



An Coimisiún um  
**Rialáil Cumarsáide**  
Commission for  
**Communications Regulation**

# **Annex 5: Respondents' Submission to Consultation 25/93**

## **Submissions to Consultation**

**Reference:** ComReg 26/22b

**Version:** Final

**Date:** 27/03/2026

# Submissions Received from Respondents

## Contents

1. Eircom Submission
2. SIRO Submission
3. Virgin Media Ireland Submission
4. SKY Submission
5. Vodafone Submission
6. Pure Telecom Submission
7. Speed Fibre Group Submission
8. ALTO Submission

**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](http://www.comreg.ie)

**open eir**

**Response to ComReg Consultation and Draft Decision:**

**ComReg's assessment of a wholesale FTTH discount scheme**

**ComReg Document 25/93**



**30 January 2026**

## DOCUMENT CONTROL

<b>Document name</b>	open eir response to ComReg 25/93
<b>Document Owner</b>	eir
<b>Status</b>	Non-Confidential

The comments submitted in response to this consultation document are those of Eircom Limited and Meteor Mobile Communications Limited (trading as 'eir' and 'open eir'), collectively referred to as 'eir Group' or 'eir'.

Please note that, for the purposes of the Freedom of Information Act 2014 and the Communications Regulation Act 2002 (as amended) and in the context of the eir Group's general rights and obligations, information supplied by the eir Group to you may contain confidential, commercially sensitive or price sensitive information consisting of financial, commercial, technical or other information, whose disclosure to a third party could result in financial loss to the eir Group, could prejudice the competitive position of the eir Group in the conduct of its business, or could otherwise prejudice the conduct or outcome of contractual or other negotiations to which the eir Group is a party.

Accordingly, you are requested to contact a member of eir Group's Regulatory Strategy Team where there is a request by any party to have access to records which may contain any of the information herein and not to furnish any information before the eir Group has had an opportunity to consider the matter.

## EXECUTIVE SUMMARY

1. open eir submits this response to ComReg’s preliminary view that Criterion 4 of Decision D05/24 is not satisfied in respect of the proposed FTTH Discount Scheme (WN2025-021).
2. Having assessed ComReg’s reasoning against the applicable legal standards, the economic evidence, Oxera’s analysis, and open eir’s 2025–2026 data, open eir considers that ComReg’s preliminary position is incorrect. ComReg’s position lacks the evidentiary foundation required under Criterion 4, and is inconsistent with the principles of proportionality and predictability set out in Article 3 of the Code.
3. This Executive Summary outlines, at a high level, the core reasons why the scheme fully satisfies Criterion 4 and should be approved.
4. Criterion 4 requires ComReg to determine whether the scheme would adversely affect investment by other undertakings or undermine competition. Under D05/24, and in accordance with established EU regulatory principles, this requires demonstrating a material effect substantiated by evidence.
5. ComReg’s preliminary decision fails to identify any material adverse effect supported by cogent, reasoned evidence. Instead, it relies on a series of speculative and unsubstantiated “what-if” propositions—predicated on hypothetical and undefined foreclosure risks, conjectural behavioural responses by Access Seekers, and unspecified “other factors” that were neither disclosed nor assessed through any evidence-based analytical framework.
6. As demonstrated in Chapter 2 of this submission, this approach constitutes:
  - A misapplication of the legal standard;
  - A failure to provide and engage with the necessary economic evidence; and
  - A breach of procedural obligations to ensure transparency and fair consultation.
7. When regulatory decisions set aside evidence-based economics, they become non-replicable, undermining predictability and creating investor uncertainty. This leads to a poor investment landscape and risks distorting competitive dynamics. The evidence is clear, as supported by the overall evidence set out in Oxera’s Report, the risk that Criterion 4 is not satisfied is limited in practice. Oxera’s own annex analysis demonstrates that the number of lines required to meet growth targets is small relative to the eligible base, and alternative network operators (“Altnets”) retain significant scope to compete—even under conservative assumptions.
8. As we demonstrate in this response, given the mechanics of the percentage growth targets, the relative required growth for the discount scheme in the market in H2 2026 is even smaller now compared to when open eir notified ComReg of the proposed promotion. [REDACTED], the proposed scheme is, at a growth base level, [REDACTED] less than our original estimate (included in the open eir’s Annex to the Pricing Compliance Statement submitted to ComReg). Even based on the original estimate, the scheme was so small in scale that there was no possibility of market foreclosure. Now, with a much reduced size, such a conclusion is re-enforced.
9. The purpose of regulation is to ensure sustainable competition and replicate, as far as possible, the outcomes of competitive markets. On the evidence available, the regulatory criteria are met. ComReg’s reasoning, however, appears to frame the “maturing market” challenge predominantly through the lens of Altnet concerns, rather than recognising that these sector-wide headwinds also

affect open eir indeed, open eir's FTTH position is deteriorating at a rate faster than the market slowdown itself. While FTTH growth has moderated, the reduction is modest and not insurmountable; this is precisely the type of environment in which competitive operators respond by stimulating demand through pricing. Such responses are entirely consistent with the EECC objective of promoting sustainable competition and efficient investment. ComReg's caution appears to centre on the concern that open eir stimulating the market could disadvantage rivals. It is clear from the Oxera Report that such caution could not be deemed material. Indeed, when looking at the open eir data for 2025–2026 it is clear that:

- open eir's wholesale FTTH base growth is declining
  - [redacted]
- Altnets are capturing the majority of incremental FTTH growth
  - SIRO reached ~212k wholesale FTTH lines by Q3-2025 and continued to grow steadily.
  - VMI's estimated wholesale FTTH grew from a small base to ~32k, representing >250% growth, and is expected to expand its FTTH coverage to ~1 million premises in 2026.

10. The empirical trend is clear: Altnets are winning market share. A scheme delivering at most [redacted] lines at above-regulated-floor pricing cannot plausibly “foreclose” infrastructure-based operators already competing at scale.

11. ComReg should approve the proposed FTTH Discount Scheme to:

- i. Deliver direct and indirect pressure on wholesale pricing – Ultimately this will enable Access Seekers to maximise the benefit and pass through to consumers in all areas.
- ii. Maintain competitive neutrality and regulatory predictability. Failure to do so risks signalling that open eir may compete in boom periods but that open eir (and only open eir) will be constrained by regulation in downturns—contrary to the EECC's objectives of promoting sustainable competition and efficient investment.

## Chapter 1: LEGAL FRAMEWORK AND PROCEDURAL STANDARDS

### Introduction

12. This Chapter sets out the legal and procedural standards governing ComReg's assessment under Criterion 4 of Decision D05/24. These standards are essential not only to ensuring lawful regulatory decision-making, but also to securing predictability, transparency, and proportionality for all operators in the FTTP market. ComReg's preliminary finding that Criterion 4 is not met must be assessed against these obligations. When properly applied, they lead unequivocally to the conclusion that the proposed FTTH Discount Scheme complies with the regulatory framework.
13. Decision D05/24 requires ComReg to consider whether a proposed scheme "will not adversely affect investment by undertakings or undermine competition." The correct interpretation of "adversely affect" is critical.
14. In ex-ante economic regulation, an "adverse effect" must be material, demonstrable, and grounded in evidence. This principle is well established in:
  - EU telecoms regulatory jurisprudence;
  - BEREC guidance on non-discrimination and equivalence; and
  - The proportionality obligation under Article 3 of the Code.
15. Any regulatory concern put forward by ComReg must therefore be:
  - Concrete,
  - Supported by data,
  - Linked to demonstrable economic concerns, and
  - Likely to produce meaningful impact on investment incentives or competitive structure.

### ***ComReg's preliminary findings do not apply the correct threshold***

16. Oxera's analysis demonstrates that:
  - Any theoretical risks of Criterion 4 not being passed is likely small (paragraph 6.56-6.64).
  - Residual volumes remain significant even under conservative assumptions (Annex A1).
  - Overlap areas provide sufficient headroom for rivals (A1.18 and A1.19).
  - Matching the discount is generally sufficient because prices remain above the Price Floor (Section 3).
17. Despite this, ComReg concludes in paragraph 49 that Criterion 4 is not met due to:
  - (i) Uncertainty of future roll-out and network overlap.
  - (ii) The implications this and other factors may have on FTTH uptake over the next six months.
  - (iii) "Other factors" which are unspecified.

18. However, ComReg offers no evidence to support any of these positions. They are hypothetical and speculative. While ComReg raises the issue of potential impacts for unknown future overlap areas, it is clear from Oxera's presentation that — although they could not state categorically that no impact would ever arise — they consistently and carefully caveat that observation by demonstrating that the size of the offer, when viewed in the context of the overall market, is immaterial. In fact, Oxera dedicate nearly the entirety of section 6.2 of their report and the relevant annexes to this matter.
19. Failure to engage with material evidence is a procedural defect. Failure to correctly interpret the available data is a failure on the merits. open eir respectfully submits that ComReg's preliminary conclusion is materially defective on both counts.
20. Consequently, open eir submits that ComReg has misdirected itself as to the required assessment required under Criterion 4. The evidence does not support ComReg's assertion that the promotion could adversely impact investments or competition. This is a material error on the merits, as the conclusion is inconsistent with:
  - The legal standard in Decision D05/24.
  - The principle of proportionality under Article 3 of the Code.
  - The evidentiary record available from Oxera and ComReg's own consultation.
21. Based on the evidence available to stakeholders during this consultation, it is clear that ComReg has incorrectly concluded that Criterion 4 is not met. ComReg's position is not supported by the overlap analysis, the observed deployment pattern and impact of residual lines, or the economic evidence provided by Oxera. Moreover, ComReg's preliminary conclusion does not engage with this material evidence. A regulator is required to address the substance of the evidence before it and explain the basis for accepting or rejecting it; the absence of such engagement constitutes a procedural deficiency in the consultation process.
22. It is also concerning that ComReg did not provide analysis to validate its preliminary decision. open eir recognise that ComReg has asked questions of the Altnets and Access Seekers that may provide data and views, which may partially address this deficit. However, this then raises the question of correct consultation procedure. Based on the available information and economic analysis, ComReg simply did not have enough evidence to form a preliminary view that Criterion 4 is not met.
23. In these circumstances, the normal and proper course would be for ComReg to conduct a further consultation once it has obtained the necessary data and can present a complete market analysis for stakeholder comment. However, given that the scheme is due to take effect from June 2026, there is plainly insufficient time to undertake a second consultation round. Accordingly, open eir submits that where the analysis provided in this response raises any substantive doubt about ComReg's preliminary position, and where stakeholder submissions do not unequivocally support that position, the scheme should be approved in the interests of competition and consumers.
24. Finally, if ComReg genuinely concludes that:
  - a small,
  - above-the-regulated-price-floor,
  - nationwide,
  - non-geographically-targeted discount scheme

from open eir is capable of undermining FTTH investment, then the conclusion is unavoidable: this would represent a significant departure from the market conditions that underpinned Decision D04/24. In that decision, ComReg concluded that the FTTH market structure was capable of supporting multiple competing networks within open eir footprints. A finding that even immaterial pricing incentives could destabilise future roll-out would imply a materially more fragile market dynamic—one in which competitive behaviour by any operator could, by the same logic, adversely affect the investment incentives of all others. Such a shift in market characterisation would require formal re-assessment through a fresh market review, supported by robust evidence, rather than being introduced implicitly through the assessment of a single discount scheme.

