



Commission for  
**Communications Regulation**

## Response to Consultation and Decision

### Response to Consultation and Decision on the Introduction of Key Performance Indicators for Regulated Markets

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## 1 Executive Summary

- 1.1 The Commission for Communications Regulation (ComReg) is responsible for the regulation of the electronic communications sector in accordance with national and EU legislation. Part of its remit is to promote competition and to promote the interests of users within the community. ComReg believes that greater transparency on the performance of regulated wholesale products would contribute to greater competition and would also promote the interests of all users within the community.
- 1.2 Many telecommunications services in Ireland are made available by providers who use wholesale elements supplied by Eircom. The majority of these are regulated services, subject to various obligations including non-discrimination and transparency. In the interests of promoting competition and consumer satisfaction, the wholesale elements supplied to these providers by Eircom must be at least as good as those used by Eircom in its own retail products. ComReg considers that it may be beneficial to all stakeholders to make it demonstrable that this is the case.
- 1.3 One way to do this would be to require the regular publication of Key Performance Indicators (KPIs) relating to these elements and facilitating the direct comparison of Eircom's self-supply in relevant markets with what it provides to its wholesale customers.
- 1.4 The consultation 10/74<sup>1</sup> outlined a proposal to implement KPIs in four regulated markets. These are; Retail Narrowband Access, Wholesale Physical Network Infrastructure Access, Wholesale Broadband Access and Terminating Segments of Wholesale Leased Lines. Services are made available by alternative providers in all of these markets and many are based on wholesale elements supplied by Eircom.
- 1.5 The objective of consultation 10/74 was to evaluate whether KPIs should be mandated and in particular it aimed to:
  - seek views from stakeholders as to the appropriateness of using the KPIs in the manner as proposed in consultation 10/74;
  - determine across all relevant markets which KPIs are most useful to deliver the benefits, as defined within consultation 10/74;
  - evaluate the benefits of mandating KPIs;
  - evaluate if such KPIs would help ensure transparency and non discrimination in relevant wholesale markets;
  - evaluate if such KPIs would ensure a good quality of service across relevant wholesale markets and
  - evaluate if such KPIs would adequately demonstrate comparative indicators of performance between Eircom's wholesale and retail products for the enhancement of transparency.
- 1.6 A key output from the consultation would be the ability to measure the comparative quality of inputs supplied by Eircom across a range of regulated markets. Well-designed KPIs would provide a comparative view of the standard of common or equivalent inputs supplied to OAOs through Eircom's wholesale products versus those used by Eircom itself through self-supply.

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<sup>1</sup> Consultation 10/74; Consultation on the Introduction of Key Performance Indicators for Regulated Markets [http://www.comreg.ie/\\_fileupload/publications/ComReg1074](http://www.comreg.ie/_fileupload/publications/ComReg1074).

- 1.7 ComReg will require Eircom to publish all of the KPIs in a single place to enable explicit comparisons to be made between retail and wholesale offerings as provided by Eircom.
- 1.8 ComReg is of the view that this could provide an assurance to consumers that the products and related services used by both Eircom and OAOs are of the same standard, which would be of great value, and it would further stimulate competition in the Irish telecommunications market.
- 1.9 It could also reassure OAOs that no discrimination in respect of Eircom's wholesale services was occurring.
- 1.10 It is important to note that the publication of wholesale performance statistics in isolation would not, on its own, demonstrate and make transparent the absence of discrimination in particular markets therefore ComReg proposes that the publication of KPIs, for both wholesale and equivalent retail inputs, is vital in order to facilitate easy review of information on the relative quality of wholesale and retail services. This is the common practice of other national regulators referred to within the consultation.
- 1.11 Having issued a consultation and carefully considered the views expressed by respondents; and having received a positive response from the European Commission; ComReg has decided to proceed with its proposal as set out in the Decision Instrument contained at Section 5 of this document.

## **2 Introduction**

### **Overview**

- 2.1 In Consultation 10/74, ComReg published a Consultation and Draft Decision on a proposal to require Eircom to publish Key Performance Indicators in four regulated markets: (i) Retail Narrowband Access, (ii) Wholesale Broadband Access, (iii) Wholesale Physical Network Infrastructure Access and (iv) Terminating Segments of Wholesale Leased Lines.
- 2.2 Consultation 10/74 included detailed definitions of the KPIs proposed, proposals on frequency of publication, method of publication and other relevant matters.
- 2.3 On 21 February 2011, ComReg notified the European Commission of the draft measures regarding the proposed obligation to publish KPIs in the four markets. Following receipt of a letter from the European Commission welcoming the proposals and the submission of a number of responses to the consultation, this paper now sets out the Response to Consultation Document No. 10/74 and a final decision regarding the obligation to publish KPIs in the four regulated markets.

### **Purpose of this Decision**

- 2.4 The purpose of this Decision is to further specify the transparency obligation in four regulated markets such that Eircom is obliged to publish specified KPIs in relation to each market. The affected markets are: (i) Retail Narrowband Access, (ii) Wholesale Broadband Access, (iii) Wholesale Physical Network Infrastructure Access and (iv) Terminating Segments of Wholesale Leased Lines.
- 2.5 A number of responses were received from operators relating to the KPI proposals. The respondents were as follows:
  - Eircom Ltd. (“Eircom”)
  - BT Communications Ireland Ltd. (“BT”)
  - Alternative operators in the Communications Market (“ALTO”)
  - Magnet Networks Ltd. (“Magnet”)
  - Vodafone Ireland Ltd. (“Vodafone”)

### **Legal Basis**

- 2.6 The legal basis for this Decision is set out in full at Appendix 1.

### **Structure of this document**

- 2.7 Section 3 summarises the key issues in the original consultation, sets out the main points raised by respondents, and gives ComReg’s conclusions on these issues. A number of small typographical and presentational issues raised by respondents are also addressed and the suggested changes have been accepted where appropriate.

- 2.8 Section 5 sets out the Decision Instrument and Directions regarding the introduction of Key Performance Indicators within the stipulated regulated markets.
- 2.9 Section 4 sets out the Regulatory Impact Assessment (“RIA”).
- 2.10 Appendix 2 contains a suggested presentational schema for the data.

### **3 Consultation Issues**

#### **ComReg's reasons for implementing KPIs**

- 3.1 In Consultation 10/74, ComReg set out its initial view that KPIs could provide a summary guide to the relative standards of common or equivalent inputs consumed by OAOs through Eircom's wholesale products and by Eircom itself through self-supply.
- 3.2 ComReg was also of the initial view that the proposed KPIs would be useful for OAOs and other stakeholders as they should demonstrate that end-user products based on wholesale elements supplied by Eircom can be of comparable quality and these inputs are delivered in similar timeframes to Eircom's self-supplied inputs as delivered in Eircom's retail products. Thus stakeholders would have confidence in Eircom's wholesale products and in end-user offerings constructed from them.
- 3.3 ComReg also noted that it was not considering standalone quality of service or performance targets in Consultation 10/74.

#### **Views of respondents**

- 3.4 All respondents agreed with ComReg's reasons for implementing KPIs. It was accepted that KPIs would reduce the risk of discriminatory behaviour and enhance transparency with respect to the delivery and quality of Eircom's wholesale products in the relevant markets.
- 3.5 BT noted that the KPIs would allow OAOs to counter any perception by customers that Eircom provided better inputs to its own retail arm than those made available to OAOs.
- 3.6 Vodafone noted its preference for the setting of standalone performance targets to be associated with the KPIs. These, it stated, would allow an assessment of whether the inputs supplied by Eircom were "fit for purpose".

#### **ComReg's position**

- 3.7 ComReg remains of the view that KPIs would have a beneficial impact in the various markets in which they are proposed.
- 3.8 ComReg does not believe that standalone performance targets should be imposed at this time and believes that the KPIs as required are sufficient. However, this does not exclude such targets from being considered in future consultations.

#### **ComReg's approach to implementing the ERG minimum set**

- 3.9 ComReg's KPI proposals were designed on the basis of the ERG "minimum set" as set out in its papers: (07)53 "ERG Best Practice on Regulatory Regimes in Wholesale Unbundled Access and Bitstream Access" and (07) 54 "ERG Common Position on Best Practice in remedies imposed as a consequence of a position of SMP in the relevant markets for Wholesale Leased Lines".
- 3.10 ComReg noted that in order to demonstrate that wholesale inputs are being provided on a non-discriminatory basis, it would be necessary to publish the retail equivalents of those inputs which the SMP operator self-supplies or supplies to its own retail arm, its partners and its subsidiaries.

