



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

## **Request for derogation from publication timescales**

*SLAs amended as a result of settlement  
agreement between Eircom Limited, BT  
Communications Ireland Limited, Sky Ireland  
Limited, Magnet Networks Limited and Vodafone  
Ireland Limited, dated 30 June*

## Information Notice

**Reference:** ComReg 17/69

**Version:** Final

**Date:** 11/08/2017

## Additional Information

Document No:	17/69
Date:	11, August 2017

A 1.1 On 2 August 2017, Eircom requested a derogation from its obligations with respect to pre-notification timescales for publication to industry of proposed amendments to its Wholesale Physical Network Infrastructure Access Reference Offer ('WPNIA ARO'), its Wholesale Broadband Access Reference Offer ('WBA WBARO') and its Wholesale Fixed Voice Call Origination and Transit Reference Interconnect Offer ('FACO RIO'). The proposed amendments related to the definition of what constitutes a valid and invalid fault and the terms and conditions for the exclusion of valid faults from the calculation of service credits under the relevant Service Level Agreements ('SLAs').

A 1.2 Publication by Eircom of these amendments took place on 14 August 2017. The derogation requested that the changes to the relevant SLAs could be made effective on 1 October 2017 rather than 14 October 2017 which would be the case in the absence of such a derogation from ComReg.

### **WPNIA**

A 1.3 Pursuant to Section 10.3 of the Decision Instrument contained in the WPNIA Decision<sup>1</sup>, Eircom is required to comply with the following obligation:

*Eircom shall, unless otherwise agreed by ComReg, make publicly available and publish on its website at least two months in advance, any proposed changes to the ARO and any proposed changes to wholesale prices (including prices for new services and facilities) coming into effect. Eircom shall notify ComReg at least one month in advance of any such publication taking place, that is, three months prior to any changes coming into effect. This period of one month may be varied with the agreement of ComReg. Proposed changes to the ARO and proposed changes to wholesale prices and the application of such prices shall not be implemented without prior notification to ComReg and without prior notification to OAOs.*

A 1.4 Pursuant to Section 9.4 of the Decision Instrument contained in Annex 1 in the NGA Decision<sup>2</sup>, Eircom is required to comply with the following obligation:

*In respect of non-pricing amendments or changes to the ARO resulting from an amendment or change to an existing Next Generation WPNIA product, service or facility, the following obligations will apply:*

*Eircom shall, unless otherwise agreed by ComReg, make publically available and publish on Eircom's publically available wholesale website at least two (2) months in advance of coming into effect, any proposed amendments or changes to the*

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<sup>1</sup> Wholesale (Physical) Network Infrastructure Access Market (ComReg Document No 10/39, Decision No D05/10) (the 'WPNIA Decision').

<sup>2</sup> ComReg Document No 13/11: 'Next Generation Access ('NGA'): Remedies for Next Generation Access Markets - Response to Consultation and Final Decision' dated 31 January 2013 (the 'NGA Decision').

*ARO pertaining to non-price information in respect of product specification, services, facilities and processes resulting from an amendment or change to an existing Next Generation WPNIA product, service or facility (including details of any amendment or change in the functional characteristics of an existing Next Generation WPNIA product, service or facility). Eircom shall notify ComReg in writing with the information to be published at least one (1) month in advance of any such publication taking place, that is, three (3) months prior to any amendments or changes coming into effect. The periods referred to in this Section may be varied with the agreement of ComReg or at ComReg's discretion. Notwithstanding this Section 9.4, material changes or material amendments shall, however, be notified and published in accordance with Section 9.3 or as otherwise agreed with ComReg or at ComReg's discretion.*

A 1.5 The two month period for advance publication of changes to the WPNIA ARO may be varied by agreement with ComReg. ComReg has decided that the normal two month period for publication to industry need not apply in this particular case. ComReg has therefore decided to grant Eircom a derogation from the advance publication obligations set out in Section 10.3 of the WPNIA Decision and in Section 9.4 of the Decision Instrument at Annex 1 of the NGA Decision in this instance. Eircom may thus implement the updated WPNIA ARO in respect of the proposed amendments to the relevant SLA on 1 October 2017.