25. Under the Code, such a decision legally triggers the requirement for a fresh market analysis consultation by ComReg.

## Chapter 2 DETAILED ASSESSMENT UNDER CRITERION 4

26. Criterion 4 requires ComReg to determine whether the proposed FTTH Discount Scheme “will not adversely affect” investment by undertakings or undermine competition. As established in Chapter 1, the correct legal standard demands demonstration of a material adverse effect, supported by evidence, and tested for proportionality. A proper assessment must therefore consider the actual structure and competitive dynamics of the FTTH market, the regulatory framework (including regulatory-price-floor protections), the economic analysis provided by Oxera, and the analysis and updated data provided by open eir
27. ComReg state in paragraph 49, that *“given the level of uncertainty around how FTTH deployments in the coming months will impact network overlap between Open eir and rival FTTH networks and the implications this and other factors might have for FTTH uptake during the 6 month period of the WN2025-021 window, ComReg’s preliminary view is that there is a risk that the WN2025-021 will foreclose competitive alternative network operators with the result that the fourth criterion is not met with respect to the impact on wholesale competition. For this reason, ComReg at this stage is not satisfied that WN2025-021 will not adversely affect investments by Undertakings or undermine competition so that Criterion 4 is not met.”*
28. The only potential guidance as to what ComReg’s concerns are in paragraph 49 is set out in paragraphs 44–48. In summary the ComReg concern appears to be that due to the uncertainty over network overlap that “location matters” (paragraph 44) this could require alternative operators to offer deeper discounts than open eir’s to remain competitive (paragraph 45-46). It suggests that this could create loyalty-enhancing effects (paragraph 45) and undermine competition. Paragraph 47, indicates that ComReg is concerned that the FTTH market has peaked. No further explanation is provided in paragraph 47 as to what ComReg concern is in that regard. ComReg notes in paragraph 48 that the remaining FTTC base may have no interest in moving to FTTH. No further explanation is provided in paragraph 48 as to what ComReg concern is in that regard. Finally, there is no guidance or clear indication as to what “other factors” ComReg may be referring to in paragraph 49.

### **ComReg Paragraph 44**

29. In relation to uncertainty over future roll-out, ComReg’s concern rests on a hypothetical scenario in which SIRO or VMI “may” deploy FTTH in areas that are not currently overlapped. This renders the reasoning circular: it assumes potential contestability equates to actual contestability and then treats that assumption as evidence of possible foreclosure. Oxera’s modelling demonstrates the opposite. Access Seekers can meet their growth targets entirely from the substantial base of lines already available outside overlap zones, without needing to draw on any lines in areas that are overlapped today. ComReg’s position therefore reduces to suggesting that foreclosure could arise simply because rivals might one day deploy in areas where they do not currently operate, even though Access Seekers can meet targets without touching overlapped areas today and even though no credible basis exists for assuming deeper discounts would be required by Altnets for areas that they may (or may not) roll-out to in future – all because open eir proposes to launch a six-month promotion which is above the regulated-price-floor.
30. ComReg speculation does not satisfy the regulatory standard of Criterion 4 which requires demonstration of adverse impact, nor does it provide a credible evidentiary basis to conclude that the scheme may adversely jeopardise investment as required under Decision D05/24.

31. open eir submits that in order to think about this question logically in regards to “location matters” – there are two geographic footprints that must be considered – both of which are considered in Oxera’s Report. First, where competition has already rolled out (Area A: overlapped areas) and the second where rival networks have not rolled out (Area B: Non-overlapped Areas).

### **Area A: Overlapped Areas**

32. Oxera’s main report and Annex A1 addresses the overlap scenario directly. In the core analysis (paras 6.24–6.32), Oxera demonstrates that the volume of lines required to meet the growth target is *small* relative to:

- the total FTTH base,
- the total migratable FTTC base, and
- the number of lines alternative networks can serve *within* their footprints.

33. Annex A1 of the Oxera Report confirms this with clear quantitative evidence. Oxera demonstrates that even under a deliberately conservative scenario where Access Seekers meet their entire growth target solely through FTTC→FTTH migrations, the residual number of lines within the SIRO/VMI footprints exceeds the number of lines required to meet the scheme thresholds (A1.18–A1.20). In practical terms, Access Seekers do not need to draw on SIRO/VMI-addressable lines to qualify for the discount, and the entirety of the Altnets’ contestable footprint remains available. As a result, SIRO/VMI’s full contestable footprint remains open to them, and overlap areas remain entirely contestable.

34. This point is critical: Oxera’s analysis shows that Access Seekers do not face any economic compulsion to deprioritise SIRO/VMI in overlap areas. After the modest open eir growth target is met (using the vast number of non-overlap lines), SIRO/VMI are free to compete for the residual lines as normal by matching the discounted price (paras 6.41–6.45). As Oxera notes, the discounted price remains above the regulated price floor (6.23, 6.41), meaning it is competitively sustainable.

35. Therefore, in overlap areas, the scheme could not “adversely affect” SIRO/VMI’s business case, incentives, or ability to compete. This is supported by Oxera’s and open eir’s analysis.

36. Such a conclusion is also important in the context of thinking about future roll-out. If the number of residual lines available in overlapped areas is not an issue today then due to the materiality of the scheme (which Oxera has demonstrated is low) it is also logically consistent to conclude that additional premises rolled-out by VMI or Siro during this period would not be adversely affected by a promotion. This is because the number of residual lines available from VMI and SIRO will have increased.

37. It is also important to note that open eir’s proposed discount is not geographically targeted (as confirmed by both ComReg and Oxera) and therefore based on the number of residual lines available (as confirmed by Oxera), the fact that open eir’s proposed price is above the regulated-price-floor (as confirmed by both ComReg and Oxera)<sup>1</sup> and the immateriality of the scheme, then future

---

<sup>1</sup> Open eir’s notification included a statement of compliance which demonstrated that the scheme met all the relevant ComReg criteria. As both ComReg and Oxera agree that the scheme is not geographically targeted, is above the regulated price floor and does not favour eir retail those arguments are not repeated here.

overlapped areas could not be “adversely impacted”. It is clear that ComReg is incorrect in its preliminary view and Criterion 4 is in fact passed.

### **Area B: Non-overlapped Areas**

38. ComReg’s preliminary view appears to treat all premises equally, assuming Access Seekers may “prioritise” open eir lines to meet the scheme incentives irrespective of whether Altnet networks exist in the relevant locations. Without any supporting evidence ComReg speculates that in non-overlap areas, migration to open eir FTTH could indirectly affect the Altnets’ business case, or longer-term expansion by reducing the pool of “contestable” customers in aggregate.
39. This reasoning mischaracterises the nature of competition in non-overlap areas. Competition law and wholesale access analysis do not treat early acquisition of customers in non-contestable areas as exclusionary conduct, particularly where rivals remain free to enter later and compete for FTTH to FTTH switching. Finally, from a regulatory and economic perspective, ComReg cannot construct an adverse-effect theory in an area where:
- the rival is absent; and
  - the rival is not precluded from entering that area at a later date.

For ComReg to conclude otherwise would imply a market structural issue – where migrations to any FTTH network (e.g., open eir, Siro or VMI) would preclude the future contestability of that premise by another rival FTTH network. If this is the case, then ComReg must undertake a fresh market analysis.

open eir’s analysis of the relevant wholesale and retail FTTH markets and the scale of the discount scheme

40. The proposed discount scheme uses half the total 2025 growth of Access Seekers on open eir FTTP network as the growth base applicable to H2-2026. Volume targets of 15 and 20% are then overlaid on to this growth base, so Access Seekers can attain discounts of €1.50 (for 15%) and €2.00 (for 20%) on FTTP VUA/Bitstream monthly rental pricing. In addition, there is an additional discount of €0.50 for those FTTH connections that are from FTTC migration.
41. Given the forward timing and application of the scheme (H2-2026), there is a need to take a view as to what type of market conditions and scale the scheme may apply within. open eir acknowledges that the rate of growth in the FTTP market has slowed in 2025, compared to previous years. The mechanic of the promotion means that the 2025 growth rates takes account of this slow down in terms of the targets in H2 2026.
42. In terms of the scale of the discount scheme, based on open eir’s total growth for 2025, the discount scheme growth base for H2-26 is presented in Table 1 below.

**Table 1 - Open eir Discount Growth Scheme – June to end of November 2026**

Service Provider	Growth base – Half of 2025 open eir growth	+20%	Upside	+15%	Upside
Vodafone	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Sky	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Others	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

43. open eir highlights that the growth-scheme volumes—both the underlying growth base and the 15%/20% targets—are now significantly lower than the estimates set out in the Annex to its Pricing Compliance Statement of August 2025. That Annex projected a growth base of [redacted] lines with a 20% uplift of [redacted]. The actual growth base is now approximately [redacted] lower than the figure ComReg relied upon when forming its preliminary view not to approve the scheme. This materially alters the scale and impact of the scheme and should be reflected in ComReg’s assessment. To assess the scale of the scheme against the remaining wholesale market available to competing networks, it is necessary to size the total available wholesale client base in H2-2026, excluding NBI. The total available wholesale client base for this period is the FTTP demand by Access Seekers (this excludes eir retail and VMI retail) and outside of the NBI network. The reason why eir retail and VMI retail is excluded is because eir retail is not a customer of Siro’s or VMI’s FTTH network and VMI is not a retail customer of eir’s FTTH network. NBI’s network is based in the Intervention Area where there are no rival FTTH networks.

44. It is important that ComReg, as part of the consultation, have a clear view of what this wholesale client base is likely to be in H2-2026 as this the can be used to determine how the proposed open eir discount scheme would be positioned in terms of volume against the total volume of the wholesale market . Our approach to meeting this requirement is to assess the wholesale and retail FTTP market outside of NBI network, and provide a projection for both in 2026.

45. From the ComReg Q3 quarterly report and the Liberty Global quarterly reports (regarding information on VMI), our view of the wholesale volumes in the period Q3-24 to Q3-25 for each wholesale network (outside of NBI) is presented in Table 2.

**Table 2: Wholesale volumes Q3 (2024) - Q3 (2025) Excluding NBI, eir & VMI retail**

Wholesale Provider	Q3 2024 000	Q4 2024 000	Q1 – 2025 000	Q2 – 2025 000	Q3 – 2025 000	FTTH Growth Q4-24 to Q2 -25	FTTH Growth Q1-3	Q3 -24 to Q3 25 Growth
Open eir	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
SIRO	191.2	197.4	202	207	212	9.6 (5.0%)	10K (5%)	11%
VMI	[redacted]*	[redacted]**	[redacted]**	[redacted]***	[redacted]***	[redacted]	[redacted]	[redacted]
Magnet		1.5	1.6	1.6	1.6	-	-	
Total							[redacted]	

\*From ComReg Mar 2025 Broadband Report, \*\*Estimated, \*\*\* From Liberty Global Q2&3 Reports

46. In H1 – 2025, open eir shows [redacted] market growth, with a volume gain of [redacted] lines. SIRO has 5% market growth with a volume gain of 9.6k, while VMI is estimated with a volume gain of [redacted] at [redacted] growth. Clearly, the 9%-10% of retail market growth for H1 is spread unevenly across NBI and the commercial wholesale market. With regards to the latter there are variations in % volume growth, with VMI the biggest gainer. In terms of open eir, the volume targets of 15% and 20% growth are overlaid on to open eir’s relatively low share of FTTP growth and, therefore, not a risk of crowding out volumes from other wholesale providers that are gaining greater shares of the 9%-10 % growth in the retail market.

47. In terms of trends in the wholesale market, this tells us that, while there has been a slowdown in the growth of open eir through 2025, SIRO has maintained growth and VMI wholesale has moved from a low wholesale base in 2024, to capturing a significant proportion of the wholesale FTTP growth base by Q3 – 2025. Given VMI is rolling out and increasing the release of FTTP network through 2026 (according to Liberty Global network with 1 million FTTP network being completed in 2026), open eir expects that VMI wholesale will increasingly account for retail growth at the expense of open eir network (including FTTC and FTTH).

48. In terms of absolute FTTP connections, overlaying the discount scheme volume on to H1 wholesale growth figures (e.g., assume H1 is the growth base for the scheme), gives open eir a flat growth base at approx. [redacted] when the 20% target is met.

