



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Information Notice

ALTO correspondence on request concerning
Access Network Model

Information Notice

Reference: ComReg 20/112

Version: Final

Date: 11/11/2020

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

1 Lárcheantar na nDugaí, Sráid na nGildeanna, BÁC 1, Éire, D01 E4X0.
One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.
Teil | Tel +353 1 804 9600 Suíomh | Web www.comreg.ie

Additional Information

Document No:	20/112
Date:	11, November 2020

1. On 9 September 2020 ComReg published Consultation Document 20/81¹ (**‘Consultation 20/81’**) regarding the pricing of Eircom’s Civil Engineering Infrastructure² (**‘CEI’**), including pricing proposals for CEI access by National Broadband Ireland (**‘NBI’**) for the purposes of the Irish Government’s National Broadband Plan (**‘NBP’**). Responses to this consultation are due on or before 5.30pm on 18 November 2020³.
2. On 22 October 2020, ComReg published Consultation Document 20/101⁴ (**‘Consultation 20/101’**) on Eircom’s regulated wholesale fixed access charges which included proposed revised FTTC prices and CG Bitstream prices following updates made to the NGA Cost model. Responses to this consultation are due on or before 5.30pm on 4 December 2020.
3. ALTO, the representative body for alternative operators in the communications sector in Ireland, has corresponded with ComReg with regards to the cost models underpinning these two consultations and the information in these models that is made available by ComReg to ALTO members (and more generally to any interested operator requesting access to these models and related documentation in the terms described in these consultations)⁵.
4. ALTO’s letters and ComReg’s responses follow in Appendix 1. While there is no obligation on ComReg to provide (or publish) this correspondence, ComReg is publishing this information in the interests of transparency to all relevant stakeholders.

¹ ComReg Document No 20/81, “Pricing of Eircom’s Civil Engineering Infrastructure (‘CEI’), CEI access in the context of the National Broadband Plan (‘NBP’)”, dated 9 September 2020

² Access to Eircom’s ducts and poles.

³ ComReg Information Notice 20/100. The original closing date of 4 November 2020 was extended to the 18 November 2020

⁴ ComReg Document No 20/101, “Regulated Wholesale Fixed Access Charges - Review of the Access Network Model (ANM) and Specification of the Price Control for Public Switched Telephone Network - Wholesale Line Rental (PSTN WLR): Consultation and Draft Decision”, dated 22 October 2020

⁵ See paragraph 364 of ComReg Document No 20/81 and paragraph 5.2 of ComReg Document No 20/101.

Appendix 1: ALTO Correspondence

Clifton House
Fitzwilliam Street
Dublin 2

20 December 2019

Garrett Blaney
Chairperson
Commission for Communications Regulation
1 Dockland Central
Guild Street
Dublin 1
D01 E4X0

Dear Garrett

Re. ALTO – Access Network Model (“ANM”) and Revised Copper Access Model (“Revised CAM”).

ALTO writes in relation to your forthcoming consultation on the Access Network Model (“ANM”), which will replace the existing Revised Copper Access Model (“Revised CAM”).

We request that during the consultation process ComReg:

- provides any other authorised operator (“OAO”) that requests full, unredacted access to the ANM access to that model via the external advisers of any OAO (and subject to strict confidentiality undertakings); and
- publishes a non-confidential, partially redacted version of the ANM but that that the model is significantly less redacted than the redacted NGA and NGN cost models which ComReg published as part of the 2018 [WLA and WCA] market review.

We explain both of these requests in further detail below.

ALTO members require access to the ANM to understand and engage effectively with ComReg's assumptions about costs

ComReg's approach to evaluating this request should be based on weighing up industry's significant and compelling interest in accessing this data against any interest that Eircom may have in maintaining confidentiality. Our strong view is that, given that ComReg has consistently identified that Eircom has an incentive and ability to engage in excessive pricing in markets covered by the ANM and the significant harm to consumers that this creates, ComReg must favour giving access to the ANM to enable OAOs to properly assess ComReg's cost allocation methodologies, assumptions and forecasting.

There are three main reasons for this.

Firstly, ALTO members all have a clear, direct and important interest in accessing this data.