3.11 ComReg noted the relevance of the ERG papers to the Retail Narrowband Access Market.

#### **Views of respondents**

3.12 Respondents broadly welcomed ComReg's approach to the implementation of the ERG "minimum set".

3.13 Eircom questioned the independence of the ERG "minimum set" stating that it was "other NRA generated material" and that ComReg quoted a "non-incumbent lobby group" in support of it.

3.14 BT and ALTO were of the view that metrics for order rejection (including reason) and repeat faults should be included.

#### **ComReg's Position**

3.15 ComReg remains of the view that the ERG "minimum set" is an appropriate basis for the design of a KPI suite in the relevant markets. Many of the proposed metrics have been implemented by incumbent operators in Europe. Further, ComReg was not influenced only by other NRAs and OAOs within their jurisdictions in designing the KPI suite. ComReg considered the approach of many incumbent operators across Europe and relevant references to KPI suites for the UK and French incumbents were provided in the original consultation.

3.16 ComReg receives order reject information from Eircom on a regular basis. ComReg has observed that OAO processing can be a significant factor in order reject levels. Since the KPIs are intended to measure inputs that are within Eircom's sole control, it does not believe that order rejects should be included within the KPIs at this time.

3.17 ComReg believes that repeat faults will be captured by the "Success of Repair" metric in the relevant markets.

#### **ComReg's views on the effect of KPIs on Eircom's transparency and non-discrimination obligations**

3.18 ComReg was of the view that KPIs would provide enhanced transparency and support the operation of the non-discrimination obligation in the relevant markets.

#### **Views of respondents**

3.19 Respondents broadly agreed with this.

#### **ComReg's Position**

3.20 ComReg remains of the view that KPIs would provide enhanced transparency and support the operation of the non-discrimination obligation in the relevant markets.

#### **ComReg's preliminary view that the imposition of targets associated with the proposed KPIs is not necessary**

3.21 In Consultation 10/74, ComReg was of the preliminary view that because USO targets have already been put in place and also because of the existence of agreed SLAs in the relevant markets, Eircom had sufficient incentive to reach targets associated with those measures. Therefore, it suggested that further targets,

associated with the proposed KPIs were unnecessary, although they might be considered at some future time.

### **Views of respondents**

- 3.22 Eircom agreed with ComReg's view and stated that "there is sufficient incentive for Eircom to reach existing quality thresholds and that the imposition of additional obligations by setting performance targets is not necessary".
- 3.23 Eircom was also of the view that such an imposition would not be relevant for the purposes put forward in the Consultation 10/74.
- 3.24 Vodafone did not agree that in the absence of targets Eircom has sufficient incentives to reach existing quality targets.
- 3.25 Other operators were of the view that existing mechanisms could provide sufficient incentive but that actual targets associated with USO and the SLAs were not sufficiently tight.

### **ComReg's Position**

- 3.26 As noted previously, ComReg remains of the view that the imposition of targets is not necessary at this time. ComReg is of the view that non-discrimination is an acceptable standard to assess wholesale inputs provided for OAOs. Eircom has a clear incentive to supply good quality inputs to its retail products and the KPIs, as designed, will show whether or not a similar quality is provided in the wholesale inputs supplied to OAOs. However this does not preclude the consideration of targets in the future.

## **ComReg's proposed KPIs for Supply of Services and Repair of Services in the Retail Narrowband Access market**

- 3.27 In Consultation 10/74, ComReg proposed a set of KPIs for supply of services and repair of services in the Retail Narrowband Access Market. The KPIs were chosen in line with the reasoning discussed earlier in this paper.

### **Views of Respondents**

- 3.28 Eircom was in general agreement with the proposed reporting metrics as set out by ComReg. It suggested some presentational amendments which ComReg has accepted and which are set out in Appendix 2 of this document.
- 3.29 Eircom raised a number of technical points on the calculation of the metrics. The principal point was that for "Fault Incidence", the denominator should be the Average Number of Working Lines rather than the Average Number of Connections. ComReg notes that this is the denominator used in the USO definitions and therefore accepts this suggested change.
- 3.30 Other operators also agreed broadly with the proposed metrics. Some operators suggested that the metrics should be more focused on the provision of bundles.
- 3.31 Vodafone believed that the metrics proposed were sufficient to allow an initial examination of service repair and to facilitate an assessment of whether further refinement or granularity in the KPIs was required. In this regard it suggested that ComReg's initial position on the amendment of remedies should be examined.

### **ComReg's Position**

- 3.32 ComReg understands that bundles at the retail level would be composed, in the main, from the common inputs addressed in this consultation. Therefore, the non-discriminatory provision of the elements of bundles is more likely to be transparent as a result of the publication of KPIs.
- 3.33 ComReg is satisfied that the amendment of KPIs can be achieved efficiently and quickly in line with the approach set out in Consultation 10/74.

### **ComReg's proposed KPIs for Supply of Services and Repair of Services in the Wholesale Broadband Access market**

- 3.34 In Consultation 10/74, ComReg proposed a set of KPIs for supply of services and repair of services in the Wholesale Broadband Access (WBA) Market. The KPIs were chosen in line with the reasoning discussed earlier in this paper.

### **Views of Respondents**

- 3.35 Eircom was in general agreement with the proposed reporting metrics as set out by ComReg. It suggested some purely presentational amendments which ComReg has accepted and which are set out in Appendix 2 of this document.
- 3.36 Other operators were broadly supportive but believed that metrics covering combined orders and bundles may also be warranted.
- 3.37 Vodafone believed that the metrics proposed were sufficient to allow an initial examination of service repair and to facilitate an assessment of whether further refinement or granularity in the KPIs was required. In this regard, it suggested that ComReg's initial position on the amendment of KPIs should be examined.
- 3.38 Vodafone also noted that a "Bulk Migration" facility in respect of WBA which might be used to deal with a change of wholesale supplier in the merchant market or to migrate end-users from one WBA product set to another has the potential to skew KPIs as these activities are project managed and do not relate to end-user transactions. In this regard Vodafone was of the view that these should be reported on separately.

### **ComReg's Position**

- 3.39 ComReg understands that combined orders would be composed, in the main, from the common inputs addressed in consultation 10/74. Therefore the non-discriminatory provision of the elements and of combinations of those elements is more likely as a result of the publication of KPIs.
- 3.40 ComReg shares Vodafone's view that project managed orders would not be covered by the KPIs. These are orders for which key dates are agreed between Eircom and an OAO based on available operational capacity. Nevertheless, the obligation of non-discrimination would still apply in the case of such orders and at this point in time ComReg considers this to be sufficient.

## **ComReg's proposed KPIs for Supply of Services and Repair of Services in the Wholesale Physical Network Infrastructure Access market**

3.41 ComReg proposed a set of KPIs for supply of services and repair of services in the Wholesale Physical Network Infrastructure Access (WPNIA) market. The KPIs were designed in line with the reasoning discussed earlier in this section.

### **Views of Respondents**

3.42 Eircom was generally in agreement with the proposed reporting metrics as set out by ComReg. It suggested some presentational amendments which ComReg has accepted and which are set out in Appendix 2 of this document.

3.43 A number of operators were of the view that a measurement of order rejections was required in order to catch problems such as address matching and other product issues.

3.44 Operators also favoured measures which would specifically compare the supply and repair of copper loops used in the provision of leased line services. They also suggested that it would be useful to compare the provision of bundled services (specifically SB/WLR and bitstream) with the time to provide similar services over LLU and to include the retail setup times of OAOs in such metrics.

3.45 Vodafone agreed in general with the proposals and believed that the comparator should be between LLU delivery and faults and the Eircom retail comparators which occur in exchanges which have been “unbundled”.

3.46 Vodafone noted a number of the proposed metrics from section 3.4 to section 3.7 where there was a reference to “DSL Fault Repairs”. Vodafone believed that this was an editorial error and should refer to “Line Share Fault Repair”.

3.47 Vodafone noted that a “Bulk Migration” facility in respect of WPNIA which might be used to deal with a change of wholesale supplier in the merchant market or to migrate end-users from one WPNIA product to another (e.g. LS to GLUMP) has the potential to skew KPIs as these activities are project managed and do not relate to end-user transactions. In this regard Vodafone is of the view that these should be reported on separately.

### **ComReg's Position**

3.48 Vodafone's suggestion that there is an editorial error in metrics 3.4 to 3.7 as defined in the original consultation is correct. The error is corrected in the published metrics detailed at Annex 3 of the Decision Instrument.

3.49 ComReg regularly receives order rejection data from Eircom. Analysis of this data has shown that a significant proportion of rejections is due to processing difficulties on the OAO side. ComReg will continue to monitor and analyse reject data but, because of the significant contribution from OAOs, ComReg does not believe that they are suitable for the KPI suite at this time. Furthermore, the monitoring of this by ComReg is deemed appropriate for the purposes of Eircom's non discrimination obligation in the WPNIA market.