**Table 3: Wholesale Volume Growth H2-2025 (Excluding NBI)**

Wholesale provider	Q1-Q3 Wholesale Volume Growth	H2 -2025 Wholesale Volume Growth (Assuming Q2-Q3 volume growth applies to Q4 for VMI and SIRO)	Difference
Open eir	[redacted]	[redacted]	[redacted]
SIRO	10K	10K*	Nil
VMI	[redacted]*	[redacted]*	[redacted]

\*Estimated

49. Based on the above, open eir has lost [redacted] of growth in H2-25 compared to H1. [redacted]  
 [redacted]  
 [redacted]  
 [redacted]

50. open eir submits that our market evidence reinforces a simple but important point: the Irish FTTH market continues to grow, yet open eir’s wholesale FTTH position is weakening significantly, not strengthening.

51. open eir data for Q4 -2024 to Q4 -2025 shows a clear decline in the share of market growth for open eir . This occurs against the backdrop of continued strong market growth from Siro and VMI.

**Table 4: open eir volumes excluding eir retail 2025**

	Q4 -24	Q1 - 25	Q2-25	Q3 -25	Q4 -25
open eir	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Quarterly Difference		[redacted]	[redacted]	[redacted]	[redacted]

52. In practical terms, it means that Altnets are capturing the large majority of incremental demand. This is consistent with the trajectory observed from Q3 2024 to Q3 2025, during which SIRO and VMI consistently outperformed open eir in wholesale FTTH additions. These real-world outcomes are fundamentally at odds with ComReg’s hypothesis that the discount scheme might divert growth away from Altnets – including in non-overlapped areas in yet-to-be (and possibly) rolled out (noting also that there may be areas that may never be overlapped). open eir submits that the market unit (future premises) to which ComReg is now concerned (while also not being evidenced by ComReg that such a material concern exists) does not hold based on the evidence from the greater market.
53. The evidence is clear SIRO and VMI continue to gain wholesale share at pace. SIRO reached approximately 212,000 wholesale FTTH lines in Q3 2025, reflecting steady and sustained year-on-year growth. VMI has expanded even more quickly, increasing from a low base to around 32,000 wholesale lines — an increase of more than 250% in a single year and the largest growth in absolute terms — and this momentum is supported by VMI’s ongoing FTTH rollout. VMI’s footprint is expected to reach approximately one million FTTH premises in 2026, further intensifying competitive pressure in both overlap and potential-overlap areas. Far from presenting a fragile competitive environment, the evidence demonstrates an increasingly dynamic and multi-operator market in which open eir’s competitive position is weakening, not strengthening.
54. Within this context, open eir’s position in wholesale FTTH additions continues to narrow. The Altnets’ share of new additions is rising year on year, while open eir’s share is correspondingly falling. These outcomes confirm that the Irish FTTH market is structurally competitive and that the discount scheme — modest in both scale and duration — cannot plausibly exert material competitive harm.
55. This is reinforced when the size of the scheme is assessed relative to the overall market. The maximum scheme volume of [redacted] lines represents no more than roughly [redacted] of the commercial wholesale FTTH footprint of 600,000–700,000 premises (e.g., at a minimum of where there is SIRO, and at a maximum likely to be greater if VMI network does not overlap entirely with SIRO). Even when measured against expected retail FTTP growth for H2 2026, the scheme remains limited: under a conservative lower-bound growth estimate of [redacted] new retail FTTP lines (see Table 5). As such, the scheme volumes would account for around [redacted] of demand, leaving more than [redacted] — or over [redacted] lines — available to Altnets. In other words, Altnets retain the majority of marginal growth opportunity even under full scheme utilisation.
56. The position is similar when viewed through the lens of FTTC-to-FTTH migration. Out of an anticipated [redacted] total FTTC lines in 2026, approximately [redacted] are addressable by open eir FTTH. Even if all [redacted] scheme-related lines were drawn entirely from the FTTC

migration pool, around [redacted] migration opportunities — roughly [redacted] — would remain untouched. Altnets' FTTC-to-FTTH conversion potential in overlap areas is unaffected. Again, the data confirms that the scheme's footprint is simply too small to be considered material.

57. ComReg expresses concern that the scheme could adversely affect Altnet growth in areas that are currently non-overlap but may become overlapped in future. However, both Oxera's modelling and open eir's market evidence demonstrate that substantial residual headroom exists. SIRO and VMI's combined wholesale FTTH base — now approximately [redacted] lines — is already many times larger than the entire scale of the discount scheme, and the expected wholesale growth headroom for H2 2026, estimated at between [redacted] and [redacted] lines, comfortably exceeds the scheme's maximum possible volume.
58. Moreover, observed Access Seeker behaviour provides no support for ComReg's concern: in existing overlap areas, [redacted] notwithstanding the availability of competitive open eir wholesale offers. This behaviour is well-established today, in the absence of the scheme, and is the clearest indicator of how Access Seekers act when presented with choice. There is no evidence that operators would abandon Altnets in future overlap areas simply to secure modest, above regulated-price-floor discounts from open eir.

#### ComReg paragraph 45-46

59. ComReg highlights (paras. 45–46) that uncertainty over network overlap could require alternative operators to offer deeper discounts than open eir's to remain competitive. It suggests that this could create loyalty-enhancing effects and undermine competition, particularly where rivals have smaller footprints.
60. Oxera acknowledges this theoretical risk but qualifies it extensively:
- **Paras. 6.49–6.55:** Assessed scenarios where alternative operators' footprints cover only a subset of lines targeted for migration (including that no such issues arise in such cases in Annex A1.18 and Annex A1.19).
  - **Paras. 6.61:** Concludes that there is limited scope for FTTC migration through the discount scheme to negatively impact Altnets.
  - **Paras. 6.70–6.72:** Concluded that while uncertainty exists, the overall scale of the issue is limited relative to the eligible base and market size.
  - **Annex A1:** Quantified residual volumes even under conservative assumptions.
61. Accordingly, the concerns raised by ComReg in paragraphs 45–46 are neither "open-ended" nor unaddressed. There is already a clear analytical basis—both in the Oxera work and in the design of the scheme itself—for assessing a small-scale promotion within operator footprints that form part of a wider network availability context. Moreover, regulatory decisions cannot be grounded in hypothetical or "non-zero" risks; they must be supported by evidence of material adverse effects. Oxera's analysis concludes that such evidence is lacking, identifying only limited theoretical effects, while open eir's the empirical market data shows Altnets continuing to grow and open eir losing FTTH share. On this basis, the statutory test of whether the scheme would "adversely affect investments or undermine competition" is not satisfied.

62. open eir submits that ComReg's theory relies on two assumptions: that Access Seekers are highly sensitive to the accumulation of marginal discounts, and that Altnets cannot match those discounts. Both assumptions are contradicted by the evidence. In practice, wholesale purchasing decisions are driven not by the maximisation of incremental discount thresholds but by commercial factors related to retail product positioning, network quality, and long-term strategy (it should be noted here that Sky, VMI and Vodafone all have wholesale commercial agreements with Siro and VMI wholesale). Finally, Access Seekers are not and cannot be "locked in" to open eir. Observed churn patterns reinforce this: FTTH customers move between providers, and no wholesale customer is permanently captured through early acquisition.

#### Altnet headroom and scale of the scheme in H2 - 26

63. In addition there is significant headroom available to Altnets in terms of available residual lines even after the full growth discount is taken into account, as demonstrated by Oxera. open eir has taken a dual approach to scaling the wholesale market in 2026:

- i. Taking a conservative view that Q1-3 (2025) wholesale volumes (provided in Table 2) will apply in H2-2026. If this were to be the case then there is a minimum of [redacted] of the market available to competing commercial wholesale providers, outside of the proposed discount scheme ([redacted] for the growth scheme).
- ii. Providing a forecast for the retail FTTP market outside of NBI for 2026 and presenting this as the wholesale client base for open eir and the Altnets.

64. While it is difficult to predict with certainty what the Retail FTTP growth (outside of NBI, eir retail and VMI retail) will be for H2 -2026, it is possible to estimate an upper and lower boundary, using total Q1-3 (2025) Retail growth for Sky, Vodafone and 'Others' as a proxy for H2 – 2026 and deducting a range of % options to exclude the NBI retail base for these Access Seekers.

**Table 5: Predicted H2 -26 Retail Growth Excl NBI network, eir retail & VMI retail**

Mapped on to open eir growth scheme

	Retail FTTP growth Excl NBI, Eir Retail & VMI retail H2-26 K	Open eir discount scheme [redacted] as a %	Altnet % share	Headroom for SIRO, VMI wholesale and Magnet K
Retail Access Seekers Vodafone, Sky & Others – Assuming [redacted] is on NBI	[redacted]	[redacted]	[redacted]	[redacted]
Retail Access Seekers Vodafone, Sky & Others – Assuming [redacted] is on NBI	[redacted]	[redacted]	[redacted]	[redacted]

65. open eir estimates that VMI is at approx. [redacted] of its retail base on NBI for Q3-2025. The figure for eir retail is approx. [redacted]. These two figures have been used for all the other retail providers to provide an upper and lower boundary for H2 – 26 FTTP retail growth outside of NBI.

66. Looking at the upper and lower boundary for the predicted retail growth outside of NBI for H2 -2026, it may be between [redacted] and [redacted], providing headroom (after the discount scheme at 20% volume) for the Altnets of between [redacted] and [redacted]

67. When all of the available evidence is taken together, the conclusion is especially clear. open eir is losing FTTH growth while Altnets are gaining it. Significant demand-side headroom remains across the market. Retail FTTP growth continues to be robust. The scheme complies with regulated-price-floor obligations, ensuring competitive neutrality. Oxera’s modelling confirms non-materiality across every scenario assessed. A six-month, above the regulated-price-floor, non-targeted discount scheme applying to at most [redacted] lines cannot plausibly harm investment incentives, distort competition, or undermine the position of rival FTTH network investors. In particular, where Siro’s FTTH footprint is ca. 700k and VMI’s FTTH footprint is ca. 500k as at Q4 '25<sup>2</sup>. On this basis, Criterion 4 is passed.

68. Based on current overlaps and current market performance the risk is demonstrably limited and insufficient for a conclusion to be demonstrated by Oxera that there is a risk of adverse impact. No evidence is provided by Oxera or ComReg that would support a theory of harm to suggest it could materially impact SIRO or VMI from roll-out in new areas. The correct approach is to assess the

<sup>2</sup> <https://www.libertyglobal.com/investors/virgin-media/>

scheme based on current evidence and monitor future developments through proportionate safeguards. On this basis, the concern is not material, and the scheme satisfies Criterion 4.

69. open eir would emphasise that, as the data in Table 4, it faces a position where it needs to remedy a decline in its share of growth in the market and proposes to do so through this promotion in a fair manner which is consistent with regulation.
70. Regulatory decisions must be grounded in verifiable evidence, not speculative scenarios. Over-weighting risks without material evidence breaches the principle of proportionality under Article 3 EECC and undermines predictability.

