situation of historical cross subsidy and was facilitated by ComReg in line with EU regulatory requirements. This adjustment appears to have been made, as reflected by the absence of any price increase since 2004. Vodafone considers that existing wholesale regulatory measures together with the desire of the fixed operators to try to limit the established trend toward fixed to mobile substitution are sufficient to restrain the price of PSTN line rental in the absence of a retail price cap.

**Q. 6. In the event of *eircom*'s having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.**

No. Vodafone considers that existing regulatory measures at the wholesale level are sufficient of themselves to constrain the SMP operator's pricing behaviour for lower level access elements. This position is based on the assessment of price trends as set out in response to question 5.

Vodafone contends that pricing developments indicate that there is a sufficient competitive constraint on the SMP operator in respect of lower level access arising from the availability of the WLR product. Vodafone also considers that ComReg is underestimating the strength of the constraint imposed by fixed to mobile substitution and potential competition from alternative platforms such as FWA on the SMP operator's pricing behaviour.

**Q. 7. In the event of *eircom* having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.**

No. Vodafone considers that existing regulatory measures at the wholesale level are sufficient of themselves to constrain the SMP operator's pricing behaviour for higher level access elements. This position is based on the assessment of price trends as set out in response to questions 3 and 5.

Pricing developments indicate that there is an effective competitive constraint on the SMP operator in respect of higher level access arising from the take up of WLR and the significant market presence of competing operators using direct connection. Vodafone must disagree with the manner in which ComReg discounts the price changes that have occurred as a result of temporary promotions as such promotional activity is an indicator of a response to competitive pressures. Importantly ComReg concludes that a cumulative real price reduction of 12.8% over a four year period for higher level access is indicative of *eircom* not being constrained by its competitors. However ComReg fails to indicate what level of price reductions it would consider consistent with *eircom* being effectively constrained by its competitors; this is a critical omission that seriously undermines the validity of ComReg's pricing analysis. Vodafone considers that ComReg is also underestimating the strength of the constraint imposed by the potential for competition via LLU and from alternative platforms such as FWA on the SMP operator's pricing behaviour.

**Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if possible.**

Vodafone believes that the maintenance of existing regulatory measures at the wholesale level, and developing competitive pressures at the retail level, is sufficient to ensure that no retail price cap in any form is required going forward. However, if it is concluded by ComReg that a price cap remedy is necessary then Vodafone considers that a global basket cap is the most appropriate and proportionate remedy to impose.

Vodafone considers that a global basket cap is the least burdensome price cap to impose on the SMP operator as it allows a degree of flexibility in how individual tariffs can be set within a general basket cap. This is important given that significant changes in the relative demand elasticities of different services would require adjustments of tariffs to permit the efficient recovery of the common costs of providing these services. ComReg must avoid any move toward micro-management of individual tariffs that would be required by the imposition of individual caps or sub caps as this is an excessively burdensome and overly prescriptive remedy. A strengthening of the retail price cap given the development of significant competition in the market since the introduction of the current regime in 2003 would be perverse. Vodafone believes that a full consideration of competitive developments must warrant, at a minimum, a considerable relaxation of the existing price cap. A relaxation of the price control could take the form of a narrowing of the scope of the global price cap by excluding those services currently in the basket that are considered most subject to competition.

**Q. 9. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to lower level SMP markets/services should this be a narrow cap on PSTN line rental only, or should it be expanded to include other lower level access services (eg. connections)? If so, which ones? Which ones? Which combinations?**

Vodafone believes that the maintenance of existing regulatory measures at the wholesale level and developing competitive pressures at the retail level are sufficient to ensure that no retail price cap in any form is required going forward. If an individual cap in relation to lower level services is nonetheless considered by ComReg to be necessary then a narrow cap on PSTN line rental only is the most appropriate and proportionate remedy. Vodafone believes however that concerns regarding the protection of low-spending consumers could be more effectively addressed through measures other than the imposition of a retail price cap on PSTN line rental. For example ComReg could seek to strengthen the vulnerable user's scheme already in place.

**Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher level access services (eg. connections)? If so, which ones? Which combinations?**

Vodafone believes that the maintenance of existing regulatory measures at the wholesale level and developing competitive pressures at the retail level are sufficient to ensure that no retail price cap in any form is required going forward. However if an individual cap in relation to higher level services is nonetheless considered by ComReg to be necessary then a narrow cap on ISDN line rental only is the most appropriate and proportionate remedy.

**Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?**

No. Vodafone believes that the maintenance of existing regulatory measures at the wholesale level and developing competitive pressures at the retail level are sufficient to ensure that no retail price cap in any form is required.

**Q. 12. In the event of eircom having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?**

Vodafone considers that there is no basis for the imposition of a retail cost orientation obligation as an upper limit control on access prices. Regulatory obligations at the wholesale level combined with significant and developing competition at the retail level will effectively constrain the pricing behaviour of the SMP operator in the absence of a cost orientation obligation and/or a retail price cap.

**Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so please specify.**

**Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes, please indicate precisely what it is?**



**6 M. Boley**

-----Original Message-----

From: Me

Sent: 26 September 2006 13:25

To: retailsconsult

Subject: Consultation on a Retail Price Cap

In response to your Consultation Paper question 14:

I can only hope that you are sensible enough to bring down the line rental to an EU average of under €15 for more Competitiveness and to the advantage of the customer.

Regards,

M. Boley

**7 Sean Carr**

-----Original Message-----

**From:** Seán Carr

**Sent:** 25 September 2006 16:17

**To:** retaiillconsult

**Subject:** Landline Price Consultation

I hope you are getting lots of emails on this.

Point 14: "Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets - Part 1."

The EU average line rental is €14 a month!!!

If the rental goes up I will seriously have to consider getting rid of my getting rid of my phone line.

- Seán Carr

**8 K. Gujral**

-----Original Message-----

**From:** Vampyre

**Sent:** 25 September 2006 15:42

**To:** retailsconsult

**Subject:** Line rental

Dear Sir/Madam

I have been aware for quite sometime how high line rental is in Ireland, way above the average of the other EU states and I do feel this at best a source of annoyance.

It is being circulated in the media that the new owners of Eircom may seek a further increase. Why can't the infrastructure be devolved into a separate entity and lower the rental for all since it does appear line rental is subsidising other enterprises within the operator?

regards

K Gujral

**9 P. Juilet**

-----Original Message-----

**From:** P J

**Sent:** 26 September 2006 14:44

**To:** retailsconsult

**Subject:** High price land lines

Dear sir,

Currently Ireland pays out the highest line rental in Europe and most of rest of the developed world. Why is that? I will try in the future to move to other carriers as this is vastly unfair.

Yours,

P Juillet



**10 Paul Kelly**

-----Original Message-----

From: Paul Kelly

Sent: 13 September 2006 12:18

To: retailconsult

Subject: [Maybe spam] Reference: Submission re ComReg 06/41

Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.

It is a regulatory failure that eircom are allowed charge the same, horrific monthly rental they are currently allowed charge on each and everyone line. A person who may be stuck on a carrier line, who is barely able to get above 12kbps on a dial up connection, probably will never in their lifetime have any sort of DSL connection on their line, pays the same €24 odd that a person, say, in Dubin pays, who can get 40kbps+ dial up and DSL access should they want it. ComReg should look to adapt and apply a variable line rental, according to the capability of the line (Voice only, Carrier voice, Voice, Dial up but poor DSL and Voice & Good DSL). Of course, eircom should not be allowed charge anything near what they currently charge, regardless of the capability of the line and they certainly should not be permitted charge the proposed €28.

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Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list

Broadband access and other data capabilities should be taken into account when considering line rental. In regard to 3.15, whereby it mentions customers with a low call spend who rely heavily on the line, DSL customers should be taken into account - many people may only have a PSTN line in to gain access to DSL, not necessarily from eircom.net. When the €24 is factored into the cost of DSL subscription, we are yet again the most expensive in Europe, especially once speeds are factored in. Line rental should be capped, particularly if consumers require the line for DSL only, where the overall cost should be taken into account.