3.50 ComReg does not believe that the publication of comparisons between supply metrics which would include measurements of OAO setup activities can be accommodated. Indeed ComReg addressed this issue in section 2.6 of Consultation 10/74, where it noted that “the direct comparison of the retail experience provided by

Eircom against that provided by the various OAOs is not the objective of the KPIs covered in this paper”. It is also difficult to see how the publication of such comparisons could be made the subject of a regulatory obligation upon Eircom alone.

- 3.51 ComReg shares Vodafone’s view that project managed orders would not be covered by the KPIs. These are orders for which key dates are agreed between Eircom and an OAO based on available operational capacity. Nevertheless, the obligation of non-discrimination would still apply in the case of such orders and at this point in time ComReg considers this to be sufficient.
- 3.52 ComReg understands that there may be some value in separate comparative measurements of supply and, in particular, repair performance when copper loops are used for the supply of high value business circuits. It believes that SLAs and other mechanisms currently being discussed at the LLU forum may satisfy OAO requirements in this area but may return to this issue if necessary. ComReg notes, in this regard, that a mechanism for amending the KPI suite was set out in sections 7.28 to 7.30 of Consultation 10/74.

### **ComReg’s proposed KPIs for Supply of Services and Repair of Services in the market for Terminating Segments of Wholesale Leased Line market**

- 3.53 ComReg proposed a set of KPIs for supply of services and repair of services in the market for terminating Segments of Wholesale Leased Lines. The KPIs were designed in line with the reasoning discussed earlier in this paper.

#### **Views of Respondents**

- 3.54 Eircom believed that the requirement to record KPI metrics on the legacy Ethernet services should be removed. Since their introduction in the Wholesale Market Eircom has had no take up and it plans to discontinue these offerings from the Market.
- 3.55 Otherwise, Eircom was in general agreement with the proposed reporting metrics as set out by ComReg. It suggested some presentational amendments which ComReg has accepted and which are set out in Appendix 2 of this document.
- 3.56 Other operators were also in broad agreement with the metrics proposed with a number of respondents welcoming the categorisation of orders into Standard, Project and Non-Standard.

#### **ComReg’s Position**

- 3.57 ComReg notes the broad support of operators for the proposed metrics.
- 3.58 Any removal of facilities granted within the Market would have to be done in line with the provisions of D06/08: “Market Analysis – Leased Line Market Review: Response to Consultation on draft Decision Instrument, Final Decision Notice and Decision Instrument” (in particular Section 6.2 (iii)). Until this process has been completed, the legacy Ethernet services will remain available. However, ComReg accepts that if there are no transactions for these products, there would be no necessity to report on them and this can be reassessed accordingly.

## **Views of respondents as to the proportionality and justifiability of the proposed conditions as outlined in the RIA**

3.59 ComReg included a draft Regulatory Input Assessment (RIA) in consultation 10/74. This has been updated in light of inputs from respondents as appropriate. A summary of respondent views is set out below. The updated RIA can be viewed in Section 4 of this document.

### **Views of the Respondents**

3.60 Eircom was of the view that ComReg did not fully address potential alternative options to the KPI solution it proposed. It stated that only by assessing the potential costs and benefits of all options could ComReg reasonably consider that the proposals contained in its consultation are justified, reasonable and proportionate.

3.61 Magnet was of the view that the RIA provided a lucid, clear view on the factors that were considered by ComReg.

3.62 BT and ALTO considered that the introduction of the publication of comparative information would assist competition as it would both drive out some of the potential for discriminatory practice and provide information that operators could convey to customers to remove the possible customer perception that Eircom provides a better service for its customers than it does to other operators.

3.63 BT and ALTO were also of the view that the imposition of the proposed KPIs would be good for competition and thus good for the consumer. BT believed that much of the information is already available to ComReg and said that reporting on SLA performance is provided to BT by Eircom. Hence it did not think the compilation of the proposed KPIs was an onerous task for Eircom.

3.64 Vodafone agreed with the ComReg RIA as set out.

### **ComReg's Position**

3.65 ComReg considers that several appropriate alternative approaches were considered and discussed throughout consultation 10/74. These included consideration of the imposition of targets and relying on existing metrics. ComReg also considered the marginal impact of the proposals on Eircom and these are central to the discussion in the RIA. To this end, the RIA analysis has been expanded in this Response to Consultation.

## **Views of respondents as to whether the proposed Decision Instrument was clear, unambiguous and practical**

### **View of the Respondents**

3.66 In general respondents were of the view that the proposed Decision Instrument was clear and unambiguous.

3.67 Eircom proposed a number of presentational amendments and made some small technical suggestions (see Section 3.28) which ComReg has accepted and incorporated in the final Decision Instrument.

3.68 Vodafone suggested an editorial correction to the Line Share metrics (see Section 3.46) and this has also been included in the text of the final decision.

3.69 Magnet Networks believed that 'White Label Access' should be defined.

- 3.70 A number of operators were of the view that “Eircom” should also be defined in the final Decision Instrument.
- 3.71 Vodafone believed that the wording of the proposed Decision Instrument was clear, unambiguous and practical.
- 3.72 Assuming that there are no material changes to the Decision Instrument, Eircom believed it could have the necessary processes in place to capture the data for the KPIs six months after the publication of the final Decision Instrument.
- 3.73 Eircom therefore proposed the following sequencing:
- Begin capturing Data from the first day of the first Quarter that occurs 6 months post publication of the Decision Instrument, and
  - Publish the KPI Reports for the first Quarter two months after the end of the first Quarter following the commencement of data collection.

### **ComReg’s Position**

- 3.74 ComReg has accepted a number of the editorial suggestions made by respondents as noted above.
- 3.75 In the interests of proportionality, ComReg sought clarification from Eircom on the earliest yet realistic publication date of the first set of KPIs and it has confirmed with Eircom that publication of the KPIs will commence by the end of November 2011. This data would therefore reflect activity for Q3 of the calendar year, 2011.

## 4 RIA

### Regulatory Impact Assessment

- 4.1 The purpose of a Regulatory Impact Assessment (RIA) is to analyse the likely effect of proposed new regulation or regulatory change. The RIA identifies and assesses regulatory options, and determines which option is likely to be most effective and proportionate in achieving the regulatory objectives. The RIA will ultimately assess the impact of these regulatory options on stakeholders, and determine the most effective, appropriate and proportionate approach.
- 4.2 ComReg's approach to RIA is set out in the Guidelines published in August 2007.<sup>2</sup> This approach was developed taking into account the Government's Better Regulation programme.<sup>3</sup> ComReg's ultimate aim in conducting a RIA is to ensure that all proposed measures are appropriate, proportionate and justified.
- 4.3 In the case at hand, ComReg is considering how best to enhance transparency and more effectively enforce the non-discrimination remedies that are imposed on the SMP operator in a number of markets (that are already regulated). The further specification of the transparency and non-discrimination remedies is intended to assist ComReg in ensuring the effective application of the non-discrimination remedy in practice.
- 4.4 The RIA will be structured as follows:
- Setting out the principles that are applied when assessing and selecting remedies
  - Defining the objectives
  - Identifying the regulatory options for achieving the objectives
  - Identifying the regulatory tools that are currently available to ComReg
  - Determining what changes are required to the existing remedies
  - Evaluating the impact of such changes
  - Conclusion – assessing the impacts and choosing the best option

### The principles applied when assessing and selecting remedies

- 4.5 The RIA carried out by ComReg has followed ComReg's Guidelines<sup>4</sup> and took close account of the Government's Better Regulation agenda, and of international best practice (by, for example, considering developments in thinking about RIA published by the EC and the OECD). This was done in accordance with Ministerial Policy Direction 6.<sup>5</sup>
- 4.6 In adhering to the structure in section 4.4 above for the purposes of this assessment, ComReg's approach to RIA follows five main steps:

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<sup>2</sup> "Guidelines on ComReg's Approach to Regulatory Impact Assessment" ComReg doc 07/56a, 10 August 2007

<sup>3</sup> Regulating Better, Department of the Taoiseach, January 2004

<sup>4</sup> ComReg 07/56a

<sup>5</sup> Policy Directions made by Dermot Ahern T.D. (the then) Minister for Communications, Marine and Natural Resources on 21 February, 2003 and 26 March, 2004

- Step 1: describe the policy issue and identify the objectives
- Step 2: identify and describe the regulatory options
- Step 3: determine the impacts on stakeholders
- Step 4: determine the impacts on competition
- Step 5: assess the impacts and choose the best option

- 4.7 In choosing remedies pursuant to Regulation 9(6) of the Access Regulations, ComReg must ensure they are:
- based on the nature of the problem identified;
  - proportionate and justified in the light of the objectives laid down in section 12 of the Communications Regulation Act of 2002; and
  - only imposed following consultation in accordance with Regulations 19 and 20 of the Framework Regulations.
- 4.8 The relevant objectives, as set out in section 12 of the Communications Regulation Act, 2002 which must be taken into account when applying remedies are as follows:
- to promote competition;
  - to contribute to the development of the internal market; and
  - to promote the interests of users within the Community.
- 4.9 These objectives together guide ComReg in its assessment of regulatory options, and ultimately in the selection of a proposed remedy.