#### **ComReg paragraphs 47-48**

71. ComReg's statements of concerns in paragraphs 47 and 48 appear to frame the market challenge primarily in the context of Altnets, rather than recognising that a slowing market and "less amenable" FTTC customers to migration (in ComReg's speculative view) applies to all operators. Market headwinds—such as reduced FTTH growth rates—are sector-wide and are modest in scale. They are importantly also not insurmountable. In a competitive market, the natural response to such conditions is for operators to stimulate demand through pricing, marketing, and innovation. This is consistent with the EECC objective of promoting sustainable competition and efficient investment. Therefore, not only is it reasonable for open eir to seek to stimulate the market using a promotion with (modest) growth targets it is also highly likely and consistent with competitive outcomes that VMI and SIRO are trying to do (or already doing) likewise. open eir notes that ComReg's commentary on Altnet pricing promotions remains highly generic in its various publications (including in its Market Analysis), and it is unclear whether ComReg has actual visibility or made enquiries using its statutory powers to understand the specific features, effectiveness, or operational mechanics of those promotions. open eir notes that a new WLA market update is due from ComReg in Q1 of this year and looks forward to understanding the work ComReg has undertaken in monitoring market developments and assessing the competitive implications of SIRO's roll-out reaching completion, alongside VMI's stated position that its roll-out will also be completed this year, and VMI's and SIRO's public statements that SIRO will not seek to overbuild VMI and that VMI will convert its existing footprint. In this context, it is clear that any reliance on Annex 12 of ComReg's Market Analysis is no longer fit for purpose (as it is numerical only) and fails to assess the competitive dynamics of the market as it now stands.
72. ComReg's concerns as to potential market foreclosure and related loyalty enhancing effects hinge on a very pessimistic view of the market, centred on three negative assumptions. These presumably are:
  - a. That in an FTTP market characterised by declining growth, the scheme would "suck in" volume from competing wholesale providers, compromising their business viability.
  - b. That, with regards to FTTC – FTTH migration, there is;
    - Stagnation that would make it difficult for Access Seekers to attain the discount scheme targets.

- That the discount scheme would force Access Seekers to forego volume on competing networks, particularly if FTTC migration volume to open eir FTTP were to occur in locations where there was limited competing network.
- c. That any pricing reaction (e.g., reductions) by competing wholesale networks would be unable to counter (a) and (b) or, even if it did so, the financial viability of competing wholesale networks would be undermined.
73. Such a negative view of the wholesale market and a decision to block the scheme, ultimately, not only deprives consumers of price benefits, but eliminates an attempt to stimulate and grow FTTP connectivity. From a policy perspective, the current ComReg position is taking away an attempt by open eir (and block only open eir) to break market inertia and stimulate growth.
74. open eir believes ComReg’s negative assumptions of the market are not sustainable when considered against the reality of both open eir’s position in the wholesale market and the scale of the discount scheme and how it would be used by Access Seekers. In particular:
- i. The coverage and availability of Altnet’s networks, and the extent of overlap with open eir network was significant in 2025, and will be more so in H2-26.
  - ii. The rate of growth of the Altnets, in terms of their share of available retail FTTP growth is above open eir, and open eir is experiencing [ ~~] in the share of the new FTTP growth.~~
  - iii. The scale of the scheme is extremely small, in terms of additional volume for open eir, and would account for a small percentage of the wholesale market.
  - iv. The volume of FTTP connections, above the growth base of the scheme, may only, at best compensate for the loss that open eir is experiencing to SIRO and VMI wholesale.
  - v. Due to the availability of lines in non-overlap areas Access Seekers may target usage of the discount scheme, including migration from FTTC, on the open eir network where there is no overlap with other networks.
75. In totality, the proposed scheme is pro-competitive and pro-market growth, all important elements of market policy for wholesale FTTP.
76. ComReg’s framing of the question to interested parties —whether the growth targets are too challenging—misunderstands the purpose of an incentive-based scheme. Targets must be stretching but attainable to create meaningful incentives. If targets were trivially easy (or where no targets are applied), they would fail to drive incremental behaviour and would amount to a windfall for Access Seekers. Conversely, if targets were unattainable, the scheme would be ineffective as operators have the option of not participating in the scheme. In either case, the core purpose of an incentive-based mechanism would be undermined.
77. Oxera acknowledges the slowdown (para. 6.34) but demonstrates that the number of lines required to meet the growth targets is small relative to the eligible base (paras. 6.24–6.28). Even under conservative assumptions—where growth is achieved exclusively through FTTC-to-FTTH migrations—there are substantial residual lines available after targets are met (Annex A1, Table A1.1). SIRO and VMI could continue to achieve growth comparable to historic rates without being foreclosed (para. 6.30). Paragraphs 6.58–6.60 further confirms that the scale of the growth target is modest compared to the overall market.

78. The 15% threshold represents a modest uplift relative to historic growth performance. While FTTH growth rates have slowed (9% in H1 2025 compared to 13% in H1 2024), Oxera’s analysis shows that the absolute number of lines required to achieve 15% growth is small when assessed against the eligible base (paras. 6.24–6.28). This means that the target does not impose an exclusivity requirement and can be met without constraining purchases from alternative networks.
79. From a commercial perspective, the 15% lower bound threshold is attainable through normal competitive effort. Retailers retain flexibility to influence uptake within the six-month window (including through the industry notice period pre-launch), particularly given the economic incentive created by a 24-month discount period. Regulation should recognise that competitive markets expect firms to respond dynamically to commercial opportunities. Assuming inertia would breach the principle of proportionality under Article 3 of the Code.
80. Accordingly, the 15% target is both operationally and commercially feasible and does not give rise to any structural foreclosure risk. Altnets are not prevented from entering or expanding in the market at any point during or after the promotional window, and FTTH-to-FTTH migrations will continue to occur irrespective of the scheme. In these circumstances, the scheme does not impede competitive entry or expansion, nor does it restrict Access Seekers’ ability to win customers or migrate existing bases. The evidence therefore demonstrates that a 15% target is consistent with a well-functioning, competitive market and does not meet the threshold of creating a material adverse effect.
81. To prohibit the scheme on the basis that targets are challenging would signal that open eir cannot compete even when doing so would benefit end-users and accelerates VHCN take-up. This is a regulatory failure risk with long-term consequences for investment incentives.
82. Blocking open eir from competing risks a larger unintended consequence: signalling to SIRO and Virgin Media that they can pursue open eir’s copper customer base without fear of competitive response. This distorts competition. It also undermines end-user welfare by preventing open eir from competing on the merits to the benefit of end-users and at a time when market stimulation is needed. Such an outcome is contrary to the EECC principles of competitive neutrality, proportionality, and predictability.
83. If ComReg were to conclude that even a modest volume of FTTH lines attracted by a nationwide, non-geographically targeted discount could “adversely affect” Altnet investment solely because those customers might coincide with areas of future SIRO/VMI rollout, then ComReg would be asserting that:
- the FTTH market is at a “tipping point” where even immaterial shifts in customer volumes threaten the viability of entire alternative networks’ investment strategies.
84. If this is truly ComReg’s view, the implications extend far beyond WN2025 021:
- a) By the same logic, SIRO price /pricing promotions could “adversely affect” VMI’s roll-out;
  - b) VMI’s price/pricing promotions and expansion could “adversely affect” Eir’s investment case;
  - c) And competition between SIRO and Eir could “adversely affect” VMI in turn.
85. In other words, under such a hypothesis, any competitive gain by any FTTH operator could be treated as undermining competitors’ investment incentives. This would amount to a materially different characterisation of the market from that underpinning Decision D04/24, where ComReg

assessed that effective competition required the market to support multiple FTTH operators within open eir exchange footprints

86. Such a radical shift—from a competitive, multi-operator FTTH landscape to a supposedly fragile “tipping-point” market—cannot be introduced implicitly (and then set aside) through the assessment of a single discount scheme. If ComReg ultimately concludes that Criterion 4 is not met, it must concurrently commit to a fresh, immediate market review under the European regulatory framework.
87. Given that the discounted FTTH prices remain above the regulated-price-floor established under Decision D05/24, that the scheme is not geographically targeted, and that Oxera’s quantitative analysis demonstrates a sufficient residual base of lines to enable SIRO and VMI to price at or above the regulated-price-floor while maintaining their competitive positions (Oxera paras 6.23, 6.41–6.45; A1.18–A1.20), open eir submits that no credible business case or investment scenario can be presented by SIRO or VMI to support the contention that WN2025 021 would adversely affect investment by them or undermine competition. Oxera’s assessment shows that the number of additional FTTH lines potentially influenced by the discount scheme is negligible relative to both the total FTTH base and the FTTC migratable base (paras 6.24–6.32, A1.18–A1.20). This empirical finding is fully consistent with the framework of Criterion 4, which does not ask whether competition might simply increase or whether hypothetical effects could arise, but whether there is evidence that rival investment incentives or competitive conditions would be adversely affected in a material, demonstrable way.
88. On the record before ComReg, supported by Oxera’s conservative modelling, there is no credible cogent evidence that would support on an objective basis that an adverse impact could be established.
89. ComReg’s preliminary view that Criterion 4 is not met (para. 51) rests on unsubstantiated assumptions rather than verifiable evidence and has lacked substantive analysis. When the assumptions are tested against market evidence, the outcome is that the discount scheme does meet Criterion 4. Specifically that:
  - the 15–20% growth thresholds are entirely achievable in practice, particularly given the modest absolute volumes involved and the ability of Access Seekers to prepare in advance for the eligibility window;
  - there is substantial market headroom, both in terms of non-overlap lines and overall demand, ensuring that Access Seekers can meet the targets without constraining their use of alternative FTTH networks; and
  - Access Seekers have no commercial or economic incentive to prioritise open eir exclusively, given the continued attractiveness, availability, and strong growth of SIRO and VMI networks.
90. In addition, Oxera’s analysis confirms that:
  - The absolute number of lines required to meet the growth targets is small relative to the eligible base (paras. 6.24–6.28), even under conservative scenarios;
  - Residual volumes remain significant, ensuring rivals can continue to grow without foreclosure (Annex A1);

- Matching the discount is generally sufficient because the discounted price remains above the regulated-price-floor (paras. 6.43–6.44).

91. Regulatory decisions must be grounded in evidence, not precautionary speculation. Over-weighting hypothetical risks breaches the principle of proportionality and predictability, undermines competitive neutrality, and creates regulatory inconsistency. ComReg should only block wholesale promotions where evidence shows actions by open air would lead to adverse and undue market outcomes. This is not the case for this discount scheme.

## SIRO

The Herbert Building,  
The Park, Carrickmines,  
Dublin 18  
info@SIRO.ie  
www.SIRO.ie



Private and Confidential

[wholesalepricing@comreg.ie](mailto:wholesalepricing@comreg.ie)

Commission for Communications Regulation,  
One Dockland Central,  
Guild Street,  
Dublin,  
D01 E4X0.

26<sup>th</sup> January 2026

BY EMAIL

### **SIRO Response to ComReg Consultation ComReg 25/93 (WN2025-021) Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg Decision D05/24**

#### **1. Introduction and SIRO's interest**

1.1 SIRO welcomes the opportunity to respond to ComReg 25/93 concerning Eircom's notified wholesale FTTH discount scheme (WN2025-021).

1.2 SIRO is an alternative, infrastructure-based FTTH network operator active in Ireland. SIRO has made significant sunk investments in FTTH infrastructure and has strong incentives to continue investing, expanding coverage, and improving service quality—provided that the regulatory framework preserves contestability and prevents exclusionary conduct by an SMP, vertically integrated incumbent.

1.3 SIRO supports ComReg's draft decision not to approve WN2025-021, on the basis that Criterion 4 (no adverse effect on investment / no undermining of competition) is not satisfied. ComReg's preliminary assessment correctly identifies the specific risk created by the offer's target-based conditionality and retroactive/uncertain nature: loyalty-enhancing effects and potential foreclosure of rival wholesale network operators.

#### **2. Summary of SIRO's position**

2.1 WN2025-021 is structurally different from simple, incremental promotions (e.g., WN2025-002) because it makes access to the discount conditional on meeting volume thresholds ("growth targets").

2.2 Although Oxera considers Criteria 1–3 satisfied, Oxera cannot conclude definitively that Criterion 4 is satisfied because the scheme will likely, in practice, generate loyalty-enhancing / foreclosing outcomes depending on (i) constraints on Access Seekers' ability to hit targets, (ii) footprint overlap, and (iii) rivals' ability to respond without pricing below sustainable levels.

2.3 ComReg's draft decision correctly recognises that:

- the uncertainty of obtaining the discount can itself distort Access Seeker purchasing behaviour and rival responses;
- the scheme may create competitive asymmetry because Eircom's footprint exceeds any alternative network's footprint; and
- end-user benefits are uncertain because Access Seekers cannot reliably price-in a discount they may not ultimately receive.