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Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above?

- 1 - Profitability of the company and how much revenue could be gained
- 2 - Ease of access to network infrastructure, should competition come in in the future (eg. LLU)

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Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible

No, the retail cap as it stands is a complete failure of the regulator - we have the highest line rental charge in Europe, which must be dealt with in whatever way possible.

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Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible

Yes, whilst eircom sell on services to resellers at a far lesser cost than they themselves charge (eg. LLU rental is ~€10 less than retail, Bitstream etc.), many customers remain with eircom for simplicity, or otherwise, and are therefore fleeced by all of eircom's services (rental, calls, bundled talk packages, DSL), which are ALL the most expensive in the country. Also, due to the fiasco that is LLU, many customers do not wish to go through the hassle of switching too LLU providers (Smart, Magnet) even though the savings they could make are significant. Eircom are therefore being extremely anti-competitive here and using customers to their advantage.

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Q. 6. In the event of eircom's having SMP in the lower level access market,

does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible

Yes, wherever eircom has SMP, they should be capped to ensure everyone has fair, equal and affordable, value for money access to telecommunication services.

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Q. 7. In the event of eircom having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible

Again yes, for the reason outlines in the response to Q5 regarding customers "loyalty" to eircom. (...many customers remain with eircom for simplicity, or otherwise, and are therefore fleeced by all of eircom's services (rental, calls, bundled talk packages, DSL), which are ALL the most expensive in the country. Also, due to the fiasco that is LLU, many customers do not wish to go through the hassle of switching too LLU providers (Smart, Magnet) even though the savings they could make are significant. Eircom are therefore being extremely anti-competitive here and using customers to their advantage.)

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Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if possible

A global basket cap would be effective to cap the overall increase applied to their service, which would protect customers and be for their benefit - eircom are seeking to lower broadband subscription charges, yet increase line rental charges. Overall, they will be better off as the loss from their

relatively small DSL customer base (approx. 200,000) will be balanced by the €4 gain from over 1 million PSTN lines. If they were allowed increase each product by a certain cap level, this could push prices up quite considerably. Therefore, could eircom get far more out of each customer each month, but can advertise, for example, how they are slashing broadband prices, even though we will now have the most expensive line rental, probably in the world.

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Q. 9. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to lower level SMP markets/services should this be a narrow cap on PSTN line rental only, or should it be expanded to include other lower level access services (e.g., connections)? If so, which ones? Which combinations?

There should certainly be a cap on other lower level access services, but PSTN line rental should take priority and be of most importance. Possible combinations:  
>Line Rental & Connection  
>Line Rental & Voice

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Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher level access services (e.g., connections)? If so, which ones? Which combinations?

It should be expanded to cover other higher level access services. Again though, rental should take priority. Possibly combinations:  
>ISDN Rental & Connection  
>ISDN Rental & Charges

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Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?

Wholesale line rental should be capped to allow customers such as LLU gain access to the line and be able to offer their own services at a value for money, cost effective and efficient manner.

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Q. 12. In the event of eircom having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?

No, a price cap is necessary. Charges for all services are already high enough as it is and by far the most expensive in Europe. Only a price cap can prevent them being increased further.

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Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so please specify

- >Ability of the line for data services
- >Availability of LLU or access by alternative operators
- >Data capabilities
- >Access to broadband
- >Access to non-carrier lines

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Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?

- >Why has Ireland the most expensive line rental in Europe?
- >Why is Eircom allowed continue to fleece customers day after day?
- >Why is no sensible LLU system in place?

Ireland should have the European average of €14/month for line rental. This should be sorted ASAP, as it is long overdue.

**11 Martin Maguire**

-----Original Message-----

From: mmaguire  
Sent: 25 September 2006 17:43  
To: retailsconsult  
Cc: Info@Irelandoffline.org  
Subject: Line rental

Hi:

I object strongly to the potential proposal that line rental may again increase and I expect you in your regulatory role to tease out the reasons for and the real substantive facts behind this request.

There are sufficient barriers in the market place where people such as ourselves with banks of numbers, cannot freely move between suppliers without incurring another set of up front costs - which again locks you into to a.n.other supplier.

The model used in Ireland, I believe is out of synch with those of our competitors in other EU locations and are not justified by the amount of investment going into the maintenance and improvement of the network.

We are currently 33% more than the EU average - so do not let this rise!

We are already at the bottom of enough EU league tables and the costs for cabling all the rural communities has already been incurred.

Remember Eircom, if I remember correctly, gave you a figure for the investment into other products such as broadband and were able to adjust or more correctly drop these after investigation and the suggestion of higher levels of potential competition.

The network is national infrastructure and one company should not be allowed to write off many of their internal and marketing costs to something they see as a dripping roast as far as income purposes are concerned.

Please stop the rot that began with the previous entities that became Eircom who fallaciously proposed to the Dail that the future of electronic commerce depended on their ability to levy minute charges on consumers. The Dail, of course, believed this completely misplaced argument as they were hearing this from a then State company - whom they believed should or would be working for the national interest.

Remember if Eircom did not see this as a profitable activity, I am sure they would, as a private company, auction this off to the highest bidder, as they were quite happy to do with mobile communications services, as it suited them.

We need to be rid of monopolies - or as you previously defined this as majority market suppliers.

Our infrastructure is being managed by the very organisation whose ethos, but not their management, has remained static since the time



that they stated publicly on more than one occasion that:

"You cannot make money out of free information"

Martin Maguire

**12 Matthew McCusker**

-----Original Message-----

From: M McC

Sent: 26 September 2006 20:49

To: retailconsult

Cc: Damien Mulley - IrelandOffline

Subject: Price capping, Eircom and "Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets - Part 1."

Dear Sir,

I would like to comment on your discussion document "Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets - Part 1." Firstly, as an Eircom customer (narrowband) I would comment that the current charging system is outrageous. The very complex and over-detailed pdf questionnaire Comreg has devised means it will not be easily completed by the busy individual. However, I would comment that Eircom price capping is not only desirable but must send out a message that this company's monopoly is bad for the Irish Telecom industry. So, of course price capping should be mandatory.

My own experience of Eircom "business practice" is as follows: having signed up to the combined telephone and internet package with BTIreland ~2 years ago, I contacted BTIreland to re-establish Caller Display. I was advised to contact Eircom as they controlled this on the line. Just one phone call to Eircom got it turned back on. Imagine my surprise to subsequently receive phone bills again from Eircom. Contacting BTIreland, they confirmed: "they must have re-established you as a customer". Not only did I not authorise this verbally or in writing, but I believe it is a common occurrence. Further, BTIreland seem powerless to deal with it. Telling me to reapply again to BTIreland is missing the point. Eircom needs to be capped in more ways than one! What powers do you as a regulatory body have in respect of such outrageous conduct by a near monopoly? In any other country in Europe this activity would be judged illegal by the courts and summary fines established. In Ireland, shoulders shrug and quango bodies like Comreg appear puerile and toothless. Look at the recent report on broadband in Ireland; truly shocking!!

Please help the beleaguered telecom customers of Ireland by imposing some restrictions on Eircom and people like myself will hold you in high esteem!

Yours Sincerely,

Matthew D. McCusker,

**13 Tony McGinely**

-----Original Message-----

From: a  
Sent: 25 September 2006 17:25  
To: retailconsult  
Subject: Line Rental in Ireland

Hello, I was just reading that the cost of phone line rental in the "ripOff Republic" is set to rise again. As Ireland is already the dearest place in the EU for line rental, how can this possibly be justified?? Except maybe by greed and/or inefficiency in the company.

The nation should be getting a reduction in line rental for several reasons;

1. we, the people of Ireland, paid for these lines in taxes before they were sold to private industry,
2. We are paying on average 20% more than the rest of Europe and the prices should be balanced, and
3. The Nation should not have its phone and Braodband policies dictated to by a private company.