**What are the objectives of ComReg’s changes to the transparency obligations?**

- 4.10 In line with the principles set out above, a key objective for ComReg is to ensure that transparency exists in the provision of wholesale products by Eircom. Transparency is intended to promote competition in the interest of telecommunications users. This is done by ensuring that all operators, and ComReg, can observe all relevant price and non-price terms that underpin important investment decisions concerning entry and expansion in markets where Eircom has been designated with significant market power (SMP).
- 4.11 Transparency obligations are in part designed to allow ComReg to determine whether the SMP operator is meeting its non-discrimination obligations. Non-discrimination obligations require the SMP operator *inter alia* to supply products and services of an equivalent quality to all operators, including to its own internal operation. Effective non-discrimination obligations are thus critical in promoting undistorted competition in the best interests of end users.
- 4.12 Improved transparency around wholesale product performance would assist OAOs in comparing critical aspects of wholesale products and services with the retail equivalents. This provides OAOs with an objective basis upon which to make future investment decisions in the markets in question.
- 4.13 Performance metrics would assist OAOs in analysing product performance over time. Evidence, through published KPIs, of a superior retail product or evidence of a degraded wholesale product is critical proof for OAOs when negotiating with Eircom for better services or to maintain an appropriate standard of service. ComReg considers that this would, in turn, improve the quality of wholesale products and promote more effective competition in retail markets.

- 4.14 Improved transparency would also provide an objective data source for ComReg for monitoring compliance with non-discrimination obligations while further equipping Eircom with a means for verifying its own performance, thereby contributing to a more effective regulatory process for handling potential complaints/disputes.
- 4.15 Ultimately, ComReg considers that making wholesale product performance data available would assist OAOs in competing for customers in downstream retail markets. Such information would enable OAOs to confirm to customers the quality of service assurance available and also provide evidence of service quality to retail customers. End users would in turn benefit from greater information on the retail choices available to them and increased confidence in competing retail operators.
- 4.16 Enhanced retail competition should also deliver important benefits to consumers in terms of price and product innovations over the medium to longer term.

### **Identify the regulatory options for achieving the objectives**

- 4.17 ComReg has identified and considered three options in the course of this consultation and decision making exercise. These options are:
- To maintain reliance upon the existing measures, without augmentation of the remedies;
  - To augment the existing measures and impose specific performance targets which must be met by Eircom; and
  - To augment the existing measures by implementing the KPIs proposed and consulted upon.
- 4.18 For the reasons discussed throughout this document, and in the following paragraphs, ComReg considers that the existing transparency and non-discrimination remedies should be augmented to better achieve ComReg's regulatory objectives. ComReg considers that leaving the remedies unchanged would fail to best meet ComReg's overriding objective of promoting competition in the relevant markets.
- 4.19 ComReg has considered an option where actual performance targets would be imposed upon Eircom. Under this approach, ComReg would measure Eircom's performance against explicit targets and hold Eircom accountable for achieving those targets. Upon consideration of this option, ComReg determined that it would not be the most effective and proportionate way of achieving its regulatory objectives, which relate to improving transparency and non-discrimination measures. In ComReg's view, performance targets are not the most direct or appropriate way of addressing these objectives at this time.
- 4.20 Finally, ComReg considered the option of augmenting the existing measures by putting in place KPIs. This addresses more directly the stated objectives by improving the already imposed obligations of transparency and non-discrimination. ComReg considers that this approach, as detailed throughout the paper, is the most proportionate and effective way of meeting the regulatory objectives as set out in this paper.

### **What regulatory tools are currently available to ComReg?**

- 4.21 KPIs are not currently published for Eircom's wholesale products, though Eircom does provide performance data to ComReg on a regular basis for other purposes relating to its different regulatory functions.

4.22 For this reason, ComReg needs to assess whether (and for what purpose) the augmenting/supplementing of transparency remedies is proportionate and justified. The first step is to review: (a) the type of information that is currently being collected for each market; and (b) how it can be used by ComReg.

4.23 The following information is currently available to ComReg:

#### **Universal Service Obligation (USO) statistics**

4.24 This information provides (amongst other things) statistics demonstrating the performance of Eircom's voice services. The USO definitions consider metrics under the following headings: Service Delivery, Service Provisioning and Fault Management. The USO statistics, however, offer less depth of detail than that being sought by ComReg through the KPIs, and do not allow ComReg, operators and end users to make effective wholesale/retail comparisons.

4.25 However, ComReg has used the agreed USO metrics as an input to defining KPIs for wholesale products and services, allowing consistency, continuity, and clarity in the proposed obligations, while further enhancing transparency by providing a basis for comparison between the performance of Eircom's wholesale products and its retail products.

#### **ComReg Quarterly Report and Service Level Agreement (SLA) data**

4.26 ComReg's Quarterly Report features an appendix detailing the aggregate performance of the wholesale offering in the Retail Narrowband Access market (the SB-WLR<sup>6</sup> product) against the Service Level Agreement (SLA). SLA performance on LLU products is made publicly available by Eircom on its website.

4.27 In conducting its regulatory business, ComReg endeavours to take into account and leverage existing reporting capabilities as far as possible. The proposed amendments are therefore intended to align as much as possible with existing reporting mechanisms, and are incremental to information already either publicly available or supplied to ComReg in these markets. ComReg's intention is that information currently provided will be presented in a different and more transparent way and made publicly available in order to ensure that wholesale/retail comparisons can be readily made so as to achieve the objectives set out.

### **What changes are required to improve transparency and ensure the effective application of non-discrimination?**

4.28 ComReg considers that the processes established under the existing transparency remedies in the following markets should be enhanced in order to improve transparency concerning Eircom's performance in the provision of key wholesale inputs for the competitive process:

- The Retail Narrowband Access (RNA) market,
- The Terminating Segments of Wholesale Leased Lines (WLL) market,
- The Wholesale Physical Network Infrastructure Access (WPNIA) market, and
- The Wholesale Broadband Access (WBA) market

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<sup>6</sup> Single Billing and Wholesale Line Rental

- 4.29 Enhancements to existing regulation are required on the grounds that the existing transparency and information gathering processes do not provide a complete set of performance metrics required to effectively regulate the markets set out above. The current tools available to ComReg do not facilitate and support the regular and centralised publication of Eircom's wholesale product performance metrics. Augmentation of these existing tools would improve transparency in the provision of Eircom's wholesale products, by ensuring that wholesale customers are more informed about the performance of Eircom's regulated wholesale products relative to its own retail arm, and that information is presented in an 'easily accessible' and consolidated manner.
- 4.30 In order to better achieve the objectives set out above, ComReg proposes to augment existing transparency obligations to require that Eircom provide specific performance data to ComReg for publication in relation to the wholesale markets referred to above.
- 4.31 As discussed in the previous section, while some product performance data is available to ComReg under the existing arrangements with Eircom, the data is limited in scope, and in terms of what it can be used for. There are also limitations concerning whom it can be shared with (due to confidentiality).
- 4.32 The enhancements proposed by ComReg are designed specifically to address the shortcomings identified by ComReg in the existing transparency obligations and information gathering tools (described in the previous section). The main tenets of the reinforcements to the transparency remedies are as follows:
- To support the gathering of a complete set of performance metrics from Eircom in respect of wholesale products that fall within each of the markets set out above, on a regular basis;
  - To facilitate and support the regular publication of Eircom's wholesale product performance metrics; and
  - To centralise the collection and publication of those performance metrics, in order to ensure that a consistent approach is taken across the relevant markets, and to improve accessibility and usability of those metrics for interested parties.

