



Office of the Director of  
**Telecommunications  
Regulation**

**INFORMATION NOTICE**

**Eircom's Wholesale Bitstream  
Reference Offer**

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**Oifig an Stiúirthóra Rialála Teileachumarsáide**

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## **FOREWORD**

Arrangements for the introduction of DSL services, providing higher capacity communications over conventional telephone lines, have proved complex and contentious in many countries and particularly so in Ireland. I am pleased therefore that discussions have now concluded on a range of issues, opening the way for the introduction of a non-discriminatory bitstream service by eircom, which is dealt with in this paper and also unblocking LLU pricing which has been subject to court action. I am satisfied that eircom's revised pricing proposals meet their regulatory obligations. eircom may now launch their service 21 days following the formal notification and publication of their retail prices.

Eircom will today announce their wholesale prices and have indicated that they will announce their retail prices and their rollout plans in the coming days.

I am pleased eircom have now met their regulatory obligations and that Irish businesses and consumers can now enjoy the benefits of DSL technology – both from eircom and from other operators who can purchase the wholesale service and provide alternative retail services.

**Etain Doyle**  
**Director of Telecommunications Regulation**

## INTRODUCTION

In April 2000, the ODTR issued a Decision Notice on digital subscriber line (DSL) access including unbundling the local loop, and in particular bitstream access (ODTR document 00/30 Report on the ODTR consultation on Local Loop Unbundling – Decision Notice D6/00). Since then, much work has been done in developing products and dealing with the technical commercial and regulatory issues involved in all aspects of DSL access.

Bitstream services involve eircom's wholesale arm installing DSL technology in switches and providing the enhanced capacity to eircom retail and other licensed operators so that they in turn can provide high-speed access to services such as the Internet. Where eircom provides a retail product, it is also required to make the same product available on a wholesale basis to other telecommunications operators.

Launch was originally planned for April 2001 but a review of supplier and platform change by eircom resulted in a delay of the launch date for bitstream access from April to September 2001. At that time, the ODTR review of pricing proposals raised concerns that the charges were not cost oriented and gave rise to a margin squeeze. The Director, whilst welcoming any new product which increases the choice available to Irish users, stated that she was unable to approve eircom's pricing proposals.

Bitstream falls under the definition of Special Network Access and as such is covered by the provisions of Regulation 20 of the European Communities (Voice Telephony and Universal Service) Regulations, 1999 ("Voice Telephony Regulations"). The responsibility is on eircom to ensure that proposed charges are cost oriented. The ODTR is obliged to ensure that the pricing structure of the new product complies with certain regulatory rules: the wholesale product must be made available on cost-oriented and non-discriminatory terms so that other operators are not disadvantaged compared to *eircom's* retail arm. The ODTR has a general duty to ensure effective competition and maximum benefits in terms of price, choice and quality to end users, and must be satisfied that the above obligations are met by any such new product introduced by a telecommunications operator with Significant Market Power.

In particular, the Director may not approve a "margin squeeze" (by which the retail prices charged by a dominant undertaking are so close to the wholesale prices offered to competitors that even a reasonably efficient competitor cannot enter the market). Information Notices 01/65 (23<sup>rd</sup> August 2001) and 01/75 (26<sup>th</sup> September 2001) set out the views of the ODTR in relation to eircom's pricing proposals.

The Director stated at that time that eircom could launch its retail offering not less than 21 days after it had satisfied her that its wholesale offering is compliant with its obligations regarding cost orientation, non-discrimination and competition.

## **PRICING OF BITSTREAM**

Based on information provided by eircom, the Director is satisfied that eircom's new pricing structure meets regulatory obligations. The Director considers that the separate delivery of LLU lines to eircom bitstream installations is now not relevant given the resolution of the LLU pricing issues.

Eircom will publish their wholesale prices on 17<sup>th</sup> April 2002, and their retail prices next week. Eircom may launch retail products not less than 21 days from their publication of retail prices and formal notification to the ODTR

## **NEXT STEPS**

The Director is aware that there are a small number of operational issues which remain to be completed and she urges eircom to finalise these without delay. She understands that a Service Level Agreement will be completed within the week. The ODTR will provide any assistance it can to progress these issues.

The Director also notes eircom's assurance that it will use reasonable endeavours to ensure backhaul can be put in place in a timely manner for access seekers who wish to avail of the wholesale bitstream service and also notes special arrangements for the submission of build orders for the launch period. The issues will be finalised with industry this week and will facilitate the launch by interested access seekers at the same time as eircom.

## **CONCLUSION**

The Director is pleased that Irish consumers and businesses can now enjoy the benefits of bitstream using DSL technology. She believes that other licensed operators can now compete fairly in the marketplace and urges them to take up this innovative service.

The Director will monitor the market carefully, in particular price movements. (If retail prices fall, the position of other operators will need to be maintained by equivalent moves in wholesale pricing: if retail prices were to rise, any increase in wholesale pricing would need to be objectively justified to the ODTR.)