Thanks you,

Tony McGinley

**14 Patricia McGuire**

-----Original Message-----

**From:** patricia McGuire

**Sent:** 25 September 2006 16:21

**To:** retailconsult

**Subject:** re price

hello Im not all happy with cost of ,y eircom bill, have broadband and an average moth my bill is €110, this is way beyond other EEC countries, you's got cut cost,as like most people we got cut as it's far to costly,

regards Patricia Mc Guire

**15 Hugh McKitterick**



-----Original Message-----

**From:** Hugh McKitterick

**Sent:** 25 September 2006 18:20

**To:** retailconsult

**Subject:** landline bills

I do not want to pay higher landline charges to anyone. We are paying enough already compared to other European countries.

Also, we are badly served by the likes of Eircom - take their 1901 customer service.

If and when I eventually get to talk to a human being instead of that annoying computer voice, I am then passed from pillar to post. Stress!!!

BT Ireland is not much better - they asked me for 40 euro to downgrade from a 3mb broadband to 2mb broadband. I wanted to save money - not spend it.

Come on Comreg - give the little people a chance.

Hugh McKitterick

**16 Thomas McNicholas**

-----Original Message-----

From: Thomas McNicholas

Sent: 27 September 2006 17:43

To: retailconsult

Subject: Proposed Line Rent

Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is? Answer. The line rent should match the quality of the phone line, if it is of 100% quality then it should be the European Union average. Otherwise if your connection is 14kbps then you should pay a 1/4 of the line rent. I want EU average Line Rental of €14 a month.

Regards

Thomas McNicholas

**17 Paul Mulcahy**

-----Original Message-----

**From:** Paul Mulcahy

**Sent:** 13 September 2006 09:51

**To:** retailsconsult

**Subject:**

1. Caps should only be imposed if they will protect the consumer. The previous cap on call charges was a farce as we now have the highest line rental in Europe.
2. Line rental is a big problem, it is nearly twice the EU average. Northern Ireland is cheaper, with better broadband availability and a similar population density and distribution.
3. Access charges should be reduced to encourage competition.
4. See above.
5. A price cap will only be effective now if it LOWERS costs, namely line rental. Call charges are falling anyway, line rental is the expensive part.
6. See 5.
7. As I keep stating. The only cap needed in this market is one which will REDUCE line rental charges.
8. Line rental is too high. Look at the rest of Europe, including other rural populated economies like Northern Ireland, Scotland and Wales. All cheaper than Ireland.
9. The caps are not necessarily important. What is important is that Irish consumers are no longer ripped off to the level they are being so at present. People would more likely get a phone line, then broadband if the line rental was closer to the EU average of €14.
10. All line costs should fall to EU average.
11. If line rental should come down, less regulation is needed. So far the only group to benefit from regulation are Eircom, not the consumer, this is due to line rental.
12. Caps should only be needed to help the consumer.
13. Why is our line rental so high?
14. Why is our line rental the Highest in the EU?

**18 John Murphy**

-----Original Message-----

From: John Murphy

Sent: 25 September 2006 15:48

To: retailconsult

Subject: Line rental Cost in Ireland \* Broadband

Hi,

Just to outline my thoughts on line rental in Ireland

- I work in the IT industry and have had ISDN for 2000 to 2003, and broadband thereafter, whilst I lived in Dublin

- On moving to Galway I re-evaluated what sort of broadband I would use....using a price comparison I decided to use Cable broadband from NTL as

I was being forced to pay an extortionate and disproportionate rate for the

line rental to Telecom Eireann. On balance I decided that I could not afford

the luxury of paying for land line rental to Eircom, Broadband from Eircom

and a mobile phone.

- My decision was to move away from Eircom and thereby rid myself of paying

them for line rental and also the worst customer service I have ever envisaged.

The sooner the telecom market is opened up the better, Telecom continue to

alienate most individuals I know and also most businesses who are forced to deal with them.

Regards

John Murphy

**19 John Noone**



-----Original Message-----  
From: John Noone  
Sent: 28 September 2006 13:40  
To: retailconsult  
Cc: info@irelandoffline.org  
Subject: The "line rental consultation"

Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.....

.....6

\*I agree wholeheartedly with the Commissions view that competition in the market is not effective and am disappointed to read that in the opinion of the Commission there will be no significant challenge to Eircoms dominance in narrowband access markets within "the lifetime of this review". A Local Loop Unbundling equal to or better than that which has lead to real competition in the UK and the enforcement of real, economic penalites for industry operators hindering progress must both be introduced without delay.\*

Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.....

.....10

\*The objective that should take priority is "encourage efficient provision of telecommunications services". To this end, the incumbent should not be granted an increase in line rental, but only be allowed to charge 25-30% of the current line rental charge for lines that are not capable (because of carriers, or poorly maintained copper) of carrying a DSL signal and providing at least 256kpbs. This will incentivise the incumbent, and show some consumer-awareness on the part of the Commission.\*

Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above?.....

.....11

\*I agree most with considering the "potential impact of a price cap on the development of competition". Eircom have proven themselves unwilling to reduce prices in areas where competition does not already exist. To stimulate, the Commission should not grant a line rental increase under any circumstances and instead increase the 10% discount that the incumbent is obliged to offer Wholesale partners. 10% is insufficient, as shown by its limited passing-on to the consumer (only Gaelic Telecom offer this to the consumer \*

Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible.....

.....11

\*No comment\*

Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible.....

.....16

\*Without some form of price cap, consumers will certainly face increases in cost with little to no improvement of service received. It is disgraceful that there is no obligation on the incumbent to provide functional data rates in the USO. Irish consumers already face line rental costs significantly higher than the EU average but are bottom or near bottom of all DSL leagues."\*

Q. 6. In the event of eircom's having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....

.....18

\*Most certainly. Eircom have never lowered prices without competition in the market. If they are designated with SMP, then the Commission has a duty of care to the Irish consumer to protect them from further line-rental ripoffs. Again, 24.18EUR per month for POTS line rental on a line that cannot support DSL and which the incumbent admit will never be upgraded is grossly unfair. The Commission, as with all regulators, should ensure a fair price for the quality of good/service received and Irelands one-linerental-price-fits-all model needs to be changed to incentivise the incumbent to properly maintain and upgrade Irelands telecoms infrastructure\*.

Q. 7. In the event of eircom having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....

.....20

\*Again, Eircom have never lowered prices without competition in the market. Additionally, their "lowered prices" are still not as good value as competing operators. If they have autonomous control over pricing; the consumer, the market and the country will pay a very damaging price.\*

Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if possible.....

.....22

\*I am appalled that the Commission is even entertaining the prospect of a line rental increase.\*

Q. 9. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to lower level SMP markets/services should this be a narrow cap on PSTN line rental only, or should it be expanded to include other lower level access services (e.g., connections)? If so, which ones? Which combinations?.....2

.....2  
2

\*No feedback\*

Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets 33 ComReg 06/41 level access services (e.g., connections)? If so, which ones? Which combinations?.....2

.....2  
2

\*No feedback\*

Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?.....22

\*No feedback\*

Q. 12. In the event of eircom having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?.....24

.....24  
\*No. I don't believe effective measures exist to ensure that "costs" are not invented/exaggerated.\*

Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so please specify.....25

Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?

Our Telecoms Regulator presides over a market where consumers are forced to pay well above the EU average for line rental. Rather than investigating how to grant Eircom an increase in line rental, the Commission should be forcing the incumbent to reduce line rental for all customers with an additional reduction for those without a DSL capable line. The Commission should as a matter of urgency examine the place of broadband in the Universal Service Obligation.

**20 Paddy O'Connor**

-----Original Message-----

From: Paddy O' Connor

Sent: 28 September 2006 11:04

To: retailconsult

Subject:

Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?

I would like comreg to analyse why line rental is so much higher than the european average of circa €14 a month, and why instead comreg are considering raising this.

