



Commission for  
**Communications Regulation**

## Information Notice

ComReg makes draft determination in dispute between BT and Eircom.

Information Notice

Reference: 22/26b

Version: Final

Date: 14/04/2022

1. The Commission for Communications Regulation (**‘ComReg’**), pursuant to Regulation 31 of the Framework Regulations<sup>1</sup>, has reached a Draft Determination in a dispute between BT Limited (**‘BT’**) and Eircom Limited (**‘Eircom’**). The scope of the dispute is as follows:
2. Whether Eircom is permitted to require BT to agree to the following conditions:
  - (a) “No ingress or egress point will be included for the purpose of serving the mast access site”;
  - (b) “An Undertaking (e.g. MNO) will not be connected”;
  - (c) “Network-network interconnect connections will not be provided”,prior to Eircom supplying Access to CEI to BT at the Kilbarry Mast Site, Old Whitechurch Rd, Cork.
3. ComReg’s consideration of the dispute and the Draft Determination is set out in ComReg Document Number 22/26. It is ComReg’s preliminary view that:
  - (a) BT has requested access to Eircom CEI for the Requested Route for the purpose of providing an ECS to an MNO. The Eircom CEI required for the Requested Route includes Duct, Sub-duct, Chambers, Ingress and Egress. The underground pipes or conduits for the Requested Route come within the definition of Duct contained in Section 2.1 of the WLA DI.
  - (b) Under Section 7 of the WLA DI, Eircom is obliged to offer and grant access to this CEI regardless of whether Access is sought for purpose of providing services to End-Users; Access provided under Section 7 of the WLA DI may be used to provide electronic communications services to Undertakings, including MNOs.
  - (c) The current version of the Access Reference Offer (“ARO”) sets out the conditions for Access under Eircom’s obligations at Section 7.2(xiii) of the WLA DI. Eircom may not impose further conditions, that would prevent such Access from being used to provide services, such as a leased line, to an MNO.
  - (d) There are no technical or other reasons why Eircom cannot provide the Access requested by BT in respect of the Requested Route.
4. ComReg therefore reaches the following Draft Determination:
  - (a) Eircom’s obligation to provide Access to CEI is not limited by the purpose to which Access is sought and Eircom may not subject Access to the conditions set out in Section 3.1 of the draft Determination notice located at Annex 1 of the Draft Determination.
  - (b) In the absence of any valid reasons why Access is not capable of being delivered at the Requested Route, BT’s Order is a reasonable request for Access at the Requested

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<sup>1</sup> European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011).

Route which Eircom shall meet without any further delay in accordance with Eircom's Access Reference Offer.

- (c) BT may use Access on the Requested Route for the purpose of providing any ECS or ECN as it sees fit.
5. The parties to the dispute have until 5p.m on Tuesday 3rd May 2022 to provide comments on the Draft Determination.
  6. Having analysed and considered the comments received, ComReg will review the proposals set out in this Draft Determination. ComReg will then seek to adopt and publish the Final Determination.