



Commission for
Communications Regulation

Information Notice

Decision to find that Eircom is not in compliance with the non-discrimination obligation in its use of "Sync Checker"

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Between August 2008 and October 2008 the Commission for Communications Regulation (“ComReg”) conducted an investigation into the business support tool, known as “Sync Checker” currently used by Eircom Limited (“Eircom”).

Based on evidence gathered during the investigation it was evident to ComReg that Sync Checker made available various broadband metrics relating to individual broadband services on both Eircom Retail broadband services and Eircom Wholesale broadband services. These metrics were used in the diagnosis of customer broadband issues.

During the investigation ComReg gathered information relating to Sync Checker. Based on an analysis of this information ComReg has found that the network point at which the majority of the broadband metrics available in Sync Checker are measured is the Digital Subscriber Line Access Multiplexer (“DSLAM”).

ComReg also found that while Eircom Retail had direct access to Sync Checker for the purposes of the diagnosis of customer issues relating to Eircom Retail broadband services, an Other Authorised Operator (“OAO”) did not have access to either Sync Checker or the metrics measured at the DSLAM for the purposes of the diagnosis of customer issues relating to Wholesale broadband services.

With regard to timescales for accessing the information, ComReg found that an OAO must submit a “Trouble Ticket” on the Unified Gateway (“UG”) in order to access the metrics for an individual Wholesale broadband service. As Trouble Tickets on the UG were processed on a periodic basis, an OAO must wait for a response to the Trouble Ticket in order to diagnose a customer issue. Eircom Retail had immediate access to Sync Checker and therefore, did not have to wait for a periodic response to diagnose a customer issue on an individual Eircom Retail broadband service.

Eircom stated that, subject to no unforeseen problems arising in the interim, real-time metrics for Wholesale broadband services would be available to OAOs, through the UG, by the first quarter of 2009.

While ComReg notes Eircom’s proposed changes, scheduled for the first quarter of 2009, ComReg can not assess at this stage whether such changes will deliver compliance. To date, no other evidence has been put forward by Eircom to indicate that any other relevant changes will be implemented in the interim. Therefore, until that time, Eircom’s non-compliance continues.

Eircom is required, under Regulation 11 of the Electronic Communications Networks and Services Access Regulations, 2003 (“the Regulations”)¹ to provide services and information to others under the same conditions and of the same quality as it provides to itself. In particular, in the Wholesale Broadband Access (“WBA”) market, Eircom must ensure that information and services are provided to OAOs according to timescales, on a basis, and of a quality, which are equivalent to those

¹ European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 (S.I. No. 305 of 2003), amended by the European Communities (Electronic Communications Networks and Services) (Access) (Amendment) Regulations 2007 (S.I. No. 373 of 2007)

provided to Eircom's retail arm. This obligation is set out in Paragraph 6.1 the Annex to ComReg Decision 05/11r, 2005 ("the Decision")².

Therefore, having considered all issues and based on all evidence available, ComReg has found that information and services regarding WBA were not provided by Eircom to OAOs according to timescales, on a basis, or of a quality, which were equivalent to those provided to Eircom Retail and, as such, Eircom was not in compliance with the non-discrimination obligation set out in Paragraph 6.1 of the Annex to the Decision, pursuant to Regulation 11 of the Regulations.

On 4 November 2008 ComReg provided Eircom with detail of the information and evidence obtained during the investigation and notified Eircom of its finding of non-compliance as outlined above. Eircom has one month to make representations on this notification or to remedy the non-compliance.

² Decision Notice - Designation of SMP and Related Remedies: Market Analysis – Wholesale Broadband Access (Decision No: 03/05, Document No: 05/11r, Date: 24 February 2005)