Yours sincerely  
Patrick O Connor

**21 Patrick O'Farrell**

-----Original Message-----

**From:** Patrick O'Farrell

**Sent:** 14 September 2006 12:07

**To:** retailconsult

**Subject:** PSTN Line Rental

Hi,

In response to your recent consultation on Line Rental (Cap) pricing, why does Ireland have the most expensive line rental fees in the world, greatly above the EU average of €14.80.

Regards

Patrick O'Farrell

**22 Alan O'Sullivan**



-----Original Message-----

**From:** O'Sullivan. Alan

**Sent:** 28 September 2006 11:56

**To:** retailsconsult

**Subject:** Appendix B- Consultation Questions

Appendix B- Consultation Questions

Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.....6

Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.....10

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Q. 5. Do respondents agree that, in addition to wholesale measures, some form of a retail price cap remedy is an appropriate and proportionate form of regulation in light of changing market circumstances for retail SMP access services? Please give reasons for views expressed and supporting analysis and/or data if possible.....16

Q. 6. In the event of eircom's having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....18

Q. 7. In the event of eircom having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....20

Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if

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Which combinations?.....22

Q. 10. In the event that an individual cap either on an SMP market or service is deemed necessary, in relation to higher level SMP markets/services should this be a narrow cap on ISDN rental only or be expanded to include other higher

Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets 33 ComReg 06/41

level access services (e.g., connections)? If so, which ones? Which combinations?.....22

Q. 11. Are there any access services, or access products for particular groups of customers, which should be price capped separately on the basis that competition may soon develop to the point where controls can be dropped? If so, please state which services and your reasons why?.....22

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ANS QS14: I want EU average Line Rental of €14 a month

\_\_\_\_\_Regards,

Alan O’Sullivan.

**23 Kingsley Renehan**

-----Original Message-----

From: Kingsley Renehan

Sent: 25 September 2006 16:45

To: retailconsult

Subject: [Maybe spam] Cheaper Line Rental

Hi There

I dont see why we in Ireland have the highest line rental charges in Europe. We should not be paying 24 euros a month line rental at all afterall u will never own your line no matter if u were paying line rental for 50 years, its a joke really. Line rental should be alot more cheaper than it is.

Yours Kingsley Renehan

**24 Mark Robert**

-----Original Message-----

**From:** Robert, Mark

**Sent:** 28 September 2006 13:39

**To:** retailsconsult

**Subject:** Reference: Submission re ComReg 06/41

#### Appendix B- Consultation Questions

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**A. I want EU average Line Rental of €14 a month**

*Mark Robert*

**25 Brian Smyth**



-----Original Message-----

**From:** BrianS

**Sent:** 25 September 2006 23:40

**To:** retaiillconsult

**Subject:** Response to: Consultation on a retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets - Part 1

Brian Smyth

1. Local Loop Unbundling..? It does not exist in the Republic of Ireland. ComReg has not delivered what the county needs.

2. There is NO competition in the fixed line market. If I wish to use any provider other than Eircom then it is possible....but, they must pay Eircom for line rental. Therefore consumers cannot escape paying Eircom if they want to rent a landline. If Eircom (Babcock & Brown aka asset stripping venture capitalists), are permitted to increase fixed line rental charges, all consumers who wish to use a landline will be forced to pay, even if they use a service provider other than Eircom.

The result will be a situation where ComReg does not regulate a market, but, in reality, regulates a monopoly. ComReg needs to force Eircom to lower fixed line costs to stimulate the DSL broadband market. Otherwise we will end up with a large percentage of the population abandoning high cost fixed line services in favour of slightly lower cost, but inferior wireless broadband services. High tech economy....? Not if it is built on current wireless broadband technologies. ComReg needs to cap fixed line rentals at €15 or lower per month.

ComReg must aim to deliver;

1. Full Local Loop Unbundling by March 2007.
2. Advise the Government on mechanisms whereby the fixed line telephone (local loop) infrastructure can be re-nationalised in the interest of the Irish nation by compulsory purchase order or other means.
3. Force Eircom to Cap retail fixed line rentals at €15 or lower.
4. Force Eircom to Cap wholesale fixed line rentals at €10 or lower.

Regards,  
Brian Smyth

By the way, Inform your webmaster that the comment submission page at:

<http://www.comreg.ie/publications/respond.asp?nid=102416>

returns the message "The page you are looking for is currently unavailable. The Web site might be experiencing technical difficulties, or you may need to adjust your browser settings." when the "Submit" button is clicked....unless this is a novel way of minimising the volume of public comments to the consultation document....?

**26 Owen Sweeney**

-----Original Message-----

**From:** Owen Sweeney

**Sent:** 28 September 2006 10:54

**To:** retailconsult

**Subject:** Consultation on Retail Price Cap

**I only feel comfortable in answering Q 14 as the rest of the questions posed are beyond my limited telecoms knowledge:**

**Q. 14.** Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?

**I want EU average Line Rental of €14 a month , you lot in Comreg better sort it**

**Owen Sweeney**

**27 Jerry Thomas**

-----Original Message-----

From:

Sent: 26 September 2006 08:32

To: retailconsult

Cc: Info@Irelandoffline.org

Subject: feedback on consultation on landline bills > Rip off Republic

hi,

I do not want higher phone bills and don't want to pay even more line rental every month. Currently Ireland pays out the highest line rental in Europe and most of rest of the developed world.

Irish consumers have to pay EUR24.17 a month, the average cost of line rental in other EU countries is 8 euros cheaper. This is outrageous!!!

Regards,  
Jerry Thomas

**28 Thommcn**

-----Original Message-----

From: thommcn

Sent: 27 September 2006 17:44

To: retailconsult

Subject: Line Rent

Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?

Answer. Quality of phone line = Quantity of phone line rent.

I want European Union average Line Rental of €14 a month.

**29 Phil Tyrrell**



-----Original Message-----

From: phil tyrrell

Sent: 27 September 2006 23:31

To: retailconsult

Subject: [Maybe spam] Appendix B Consultation Questions

Q. 1. Do respondents have any observations in relation to ComReg's assessment of the statutory basis for the imposition of any new price cap and the procedures that must be adhered to in that regard? Please provide detailed reasons in support of your response.....

.....I  
want EU average Line Rental of €14 a month , you lot in Comreg better sort it

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.....10I  
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Q. 3. In the event that there is no effective competition in the access market(s) defined, what other factors should ComReg consider before deciding to impose a retail price cap remedy? Do respondents agree with the factors listed above?.....

.....11I  
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Q. 4. Do respondents consider that any of the factors listed above preclude the imposition of a retail price cap on any of the specific markets identified? Please give reasons for views expressed and supporting analysis and/or data if possible.....

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Q. 5. Do respondents agree that, in addition to wholesale measures, some

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Q. 6. In the event of eircom's having SMP in the lower level access market, does the respondent believe that some form of price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....18

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Q. 7. In the event of eircom having SMP in the higher level access market, does the respondent believe that some form of retail price cap should be applied to this relevant market? Please give reasons for views expressed and supporting analysis and/or data if possible.....20

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Q. 8. In the event that a price cap remedy is deemed necessary, which form of price cap do you consider would be the most appropriate and proportionate remedy, a global basket cap (lower and higher level access considered together) or separate individual cap(s) on each identified SMP market and/or services? Please explain your reasons with supporting analysis and data if possible.....22

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include other lower level access services (e.g., connections)? If so, which ones? Which combinations?.....2  
.....2  
2

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33 ComReg 06/41  
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Q. 12. In the event of eircom having SMP in the lower and/or higher level access market, does the respondent believe that a cost orientation obligation can be an effective upper limit control in the alternative to a price cap measure? Please state your reasons why/why not?.....24  
.....24

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Q. 13. In respect of the options analysed above, is there additional analysis that in your opinion should be carried out? If so please specify.....25

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Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?

The average Line rental in Europe is 14 euro. Why do you expect us to pay almost double the average for the worst service in Europe. Get your act together and start fineing Eircon for stalling on everything and growing fat on money from dialup users who cant get brodband.

