



Commission for
Communications Regulation

Information Notice

Notification of non-compliance to Eircom in relation to its obligation not to unreasonably bundle pursuant to ComReg Decision D07/61

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On 6 October 2008, Eircom Limited ('Eircom') launched promotional "TalkTime" bundles that included free calls to Meteor.

Since that launch, the Commission for Communications Regulation ('ComReg') has been monitoring average actual usage, average total revenue and average total cost of the TalkTime bundles to ensure that Eircom is meeting its regulatory obligations¹. Based on ComReg's review of the actual data provided by Eircom, ComReg has today issued a notice of non-compliance to Eircom in relation to its obligation not to unreasonably bundle fixed retail narrowband access, that is, retail line rental, with other retail services. The notification of non-compliance issued relates to the 1MB and 3MB Family TalkTime bundles only. The annex includes details of the analysis carried out by ComReg. ComReg has reserved its position in relation to the other promotional bundles that include free calls to Meteor and will continue to review actual data to ensure that Eircom is meeting its regulatory obligations.

Eircom has one month either to respond to the notification of non-compliance issued or to remedy the non-compliance.

¹ Eircom is required under the provisions of Regulation 14(2)(d) of the Universal Service Regulations and Section 7.8 of ComReg's Decision Instrument D07/61 'Retail Fixed Narrowband Access Markets' not to unreasonably bundle fixed retail narrowband access with other retail services. Examples of unreasonable bundling were set out in paragraphs 6.216 to 6.234 of ComReg's Response to Consultation and Draft Decision 07/26 'Retail Fixed Narrowband Access Markets', which is to be construed together with ComReg's Decision Instrument D07/61

Annex – Analysis

COMPONENT (all ex VAT)	Factors considered in the Analysis
Revenue:	
Package Price	This is the bundle package price charged to retail customers.
Calls Revenue	This is the total calls revenue earned on average outside the bundle package. This is calculated for each component that is charged separately outside the bundle by: (i) taking the total calls for that component and multiplying that by the call set up fee; and (ii) taking the total minutes for that component and multiplying that by the retail price per minute. This total revenue for the component is then divided by the total number of customers to get an average revenue per customer for that component. The totals of all revenue components sold outside the bundle are included.
Costs:	
Wholesale line rental	This is the Single Billing –Wholesale Line Rental regulated price as per the regulated retail minus price control and as published in Eircom’s Reference Interconnect Offer price list.
Operating costs associated with retail line rental	These are the operating costs as derived from the SB-WLR regulated retail minus price control. <i>Therefore, the full cost of retail line rental, that is the SB-WLR plus the associated retail costs as per the regulated retail minus price control, is taken into account in the analysis.</i>
Mailbox	Where the TalkTime packages include free mailbox, the wholesale price of the mailbox as per the regulated retail minus price control as published in Eircom’s Reference Interconnect Offer Price List must be taken to ensure an operator can replicate the offer. However, consideration will be taken of the take up of the mailbox and the wholesale price will be adjusted to reflect this. The retail costs as derived from the retail minus price control could also be included here.
Costs associated with retail calls	These are the wholesale and retail costs as calculated for each retail cost, e.g. calls to Local, National, UK etc. The retail costs of each are calculated by including the wholesale interconnection prices applicable in the market plus the latest audited average total retail costs (residential average total costs for a residential bundle, business average total cost for a business bundle) provided by Eircom and as reviewed and approved by ComReg. Where applicable, these total retail costs include relevant international calls out payments costs and mobile termination costs applicable (including the costs and mobile termination costs for those mobile calls that are sold for free).
Wholesale broadband	This is the relevant regulated Bitstream price as per the regulated retail minus control and as published in Eircom’s Bitstream price list.
Operating costs associated with retail broadband	These are the operating costs as derived from the Bitstream regulated retail minus price control.
Net Revenue: Total Revenue – Total Costs	<i>If total costs are greater than total revenue, bundle is not profitable</i>

If the above results show the costs are above revenue, ComReg, as a proportionate measure, will consider any robust evidence of retail efficiencies or increased customer lifetimes as a result of bundling to assess against the loss of the bundle. ComReg will also consider the impact on competition and the ability of entrants to enter the market and promote sustainable competition in the medium to long term.