### **Gathering a complete set of performance metrics**

- 4.33 At present, ComReg collects various sets of product performance metrics from Eircom. However, that information is sourced for a variety of different purposes and, in some cases, ComReg does not have complete information relating to the performance of Eircom's regulated wholesale products (see the previous section). In such cases the information does not fully satisfy ComReg's needs for the purpose of ensuring non-discrimination between Eircom's wholesale and retail products.
- 4.34 The KPIs presented by ComReg in this paper are intended to ensure that a complete set of relevant performance data is made available, on a regular basis, in respect of the markets set out above.
- 4.35 In accordance with this Decision, ComReg will require the publication of a full set of performance data designed specifically to facilitate transparency in the provision of regulated products. For example, in the RNA market ComReg has proposed that Eircom should provide it with metrics under the headings of Supply of Service,

Assurance of Service and Repair of Service. These categories are further broken down into sub-categories which include, for example:

- Fault Repair within 5 Working Days
- Fault incident
- Average In-Situ Connection Time
- Fault Repairs within 2 Working Days
- Average Supply Time – Line Share

4.36 Similar reporting requirements will be introduced for the WBA market, in which case WBA would be compared to Eircom's DSL (retail broadband) service. The following are examples of metrics that Eircom will provide under ComReg's approach:

4.37 DSL Connection by appointment date

- Quality of DSL Supply
- DSL Service Availability

4.38 In the case of the WPNIA market, ComReg has sought to use currently produced information as far as possible, a significant proportion of which has not been made publicly available to date, as well as introducing enhancements to the data set as appropriate. Examples of metrics which will be calculated for both the Unbundled Local Metallic Path and Line Share products under the proposed approach include:

- Connections in 2 Weeks
- Average supply time
- Quality of Supply
- Fault Repairs within X Working days
- Average Fault Repair Time

4.39 The Leased Line metrics are broadly based on the current Leased Line and PPC SLAs, for which data is not published at present.

### **Facilitating the publication of product performance metrics**

4.40 In several cases, the existing metrics collection tools available to ComReg do not allow for the publication of data. ComReg's inability to publish data limits its use as a means of facilitating competition in the relevant markets. In particular, the publication of this data is expected to improve transparency, and thus better achieve a number of ComReg's objectives.

4.41 Therefore, Eircom will be required to publish equivalent data for its equivalent retail products, on a regular basis, so that wholesale operators and retail customers (as well as ComReg) can compare the ongoing performance of Eircom's retail and wholesale products. ComReg would require that Eircom publish wholesale product performance data on its website for public viewing.

4.42 The ability to compare retail and wholesale metrics will offer a new level of analysis for OAOs, and assist OAOs in monitoring and achieving a better service quality from Eircom.

## **Centralising the metrics collection process and the publication of metrics**

- 4.43 At present, Eircom sources product performance data from Eircom in carrying out various tasks within its broad regulatory remit. However, in each case the information is collected and presented for a different purpose, and in a varied manner. Often this information is not publicly available. Even where information is publicly available, it is frequently embedded within reports (rather than published as a product performance report in its own right) and presented in a way that may be less transparent and accessible to interested parties.
- 4.44 ComReg proposes to centralise the process for gathering and the publication of Eircom's wholesale performance metrics. The data will be published on a regular basis, for the purpose of informing interested parties and for the purpose of facilitating competition.
- 4.45 The centralised structure of the metrics collection and publication proposed in this paper will facilitate an important improvement in transparency, and in the accessibility of Eircom's wholesale product performance data.
- 4.46 ComReg considers that the measures above relating to the enhancement of the transparency remedies are the most effective means of achieving Eircom's objectives of transparency and non-discrimination to the benefit of competition and end-users. ComReg considers that the proposed measures would improve its ability to apply non-discrimination obligations in the relevant markets, and in doing so improve the effectiveness of regulation.
- 4.47 The impact of the proposed changes is summarised and assessed below.

## **Impact on Stakeholders**

- 4.48 This section summarises the expected impact of the changes on stakeholders. ComReg seeks to consider the potential costs incurred by Eircom in complying with the extended obligations while also considering and evaluating the potential benefits that would accrue to Eircom, its wholesale customers, and end users as a result of the obligations being imposed.

## **Eircom**

- 4.49 ComReg acknowledges that additional effort will be involved for Eircom in order to produce the product performance metrics associated with its regulated wholesale products. However, the additional effort should not be overly burdensome for Eircom, particularly since it already produces many of the metrics included within this obligation.
- 4.50 In formulating the proposed KPIs, ComReg has been mindful of measurements already taken by Eircom in a range of areas for current operational purposes. ComReg considers that where Eircom would have additional costs, these costs should not be substantial given that the net effect of the proposals envisaged by this consultation will, in many cases, be the publication of statistics already gathered and compiled with certain supplementary data to enhance wholesale/retail comparisons.
- 4.51 The publication of specific performance metrics should also generate benefits for Eircom, since the publication of consolidated data will permit greater visibility over the performance of its wholesale products, and to demonstrate to its wholesale

customers that its wholesale inputs are of a comparable quality to its equivalent self-supply.

### **Wholesale customers**

4.52 The changes should improve the ability of wholesale customers to compare the performance of Eircom's regulated wholesale products with that of its retail products. The improved transparency should instil wholesale customers with greater confidence in Eircom's regulated wholesale products, by offering greater knowledge on the performance of Eircom's wholesale product suite. As a result of increased visibility of Eircom's ongoing wholesale performance, wholesale customers should have greater confidence and be more comfortable investing in markets dependent upon Eircom's regulated wholesale inputs. This should in turn promote competition in the associated retail markets.

### **Consumers**

4.53 The changes will provide consumers with confidence that Eircom's competitors are able to compete on a level playing field in the affected retail markets, and provide consumers with greater clarity around the performance of their telecommunications products. Increasing consumer confidence in competing retail operators should lead to greater competition in retail markets, which would in turn generate further benefits for end users through improved quality of service and competitive pricing.

### **Competition through effective regulation**

4.54 The proposed changes will provide a mechanism that allows ComReg to effectively and efficiently monitor Eircom's compliance with non-discrimination obligations established in the aforementioned markets. In addition, the changes will also contribute to ComReg's ultimate strategic objective of promoting competition in the concerned markets for the benefit of consumers.

### **Conclusion – assessing the impacts and choosing the best option**

4.55 Having first considered the options for regulatory response, and then assessed the potential costs and benefits involved of each option, ComReg considers that an augmentation of the existing transparency remedies by proceeding with the KPIs proposed and consulted upon is the most effective and proportionate way of meeting its regulatory objectives. ComReg considers that the enhancements proposed in this paper are justified, reasonable and proportionate for the following reasons:

4.56 The costs incurred in implementing the measures are not considered overly burdensome, taking account of the measurements already produced by Eircom in a range of areas for current operational purposes.

4.57 The publication of product performance metrics enables Eircom to demonstrate the performance of its wholesale products to existing and potential wholesale customers, as well as its compliance with regulatory obligations imposed by ComReg.

4.58 The publication of product performance metrics could be expected to occur naturally in competitive markets, where competing providers strive to demonstrate value to potential customers in their products. As such, the voluntary publication of product

performance information of this nature would be considered reasonable under competitive and unregulated market conditions.

- 4.59 The benefits are likely to be substantial in respect of enhanced investor and consumer confidence in Irish telecommunications markets and the resulting promotion of competition and reduced ongoing regulation costs. The benefits would apply across the board to Eircom, wholesale customers and consumers.
- 4.60 On the basis of the foregoing, the anticipated benefits associated with the changes, namely a strengthened regulatory and competitive process capable of delivering important pricing and product innovations to end-users, are considered to exceed the administrative costs involved.

## **5 DECISION INSTRUMENT AND DIRECTIONS**

### **STATUTORY AND LEGAL POWERS**

5.1 This Decision Instrument and these Directions are made by ComReg, pursuant to the following:

- I. Sections 10 and 12 of the Act of 2002;
- II. Regulation 9 of the Access Regulations;
- III. Regulation 10 of the Access Regulations;
- IV. Regulation 11 of the Access Regulations;
- V. Regulation 17 of the Access Regulations;
- VI. Regulation 17(11) of the Framework Regulations;
- VII. Regulation 18(1)(d) of the Authorisation Regulations;
- VIII. Regulation 14(1) of the Universal Service Regulations;
- IX. Section 6.1 of the General Authorisation and;
- X. The below listed ComReg Market Analysis Decisions, designating Eircom with Significant Market Power, in the relevant markets in accordance with Regulations 25, 26 and 27 of the Access Regulations:
  - a. ComReg decision No.05/11 Market Analysis – Wholesale Broadband Access – Designation of SMP and Related Remedies, dated 17 February 2005
  - b. ComReg Decision No. D05/10 Market Review: Wholesale (Physical) Network Infrastructure Access (Market 4) , dated 20 May 2010
  - c. ComReg Decision No. 08/103 Market Analysis – Leased Lines Market Review, dated 22 December 2008
  - d. ComReg Decision No. 07/61, Decision Notice- Market Analysis : Retail Fixed Narrowband Access Markets, dated 24 August 2007

5.2 This Decision Instrument and these Directions are also made by ComReg having regard to and having taken in to account the following:

5.3 The Policy Directions made by the Minister for Communications, Marine and Natural Resources on 21 February 2003 and 26 March 2004;

5.4 The analysis and reasoning set out in ComReg Document No.10/74 and the submissions received from respondents in relation to same; and

5.5 The analysis and reasoning set out in ComReg Document No. 11/45 which shall, as necessary, be construed together with this Decision Instrument and these Directions.