- Our members constitute the largest consumers of Eircom's FTTC and FTTH wholesale services. ComReg's decision to impose regulated price remedies on those services directly impacts the prices that OAOs pay and those wholesale prices are largely determined by assumptions about existing and forward-looking costs set out in ComReg's cost models (the Revised CAM up to this point, and the ANM once the model has been finalised).
- Being able to access and review the cost models used to calculate prices is critical to all OAOs because it enables each OAOs' advisers to properly understand and interrogate ComReg's cost allocation methodologies, assumptions and forecasts.

Secondly, the confidentiality risk of providing access to the ANM is low and can be mitigated entirely by only making the full, unredacted data available to OAOs' external advisers and subject to strict confidentiality undertakings. In ALTO's view, this is no different to ComReg providing access to its own (or Eircom's) advisers.

Thirdly, ComReg must grant access to the ANM to preserve the fairness of the consultation exercise.

- ALTO strongly believes that all OAOs should be afforded the opportunity to make representations about the proposed regulated prices that flow from the ANM review on the same terms (and by access to the same information) as Eircom. There is an inherent information asymmetry between Eircom (the SMP provider) and OAOs which means that – without equivalent access – OAOs are not in a position to easily identify errors, test sensitivities and assess properly the key assumptions in ComReg’s cost models. This information asymmetry puts Eircom at an unfair advantage and allows it to challenge and/or endorse aspects of ComReg’s proposals that are favourable to it, while OAOs are not afforded that opportunity.

By way of example, in the last cost modelling exercise Eircom’s advisers were able to:

- i. identify modelling errors in the unredacted data (some of which were significant);¹
 - ii. engage in extensive and specific sensitivity analysis; and
 - iii. provide additional feedback on new versions of the cost models later in the consultation process. OAOs were not afforded any of these opportunities and, in fact, were not even able to determine that material changes had been made to the original cost models because all of the relevant data was redacted.
- If ComReg disagrees with our request for full and unredacted access then there is no reason why Eircom should be treated any differently. The ANM is designed to model a ‘hypothetically efficient operator’. As a result, Eircom’s own cost data is only an input to that overall model.
 - Eircom’s retail and wholesale divisions are not functionally or legally separate – in fact, the same individual is responsible for Eircom’s group pricing (wholesale and retail) and regulatory finance under its corporate structure. Therefore, providing Eircom with access to more (or more complete) data than that provided to OAOs is both procedurally unfair and risks significantly distorting competition and harming consumers. In effect, it will allow Eircom to evaluate the impact that ComReg’s cost modelling could have on both wholesale and retail prices, bearing

¹ For example, at para A1.108 of the 2018 Pricing Decision, ComReg stated that the cost model had wrongly labelled a cell “WACC” instead of “Price Trend”, something which was easily identifiable by Eircom’s advisers (who had access to the full, unredacted model) but was impossible to identify in the redacted version.

in mind that Eir competes directly with a number of ALTO members and other OAOs at the retail level.

Finally, the regulated wholesale prices set by ComReg in accordance with the ANM feed directly into the retail prices for broadband and other services paid by Irish consumers. In accordance with ComReg's duty to protect competition and further consumer interests, it is vital that OAOs are able to challenge both the assumptions and outputs of the ANM to ensure that Irish consumers do not pay excessive or otherwise inflated prices for these services. Giving weight to this consideration (on behalf of OAOs and by extension consumers) is compounded by the fact that ComReg has consistently identified that for services covered by the ANM, Eircom has the incentive and ability to charge excessive prices.

Overall, ALTO sees no reason why ComReg cannot grant full, unredacted access to the ANM to OAOs' external advisers (subject to strict confidentiality undertakings).

Redacted ANM that ComReg publishes as part of its consultation needs to enable OAOs to properly test ComReg's data and assumptions

Without prejudice to our request for full access, ALTO also requests that the redacted version of the ANM that ComReg publishes as part of the consultation process provides sufficiently granular detail to enable OAOs to properly understand and interrogate ComReg's cost allocation methodologies, assumptions and forecasts.

Below we set out categories of data that ComReg redacted from the public NGA and NGN cost models in 2018 that we consider should not be redacted from the public ANM model.

Volumes (including platform migration assumptions)

OAOs need this data to test ComReg's forecast assumptions. This data is not commercially sensitive because it is ComReg's own forecasts (not Eircom's). In fact,

by not disclosing this data in Consultation 17/26 (and referring to various networks in the NGA model as 'Platform 1, 2 and 3') Eircom's advisers were able to easily match platforms to SIRO, Virgin and the National Broadband Plan provider.² This led to an unfair outcome where Eircom (including Eir retail) was able to assess ComReg's forecasts for three other operators but the same information was not shared with anyone else. It, of course, remains open to Eircom to redact its own internal forecasts as part of any response it makes to the ANM consultation.

