



Office of the Director of
**Telecommunications
Regulation**

DISPUTE RESOLUTION DETERMINATION NUMBER 06/00

Summary

Document No. ODTR 00/75 October 2000

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Summary of final determination of the Office of the Director of Telecommunications Regulation (ODTR) regarding a complaint by Cable & Wireless (C&W) against *eircom* in relation to late provisioning of CSI circuits.

On 25 May C&W submitted a complaint concerning *eircom*'s alleged late provisioning of CSI circuits to C&W.

In its complaint C&W allege that *eircom*'s failure to deliver the sixteen circuits ordered by C&W on 30 November 1999 within the target date for circuit delivery of 25 January 2000 is a failure to meet a reasonable request for access. C&W claims that this constitutes a breach of Regulation 4(6) of the Interconnection Regulations. Furthermore, C&W claim that *eircom*'s delay in supplying the circuits has the effect of preferring *eircom*'s own retail business to the disadvantage of C&W, and as such *eircom* are in breach of Regulation 7(1) of the Interconnection Regulations and Condition 23 of its licence.

On 12 June the ODTR wrote to *eircom* requesting it to respond to C&W's complaint. In its reply, *eircom* claims that the late provisioning of circuits was a result of a number of issues, which were in the main outside its control. *eircom* views Regulation 4(6) of the Interconnect regulations in this instance as not mandating time limits for the provisioning of circuits but to ensure that SMP operators will not refuse reasonable requests for access. *eircom* highlights that it has interconnected with C&W and categorically denies the allegation of discrimination in favour of its downstream arm.

In arriving at this determination, the Case Officer in accordance with the Dispute Resolution procedures has considered the comments received from both parties to the dispute.

The Case Officer considers that failure by *eircom* to meet all reasonable requests for access from an OLO has serious implications for the development of effective competition in the telecommunications market.

The Case Officer considers that *eircom*'s unsatisfactory performance in delivering capacity to Cable & Wireless constitutes a breach of Regulation 4(6) of the Interconnection Regulations and consequently, condition 8 of *eircom*'s General Telecommunications Licence.

Having regard to the steps that have been taken to remedy the late delivery of circuits to C&W, and in particular;

- the fact that Cable & Wireless has now received delivery of the particular circuits, and the programme put in place by *eircom*, and the steps already taken by the ODTR, to address the general difficulties experienced by C&W and others during the relevant period;

- the case officer considers that *eircom* has remedied the particular licence breach and further action by the ODTR in respect of the particular licence breach is not appropriate at this time.

The Case Officer draws attention to the fact that the ODTR will continue to monitor the delivery of capacity by *eircom*. In the event of *eircom* failing, in respect of a reasonable request for access, to deliver capacity in a timely and efficient manner, the Director will revisit the matter with a view to applying an appropriate sanction, including, but not limited to, the procedures set out in Condition 4 of the General Telecommunications Licence.

The Case Officer has not found evidence sufficient to support the allegation made by C&W that *eircom* is in breach of its obligations under Regulation 7(1) of the Interconnection Regulations or Condition 23 of its licence.

This decision has been notified to the parties who have a right of appeal.