### **Scope and Application**

- 5.6 This Decision Instrument and these Directions apply to Eircom.
- 5.7 This Decision Instrument and these Directions are binding upon Eircom and Eircom shall comply with them in all respects.

### **Publication of KPIs**

- 5.8 Eircom is hereby directed to publish on a publicly available website the KPIs as provided and defined in the attached Annexes 1-4.
- 5.9 Eircom is directed to publish the KPIs, as provided and defined in the attached Annexes 1-4, on a quarterly basis showing the data separately for each calendar month within the quarter.
- 5.10 The KPIs referred to in sections 5.8 and 5.9 shall be published no later than two months from the relevant quarter end.
- 5.11 ComReg may also publish the KPIs.
- 5.12 Eircom is directed to publish the information as per sections 5.8 and 5.9, in a true and accurate manner. The information published in sections 5.8 and 5.9 may be subject to checks by ComReg in accordance with its powers contained in the Act, including but not limited to sections 13D(1) and 39.

### **Severance and maintenance of provisions**

- 5.13 If any section or provision or portion of this Decision Instrument and these Directions is found by a Court to be invalid, or otherwise judged by a Court to be unlawful, void or unenforceable, that section, provision or portion shall, to the extent required, be severed and rendered ineffective as far as possible, without modifying the remaining section(s), provision(s) or portion(s) of this Decision Instrument and these Directions and this shall not in any way affect the validity or enforcement of this Decision Instrument and these Directions.

### **Statutory Powers not affected**

- 5.14 For the avoidance of doubt, nothing in this Decision Instrument and these Directions shall operate to limit ComReg in the exercise and performance of its statutory powers or duties under any primary or secondary legislation (in force on or prior to or after the effective date of this Decision Instrument and these Directions) from time to time as the occasion requires.

### **Effective Date and Duration**

- 5.15 This Decision Instrument and these Directions shall be effective from the date of publication.

5.16 Sections 5.8 and 5.9 of this Decision Instrument shall be applied no later than six months from the effective date.

5.17 This Decision Instrument and these Directions shall have full force and effect and shall remain in place until any further directions are issued by ComReg.

**Review and Amendment**

5.18 ComReg may review, withdraw or amend the KPIs, as set out in Annexes 1-4, from time to time further to a consultation if it considers it appropriate.

*ALEX CHISHOLM  
COMMISSIONER  
THE COMMISSION FOR COMMUNICATIONS REGULATION  
DATED THIS THE 29<sup>TH</sup> DAY OF JUNE 2011*

## Annex 1

### Definition of metrics for Retail Narrowband Access Market

The wholesale inputs as delivered by Eircom's Wholesale products and the equivalents consumed in Eircom's Retail inputs are to be tracked in the proposed KPIs which follow. The products to be included are (i) SB-WLR, (ii) WLA and (iii) Eircom's Retail PSTN product.

The wholesale (SB-WLR and WLA) and Retail lines for which metrics should be calculated are PSTN and ISDN BRA. The wholesale order types that need to be measured are (i) all order types based on Electronic Enablement (including migrations to SB-WLR & WLA) and (ii) all order types requiring field intervention.

### Definitions

**“Access Line”** means a connection from the Network Termination Point to the entry point to the local switch or remote concentrator, whichever is nearer. In many cases this is the main distribution frame;

**“All Retail PSTN Connections”** means the sum of In-Situ Retail PSTN Connections and All Other Retail PSTN Connections;

**“All Other Retail PSTN Connections”** means Lines that are not In-Situ Retail PSTN Connections and includes those that are new-build and Pending Available;

**“All SB-WLR Connections”** means the sum of In-Situ SB-WLR Connections and All Other SB-WLR Connections;

**“All Other SB-WLR Connections”** means Lines that are not In-Situ SB-WLR Connections and includes those that are new-build and Pending Available;

**“All WLA Connections”** means the sum of In-Situ WLA Connections and All Other WLA Connections;

**“All Other WLA Connections”** means Lines that are not In-Situ WLA Connections and includes those that are new-build and Pending Available;

**“ComReg”** means the Commission for Communications Regulation established under Part 2 of the Communications Regulation Act, 2002;

**“Customer”** means a natural or legal person, or their representative making a valid request for a service at a specified address or the operator submitting the SB-WLR order in the case of wholesale orders;

**“Data”** means the data relating to the calculation methodologies set out below;

**“Data Collection Period”** means the quarterly period in respect of which ComReg collects Data. There are four Data Collection periods in a Year. These are 1 July to 30 September; 1 October to 31 December; 1 January to 31 March and 1 April to 30 June;

**“Day”** means a calendar day;

**“Electronically Enabled”** means that the activation of SB-WLR on a Line can be carried out remotely, through systems configuration, without the need for physical intervention;

**“SB-WLR Fault”** means an incident of disrupted or degraded SB-WLR service;

**“SB-WLR Fault Repair”** means the repair of a SB-WLR Fault resulting in the restoration of the SB-WLR service to normal working order;

**“SB-WLR Fault Repair Time”** means the duration from the instant of a SB-WLR Fault Report to the instant of SB-WLR Fault Repair;

**“SB-WLR Fault Report”** means a SB-WLR Fault reported by a Customer which is valid unless it can be reasonably attributed to components outside the Eircom network;

**“In-Situ SB-WLR Connection”** means an Electronically Enabled Line and includes pre cabled;

**“WLA Fault”** means an incident of disrupted or degraded WLA service;

**“WLA Fault Repair”** means the repair of a WLA Fault resulting in the restoration of the WLA service to normal working order;

**“WLA Fault Repair Time”** means the duration from the instant of a WLA Fault Report to the instant of WLA Fault Repair;

**“WLA Fault Report”** means a WLA Fault reported by a Customer which is valid unless it can be reasonably attributed to components outside the Eircom network;

**“In-Situ WLA Connection”** means an Electronically Enabled Line and includes pre cabled;

**“Retail PSTN Fault”** means an incident of disrupted or degraded Retail PSTN service;

**“Retail PSTN Fault Repair”** means the repair of a Retail PSTN Fault resulting in the restoration of the Retail PSTN service to normal working order;

**“Retail PSTN Fault Repair Time”** means the duration from the instant of a Retail PSTN Fault Report to the instant of Retail PSTN Fault Repair;

**“Retail PSTN Fault Report”** means a Retail PSTN Fault reported by a Customer which is valid unless it can be reasonably attributed to components outside the Eircom network;

**“In-Situ Retail PSTN Connection”** means an Electronically Enabled Line and includes pre cabled;

**“ISDN BRA”** means Integrated Services Digital Network, Basic Rate Access;

**“ISDN PRA”** means Integrated Services Digital Network, Primary Rate Access;

**“Line”** means an Access Line which is providing a PSTN or an ISDN service to a Customer;

**“Network Termination Point”** means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a Customer number or name;

**“Network Termination Unit”** (NTU) – The NTU shall be the physical interface between the Access Line and the Customer Premises Equipment (CPE), and will mark the boundary between Eircom’s Network and the customer’s private wiring, which includes anything connected on the Customer’s side of the NTU; (In the case of ISDN BRA, the boundary between Eircom’s Network and the customer’s private wiring the ISDN box i.e. the Siemens NT1 or NT1+ and not the NTU).

**“SB-WLR Migration”** means the provision of a SB-WLR on an existing active PSTN or SB-WLR Line with an other operator;

**“OAO”** means a legal entity which is designated under Section 4 (1) of the European Communities (Electronic Communications Network and Services) (Authorisation) Regulations 2003 (S.I N0.306 of 2003), to provide an electronic communications network or service;

**“PSTN”** means Public Switched Telephone Network;

**“Quarter”** (year) means a 3 month period (July to September, October to December, January to March or April to June) of a calendar year

**“SLA”** means a Service Level Agreement;

**“Supply Time”** means the duration from the date a Valid Service Order in respect of a Line is received by Eircom to the date the working service is made available for use.

**“Valid Service Order”** means an order by a Customer for a Line, that is not later deemed invalid;

**“Working Hour”** means 60 minutes duration between 9.00 – 17.00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays)

**“Working Day”** means 09:00 – 17:00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays); and

**“Year”** means the period between 1 July, Year X to 30 June, Year X + 1.

## Metrics associated with Supply of Services

### 1.1 In-Situ Connections in 2 Working Days

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN In-Situ Connections.

The figures for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of In-Situ (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period where the Supply Time is within 2 Working Days}}{\text{Total number of In-Situ (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period}} \times 100$$

### 1.2 Average In-Situ Connection Time

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN In-Situ Connections.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of Supply Times of all In-Situ (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period}}{\text{Total number of In-Situ (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period}}$$

The metric should be expressed in Working Days.