Price trends

This data is not commercially sensitive to Eircom because it is based on ComReg's own assumptions about future equipment prices and operating cost trends (which reflect external evidence which is exogenous to Eircom).

Operating costs already published by Eircom in its regulatory accounts

We agree that certain granular details of operating costs may be commercially sensitive and therefore confidential, however aggregated totals (or adjusted for efficiency totals) are not because they can be traced back to totals already published by Eircom in its regulatory accounts. This includes, for example: actual (or adjusted for efficiency) totals for Repair and Maintenance, Network Support and Transport as well as assumptions about asset lives.

Current cabinet capacities

This data is not confidential because, for many years, Eircom itself published details of cabinets at or near full capacity to OAOs (after industry requested it). At the time Eircom did not object that the data was confidential. Furthermore, these are ComReg's own forecasts (which Eircom may not support) as opposed to Eircom's actual data.

Sensitivity analysis randomising confidential information

A key advantage to receiving full, unredacted cost data is that it allows Eircom to carry out detailed sensitivity analysis. Where completely random figures are used

² Paragraph 233 of CEG response to ComReg 17/26.

throughout a cost model – as was ComReg’s approach in 17/26 – no other OAOs are able to carry out meaningful analysis. This is manifestly unfair. Being able to conduct appropriate sensitivity analysis is fundamental to making informed representations on the various complex interrelationships within the model. As such, ALTO suggests that if ComReg decides that data is confidential, it randomises that data to within a specific range of the actual figure in the cells. This is the approach adopted by Ofcom in the UK (as set out in **Appendix 1** below),³ and ensures that the redacted model generates results and sensitivities that are comparable to unredacted versions.

ALTO requests that ComReg carefully consider how it can adapt its approach to redacting confidential information and does so in a way that appropriately balances the interests of OAOs in seeing the data, against Eircom’s interest in protecting it.

We would welcome the opportunity to discuss these requests with you in more detail early next year.

Yours sincerely,


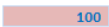

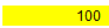



Ronan Lupton
Chairman – ALTO

**Copy: Commissioners Jeremy Godfrey & Robert Mourik; Director of Wholesale
– Donal Leavy; Legal Counsel – Caroline Dee-Brown.**

³ See, Ofcom’s latest [Wholesale Local Access Review Statement – Cost Models](#) where ranges of +/-20% or +/-50% ranges were used depending on the input in question.

Appendix 1 – Ofcom example

Input		An input to the model that it is expected the user will change (change at will)
Randomised (+/-20%)		This is a non-confidential figure that is calculated by randomising the confidential figure with a + or - 20% range
Output		A key result from this part of the model (in particular one that will be used elsewhere in the model)
Highlight		A cell that is highlighted for uncertainty
Note or Source	Note	A note (NB smaller than standard font size)
Un-format		Going back to default Excel formatting 



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

20 February 2020

Mr Ronan Lupton
Chairman ALTO
Clifton House
Fitzwilliam Street
Dublin 2

Ref: ALTO request concerning Access Network Model

Dear Ronan,

I refer to your letter of 20 December 2019 concerning consultation on the Access Network Model ('ANM') which ComReg is developing. You request in particular that authorised operators are provided on request with full, unredacted access to the ANM via their external advisers, subject to strict confidentiality undertakings, and that a non-confidential, partially redacted version of the ANM is published, that is significantly less redacted than has been the case in respect of the NGA and NGN models.

As you will be aware, to the extent that there is any requirement on ComReg to provide access to the cost models which underpin its pricing decisions, it is limited to ensuring that sufficient information is provided so that meaningful contributions may be made in response to consultation. ComReg does not accept that full unredacted access is in any way necessary to enable meaningful contributions to the consultation process. As you will also be aware, the ANM is built with extensive, confidential, inputs from Eircom, most of which include commercially and competition sensitive information which ComReg does not believe may be legitimately shared with existing or potential competitors of Eircom. ComReg is of the view that the solution which you suggest – that the ANM is made available to OAOs' external advisers subject to strict confidentiality undertakings – is not, in the absence of statutory underpinning and an effective enforcement mechanism, appropriate or available to ComReg.

