



Office of the Director of
**Telecommunications
Regulation**

Interconnection Rates in the Irish Telecommunications Sector

Decision Notice D3/00
on rates to apply from 1 December 1999 to 31 March 2000

Document No. ODTR 00/15

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1 Introduction

This document considers interconnection rates applicable during the period between 1 December 1999 and 1 April 2000. Interconnection rates were set and announced during November 1998 on an interim basis prior to liberalisation of the Irish telecommunications market. The Director of Telecommunications Regulation (“the Director”) is now in a position to consider a downward adjustment that should apply to these rates during the period in question.

The context for this decision is set out in ODTR Document 00/13¹ which should be read in conjunction with this document.

In summary, *eircom* has proposed a downward adjustment in rates to apply on an interim basis for the period 1 December 1999 to 1 April 2000. The Director is faced with a number of difficulties (as set out in document ODTR 00/13) that limits her ability to set a rate covering a longer period at this time. She therefore proposes for pragmatic reasons that the rates offered by *eircom* are accepted on an interim basis. The reasons for this decision are set out in this paper.

Under Irish telecommunications law, which is in turn developed from European law, an operator who is designated as having significant market power (“SMP”) is required to permit other licensed operators (“OLOs”) to interconnect to its network. To facilitate this process, the SMP operator must publish a reference interconnect offer (“RIO”) that sets out the terms and conditions for interconnection and the prices to be charged. The contents and production of the RIO are subject to statutory requirements, compliance with which is overseen by the Director and her Office (“the ODTR”). In particular, an SMP operator must justify to the Director’s satisfaction that the prices set are in accordance with legal requirements that notably include the need for these prices to be cost-oriented, non-discriminatory and transparent. If the Director is not satisfied that price are properly justified, she may direct changes to be made. *eircom*, as an SMP operator, is bound by these rules.

2 Background to the Decision Notice

Appendix 1 sets out some background information, including the legislative background and details of ODTR documents on interconnection which were published prior to the introduction of the interim rates for 1998/99 and documents on developments since then.

In the context of the development of the interconnection regime over that period, the Director has indicated her intention to move rapidly to the use of Long Run Incremental Costs (“LRIC”) as the basis for determining interconnection rates. However, the Director has always recognised the need for complex modelling work to be completed before LRIC rates can be used as the main input to any such decision. Document ODTR 00/13 describes the timetable for further LRIC work and the application of LRIC to interconnection rates in the future. In the context of the timing of this work and the other considerations set out in this document, the Director does not consider it appropriate to determine a rate solely on the outputs of the current bottom-up model for the period from 1 December 1999 to 31 March 2000.

3 Scope of this Decision

This document considers interim rates that will apply from 1 December 1999 to 1 April 2000. The rates are interim in nature and will be subject to final review. For other periods please refer to ODTR Documents 00/13 and 00/14.

This document addresses call origination and call termination rates. The Director will make further communications to the market on other interconnection rates in the coming weeks.

¹ Interconnection Rates in the Irish Telecommunications Sector – status report

4 *eircom*'s Proposal

eircom has proposed the interim call origination and termination rates that are set out in Appendix 2 to this document

5 The Director's assessment

The Director noted in ODTR 00/13 a number of constraints under which she is working and, while work continues to address those constraints, she welcomes the proposal from *eircom* to introduce interim rates for a short period on a pragmatic basis.

In considering the proposal, the Director and her advisers have undertaken the following actions:

- A review of the information available on the basis for calculation of *eircom*'s proposed interim rates.
- An assessment of how the proposed rates compare to the finalised rates for 1998/9 as set out in ODTR 00/14.
- A review of these rates against other relevant information and guidance, including benchmarking against other operators

This review has included the following information:

- An analysis of trends in interconnection rates in other countries;
- An assessment of the changes that would need to be made if interconnection rates were to stay within new EU interconnection benchmarks;
- An assessment of the improvements in efficiency that might be reasonably expected of an efficient operator;
- An assessment of the growth in traffic and the evolving pattern of interconnection traffic profiles;
- An assessment of future trends in retail traffic gradients;
- An assessment of trends for major cost items that drive the long run costs of an efficient operator.

The proposed interim rates offered by *eircom* result in an overall reduction in the average OLO interconnection bill of 6%. The Director considers that this will be of significant benefit to OLOs and will provide them with some certainty in relation to the downward trend of interconnection rates over time. She considers that this reduction on an interim basis and for a limited period is preferable to maintaining the previous rates until such time as the further work described in ODTR 00/13 is carried out and she is in a position to take a more definite position on the levels of appropriate rates.

Therefore the Director proposes to accept the interim rates on a pragmatic interim basis. The Director expects that *eircom* is in compliance with all relevant regulatory and other statutory requirements in making this proposal.

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| Decision: The Director accepts Eircom's proposal for the period 1 December 1999 to 1 April 2000 as an interim rate. |
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The decision in this paper relates to the levels of charges for the relevant interim period and does not fix or set precedents in the area of detailed underlying principles of calculation of rates, including the application of LRIC to rates or the ongoing adjustment and consideration of the principles underlying the calculation of rates. These matters will continue to be subject to consultation and adjustment in accordance with the ODTR's ongoing analysis of interconnection and the RIO.