### 1.3 All Other Connections in 10 Working Days

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Connections.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of All Other (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period where the Supply Time is within 10 Working Days}}{\text{Total number of All Other (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period}} \times 100$$

### 1.4 Average Supply Time – All Other Connections

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Connections.

The figure for each Data Collection Period shall be calculated as follows:

Sum of Supply Times of All Other (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period

Total number of All Other (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period

The metric should be expressed in Working Days.

### **1.5 Quality of Supply**

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Connections.

The figure for each Data Collection Period shall be calculated as follows:

Number of Faults reported within 28 Days for all In-Situ and All Other (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period X 100

Total number of In-Situ and All Other (SB-WLR/WLA/Retail PSTN) Connections completed within the Data Collection Period

## **Metrics associated with Repair of Services**

### **1.6 Fault Repairs within 2 Working Days**

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Fault Repairs.

The figure for each Data Collection Period shall be calculated as follows:

Number of (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period where the Fault Repair Time is within 2 Working Days X 100

Total (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period

### **1.7 Fault Repair within 5 Working Days**

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Fault Repairs.

The figure for each Data Collection Period shall be calculated as follows:

Number of (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period where the Fault Repair Time is within 5 Working Days X 100

Total (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period

### **1.8 Fault Repair within 10 Working Days**

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Fault Repairs.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period where the Fault Repair Time is within 10 Working Days} \times 100}{\text{Total (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period}}$$

### **1.9 Average Fault Repair Time**

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Fault Repairs.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of (SB-WLR/WLA/Retail PSTN) Fault Repair Times of Fault Repairs completed within the Data Collection Period}}{\text{Total number of (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period}}$$

The metric should be expressed in Working Days.

### **1.10 Fault Incidence**

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Connections.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Total number of (SB-WLR/WLA/Retail PSTN) Faults for the Data Collection Period} \times 100}{\text{Average Number of (SB-WLR/WLA/Retail PSTN) Active Lines within the Data Collection Period}}$$

### **1.11 Quality of Repair**

This figure shall be collected and calculated by Eircom for each Data Collection Period. It shall be calculated for each of SB-WLR, WLA and Retail PSTN Connections.

The figure for each Data Collection Period shall be calculated as follows:

Number of (SB-WLR/WLA/Retail PSTN) Faults reported within 28 Days on Lines which had (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period X100  
Total number of (SB-WLR/WLA/Retail PSTN) Fault Repairs completed within the Data Collection Period

## Annex 2

### Definition of metrics for Wholesale Bitstream Access Market

The wholesale inputs as delivered by Eircom's Wholesale products and the equivalents consumed in Eircom's Retail inputs are to be tracked in the proposed KPIs which follow.

The lines for which metrics should be calculated are wholesale and retail Lines with active DSL services. Data for each of these will be displayed separately. The wholesale order types whose inputs need to be measured are (i) all order types based on Electronic Enablement (for example Bitstream Transfer orders) and (ii) all order types requiring field intervention.

### Definitions of terms

**“Access Line”** means a connection from the Network Termination Point to the entry point to the local switch or remote concentrator, whichever is nearer. In many cases this is the main distribution frame;

**“DSL Service”** means high speed, ‘always on’ Internet connection that has a minimum download speed of 144kbit/s;

**“ComReg”** means the Commission for Communications Regulation established under Part 2 of the Communications Regulation Act, 2002;

**“Customer”** means a natural or legal person, or their representative making a valid request for a service at a specified address or the operator submitting the Bitstream order in the case of wholesale orders;

**“Data”** means the data relating to the calculation methodologies set out below;

**“Data Collection Period”** means the quarterly period in respect of which ComReg collects Data. There are four Data Collection periods in a Year. These are 1 July to 30 September; 1 October to 31 December; 1 January to 31 March and 1 April to 30 June;

**“Day”** means a calendar day;

**“DSL”** means digital subscriber line;

**“DSL Connection”** means the activation of a DSL Service on a DSL Line. It does not include any work performed at a Customer premises. (i.e. Self-install only)

**“DSL Fault”** means an incident of disrupted or degraded DSL Service excluding PSTN related faults;

**“DSL Fault Report”** means a DSL Fault reported by a Customer which is valid unless it can be reasonably attributed to components outside the Eircom network;

**“DSL Fault Repair”** means the repair of a DSL Fault resulting in the restoration of the DSL Service to normal working order;

**“DSL Fault Repair Time”** means the duration from the instant of a DSL Fault Report to the instant of DSL Fault Repair;

**“DSL Lines”** means those Access Lines that carry a DSL Service

**“DSL Supply Time”** means the duration from the date all Valid DSL Connection Orders in respect of a DSL Connection are received by Eircom to the date a working DSL Service is made available for use.

**“Electronically Enabled”** means that the activation of DSL on a Line can be carried out remotely, through systems configuration, without the need for physical intervention;

**“Network Termination Point”** means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a Customer number or name;

**“Network Termination Unit”** (NTU) – The NTU shall be the physical interface between the Access Line and the Customer Premises Equipment (CPE), and will mark the boundary between Eircom’s Network and the customer’s private wiring, which includes anything connected on the Customer’s side of the NTU;

**“Out of Service Time”** means the duration from the instant a DSL Service becomes unavailable due to a DSL Fault to the instant a working DSL Service is made available for use;

**“Quarter”** (year) means a 3 month period (July to September, October to December, January to March or April to June) of a Year

**“SLA”** means a Service Level Agreement;

**“Valid DSL Connection Order”** means an order by a Customer for a DSL Connection, that is not later deemed invalid;

**“Working Hour”** means 60 minutes duration between 9.00 – 17.00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays)

**“Working Day”** means 9:00 – 17:00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays); ; and

**“Year”** means the period between 1 July, Year X to 30 June, Year X + 1.

## Metrics associated with Supply of Services

### 2.1 DSL Connections in 5 Working Days

This figure shall be collected and calculated by Eircom for each Data Collection Period.

Data should be shown separately for orders based on Electronic Enablement and those requiring field intervention.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of DSL Connections completed within the Data Collection Period where the DSL Supply Time is within 5 Working Days}}{\text{Total number of DSL Connections completed within the Data Collection Period}} \times 100$$

### 2.2 Average DSL Supply Time

This figure shall be collected and calculated by Eircom for each Data Collection Period.

Data should be shown separately for orders based on Electronic Enablement and those requiring field intervention.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of DSL Supply Times for DSL Connections completed within the Data Collection Period}}{\text{Total number of DSL Connections completed within the Data Collection Period}}$$

The metric should be expressed in Working Days.

### 2.3 Quality of DSL Supply

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of Faults reported within 28 Days for DSL Connections completed within the Data Collection Period}}{\text{Total number of DSL Connections completed within the Data Collection Period}} \times 100$$

## Metrics associated with Repair of Services

### 2.4 DSL Fault Repairs within 2 Working Days

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of DSL Fault Repairs completed within the Data Collection Period where the DSL Fault Repair Time is within 2 Working Days}}{\text{Total DSL Fault Repairs completed within the Data Collection Period}} \times 100$$

### 2.5 DSL Fault Repair within 5 Working Days

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of DSL Fault Repairs completed within the Data Collection Period where the DSL Fault Repair Time is within 5 Working Days}}{\text{Total DSL Fault Repairs completed within the Data Collection Period}} \times 100$$

### 2.6 DSL Fault Repair within 10 Working Days

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of DSL Fault Repairs completed within the Data Collection Period where the DSL Fault Repair Time is within 10 Working Days}}{\text{Total DSL Fault Repairs completed within the Data Collection Period}} \times 100$$

### 2.7 Average DSL Fault Repair Time

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of DSL Fault Repair Times of All Fault Repairs completed within the Data Collection Period}}{\text{Total number of DSL Fault Repairs completed within the Data Collection Period}}$$

The metric should be expressed in Working Days.

## 2.8 Quality of Repair

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of DSL Faults reported within 28 Days on Lines which had DSL Fault Repairs completed within the Data Collection Period}}{\text{Total number of DSL Fault Repairs completed within the Data Collection Period}} \times 100$$

## Annex 3

### Definition of metrics for Wholesale Physical Network Infrastructure Access Market

The wholesale inputs as delivered by Eircom's Wholesale products and the equivalents consumed in Eircom's Retail inputs are to be tracked in the proposed KPIs which follow.

It is ComReg's preliminary view that the Retail equivalent input to ULMP is a copper loop supplied to Retail as part of its PSTN service. Similarly the Retail equivalent input to Line Share would be the physical intervention (jumpering) required to provide a DSL service.