Against this background, ComReg is happy to confirm that it is its intention to make available to authorised operators on request during the consultation process access to a redacted ANM, and that it is considering in detail its approach to the redaction of confidential information. In particular ComReg is considering its approach to randomised data with the view to ensuring that the model's functionalities are impeded to the least extent possible having regard to the legal constraints within which ComReg operates.¹

Yours sincerely

Robert Mourik
Commissioner

¹ Such obligations arise under Regulations 10, 12 and 15 of the Framework Regulations, Regulation 3 of the Access Regulations and ComReg's 2005 Confidentiality Guidelines.

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

1 Lárcheantar na nDugáí, Sráid na nGildeanna, BÁC 1, Éire, D01 E4X0.
One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.
Teil | Tel +353 1 804 9600 Suíomh | Web www.comreg.ie

Clifton House
Fitzwilliam Street
Dublin 2

28 October 2020

Garrett Blaney
Chairperson
Commission for Communications Regulation
1 Dockland Central
Guild Street
Dublin 1
D01 E4X0

Dear Garrett

Re. ALTO request concerning Access Network Model

We refer to your letter of 20 February 2020. ALTO does not agree with the position as outlined by ComReg. We believe it to be arbitrary and unduly weighted by “*commercial sensitivity*” claims of the SMP operator. The prejudice that might be caused to Eircom by granting access to third parties (i.e., reputable international experts) subject to strict confidentiality rules has not been explained nor has it been weighed against the prejudice caused to operators, by refusing such access, whose own commercial success is heavily dependent on the outputs of the same models.

It should be noted that ComReg itself has granted access to allegedly “*commercially sensitive*” information to Cartesian presumably subject to the same type of confidentiality requirements ALTO’s members had proposed. In theory there is no reason that Cartesian could not have built the relevant cost models without access to such information. In practice however, we agree that would be unreasonable just as it is unreasonable to ask our members to review such models when so heavily redacted.

Having reviewed the redacted versions of the Pole Access Model (PAM) and Duct Access Model (DAM) we further regret that ComReg appears to have given no consideration to ALTO’s request that randomised data be populated within a specified range (as per the Ofcom example provided in our letter of 20 December 2019) in order to facilitate critical (albeit still compromised) sensitivity analysis. Eircom, by comparison can carry out detailed and accurate sensitivity analysis. This constitutes

a significant advantage over other respondents to the consultation. This is something we noted in our letter of 20 December 2019 and note ComReg has not dealt with this or other specific points raised around redaction of certain categories of data.

In the context of the PAM, it is notable that pole volumes is deemed to be “*commercially sensitive*” despite the fact that no other operator could ever replicate Eircom’s pole network (something acknowledged in the consultation itself) and despite the fact that Eircom itself has made reference to its pole inventory before an Oireachtas Committee¹ – as such it is difficult to see how claims around “*commercial sensitivity*” of this data could be entertained or what prejudice could be caused to Eircom by sharing this information in the cost models. This example of a lack of transparency is in ALTO’s opinion both unfair and unjustified and gives Eircom undue advantage in the consultation process.

With respect to the foregoing, ComReg’s position has been noted, however, ALTO’s individual members reserve their rights in relation to these procedural steps ComReg are taking in the Access Network Review (ANR) process (including in relation to the PAM and DAM).

Workshops on the models

Without prejudice to the above views, in the interests of greater transparency and a fairer process ALTO is requesting that ComReg facilitate a series of workshop with its external consultants assisting on the ANR where all operators can attend.² Ideally the consultants would present on the actual or recommended approaches in their models or reports and provide clarifications with respect to any queries that arise during the course of such presentations. In this regard we are hereby requesting that Dotecon and Cartesian facilitate such workshops in the coming weeks (before the end of November) and we would request that similar arrangements are catered for on whatever consultants are assisting ComReg on the broader Access Network Model review. We look forward to ComReg’s positive response in relation to the same.

The inherent unfairness of retail customers (through wholesale charges) having to, for now, continue to pay Eircom charges that the regulator itself now acknowledge to be ‘materially’ above cost is self-evident.... but as alluded to by ALTO recently in the

¹ See evidence of CEO of Eircom (Ms Lennon) appearance at Oireachtas Committee Hearing, 14th February 2019.

² Via a video conferencing facility given the current Covid restrictions.

media you can't fix a problem until you first recognise its existence. Urgent delivery of the 'plan' should now be a priority.