APPENDIX 1: Background Information

Legislative background

EU and Irish legislation set out procedures for providing interconnection. The most important of these are the following:

- Directive 97/33/EC of the European Parliament and Council of 10 April 1997 on “a common framework for general authorisations and individual licences in the field of telecommunications service” (the “Interconnection Directive”);
- European Communities (Interconnection in Telecommunications) Regulations, 1998 (as amended) (SI No 15 of 1998) (the “Interconnection Regulations”), which transpose the Interconnection Directive into Irish law.

The Directive and Regulations place special obligations on an operator who is designated by the Director as having SMP. The essence of these obligations is:

- interconnection charges should follow the principles of transparency, non-discrimination and cost-orientation;
- the Director may direct an organisation to justify its charges and to adjust these charges where they are not in compliance with these principles;
- the “burden of proof” regarding justification lies on the organisation providing interconnection;
- a RIO set out in accordance with market needs shall be published and the Director may direct changes to this offer, where appropriate.

In addition, guidance from the European Union on interconnection and the setting of rates intended to help Member States realise the objectives of the Interconnection Directive is of relevance. Of particular note are the following:

- Commission Recommendation of 8 January 1998 on interconnection in a liberalised market, 98/195/EC, as amended by Commission Recommendation of 29 July 1998, 98/511/EC;
- Commission Recommendation of 8 April 1998 on Interconnection in a liberalised telecommunication market. Part 2: Accounting separation and cost accounting (Part 1 was published on 15 October 1997)
- Commission Recommendation of 24 November 1999 on Leased Lines Interconnection pricing in a liberalised telecommunications market, C(1999)3863.

Linkages between costs and interconnection rates

The linkages between costs and interconnection charges are complex. Examples of some of the issues to be considered include the following:

- whether to use historic costs, historic costs adjusted for modern equivalent assets and their current costs or forward looking costs;
- the period over which investments (capital expenditure) are recovered and the manner (depreciation and amortisation policy) in which recovery occurs;
- the revenue streams that are considered to contribute to the funding of particular investments or operating expenses;
- the way capital and operating costs which are not directly attributable to a single product

are allocated to the different products (including retail products);

- the extent to which cost-orientation should be based on the costs of a reasonably efficient operator and what constitutes efficiency;
- assumptions about the way call are actually, or would be efficiently, routed through the network (routing factors) and therefore the manner in which individual elements of equipment are used to deliver particular services;
- the way total costs are apportioned throughout the day (tariff gradients).

Cost-orientation is not a simple matter and there is often a variety of ways – each of which may have validity – of establishing a cost-oriented charge. Indeed, it is a very easy matter to manipulate an allocation assumption, a set of routing factors, or any other input assumption to change, possibly in a substantial way, the final ‘price’. There is, therefore, no single answer that will be recognised as being correct by all parties and the Director, in considering whether *eircom* has justified its interconnection charges seeks not only satisfy herself that the arithmetic is correct, but also considers the assumptions made – and the alternatives that could have been made – having regard to the principles set out in law as well as other consideration that might reasonably be taken into account.

Related decisions and documents

Prior to liberalisation, *eircom* (then Telecom Éireann) published a set of interconnection rates. These had been submitted to the Director and she felt that they were acceptable as interim rates. The Director’s views were set out in two documents on interconnection² which recognised that a number of matters warranted further consideration. These matters were considered in a number of consultations that occurred during 1999. Notable amongst these were:

- A consultation and decision notice on the introduction of Long Run Incremental Costs (LRIC) as a basis for calculating interconnection rates^{3 4}.
- A number of consultations and decision notices relating to *eircom*’s separated accounts^{5 6} and on costing methodologies⁷.
- A broad ranging consultation on the RIO generally that was also initiated in March 1999⁸ that resulted in suspended decision notice D12/99.

² “Interconnection Rates in the Irish Telecommunications Sector”, November 1998, ODTR 98/52 and “Interconnection Rates in the Irish Telecommunications Sector – Report on Remaining Reference Interconnect Offer Rates”, November 1998, ODTR 98/60

³ ODTR 99/17 “The Development of Long Run Incremental Costing for Interconnection”, March 1999

⁴ ODTR 99/38 containing Decision Notice D6/99 and Report on Consultation Paper ODTR 99/17

⁵ ODTR 99/35 “Accounting Separation and Publication of Financial Information for Telecommunications Operators - Decision Notice D5/99, Consultation Report and Issues for Further Consideration

⁶ ODTR 99/52 “Accounting Separation and Publication of Financial Information for Telecommunications Operators - Decision Notice D10/99

⁷ ODTR 99/43 “Costing Methodologies for use in Accounting Separation - Decision Notice D8/99 and Report on the Consultation”,

⁸ Telecom Éireann’s Reference Interconnection Offer, Consultation Paper; ODTR 99/16.

APPENDIX 2: Interim Interconnection Rates for period from 1 December 1999 to 31 March 2000

Call Termination

| | Day | Evening | Weekend |
|---------------------|------------|----------------|----------------|
| Primary | 0.805 | 0.425 | 0.360 |
| Tandem | 1.160 | 0.605 | 0.520 |
| Double Tandem Short | 1.380 | 0.720 | 0.615 |
| Double Tandem Long | 1.580 | 0.820 | 0.710 |

Call Origination

| | Day | Evening | Weekend |
|---------------------|------------|----------------|----------------|
| Primary | 0.805 | 0.425 | 0.360 |
| Tandem | 1.160 | 0.605 | 0.520 |
| Double Tandem Short | 1.380 | 0.720 | 0.615 |
| Double Tandem Long | 1.580 | 0.820 | 0.710 |