Im sitting here with a dizmel dialup connection because I simply can't get any form of broadband, and Im still paying highest line rental in Europe,  
Grow a spine and do something about it.

**30 Neil Vaughan**

-----Original Message-----

**From:** Neil Vaughan

**Sent:** 28 September 2006 21:46

**To:** retailconsult

**Subject:** Line Rental Increase

Dear Sir/Madam,

I want to express my anger and horror at the proposed increase in line-rental that is about to be granted to Eircom by you at Comreg.

At the moment we in Ireland are paying abhorrently high line-rental rates.

We are so far removed from the E.U. average of 14 Euro per month, that it would be a joke only for it to being so serious.

Eircom has done so much damage to this country by it's deliberate delaying tactics in the roll-out of broadband.

These tactics have helped hugely towards the imminent collapse of Smart Telecom. I was never a customer of Smart's nor did I like them as a company but at least they were competition for Eircom.

I thought one of your key rolls at Comreg was to open the market to more competition .

Instead you have proved to do nothing but help the old monopoly retain it's original place in the market-place in everything but name.

In reaffirming your position as Eircom's sugar-daddy; you now want us to pay towards THE LATEST Eircom take-over by landing us with even higher line-rental charges.

You are a disgrace... and if you grant this to Eircom, you will be a bigger disgrace.

Perhaps from now on, you should consider using a new name instead of Comreg.....

don't worry, it's not too far removed from the original..... I feel it would be more appropriate and transparent if you were called.....

**EIRCOMREG**

Yours,

Neil Vaughan.

**31 Eamonn Wallace**

-----Original Message-----

From: Eamonn Wallace

Sent: 25 September 2006 15:50

To: retailconsult

Subject: Consultation on a Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets - Part 1.

To start my submission I'd just like to quote from your own document:

"ComReg has recently assessed the level of competition in the retail markets for lower and higher level narrowband access. Competition in these relevant markets does not yet appear effective. As there will be

no significant challenge to eircom's dominance in narrowband access markets within the lifetime of this review there may be a case for continued regulatory intervention to ensure that eircom does not exploit

its market position unfairly in the retail access market and disadvantage consumers."

And:

"3.12 However, concerns remain. eircom has increased PSTN line rental appreciably between 1998 and 2004, albeit within the confines of the existing price cap limit.

From above, the CPI-0% cap, in line with European legislation, recognised the principle of rebalancing to ensure that efficient cost is recovered "

Q. 14. Are there additional factors that in your opinion require analysis by ComReg? If yes, please indicate precisely what they are. In respect of the factors analysed, is there additional analysis that in your opinion should be carried out. If yes please indicate precisely what this is?

We currently have to endure the highest line rental in Europe and probably the worst service from our incumbent.

We all know why the incumbents costs are so high...their debt mountain, which currently stands at 4billion...

This (debt) mountain should not be construed and used as a validation (or costing) for increasing prices.

As a regulatory authority your job should be to protect consumers from spurious price increases (and lining the pockets of venture capitalists). Perhaps now is the time to REDUCE the current line rental prices in line with practices of other regulatory authorities across Europe. A reduction in line rental, to about €15 per month, would bring us to the higher end of the EU pricing league tables. Comreg should be striving and urging the incumbent to reduce its cost base so line rental charges can fall to normal levels.

I know that you will completely and utterly ignore my submission and just grant the price increase (presumably as requested) .



I have to wonder why have you published this consultation in the first place?

Eamonn Wallace

**32 Michael Watterson**

-----Original Message-----

**From:** Michael Watterson

**Sent:** 26 September 2006 13:29

**To:** retailconsult

**Subject:** Eircom Line rental

I'm cancelling my Eircom copper permently, soon, as:

- 1) It is nearly twice what I regard reasonable for Line Rental (€14)
- 2) It took them nearly 4 years to admit a line fault and fix it
- 3) They offered me ISDN for years as solution to my line (it need fixed), but after it was repaired they claim no ISDN is available
- 4) If my local exchange didn't exist (900m away) and I had connection to Raheen Exchange which has lines within a 100m on my house I would have ADSL. My Exchange (Patrickswell) seems to have no date and when there was a trigger program the number required was similar to total number of households with actual Eircom accounts.
- 5) After 9 months or actually nearly 11 since I got an alternative I have given up on ever seeing my number ported.

■ **will be the FOURTH number at this SAME address. Inside SIX or SEVEN years. This is because of Eircom.**

Eircom excessive Line Rental, lack of true flat rate dialup etc has put Ireland near bottom of EU 15 for BB.

We should be discussing how much it is reduced, not increased. There is no reason why the Irish consumer should be forced to fund each debt leveraged buyout of Eircom. An increase will only encourage another debt leveraged buyout.

P.S. I am waiting 9 months to get my number ported, WHICH IS THE ONLY reason I have not yet cancelled my Eircom line. I sent in forms three times. Eirocm quibble over the tiniest detail to avoid doing this.

Quote:

*Date: Tue, 24 Jan 2006 13:39:03 -0000*

*Dear Michael Watterson,*

*Please find below the details of your Metro Broadband Phone service. The phone should be plugged in the RJ-11 socket "Line 1" at the back of the Thomson Cable Modem*

*Your Metro phone number is: ■*

*If you are an existing Eircom customer and wish to keep your existing phone number please print out the Porting of Geographic Numbers form that you will find [here](#) and post it to us along with a copy of your last Eircom bill at the following address:*

***DIGIWEB Ltd.***  
*IDA Industrial Park*  
*Dundalk*  
*Ireland*

*If you require any further assistance, please check our FAQ [here](#) or contact us using our online [Support contact form](#).*

*Regards,*  
*Digiweb*

--

Michael Watterson

**33 Peter Weigl**

Peter Weigl,

Submission to ComReg's consultation on Retail Price Cap (ComReg 06/41)

I'll respond to question 2 of the consultation paper:

[Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.]

Forward: ComReg's consultation paper operates on the basis of deliberately incorrect analysis of the current pricing situation.

Contrary to the statement in the paper:

ComReg's currently operated price cap policy is not a success, as it

- a) lead to Ireland arriving at an excessive line rental pricing level,
- b) lead to Irish average fixed line telephone bills rising to the second highest position in the EU, when at the same time the average EU fixed line telephone bill is decreasing,
- b) lead to the lower quartile of bill payers facing massive above inflationary price increases, against which a flawed Vulnerable user scheme gave no protection worth mentioning.

1. ComReg craftily and deliberately misleads the public in this consultation paper about the price situation of the Irish telephone costs in comparison to the rest of the EU. This is nothing new: ComReg does this in all its Quarterly Reports.

Since 2001 the EC proposes to compare national telephone tariffs by means of the AVERAGE MONTHLY EXPENDITURE (composite call basket):

(EC) "The figures ... are intended to provide an estimate of the average monthly expenditure of a "standard" European consumer (business and residential). The Basket Methodology for Telecommunications Cost Comparison has been devised by the OECD and accepted in most countries as the most stable and neutral method of comparison."

In this consultation paper and in each and every Quarterly Report ComReg deliberately misleads about Irish telephone pricing by not publishing the Irish telephone users "Average Monthly Expenditure", as measured by the OECD's "Composite call basket", but instead cherry-picks and selectively publishes only those elements of the OECD's composite call basket, where Irish pricing is favorable.

The latest (2005) chart shows in no uncertain terms, that the Irish telephone user pays the second highest price (Japan and USA are included in the chart for comparative purposes) of all European citizens.