2.4 SIRO's core submission is that ComReg is right to treat WN2025-021 as a high-risk loyalty/threshold rebate variant in the sense highlighted in ComReg's WLA/WCA market review (D05/24 / ComReg 24/07): arrangements that condition benefits on meeting thresholds and that are "back-loaded" or uncertain can require rivals to offer deeper, potentially uneconomic discounts to compete for marginal lines.

### **3. Context: what WN2025-021 does (and why that matters)**

3.1 Under WN2025-021, an Access Seeker must achieve 15% or 20% higher FTTH growth on Eircom's FTTH base during 1 June–30 November 2026 (versus its average six-month growth in 2025) to qualify for discounts of €2.00 or €2.50 (including the Part B top-up for FTTC/copper migrations) applied for 24 months from January 2027.

3.2 A critical competitive feature is the scheme's threshold + retroactive uncertainty: credits are only determined after the eligibility window ends, and the benefit is therefore not known at the time retail pricing and acquisition decisions are made.

3.3 Eircom's own responses indicate that "growth" is net of cessations over the eligibility window, increasing the risk that targets become harder to achieve in practice (especially in maturing FTTH markets with churn).

3.4 Oxera explains the mechanism by which this can foreclose: depending on circumstances, Access Seekers may favour open eir to hit the target and obtain the discount; rivals may have to offer deeper discounts (potentially below sustainable levels) to offset the expected loss of the contingent discount on open eir volumes.

### **4. SIRO support for ComReg's draft assessment (Criteria 1–4)**

4.1 Criterion 1 (price floor). SIRO notes Oxera's conclusion that, mechanically, the discounted price of the cheapest eligible FTTH VUA profile remains above the FTTC-derived price floor. SIRO does not contest that limited point.

4.2 Criterion 2 (no undue favouring of Eir retail). SIRO agrees that the notified offer is, on paper, open to Access Seekers. However, SIRO emphasises that Criterion 2 is not the decisive issue in this notification—Criterion 4 is—because the principal harm arises from loyalty/foreclosure at the wholesale layer rather than an explicit restriction to Eir retail.

4.3 Criterion 3 (no geographic pricing). SIRO agrees the proposal is not explicitly geographically targeted.

4.4 Criterion 4 (investment and competition). SIRO supports ComReg's preliminary view that Criterion 4 is not met (or at minimum cannot be satisfied on the evidence). ComReg identifies: declining FTTH growth rates; the existence of the earlier FTTC→FTTH promotion (WN2025-002) potentially depleting the residual pool of "migratable" customers; and uncertainty around overlap and achievable growth—together raising foreclosure risk.

### **5. Response to Section 5 consultation issues (ComReg 25/93, paras (51)–(54))**

SIRO responds below to the specific issues ComReg raises in Section 5.

#### 5.1 Ability of non-Eircom Access Seekers to meet growth targets without restricting rival purchases (para. (52))

5.1.1 ComReg asks whether non-Eircom Access Seekers can meet WN2025-021 growth targets without restricting purchases from rival networks.

5.1.2 SIRO's position is that the relevant competitive question is not "can they, in principle" but "will rational Access Seekers tilt demand to open eir under uncertainty." This is in the context that the FTTH market has grown by a steady amount for many quarters, so increased base growth on Eircom can only materially come at the expense of growth on alternative networks.

Even where targets might be feasible in an unconstrained model, the scheme's structure encourages "gaming" behaviour: Access Seekers will allocate marginal (contestable) connections to open eir to maximise the probability of qualifying for the discount, because failing the target imposes an opportunity cost across the eligible set. Oxera explicitly states it cannot rule out such loyalty-enhancing or competition-foreclosing effects.

5.1.3 This risk is exacerbated by Eircom's footprint asymmetry. Where open eir is the "must-have" supplier for a meaningful subset of premises, Access Seekers may prioritise open eir for marginal lines (including in overlap areas) to ensure the threshold is reached; rivals cannot replicate that strategic position. ComReg correctly highlights this asymmetry as problematic.

## 5.2 Factors that would impede an Access Seeker's ability to meet the growth target (para. (53), bullet 1)

5.2.1 ComReg requests views on factors impeding Access Seekers' ability to meet targets, including the ability to connect new customers within the 6-month window.

5.2.2 SIRO agrees with ComReg and Oxera that practical constraints are central and may include:

- Demand-side saturation: as networks mature, the remaining base is harder to convert; ComReg points to falling FTTH growth rates in 2025 versus 2024 on both Eircom and SIRO networks, consistent with "late majority" adoption dynamics.
- Operational capacity constraints (installation capacity, retailer sales/marketing bandwidth, churn management) that cap achievable net adds in a short window; Oxera notes the risk is sensitive to whether Access Seekers face constraints on how many new lines they can reasonably take in six months.
- Net growth measurement: Eircom confirms the target is net of cessations, meaning churn can materially degrade target achievement even if gross adds are high.
- Interaction with WN2025-002: the existing FTTC→FTTH promotion running Aug 2025–Mar 2026 may "pull forward" easy migrations, leaving a more resistant residual base for June–Nov 2026. ComReg explicitly flags this.

5.2.3 These constraints increase the probability that Access Seekers will prioritise open eir in overlap areas to maximise the probability of meeting the threshold—i.e., the foreclosure mechanism becomes more likely precisely when market growth is slowing.

## 5.3 Willingness to undertake off-net FTTH-to-FTTH conversions (para. (53), bullet 2)

5.3.1 ComReg asks about Access Seeker willingness to undertake off-net FTTH to FTTH conversions when acquiring an existing FTTH customer.

5.3.2 SIRO submits that off-net conversions are commercially and operationally non-trivial and often avoided absent strong incentives. Where a customer is already served by FTTH on one infrastructure, moving that customer to another network can involve installation friction, appointment risk, and potential service disruption perceptions—raising acquisition costs.

5.3.3 WN2025-021 would predictably reduce the incentive to undertake off-net conversions *away from open eir*, because keeping (or bringing) the customer onto open eir increases progress toward the target and the probability of receiving the discount. This aligns with Oxera's concern that Access Seekers may favour open eir to meet the target.

## 5.4 Business plans / planned growth, overlap, and whether rivals would need significant discounts (para. (53), bullet 3)

5.4.1 ComReg asks about network operators' business plans and overlap and whether rivals would need significant discounts to achieve planned line volumes.

5.4.2 SIRO's key point is that WN2025-021 can force rivals into a reactive discounting posture that is decoupled from their own investment plans and cost recovery:

- because the discount is contingent, rivals may discount to protect volumes in overlap areas even when open eir may not ultimately grant any discounts (if Access Seekers miss targets); ComReg recognises this “heads I win, tails you lose” asymmetry.
- in some circumstances, merely matching open eir’s discount may be insufficient; Oxera notes rivals may need to offer deeper discounts, potentially below sustainable levels (and, in the extreme, below the effective economic floor) due to the retroactive nature of the offer.

5.4.3 This is precisely the type of conduct that ComReg (and Oxera) warned against when designing the D05/24 pre-approval regime: conditional / threshold / retroactive wholesale offers by an SMP operator can undermine infrastructure-based competition by weakening rivals’ investment case.

#### 5.5 Role of copper/FTTC migration volumes in achieving targets (para. (53), bullet 4)

5.5.1 ComReg asks whether copper/FTTC migration to Eircom FTTH materially affects target achievability (given the extra Part B discount).

5.5.2 SIRO agrees it does—and that is part of the competitive problem. The structure makes FTTC/copper migrations particularly valuable (larger discount), which can lead Access Seekers to prioritise migrations onto open eir in overlap areas, to “bank” higher discounted volumes and increase target confidence. Oxera explicitly tests an “extreme” scenario focusing on FTTC-to-FTTH migrations and still emphasises that results depend on the presence/absence of constraints.

5.5.3 Moreover, if WN2025-002 has already accelerated FTTC migrations during Aug 2025–Mar 2026, the remaining FTTC/copper pool in June–Nov 2026 may be smaller and harder to convert, which increases the likelihood of target-driven steering and the associated foreclosure risk (as ComReg notes).

#### 5.6 “Accounting for all types of lines” increases probability of meeting targets (para. (53), bullet 5)

5.6.1 ComReg asks whether, when accounting for all types of lines eligible for the discount, this increases the probability that Access Seekers meet targets without impeding rivals.

5.6.2 SIRO notes that WN2025-021 includes some categories in the growth calculation that are not discount-eligible (e.g., on-net FTTH-to-FTTH transfers are counted toward targets but do not receive discounts).

5.6.3 This feature can increase strategic manipulation and uncertainty rather than reduce it, because:

- Access Seekers may attempt to increase counted growth through channels that do not reflect genuine incremental network competition; and
- rivals remain exposed to the core harm: Access Seekers may still steer marginal “contestable” lines to open eir to secure the threshold, regardless of how many line types are counted.

5.6.4 Oxera’s bottom line remains: despite findings that there may be no “implicit exclusivity requirement” at an aggregate level, Oxera cannot conclusively rule out loyalty/foreclosure risk in practice.

#### 5.7 Footprint overlap as of May 2026 (para. (53), bullet 6)

5.7.1 ComReg asks about the extent of overlap as of May 2026.

5.7.2 SIRO agrees overlap is central to competitive effects. Additionally, the risk is also that a retailer Operator concentrates on an Eircom area rather than a SIRO-only area, so overlap is not the only relevant metric. This is the so-called “share of voice” risk. However, the key regulatory point is that the notification design should be robust to plausible overlap scenarios.

ComReg correctly identifies uncertainty around forthcoming deployments and overlap evolution as a factor increasing foreclosure risk.

5.7.3 A scheme that is “safe” only under optimistic overlap assumptions is not appropriate for approval under the D05/24 framework, which is explicitly designed to prevent promotions that could undermine viable network competition.

#### 5.8 Constraints on new FTTH connections beyond availability (para. (53), bullet 7)

5.8.1 ComReg asks whether new FTTH connections are constrained by factors other than network availability.

5.8.2 SIRO agrees they are, including consumer inertia, switching friction, retailer campaign capacity, and installation logistics. These constraints make it more likely that Access Seekers will seek to “secure” the target by channelling marginal demand to open air where it is available—again reinforcing the loyalty-enhancing mechanism.

#### 5.9 Impact on alternative operators’ business case even if the “at-risk” line share is small (para. (53), bullet 8)

5.9.1 ComReg asks about business case impacts if rivals cannot compete for the subset of lines needed to meet targets, even if that subset is a small share of footprint.

5.9.2 SIRO submits that even small shares can be material because:

- competition and churn often concentrate in overlap areas, which are disproportionately important for utilisation, scale economies, and payback;
- losing marginal volumes in overlap areas can increase unit costs and worsen the economics of further build (particularly for the “next ring” of expansion); and
- forced discounting to protect those marginal volumes can have a first-order effect on IRR and financing capacity.

5.9.3 Oxera acknowledges that scale considerations may reduce concern, but nonetheless concludes that adverse outcomes may materialise and therefore it cannot conclude definitively that Criterion 4 is satisfied.

#### 5.10 Potential for lower retail prices for end-users (para. (53), final bullet)

5.10.1 ComReg asks whether approval could lead to lower retail broadband prices.

5.10.2 SIRO agrees with ComReg’s assessment that consumer pass-through is highly uncertain because Access Seekers do not know at the time of retail sale whether they will achieve the growth target and thus qualify for the discount.

5.10.3 In practice, this uncertainty encourages Access Seekers to:

- treat the potential wholesale discount as an ex post margin improvement rather than an ex ante retail pricing input; and/or
- focus on volume-steering strategies rather than delivering predictable consumer price reductions.

5.10.4 Accordingly, any claimed consumer benefit is speculative and should not outweigh the concrete and asymmetric competition risks identified under Criterion 4.