We look forward to hearing from you and welcome the opportunity to discuss this with you at your earliest possible convenience.

Yours sincerely,



Ronan Lupton
Chair – ALTO

Copy: *Commissioners Godfrey and Mourik; Marie Cussen Executive Assistant to the Commissioners.*

Enclosures: *ALTO letter to ComReg of 20 December 2019 and ComReg reply of 20 February 2020.*



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

6 November 2020

Ronan Lupton,
Chairman - ALTO,
Association of Licensed Telecommunications Operators
Clifton House,
Fitzwilliam Street,
Dublin 2

Email: ronan.lupton@alto.ie

Re. ALTO request concerning Access Network Model

Dear Ronan,

I wish to acknowledge receipt of your letter to Garrett Blayney dated 28 October 2020 in relation to the above.

Access to full models and confidential information:

ComReg maintains its position as outlined in ComReg's letter of 20 February 2020 that *"to the extent that there is any requirement on ComReg to provide access to the cost models which underpin its pricing decisions, it is limited to ensuring that sufficient information is provided so that meaningful contributions may be made in response to consultation. ComReg does not accept that full unredacted access is in any way necessary to enable meaningful contributions to the consultation process"*.

Consultation models and documents associated with ComReg 20/81 and 20/101:

To allow meaningful contributions by all interested operators to both ComReg's CEI Consultation (ComReg Document 20/81) and the Access Network Model (ANM) Consultation (ComReg Document 20/101), ComReg and its consultants have prepared non-confidential versions of the cost models in these consultations, which expand significantly on the information available publicly to operators. It is important to note that no operator (including Eircom) has gained access to a confidential version of the ANM or CEI cost models given that these models use information pertaining to

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

1 Lárcheantar na nDugáí, Sráid na nGildeanna, BÁC 1, Éire, D01 E4X0.
One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.
Teil | Tel +353 1 804 9600 Suíomh | Web www.comreg.ie

Eircom, NBI and other network providers. Interested operators have access to models,¹ where all parameters and inputs used are documented, and we have also expanded and improved significantly the associated explanatory documentation. In addition to this – and contrary to your understanding – any data deemed confidential was subject to a process of randomisation constrained to a range (similar to that applied by Ofcom), which has been set to make the analysis of these models and their outputs as meaningful and useful as possible. Therefore, we disagree with ALTO's suggestion that we have not considered this point raised in your letter of 20 December 2019 and our view is that detailed and accurate sensitivity analysis can still be carried out using these non-confidential models.

Other issues:

ComReg has also considered ALTO's request for it to facilitate a series of workshops with its consultants assisting on the ANM (including CEI). In this regard, we note that in the case of the ANM Consultation, ALTO's request was made before its members had gained access to the respective models and documentation, which as noted above, expand significantly on the information provided to operators theretofore. Given this, operators should review this information in detail and if there are still questions ComReg is available to provide further clarification if these are formally submitted to us.

We would also clarify that any workshops or presentations facilitated by ComReg could only be placed in the context of assisting operators to address any particular aspects of the models where the documentation is found to be insufficient, so to allow operators respond to the aforementioned consultations in the most meaningful way. Hence, the appropriate format for any views on the pricing approaches under consultation – such as those set out in the CEI Consultation and in the accompanying DotEcon report - is each operator's formal response to the consultations.

Given the above, if there are particular queries or clarifications that ALTO members may have following their review of the models together with the substantial documentation, ComReg would encourage these to be submitted without delay², bearing in mind the deadlines for the CEI Consultation (18 November 2020³) and the ANM Consultation (4 December 2020). ComReg will determine the appropriate format to respond based on the queries received and may consider if a postponement on the consultations deadlines is required.

As part of the consultation process ComReg intends to publish this response together with your letter (and related previous correspondence⁴) subject to any confidentiality

¹ Including geospatial modelled data which, as way of example, was not made available publicly at the time of ComReg's decision D03/16


² Email pedro.fontes@comreg.ie and karl.hurley@comreg.ie

³ ComReg Information Notice 20/100. The original closing date of 4 November 2020 was extended to the 18 November 2020

⁴ Including ALTO letter to Garrett Blayney dated 20 December 2019

claim. Please confirm by close of business Tuesday, 10 November 2020 if your letters contain anything you consider confidential.

Yours sincerely



Robert Mourik

Commissioner

Commission for Communications Regulation