## **WBA**

A 1.6 Pursuant to Section 10.3 of the Decision Instrument contained in the WBA Decision<sup>3</sup>, Eircom is required to comply with the following obligation:

*Eircom shall, unless otherwise determined by ComReg, make publicly available and publish on its publicly available website at least two months in advance, or such other period as may be determined by ComReg, any proposed changes to the WBARO and any proposed changes to wholesale prices (including prices for new services and facilities) coming into effect. Eircom shall notify ComReg at least one month in advance of any such publication taking place i.e. three months prior to any changes coming into effect, unless such other period has been determined by ComReg, as described above. Proposed changes to the WBARO including proposed changes to wholesale prices and the application of such prices shall not be implemented without prior notification to ComReg and OAOs and prior approval from ComReg.*

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<sup>3</sup> Market Review: Wholesale Broadband Access (Market 5), (ComReg Document No. 11/49, Decision No D06/11) (the 'WBA Decision').

A 1.7 Pursuant to Section 9.4 of the Decision Instrument contained in Annex 2 of the NGA Decision<sup>4</sup>, Eircom is required to comply with the following obligation:

*In respect of non-pricing amendments or changes to the WBARO, resulting from an amendment or change to an existing Next Generation WBA product, service or facility, the following obligations will apply:*

*Eircom shall, unless otherwise agreed by ComReg, make publically available and publish on Eircom's publically available wholesale website at least two (2) months in advance of coming into effect, any proposed amendments or changes to the WBARO pertaining to non-price information in respect of product specification, services, facilities and processes resulting from an amendment or change to an existing Next Generation WBA product, service or facility (including details of any amendments or changes in the functional characteristics of an existing Next Generation WBA product, service or facility). Eircom shall notify ComReg in writing with the information to be published at least one (1) month in advance of any such publication taking place, that is, three (3) months prior to any amendment or change coming into effect. The periods referred to in this Section may be varied with the agreement of ComReg or at ComReg's discretion. Notwithstanding this Section 9.4, material changes or material amendments shall, however, be notified and published in accordance with Section 9.3 or as otherwise agreed with ComReg or at ComReg's discretion.*

A 1.8 The two month period for advance publication for changes to the WBARO may be varied by ComReg at its discretion. ComReg has decided that the normal two month period for publication to industry need not apply in this particular case. ComReg has therefore decided to grant Eircom a derogation from the advance publication obligation set out in Section 10.3 of the WBA Decision and in Section 9.4 of the Decision Instrument at Annex 2 to the NGA Decision in this instance. Eircom may thus implement the updated WBA WBARO in respect of the proposed amendments to the relevant SLA on 1 October 2017.

## **FACO**

A 1.9 Pursuant to Section 10.9 of the Decision Instrument contained in Appendix H of the FACO Decision<sup>5</sup>, Eircom is required to comply with the following obligation:

*In respect of non-pricing amendments or changes to the RIO resulting from an amendment or change to an existing product, service or facility which falls within the scope of the Relevant Markets, the following obligations will apply:*

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<sup>4</sup> ComReg Document No 13/11: 'Next Generation Access ('NGA'): Remedies for Next Generation Access Markets - Response to Consultation and Final Decision' dated 31 January 2013.

<sup>5</sup> Wholesale Fixed Voice Call Origination and Transit (ComReg Document No 15/82, Decision No D05/15) (the 'FACO Decision')

*(i) Eircom shall, unless otherwise agreed by ComReg, make publicly available and publish on Eircom's publicly available wholesale website at least two (2) months in advance of coming into effect, any proposed amendments or changes to the RIO pertaining to non-price information in respect of product specification, services, facilities and processes resulting from an amendment or change to an existing product, service or facility (including details of any amendment or change in the functional characteristics of an existing product, service or facility).*

A 1.10 The two month period for advance publication of changes to the FACO RIO may be varied by agreement with ComReg. ComReg has decided that the normal two month period for publication to industry need not apply in this particular case. ComReg has therefore decided to grant Eircom a derogation from the two month advance publication obligations set out in Appendix H, Section 10.9 of the FACO Decision in this instance. Eircom may thus implement the updated FACO RIO in respect of the proposed amendments to the relevant SLA on 1 October 2017.

A 1.11 The publication of this Information Notice does not imply that ComReg has formed any view as to Eircom's compliance with its regulatory obligations. ComReg reserves its right to intervene at a later stage if it considers it necessary to do so.