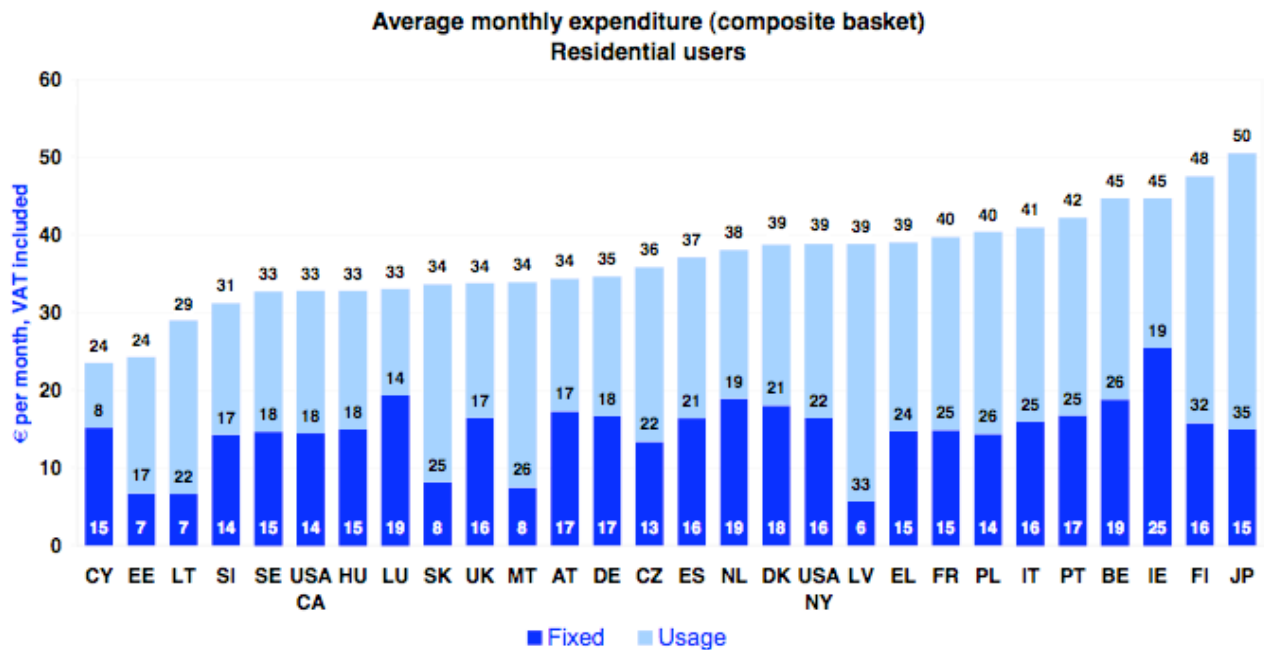
[Note to journalists, who don't want to fall for our regulator's quarterly bluff: You can look up the EC source, from where ComReg selectively picks favorable data from the EC staff working documents section.

All resources can be parsed from the EC staff working documents section (11 = 2005; 10 = 2004; 9 = 2003; 8 = 2002; 7th = 2001; etc.):

[http://europa.eu.int/information\\_society/policy/ecommerce/implementation\\_enforcement/annualreports/11threport/index\\_en.htm](http://europa.eu.int/information_society/policy/ecommerce/implementation_enforcement/annualreports/11threport/index_en.htm)]

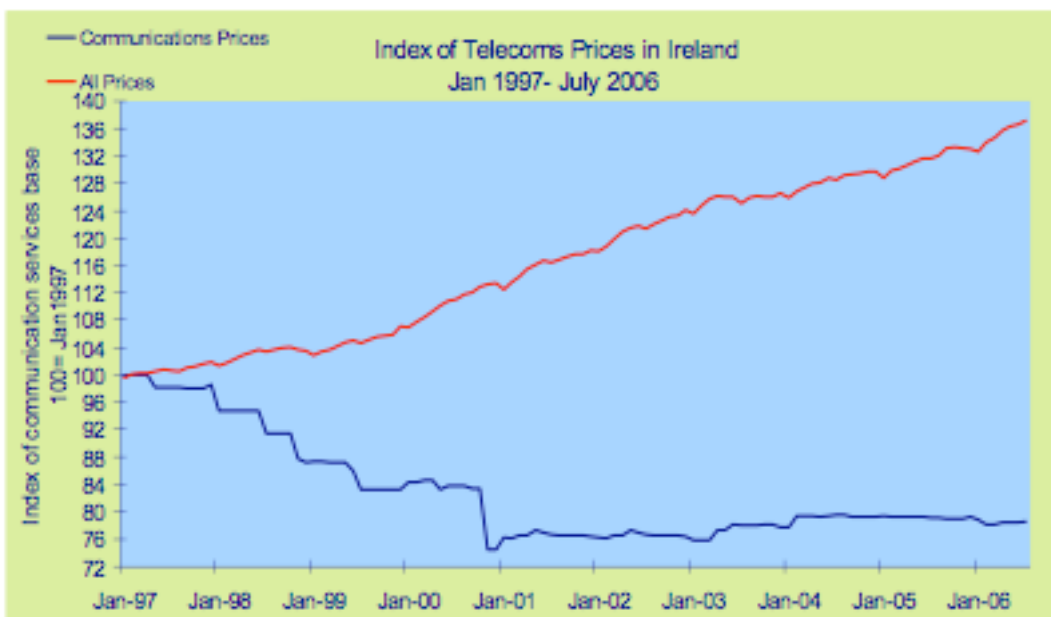
Fixed voice telephony tariffs

Figure 84



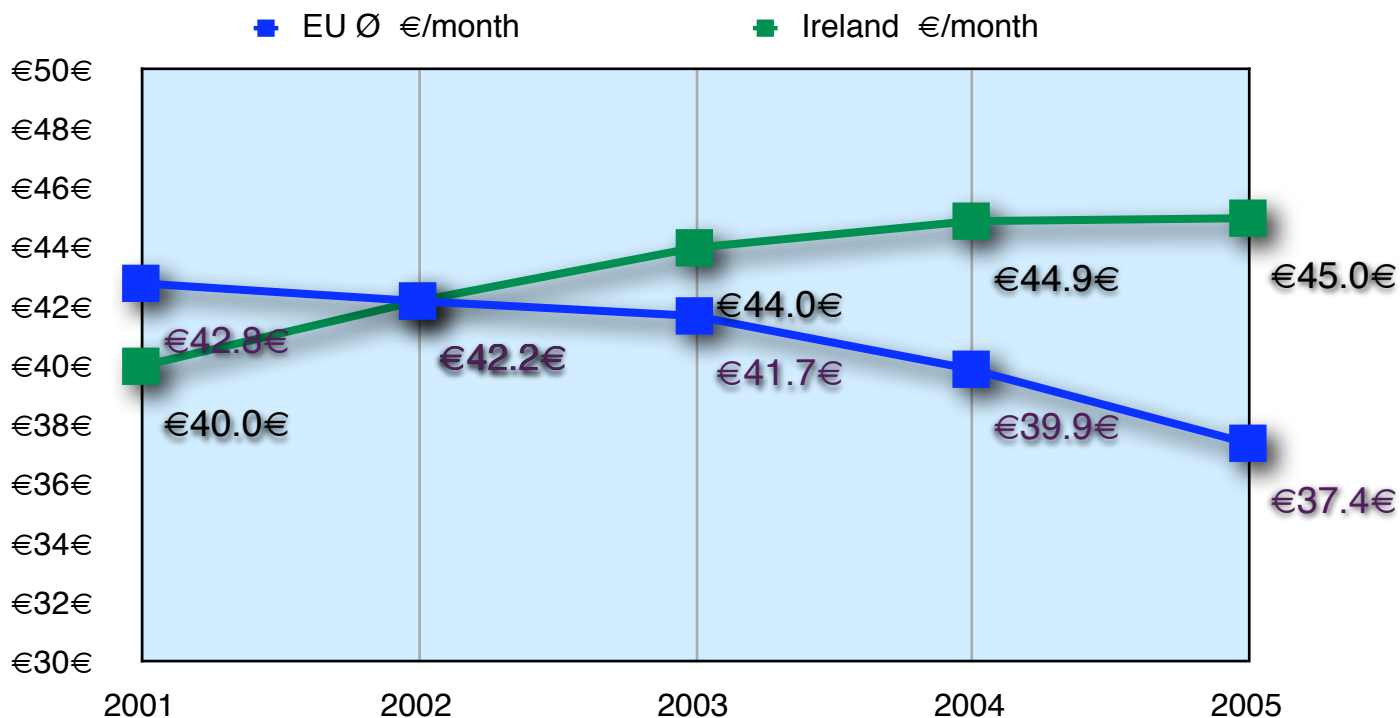
2. ComReg craftily and deliberately misinforms the public about our 'sinking' telephony costs, when in fact the Irish telephone cost are rising in comparison to the other EU countries.