## **6. Conclusion**

6.1 SIRO supports ComReg’s draft decision to not approve WN2025-021, because ComReg is not satisfied that the scheme will not adversely affect investment or undermine competition (Criterion 4).

6.2 The logic of the D05/24 pre-approval regime is that FTTH wholesale promotions by an SMP operator should only be permitted where it is *clear* they do not create loyalty-enhancing effects that weaken alternative infrastructure investment incentives. WN2025-021 is not such a case:

both ComReg and Oxera identify material uncertainty and non-trivial foreclosure risk arising from the scheme's threshold and retroactive features.

6.3 SIRO therefore urges ComReg to maintain its proposed position and adopt a final decision refusing approval.

Thank you for considering this response to consultation. Please do not hesitate to contact us for further discussion on this matter.

Yours sincerely

No signature as sent by email

Rory Ardagh

Head of Regulatory Affairs

For and on behalf of SIRO



## **Virgin Media response to:**

ComReg's Consultation on a Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg D05/24 (Reference: ComReg 25/93)

30 January 2026  
Non-Confidential Version

## Foreword

This is the Virgin Media Ireland Limited ('Virgin Media') response to ComReg's Consultation on a proposed draft decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg D05/24. (Reference ComReg 25/93)

This response is non-confidential.



[REDACTED]

[REDACTED] <]

- Given our experience we believe ComReg continues to have a critical role to play in assessing air discount schemes in accordance with the WLA/WCA Decision / taking action where required when these are put into effect prior to sign off from the Regulator.
- We have set out our detailed response in support of ComReg's Draft Decision in Sections 2, 3 and 4 below. Virgin Media is available to provide further clarification on any aspect of our response should this be required.

## **2. Introduction**

- We have read through both ComReg’s consultation document and the accompanying Oxera report, along with other documents provided as annexes to the consultation document. On the evidence presented, we fully agree with ComReg’s conclusion that Eircom’s proposed FTTH discount scheme will have a negative impact on investments by alternative operators.
- Our analysis also suggests that the proposed scheme favours also Eircom Retail over its largest rivals (Vodafone and Sky) and so does not satisfy criterion two.
- We therefore fully support ComReg’s draft Decision Instrument set out in Section 4 of the consultation document.
- We set out below our principal reasons for agreeing with ComReg’s analysis of Criterion and then explain why we think that WN2025-021 also favours Eircom’s retail business and so also breaches Criterion 2.

## **3. Harmful Effects on Investments and Competition**

- WN2025-021 is a two-part scheme with an “eligibility period” running for six months from 1<sup>st</sup> June 2026 until 30<sup>th</sup> November 2026 and a “discount period” running for two years from 1<sup>st</sup> January 2027. The anticompetitive effects of the scheme will be felt in both periods.
- During the eligibility period, Retail Service Providers (RSPs), must achieve the growth targets of 15% or 20% to qualify for the discount. In current market conditions, this will give RSPs a strong incentive to place all their orders with Eircom, at least until the target is reached, so that they benefit from the maximum discount. Whilst the proposed scheme does not

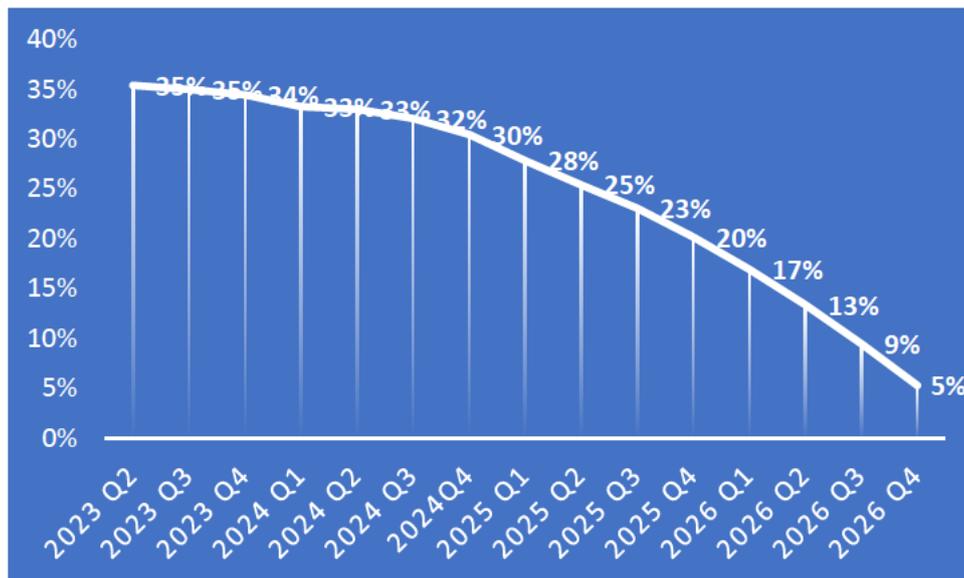
contain an exclusivity clause, there is such a strong incentive for RSPs to place all their orders with Eircom that it is *de facto* exclusive.

- In a rapidly growing market with a growth rate above 20% this may not be of particular concern as the growth could be shared between operators without the RSP fearing that it might lose the discount if it places orders with an Other Authorised Operator (OAO). However, ComReg's Quarterly Key Data Reports (QKDR) show that the growth rate of FTTH subscribers in Ireland is slowing and is very likely to fall below 20% and even below 15% during the eligibility period.
- Figure 1 below shows the actual annual growth rate on quarterly basis over the period from Q2 2023 until Q3 2025 with the current trend extrapolated until Q4 2026<sup>1</sup>. The chart clearly shows an accelerating decline in the growth rate and that if the current trend is extrapolated to the end of the eligibility period growth could drop as low as 5% on an annualised basis. This trend makes it very hard from any RSP to achieve the growth targets in the eligibility period and incentivises them to use Eircom exclusively if they are to have any chance of achieving the threshold needed to obtain the WN2025-021 discount. Naturally, this would be to the disadvantage of the OAOs during the eligibility period.

---

<sup>1</sup> Extrapolation added using the equation  $Y = -0.0016x^2) + 0.0043x + 0.3482$

Figure 1: FTTH Subscriber Growth Q2 2023 – Q3 2026

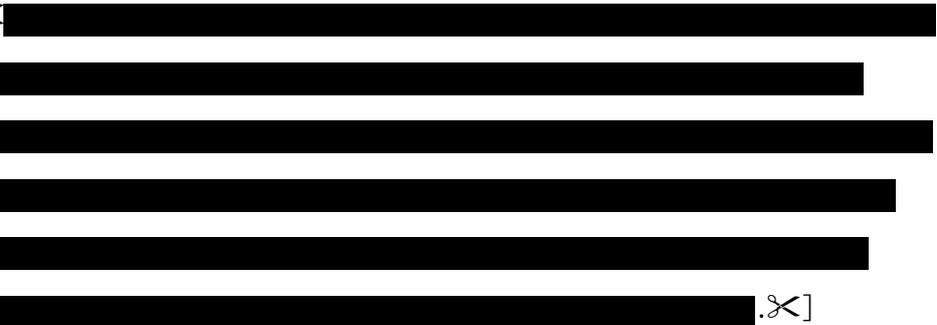


- The only way in which OAOs will be able to counter the discount scheme will be to offer at least the same level of discount as Eircom. ComReg’s analysis at paragraph 22 of the consultation document, shows that at the maximum discount, the price of FTTH VUA would be €21.00 per month compared with a price floor of €20.28 per month.
- Whilst we see that this level of discount remains above the price floor, the effect will still have a negative impact on investment by alternative operators. This is explained by Oxera in paragraphs 6.47 to 6.55 of its report to ComReg<sup>2</sup>.
- Oxera gives the example of where SIRO’s network does not fully overlap with the copper/FTTC customers that a non-Eircom RSP wishes to migrate to FTTH during the eligibility window. Oxera says that “given the number of lines in the migratable FTTC base covered by SIRO is **lower** than the volume of lines needed to satisfy the growth rate, in order to incentivise the non-eircom Access Seekers to instead upgrade these

<sup>2</sup> Oxera (2025) *Economic Assessment of Wholesale Notification 2025-021: Consultation Report*.

lines with SIRO, it would need to compensate them for the discount not realised on the remaining volume of lines that it chooses to migrate on the open air network.”

- Oxera then says that this situation may require the OAO **“to set a price that is even lower than the air discounted prices, which could be lower than the price floor”** (emphasis added).
- They then generalise this example and find that their concern holds more broadly in paragraphs 6.53 – 6.55. They conclude this section of their report by stating:  
*“...the design of the growth target could lead to loyalty enhancing effects. This is a direct consequence of the specification of the growth target and the retroactive features of the proposed FTTH Discount Scheme”.*
- If this were the case, then the OAO may have to set a price below its cost, reducing its return in investment which, of course, would negatively impact on the OAO’s incentive to impact as it could end up earning a return less than its cost of capital.

- [✂  ✂]

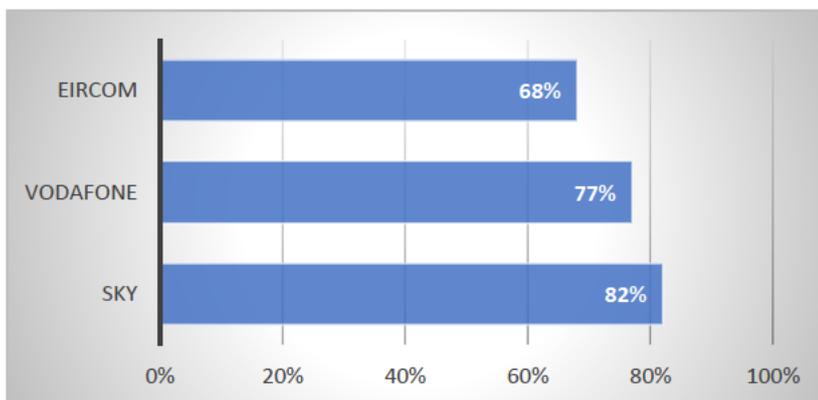
- This would of course negatively affect Virgin Media’s Return on Investment (ROI) which, in turn, may affect Liberty Global’s continued willingness to invest in upgrading Virgin Media’s upgrade programme, undermining our ability to compete. This is in direct breach of Criterion 4.

- The proposed FTTH discount plan therefore has a double-whammy impact on competition in the market, to the detriment of Eircom’s competitors and ultimately to consumers who will end up facing higher prices if an OAO is forced out of the market. During the eligibility period, RSPs would have a strong disincentive to purchase access lines from OAOs as they may not achieve the thresholds set by eircom if they do so.
- Then during the discount period, OAOs may find themselves pricing below the Eircom price to be competitive and may even have to price below the price floor which would have a negative impact on their willingness to invest as they might earn ROI below their cost of capital.

**4. Possible Breach of Criterion 2**

- We have another concern which has not been considered by either Oxaera or ComReg and that is the relative benefit to Eircom Retail from the proposed discount scheme.
- The three largest RSPs on the Eircom network (Eircom, Vodafone and Sky) have had varying degrees of success at converting copper/FTTC customers to FTTH. Figure 2 below shows the proportion of FTTH to all broadband customers for each of the largest RSPs, calculated from Comreg’s Quarterly Key Data Report Q3 2025.

*Figure 2: Major RSP FTTH Customers as % of all Broadband Customers*



- Whilst any qualifying customers signing up during the eligibility period count towards target threshold, we assume that customers already signed up to an RSP are likely to be more loyal to that retailer, and therefore easier to upgrade to FTTH, than one already signed to an alternative retailer. Therefore, the RSP with the lowest proportion of customers using FTTH has a proportionately larger pool of copper/FTTC customers to upgrade.
- Figure 2 shows that 32% of Eircom’s copper/FTTC broadband customers are still to switch to FTTH with just 23% and 18% of Vodafone’s and Sky’s. This means that Eircom Retail has more headroom to achieve the thresholds when converting its own customers from copper/FTTC to FTTH.
- Table 1 below shows the total number of FTTH and Fixed Broadband customers at Q2 2024 and Q2 2025. In Table 2 we calculate the number of FTTH customers for each of the largest RSPs along with the growth in FTTH customers as percentage of all Broadband customers over the period.