In this consultation paper as in various other publications our regulators try to sell us the message, that thanks to their work we are blessed with sinking telecoms pricing, when all other prices are on the rise:



What they don't say: This is a worldwide development, nothing to do with the Irish regulator.

When the average price development of the European "Average residential monthly expenditure" is compared with that of Ireland, it becomes even clearer why ComReg does not want us to see the only important OECD telecoms price comparison: The European consumer's average monthly telephone bill is going down, the Irish consumer's bill is going up. The graph shows the development from 2001 to 2005 of the EU and the Irish "Average monthly expenditure", which measures the average monthly residential user's phone bill by means of the OECD "composite basket" formula. (All data for the chart are from the official EC working staff documents):



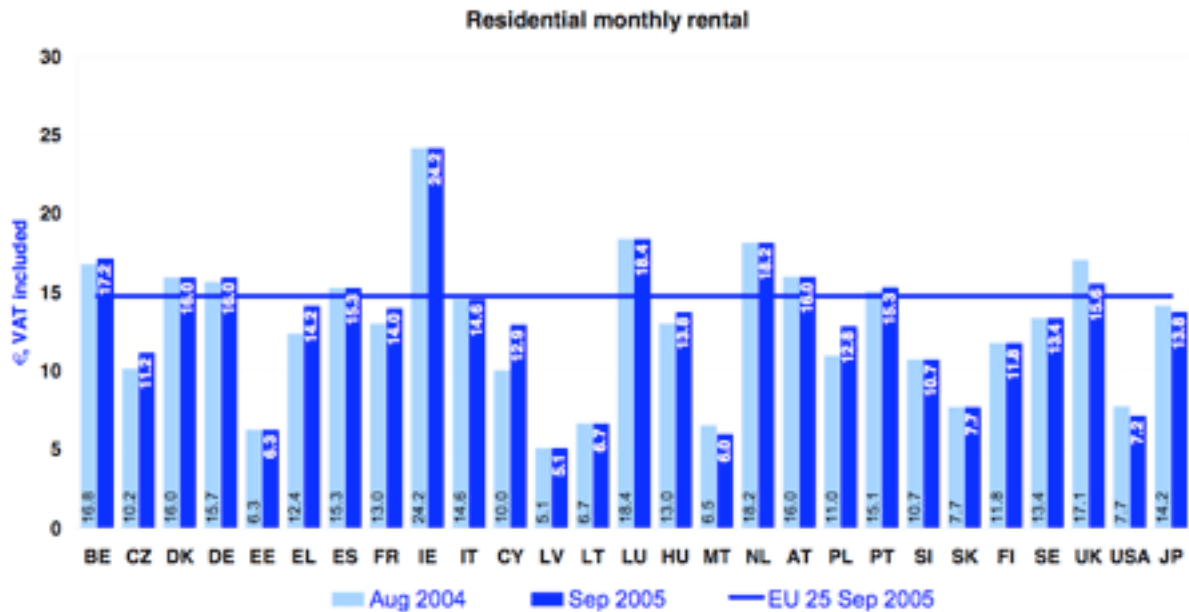
3. Irish line rental is not only the most expensive in Europe at € 24.20 per month, but is thus € 10 more expensive than the European average at € 15 per month.

ComReg claims that with the last massive line rental hikes the line rental is now 'balanced' to the cost basis, without any substantiation of this claim. I suggest that there are many indications that it is not balanced to the cost basis, but overpriced and I suggest that the new owners of Eircom in their business model put great emphasis on this fact and will do anything they can to further 'improve' on this overpricing.

The argument put forward by ComReg justifying the extraordinary Irish line rental price, namely the excessive line length for the Irish population spread, is not sound: We may have longer length of cable, but we also have a network in a condition that is not comparable to other EU countries. For example: I checked the residential telephone numbers (statistically sound sample method and size) of the 07/09 telephone book area (comprising Counties Galway, Roscommon, Mayo, Leitrim, Sligo and Donegal) for DSL pass: Only 40 % pass the official



Eircom DSL line checker. That is not a network one would expect when looking at the extraordinarily high line rental charge!



To have such an extraordinary high line rental price is detrimental to the development of the Irish copper telephone infrastructure: more residents will be pushed to mobile only usage. This is detrimental to DSL development. The high line rental is also a hindrance to DSL take-up.

The last line rental price hikes also brought a massively above inflation telephony cost rise to the lower quartile of bill payers, which is not acknowledged in the consultation paper.

**Facit: ComReg should not consider allowing another, even modest line rental price rise, but on the contrary act for a phased reduction of Irish fixed line rental prices towards the European average.**

ComReg should publish the percentage price rise the lower quartile of telephone bill payers had suffered in the last rises.

ComReg should investigate why, years after the introduction of the Vulnerable user scheme, which was promised as a safeguard for the lower quartile of bill payers after lifting the subcap, not nearly a quarter of bill payers avail of the vulnerable user scheme.

End

enclosed: Excerpt of the ComReg consultation regarding question 2

### **The rationale for the existing retail price cap control**

3.7 The principal objective for imposition of a price cap is to protect consumers in circumstances where the competitive process is not operating effectively. An overall basket price cap has been imposed on *eircom* since February 2003. At that time, ComReg concluded that the maximum average price rise for the services subject to the cap should be the rate of inflation. This represented a relaxation of the previous existing retail price cap control with the removal of a sub caps on

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Which transposes Article 17 of the Universal Service Directive, (2002/22/EC), into national law.

Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets

access in anticipation of the introduction of a wholesale line rental product (WLR)<sup>8</sup> which would be used by competitors.<sup>9</sup>

3.8 A consideration relevant in assessing the appropriate form of intervention should a future price cap be deemed appropriate, is the extent of pricing freedom afforded to *eircom* by virtue of its SMP in the relevant markets. ComReg is particularly concerned that *eircom* does not use its SMP to charge excessive prices to the detriment of consumers. Table 1 lists the services currently subject to the price cap and gives a brief overview of developments with respect to the prices of *eircom*'s services that are subject to the current price cap.

### **Table 1 - Overview of percentage price change of currently capped services**

<b>Price Capped Services</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>% change nominal Feb 03 – Feb 06</b>
<i>Rental PSTN</i>	<i>18%</i>	<i>5%</i>	<i>0%</i>	<i>23%</i>
<i>Rental ISDN</i>	<i>0%</i>	<i>0%</i>	<i>0%</i>	<i>0%</i>
<i>Connection PSTN</i>	<i>0%</i>	<i>0%</i>	<i>-7%</i>	<i>-7%</i>
<i>Connection ISDN</i>	<i>0%</i>	<i>0%</i>	<i>0%</i>	<i>0%</i>
<i>local</i>	<i>0%</i>	<i>-2%</i>	<i>0%</i>	<i>-2%</i>
<i>national</i>	<i>0%</i>	<i>0%</i>	<i>-0%</i>	<i>-0%</i>
<i>Fixed to mobiles</i>	<i>-4%</i>	<i>-4%</i>	<i>-5%</i>	<i>-13%</i>
<i>OAC</i>	<i>0%</i>	<i>0%</i>	<i>0%</i>	<i>0%</i>
<i>Payphones</i>	<i>8%</i>	<i>0%</i>	<i>0%</i>	<i>8%</i>
<i>overall change in basket</i>	<i>5%</i>	<i>1%</i>	<i>-1.23%</i>	

3.9 The price cap imposed by ComReg in 2003 recognised a number of important dynamics in the voice telephony markets. First, there was by now a well established wholesale regime in place at cost orientated prices which allowed competing operators to offer service through Carrier Select/Carrier Pre Select.<sup>10</sup> Secondly, there was a recognition, in Ireland as in other European countries, that the cross subsidisation implicit in historical rates would have to cease and access charges, (notably, the line rental) would have to rise in order to recover efficient costs, in line with EU legislation. Thirdly, it was important to preserve the relativities of wholesale and retail rates. For all these reasons, it was felt that a cap

8

Wholesale Line Rental (WLR) allows alternative suppliers of telecoms services to lease access lines on wholesale terms from *eircom*, and resell those lines to consumers, providing a single bill to the consumer that covers both line rental and telephone calls.