*Table 1: Broadband & FTTH Market Sizes*

	Q2 2024	Q2 2025
FTTH	763,677	957,957
Fixed Broadband	1,672,293	1,716,609

Table 2: Major RSP Growth Q2 2024 - Q2 2025

FTTH	Q2 2024		Q2 2025			Average 6-month growth (Subs)
	Market Share	Subscribers	Market Share	Subscribers	Growth subscribers	
Eircom	32.8%	250,486	32.3%	309,420	58,934	29,467
Vodafone	29.5%	225,285	28.4%	272,060	46,775	23,387
Sky	23.6%	180,228	23.8%	227,994	47,766	23,883

- The market shares are taken from Comreg’s QKDR Q2 2025 and the number of subscribers for each RSP calculated from the report. The key data shown in the table is the final column, which is the number of subscribers each RSP signed in an average six-month period over the 12 months from Q2 2024 to Q2 2025.

Table 3: Major RSP Growth Targets to Achieve Discount Thresholds

	Remaining Copper Customers	Required growth (20%)	As proportion of remaining customers	Required growth (15%)	As proportion of remaining customers
Eircom	166,081	35,360	21%	33,887	20%
Vodafone	84,995	28,065	33%	26,896	32%
Sky	44,947	28,660	64%	27,465	61%

- Table 3 calculates the number and proportion of remaining copper/FTTC customers each RSP would need to sign up during the eligibility period to achieve the 20% or 15% threshold required for the discount scheme to be applied. What this table shows is that Eircom would need to sign up 21% and 20% of the unconverted customers to qualify for the discounts. By

contrast, Vodafone and Sky would have to 32% to 33% and 61% to 64% respectively to qualify. As Eircom has to sign up a much lower proportion of customers than its rivals, it is easier for it to achieve the thresholds (especially in a market with declining growth as noted above) and therefore this scheme favours Eircom Retail over other RSPs, meaning that Criterion 2 is also not.



By Email – [wholesalepricing@comreg.ie](mailto:wholesalepricing@comreg.ie)

30 January 2026

Sky has reviewed the ComReg consultation entitled Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited (“Eircom”) under ComReg Decision D05/24 dated 19 December 2025 and wishes to provide the following input. Sky notes that Eircom submitted an FTTH wholesale discount scheme to ComReg on 8 August 2025 and provided further information on 12 September 2025, at which point ComReg considered Eircom’s notification “WN2025-01” to be complete.

- Sky notes that ComReg has carried out an assessment of WN2025-01 across the four criteria set out in ComReg Decision D05/24.
- Sky notes that ComReg proposes not to approve WN2025-021 based on its assessment across the four different criteria and ComReg’s view that WN2025-01 fails criterion four, as there is a risk that it will foreclose competitive alternative network operators.
- Sky’s assessment is that Eir Retail will likely benefit the most from this promotion. Sky believes that both the structure of the promotion and the fact they have the largest copper base will mean Eir Retail will have the biggest opportunity to benefit from both the growth and the copper migration elements of the promotion proportionally more than any other retail operator.
- Sky does welcome Eircom’s initiative to introduce a promotion to incentivise copper retirement. Indeed, we welcome all initiatives to drive network competition fairly across all retailers. However, we do not believe the current structure of WN2025-021 would provide the same opportunity to Sky or other retail operators as it does to Eir Retail.
- Sky’s view is that the construction of WN2025-021 is made up of two separate initiatives that are bundled together into a linked promotion. According to the proposal, in order to benefit from the copper migration element of the promotion, retail operators must first achieve a very significant growth target. Sky does not believe there should be any linkage between growth and copper migration initiatives and these should be treated separately.
- The linkage between both growth and copper migration is not the only issue with WN2025-021. We believe that there is too much risk for retail operators in the binary nature of the targets. For a retail operator to have a chance of meeting the target, we consider they would have to make active decisions and choose Eir’s network over other available networks. Even if retail operators were to do this, the targets of 15% and 20% are too rigid and retail operators run the risk of missing out on all the benefits of the promotion where they come close to but fail to achieve the targets. This is in spite of the likely investment needed by retail operators in the form of advertising and FOTS (feet on the street) to get close to these targets.
- In light of the above, Sky’s believes that the initiatives proposed in WN2025-021 should be separated into two distinct promotions:
  - First, a new growth promotion that rewards retail operators for maintaining and growing their base. We believe any such promotion should factor in the rollout of



Sky Ireland Limited, private company limited by shares, registered in Ireland under No. 547787.

Registered address: Fifth Floor, One Burlington Plaza, Burlington Road, Dublin 4, D04RH96. Directors: J.D. Buckley, R. Watton



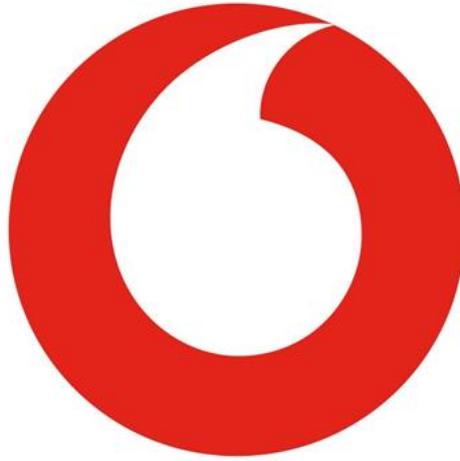
Open Eir. That is, if the Open Eir rollout in 2026 were much smaller than in 2025, the 2026 target would be more difficult for retail operators to achieve due to the limited headroom. Sky would also suggest that the incentive is provided on a linear tiered basis rather than the current cliff edge proposed in WN2025-021.

- Second, Sky would welcome a copper migration promotion that rewards every Eircode moved from copper to FTTH. That is, any Eircode moved from copper to FTTH would have a reduced rental on FTTH for a specified period of time. Sky also suggests that the level of reward per Eircode should depend on the age of the copper service. For example, Eircodes that have an active copper service but have been passed for FTTH by Open Eir for more than 12 months, should receive a higher incentive as these are generally more difficult to migrate.
- In summary, we welcome Eircom's initiative to introduce promotions. However, we do not believe there should be any linkage between the growth element of the promotion and the copper migrations incentive. Sky would support standalone growth and copper migration promotions that reward all Eircodes moved to FTTH, if implemented in a fair and transparent manner and would be to the long-term benefit of industry, customers and indeed Eircom.



Sky Ireland Limited, private company limited by shares, registered in Ireland under No. 547787.

Registered address: Fifth Floor, One Burlington Plaza, Burlington Road, Dublin 4, D04RH96. Directors: J.D. Buckley, R. Watton



## Vodafone Response to Consultation

Consultation and Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom under ComReg Decision D05/24

Reference: ComReg 25/93

Version: Non-confidential

Date: 30/01/26

## Response

Vodafone appreciates the opportunity to comment on ComReg 25/93 and the associated analysis of ComReg's assessment of Eircom's wholesale FTTH discount scheme under ComReg Decision D05/24.

Vodafone supports ComReg's decision to reject the proposed discount scheme and agrees with the conclusion that the requirements of Ground 4 were not met.

As a significant purchaser of wholesale broadband services, Vodafone considers that regulatory certainty, fairness, and non-discriminatory conditions are critical to the effective functioning and long-term sustainability of the wholesale local access market.

In this context, Vodafone welcomes ComReg's detailed assessment of the proposed scheme and the clear reasoning set out in support of its conclusions. The analysis provides important regulatory clarity for market participants and reinforces the principle of equal treatment among wholesale access seekers.

This submission is intentionally high-level and is intended to express Vodafone's support for ComReg's approach and overall conclusions, rather than to provide detailed technical commentary.

Below, Vodafone outlines the principal considerations underpinning its support for ComReg's decision. These relate to:

1. concerns regarding the design and achievability of the proposed growth-based discount structure;
2. concerns about the binary structure of the proposed discount scheme that creates a "cliff-edge" effect;
3. exclusion of FTTH-FTTH on-net transfers from discounts;
4. issues with the scheme being weighted against providers that have already made the investment and operational effort to migrate their customers to FTTH;
5. Eircom's historic record of issuing price increases once customer dependency has been established;

Vodafone considers that the growth thresholds underpinning the proposed discount scheme are commercially unrealistic in current market conditions. The requirement for Access Seekers to exceed their average 6-month FTTH growth on the Eircom network in 2025 by 15% to 20% within a 6-month window reflects a level of acceleration that is not achievable in practice.

On a forward-looking commercial assessment, Vodafone would not plan or allocate resources on the basis of attempting to meet these thresholds, given the scale of growth required, relative to expected demand. Meeting the target would require a substantial diversion of activity away from other suppliers and would remain inherently uncertain. This calls into question the effectiveness of the scheme as a genuine wholesale incentive mechanism. (*ComReg Consultation, para 42*)

The FTTH market is also entering a more mature phase. ComReg's own data show that FTTH growth rates are slowing quarter on quarter, with annual growth materially lower between Q3

2024 and Q3 2025. Overall FTTH take-up is now approximately 50%. These dynamics reduce the pool of customers that can be readily migrated and limit the ability of providers to deliver incremental growth. *(ComReg Consultation, para 8)*

Even if Vodafone were to prioritise new business towards Eircom's FTTH network, there would be no certainty of achieving the required thresholds within the eligibility period. Demand-side constraints, customer preferences, and overlapping network footprints all limit practical migration opportunities, consistent with the issues raised by ComReg..

Vodafone is also concerned about the binary structure of the scheme. Access Seekers must meet the minimum growth threshold in full to receive any discount, with those falling narrowly short receiving nothing. This creates a clear cliff-edge effect. An operator that delivers material incremental growth but misses the threshold by a small margin faces significantly greater commercial risk with no offsetting reward, reducing the incentive for participation and increasing uncertainty. This uncertainty also weakens the likelihood of meaningful pass-through to end users, since Access Seekers cannot know at the point of sale whether the discount will ultimately apply. *(ComReg Consultation, para 41)*

Vodafone also notes that this cliff-edge structure does not create the same commercial risk for Eircom. Given the close alignment between Eircom Retail and Eircom Wholesale, the group is effectively insulated from the financial uncertainty faced by independent Access Seekers. Whether the discount triggers or not, the impact is neutral at group level, meaning the mechanism serves only to distort competition at the retail layer without imposing any equivalent risk on Eircom itself.

Vodafone further notes that FTTH-to-FTTH on-net transfers are counted towards the growth calculation but are excluded from eligibility for the discount itself. This asymmetric treatment is problematic. Retail ISPs have limited influence over the access technology used by customers approaching them, and from the perspective of an end user, a broadband service is simply a broadband service. Excluding FTTH-to-FTTH transfers therefore penalises Access Seekers for customer behaviour that is largely outside their control and prevents them from designing targeted commercial campaigns. It also results in a misalignment between how growth is measured and how discount eligibility is determined. *(ComReg Consultation, para 17)*

The scheme also creates an incentive structure that does not align with customer benefit. The growth thresholds encourage Access Seekers to divert customers away from other wholesale networks purely to meet the target, rather than responding to customer need or service quality. In practice, this mechanism operates mainly to draw additional retail volume onto Eircom's network, without delivering any clear advantage for end users.

More broadly, the scheme is weighted against providers that have already made the investment and operational effort to migrate their customer bases to FTTH. For Vodafone, where ComReg's quarterly report shows that 78% of customers are already on FTTH, there is little to no incremental benefit in migrating customers to another FTTH network. Doing so would introduce

unnecessary provisioning steps and risk service disruption without improving customer experience or network performance. Pursuing such migrations purely to qualify for a discount would therefore be counterproductive.

The scheme also provides no benefit for Access Seekers in moving existing FTTH customers between wholesale networks. There is no service improvement or customer experience gain from such activity. In contrast, there is a clear commercial benefit to Eircom when customers are moved onto its network, reinforcing incentives that serve Eircom's wholesale and retail interests rather than delivering positive outcomes for consumers.

Given the maturity of the FTTH market, the scheme inherently limits the opportunity to qualify for the discount to those Access Seekers that still have a substantial proportion of customers on FTTC or copper. ComReg's report shows that only 68% of Eircom Retail's base is on FTTH, meaning providers with similar profiles have a larger pool of customers available to migrate. This makes the thresholds significantly easier for them to achieve and favours operators that remain behind the broader industry in FTTH adoption. In effect, the proposal risks rewarding lagging providers while penalising those that have already advanced ComReg's policy objectives.

Vodafone also notes that the scheme interacts with Eircom Retail's commercial footprint in a way that further advantages it. Eircom Retail sells FTTH services over only two wholesale networks, and these networks have little overlap. This allows Eircom to focus its sales activity in areas where only one wholesale provider is present, making it easier for Eircom to achieve the growth thresholds compared with Access Seekers operating across multiple overlapping networks.

Vodafone is also concerned about Eircom's track record of using commercial incentives to draw Access Seekers onto its network and subsequently increasing prices once customer dependency has been established. In recent years, Eircom has raised prices on legacy products, increased charges following FTTC deregulation, adjusted pricing on deregulated bitstream products (FTTH), and has recently announced PSTN and leased line price increases. This pattern raises a legitimate risk that Access Seekers could receive a temporary introductory discount under the proposed scheme only to face higher wholesale charges once they are more heavily reliant on Eircom's network. [REDACTED]

[REDACTED]

For these reasons, and for the reasons set out by ComReg in the Consultation, of which Vodafone is in full agreement, we support ComReg's proposed decision to reject the discount scheme.

**Submitted via email to: [wholesalepricing@comreg.ie](mailto:wholesalepricing@comreg.ie)**

Pure Telecom welcomes the opportunity to comment on the consultation for the proposed eircom discount scheme.

Our response focuses on the two questions raised by ComReg where our operational experience is most relevant.

### **1. Are the growth base and volume targets attainable?**

Based on our indicative understanding of our 2025 FTTH growth performance, Pure Telecom considers that the percentage-based targets (15% and 20%) are challenging but commercially achievable. The structure of the scheme—using each Access Seeker’s own historic growth as the baseline—ensures that smaller operators are not disadvantaged by absolute volume thresholds more easily met by larger retail providers.

Provided Access Seekers receive adequate notice of their baselines, Pure Telecom believes we would be able to plan retail activity for the June–November 2026 window in a way that makes participation viable. The proposed thresholds do not appear so high as to require exclusive use of the Eircom network, nor do they create an operational barrier that would prevent us from pursuing growth on multiple networks.

### **2. Would participation impact our use of other wholesale FTTH networks?**

Based on how we manage retail demand today, Pure Telecom does not anticipate that participation in the scheme would reduce or distort our use of alternative FTTH networks.

Our network choice is shaped by availability, service quality, and commercial strategy—not by a six-month wholesale promotion. We therefore do not expect the scheme to divert meaningful volumes away from other networks. The proposed discount also does not alter our long-term commercial need to maintain a multi-network strategy to ensure nationwide reach. Promotions of this type typically prompt rival FTTH networks to introduce competing tactical offers, creating indirect competitive benefits for Pure Telecom through improved wholesale pricing options and greater flexibility to stimulate FTTH demand

### **Conclusion**

Pure Telecom supports initiatives that stimulate FTTH growth, accelerate copper/FTTC migration, and enhance retail competitiveness—provided they are available on a non-discriminatory basis.

On the basis of the information available to us:

- The proposed growth targets appear proportionate and achievable for smaller operators;
- We do not foresee any negative impact on our use of alternative FTTH networks; and
- We would be willing, in principle, to consider using the scheme subject to our commercial strategy for H2 2026.



## **Speed Fibre Group – Response to ComReg Consultation 25/93 on WN2025-021**

We refer to ComReg consultation 25/93 with respect to Eircom’s FTTH discount scheme notified by Eircom Limited under ComReg Decision D05/24.

Speed Fibre Group (SFG) are broadly receptive to the discount scheme proposed by Eircom subject to some minor changes. Based on ComReg’s and Oxera’s analysis the proposed scheme passes a range of tests laid out in D05/24 save for ComReg’s reservations about the potential impact on investment by other operators in the access network. SFG consider this concern could be dealt with if the volume requirement laid out in the Eircom proposal were tweaked.

Where operators are required to hit 15% or 20% thresholds and there is a risk of not achieving this then it could create an undue incentive to divert orders or even transfer existing lines from those other operators to Eircom as the promotion period gets closer to the end. However, if the scheme reflected more graduated incentives and outcomes than the current binary “all or nothing” approach this concern could be addressed. For example, if participating operators achieved 8% growth over the period, these lines would qualify for 8/15 (53%) of the proposed “15% discount scheme” i.e.  $53\% * €1.50 = €0.80$ . If it achieved 11% growth it would qualify for 11/15 (73%) of the discount scheme and so on. Similarly, if it achieved 16% growth, it would qualify for the full 15% discount of €1.50 and 1/5 (20%) of the remaining uplift in the “20% discount scheme” =  $20\% * €0.50 = €0.10$ , for a total discount of €1.60. The same logic could be applied to the €0.50 additional discount associated with FTTC migrations.

In SFG’s view this ‘linear’ (or alternatively ‘stepped’) rather than ‘binary’ approach would not represent a material change to the Eircom proposal and would satisfy all the conditions laid out in D05/24. It would also give operators greater certainty about the level of discounting that could be passed on end-users. SFG are of the view that in adopting this minor amendment, subject to Eircom’s agreement, there would be no reason why ComReg would need to reconsult on the matter.

[Redacted content]

**E:** [info@speedfibregroup.ie](mailto:info@speedfibregroup.ie) **T:** 061 274000 **W:** [www.speedfibregroup.ie](http://www.speedfibregroup.ie)

**Directors:** Peter McCarthy & Noel Ryan. **Company Registration No.** 531995

**Company Name:** Speed Fibre Group Limited **Place of Registration:** Ireland

**Registered Office:** Second Floor, Unit 8 Richview Office Park, Clonskeagh, Dublin 14, D14 X652

[REDACTED]

[REDACTED] .<]

29 January, 2026

# alto

alternative operators in the communications market

**Consultation: Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg Decision D05/24 Ref: 25/84 & 25/91**

**Submission By ALTO**

Date: January 30<sup>th</sup> 2026

ALTO is pleased to respond to the Consultation: Draft Decision on Assessment of a wholesale FTTH discount scheme notified by Eircom Limited under ComReg Decision D05/24 – Ref: 25/93 and Ref: 25/28 Assessment of Eircom FTTH Pricing Proposal.

ALTO welcomes the opportunity to respond to ComReg 25/93 and the associated analysis, concerning ComReg’s assessment of the wholesale Fibre to the Home (“**FTTH**”) pricing proposal notified by Eircom under Decision D05/24.

### **Preliminary Remarks**

ALTO represents a broad cross-section of operators that are directly reliant on the integrity, predictability, and robustness of the wholesale regulatory framework in Ireland. As such, the issues under consideration in this consultation are of fundamental importance to the effective functioning of the Wholesale Local Access (“**WLA**”) market, to infrastructure-based competition, and to the long-term investment climate in next-generation networks.

ALTO responds to ComReg under the headings marked 1 – 5 below. ComReg should note for completeness that this is a very high level and supportive response that is submitted by ALTO in the absence of any meeting to consider same, or any discussions with members, save for a review the contents of this paper which should be self-explanatory and all of which remain entirely consistent with ALTO’s legal obligations under competition law.

### **1. Commendation of ComReg’s approach and process**

ALTO wishes, at the outset, to commend ComReg for the structured, transparent, and evidence-based approach it has adopted in this matter. In particular, we welcome:

- ComReg’s decision to consult explicitly and publicly on Eircom’s pricing proposal, rather than treating the matter as a narrow procedural approval;
- The depth and clarity of the analytical framework applied, firmly anchored in the substantive criteria set out in Decision D05/24;
- The publication of detailed economic and competitive assessments, enabling stakeholders to understand both ComReg’s reasoning and the potential market impacts of the proposed promotion.

This approach is entirely consistent with the principles underpinning the recent WLA/WCA market review, in which ComReg identified enduring competition problems in the Commercial NG WLA market and imposed targeted remedies on Eircom as an SMP operator.

ALTO strongly supports ComReg’s continued commitment to transparency and procedural rigour in the ongoing application of those remedies.

## **2. Importance of the issues under consideration**

ALTO considers that wholesale FTTH pricing and promotions by an SMP operator are not routine commercial matters but go to the heart of the regulatory framework established by ComReg 24/07 and Decision D05/24.

As ComReg has itself recognised, FTTH pricing flexibility must be carefully constrained to ensure that:

- Promotions do not, in form or effect, favour the vertically integrated retail arm of the SMP operator;
- Alternative network operators’ investment incentives are not undermined;
- The transition from legacy networks to FTTH does not become a vehicle for exclusionary or foreclosure strategies.

None of these concerns are theoretical. The market review documents extensive evidence of Eircom's ability and incentive to leverage its wholesale position into downstream markets absent effective regulation. Against this backdrop, ALTO welcomes ComReg's explicit recognition that even time-limited or ostensibly modest promotions can have durable competitive effects if not subject to close scrutiny.

### **3. Eircom's ongoing conduct and the need for vigilance**

ALTO considers it essential that ComReg's assessment of the current pricing proposal be also viewed in the context of Eircom's recent regulatory compliance issues. In this regard, ALTO draws particular attention to ComReg 25/85, which documents ComReg's intervention in relation to Eircom's €50 gift card FTTH promotion, including the adoption of Urgent Interim Measures and the subsequent settlement under section 62 of the 2023 Act.

That case is highly instructive. It demonstrates that:

- Eircom was prepared to launch a promotion without prior approval, notwithstanding the clear requirements of Decision D05/24;
- Absent swift regulatory intervention, such conduct had the potential to adversely affect the wholesale market;
- Formal undertakings and enforcement action were required to restore regulatory certainty.

In ALTO's view, this pattern of behaviour underscores the necessity for continued regulatory vigilance. ComReg is right to apply a cautious lens, informed by the asymmetry of incentives faced by a vertically integrated SMP operator.

### **4. Support for ComReg's analytical framework and conclusions**

ALTO very strongly supports ComReg's application of the four substantive criteria under Decision D05/24, including the careful examination of:

- The effective economic benefit accruing to Eircom Retail relative to access seekers;
- The scale, structure, and conditionality of the proposed promotion;
- The cumulative and dynamic effects on alternative operators' business plans and investment cases.

We particularly welcome ComReg's recognition that infrastructure-based competition remains fragile and uneven, notwithstanding progress in FTTH rollout.

As documented in ComReg's own market monitoring and market review analysis, alternative FTTH networks continue to face material scale disadvantages relative to Eircom, making them especially vulnerable to aggressive wholesale pricing strategies by the incumbent.

## **5. Concluding remarks**

In conclusion, ALTO:

- Commends ComReg for its transparent, thorough, and consultative handling of Eircom's FTTH pricing proposal;
- Strongly supports the importance ComReg has attached to this assessment, given the strategic significance of FTTH pricing in the WLA market;
- ALTO considers that ComReg's approach in this case sends an important and positive signal to the market: that SMP obligations are substantive, enforceable, and central to safeguarding competition and investment in Ireland's digital infrastructure.

We thank ComReg for the opportunity to contribute to this Consultation and we would be pleased to engage further on any aspect of this response.

**ALTO**

**30<sup>th</sup> January 2026**