9

Until February 2003, price capped services were subject to individual sub-caps of CPI+2% within the overall price cap of CPI-8%. There were separate sub caps for line rental (PSTN and ISDN rental) and connections (PSTN and ISDN connection). From February 2003 all sub-caps, including those sub-caps on line rentals and connections were removed placing services within an overall price cap of CPI-0%.

10

Carrier pre-selection (CPS) – this allows you to rent a line from *eircom* but use a different company to make your calls.

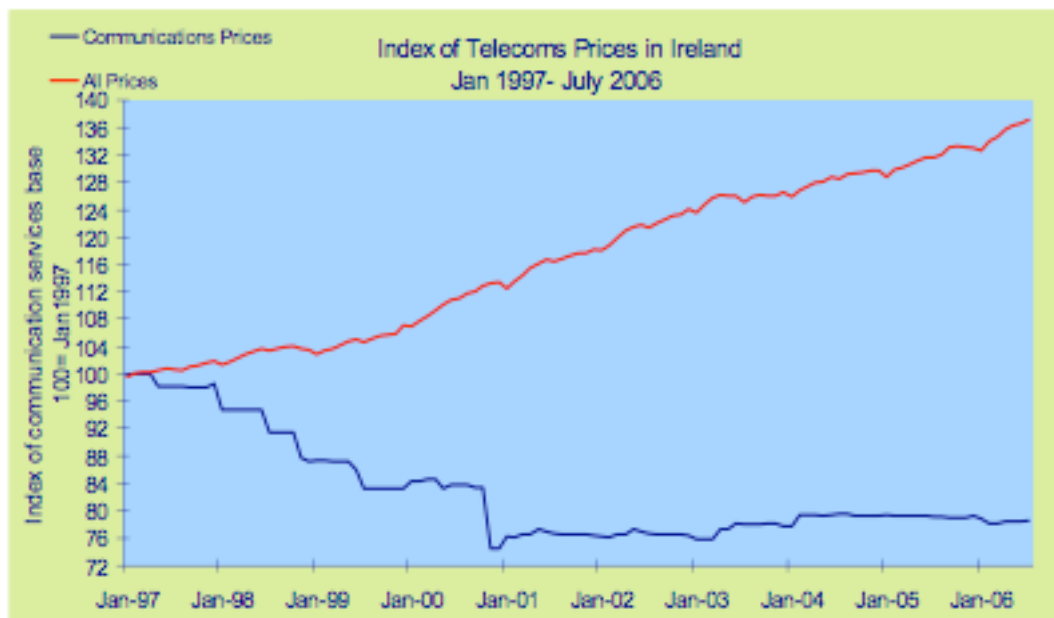
Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets

8 ComReg 06/41

of CPI-0%, with the removal of the sub caps on access, would achieve a number of desired objectives; it would prevent telecommunications consumer prices overall from rising above the rate of inflation, while allowing some necessary rebalancing of rental and call charges and also allowing further competition to develop on

access and calls, which in itself would act as a check on prices.

3.10 The prices that *eircom* charge end users for line rental and calls have been controlled since 1996. This approach has been successful in reducing communication prices overall in contrast to the general rise in other consumer prices. The following chart compares changes in the communications index relative to the overall Consumer Price Index:-



3.11 From Table 1 above, *eircom* has, since February 2003 made reductions in the standard nominal prices for fixed to mobile calls,<sup>11</sup> local calls and PSTN connection charges.<sup>12</sup> Standard nominal ISDN access prices also subject to the price cap have remained unchanged. Nonetheless, where *eircom* did not increase prices to levels permitted by the general basket cap CPI-0% this is effectively a real reduction (a less than inflation increase) for the consumer in respect of those charges.

3.12 However, concerns remain. *eircom* has increased PSTN line rental appreciably between 1998 and 2004, albeit within the confines of the existing price cap limit. From above, the CPI-0% cap, in line with European legislation, recognised the principle of rebalancing to ensure that efficient cost is recovered in an appropriate

11

Pass through of the savings to consumers following reductions in wholesale mobile termination charges introduced by the mobile operators.

12

*eircom* also introduced temporary promotions on PSTN and ISDN connection fees over the period since the last price cap review.

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way. In ComReg's view, PSTN increases have succeeded in aligning those access prices with cost. In any case, ComReg would not wish to see a significant increase in monthly PSTN line rental charges which are currently the highest in the EU.<sup>13</sup>

3.13 The significant barriers to entry into access markets and *eircom*'s ability to continue to act to an appreciable extent independently of its competitors and customers in these markets over the period of the review give rise to concerns about *eircom*'s potential exploitation of market power, such as excessive pricing.

### **Objectives for a price cap**

3.14 In reviewing the current price cap, ComReg believes that any decisions coming out of the review need to be aimed at achieving the best social outcome from a number of objectives. ComReg in exercising its functions in relation to the provision of electronic communications networks and services has the objectives of promoting competition whilst protecting the interest of consumers.

3.15 The main concern arising from the preliminary finding of SMP in retail access markets is the ability of *eircom*, identified as an SMP provider, to set and/or maintain prices at a level higher than they would be if competition were effective. In the absence of competitive pressure, a firm with market power will be able to sustain prices above cost to the detriment of consumers. Therefore, a key objective of intervention would be to constrain the ability of *eircom* to set excessive prices to the detriment of consumers. Of particular concern are low spending consumers who depend on PSTN line access but make few calls. National legislation requires the designated universal service provider to maintain the affordability of basic services.

3.16 Mindful of the need to have regard for investment and sustainable competition,<sup>14</sup> ComReg recognises that should a price cap be put in place the integrity of the network needs to be maintained. Setting too stringent a retail price cap could have a potential adverse effect on competition, service innovation and long term investment. This will be considered alongside the potential consumer protection benefits of a retail price cap, if deemed appropriate.

3.17 In carrying out this consultation on whether following the SMP assessment to propose a retail access cap remedy, ComReg proposes that the principal objectives for a price cap should be:

- to address SMP in retail markets by preventing a dominant operator from charging excessive prices and ensuring that the prices of SMP services reflect efficient costs;
- to facilitate the rapid development of effective competition in the supply of telecommunications services; and

<sup>13</sup>

EU 11th Implementation Report 2006, Volume 2.

<sup>14</sup>

The Memorandum to the Recommendation on Relevant Markets, page 14.  
Retail Price Cap as a Potential Remedy on Fixed Narrowband Access Markets

- to achieve the above objectives by the least intrusive means.

3.18 ComReg will aim to meet these objectives in such a way that the measures

imposed:

- do not endanger the continuing provision of high quality telecommunications services to customers;
- do not distort or restrict competition, including the development of future competition;
- encourage efficient provision of telecommunications services;
- ensure that there is no discrimination in the treatment of undertakings in the market; and
- subject to the market reviews, ensure that regulation remains appropriate in light of changing market conditions.

**Q. 2. Do respondents agree with the objectives of ComReg with respect to its current review of the price cap? Which objectives should have priority, if any? Does the respondent feel that this list excludes other important objectives that need to be considered? If yes, please list.**