#### Definitions

**“Access Line”** means a connection from the Network Termination Point to the entry point to the local switch or remote concentrator, whichever is nearer. In many cases this is the main distribution frame;

**“ComReg”** means the Commission for Communications Regulation established under Part 2 of the Communications Regulation Act, 2002;

**“Customer”** means a natural or legal person, or their representative making a valid request for a service at a specified address or the operator submitting the ULMP order in the case of wholesale orders;

**“Data”** means the data relating to the calculation methodologies set out below;

**“Data Collection Period”** means the quarterly period in respect of which ComReg collects Data. There are four Data Collection periods in a Year. These are 1 July to 30 September; 1 October to 31 December; 1 January to 31 March and 1 April to 30 June;

**“Day”** means a calendar day;

**“GLUMP”** means the synchronised delivery of ULMP and GNP;

**“Geographic Number Portability (GNP)”** means a facility that allows an enduser to retain his/her telephone number when changing or switching service provider and describes the process used for this when the number concerned is a geographic number;

**“Line Share”** means the facility whereby the high frequency service provided by the Access Seeker may be integrated over an existing PSTN Line over the same two-wire metallic path;

**“Line Share Connection”** means the completion of all network intervention required to provide a Line Share to an OAO. It does not include work performed at a Customer premises.

**“Line Share Fault”** means an incident of disrupted or degraded service on a ULMP (incl GLUMP) Connection;

**“Line Share Fault Repair”** means the repair of a ULMP Fault resulting in the restoration of ULMP Connection to normal working order;

**“Line Share Fault Repair Time”** means the duration from the instant of a ULMP Fault Report to the instant of a ULMP Fault Repair;

**“Line Share Fault Report”** means a ULMP Fault reported by an OAO which is valid unless it can be reasonably attributed to components outside the Eircom network;

**“Line Share Lines”** means those Access Lines on which Line Share has been implemented;

**“Line Share Supply Time”** means the duration from the date all Valid Line Share Connection Orders are received by Eircom to the date a working Line Share Connection is made available for use.

**“Network Termination Point”** means the physical point at which a subscriber is provided with access to a public communications network; in the case of networks involving switching or routing, the network termination point is identified by means of a specific network address, which may be linked to a Customer number or name;

**“Network Termination Unit”** (NTU) – The NTU shall be the physical interface between the Access Line and the Customer Premises Equipment (CPE), and will mark the boundary between Eircom’s Network and the customer’s private wiring, which includes anything connected on the Customer’s side of the NTU;

**“Unbundled Local Metallic Path”** or **“ULMP”** means an in-situ two wire metallic path connection between the OAO’s block on the main distribution frame and the Network Termination Unit, (NTU), or Network Terminating Point where no NTU exists, in the Customer’s premises;

**“ULMP Connection”** means the completion of all network intervention required to provide ULMP (incl GLUMP) to an OAO.

**“ULMP Fault”** means an incident of disrupted or degraded service on a ULMP (incl GLUMP) Connection;

**“ULMP Fault Repair”** means the repair of a ULMP Fault resulting in the restoration of ULMP Connection to normal working order;

**“ULMP Fault Repair Time”** means the duration from the instant of a ULMP Fault Report to the instant of a ULMP Fault Repair;

**“ULMP Fault Report”** means a ULMP Fault reported by an OAO which is valid unless it can be reasonably attributed to components outside the Eircom network;;

**“ULMP Lines”** means those Access Lines on which ULMP has been implemented;

**“ULMP Supply Time”** means the duration from the date a Valid ULMP Connection Order is received by Eircom to the date a working ULMP Connection is made available for use;

**“Valid Line Share Connection Order”** means an order by an OAO for a Line Share Connection (whether made orally, or in writing, including by any electronic means, or in any other acceptable form), that is not later deemed invalid;

**“Working Hour”** means 60 minutes duration between 9.00 – 17.00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays)

**“Working Day”** means 9:00 – 17:00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays); and

**“Year”** means the period between 1 July, Year X to 30 June, Year X + 1.

## **Metrics associated with Supply of Services – Line Share**

### **3.1 Line Share Connections in 5 Working Days**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of Line Share Connections completed within the Data Collection Period where the Supply Time is within 5 Working Days}}{\text{Total number of Line Share Connections completed within the Data Collection Period}} \times 100$$

### **3.2 Average Supply Time – Line Share**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of Line Share Supply Times of All Line Share Connections completed within the Data Collection Period}}{\text{Total number of All Line Share Connections completed within the Data Collection Period}}$$

The metric should be expressed in Working Days.

### **3.3 Quality of Line Share Supply**

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of Faults reported within 28 Days for Line Share Connections completed within the Data Collection Period}}{\text{Total number of Line Share Connections completed within the Data Collection Period}} \times 100$$

## **Metrics associated with Repair of Services**

### **3.4 Line Share Fault Repairs within 2 Working Days**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of Line Share Fault Repairs completed within the Data Collection Period where the Line Share Fault Repair Time is within 2 Working Days}}{\text{Total Line Share Fault Repairs completed within the Data Collection Period}} \times 100$$

### **3.5 Line Share Fault Repair within 5 Working Days**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of Line Share Fault Repairs completed within the Data Collection Period where the Line Share Fault Repair Time is within 5 Working Days}}{\text{Total Line Share Fault Repairs completed within the Data Collection Period}} \times 100$$

### **3.6 Line Share Fault Repair within 10 Working Days**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of Line Share Fault Repairs completed within the Data Collection Period where the Line Share Fault Repair Time is within 10 Working Days}}{\text{Total DSL Fault Repairs completed within the Data Collection Period}} \times 100$$

### **3.7 Line Share DSL Fault Repair Time**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of Line Share Fault Repair Times of All Fault Repairs completed within the Data Collection Period}}{\text{Total number of Line Share Fault Repairs completed within the Data Collection Period}}$$

The metric should be expressed in Working Days.

### 3.8 Quality of Line Share Repair

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of Line Share Faults reported within 28 Days on Lines which had Line Share Fault Repairs completed within the Data Collection Period}}{\text{Total number of Line Share Fault Repairs completed within the Data Collection Period}} \times 100$$

## Metrics associated with Supply of Services – ULMP

### 4.1 ULMP Connections in 10 Working Days

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of ULMP Connections completed within the Data Collection Period where the Supply Time is within 10 Working Days}}{\text{Total number of ULMP Connections completed within the Data Collection Period}} \times 100$$

### 4.2 Average Supply Time - ULMP

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of ULMP Supply Times of ULMP Connections completed within the Data Collection Period}}{\text{Total number of ULMP Connections completed within the Data Collection Period}}$$

The metric should be expressed in Working Days.

### 4.3 Quality of ULMP Supply

$$\frac{\text{Number of Faults reported within 28 Days for ULMP Connections completed within the Data Collection Period}}{\text{Total number of Line Share Connections completed within the Data Collection Period}} \times 100$$

## Metrics associated with Repair of Services

### 4.4 ULMP Fault Repairs within 2 Working Days (Test Results Provided)

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of All ULMP Fault Repairs completed within the Data Collection Period where the ULMP Fault Repair Time is within 2 Working Days}}{\text{Total All ULMP Fault Repairs completed within the Data Collection Period}} \times 100$$

#### **4.5 ULMP Fault Repairs within 3 Working Days (No test results)**

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of All ULMP Fault Repairs completed within the Data Collection Period where the ULMP Fault Repair Time is within 3 Working Days}}{\text{Total All ULMP Fault Repairs completed within the Data Collection Period}} \times 100$$

#### **4.6 ULMP Fault Repairs within 5 Working Days (Test Results Provided)**

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of All ULMP Fault Repairs completed within the Data Collection Period where the ULMP Fault Repair Time is within 5 Working Days}}{\text{Total All ULMP Fault Repairs completed within the Data Collection Period}} \times 100$$

#### **4.7 ULMP Fault Repairs within 6 Working Days (No test results)**

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of All ULMP Fault Repairs completed within the Data Collection Period where the ULMP Fault Repair Time is within 6 Working Days}}{\text{Total All ULMP Fault Repairs completed within the Data Collection Period}} \times 100$$

#### **4.8 ULMP Fault Repairs within 10 Working Days (Test Results Provided)**

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of All ULMP Fault Repairs completed within the Data Collection Period where the ULMP Fault Repair Time is within 10 Working Days}}{\text{Total All ULMP Fault Repairs completed within the Data Collection Period}} \times 100$$

#### **4.9 ULMP Fault Repairs within 11 Working Days (No test results)**

This figure shall be collected and calculated by Eircom for each Data Collection Period.

The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of All ULMP Fault Repairs completed within the Data Collection Period where the ULMP Fault Repair Time is within 3 Working Days}}{\text{Total All ULMP Fault Repairs completed within the Data Collection Period}} \times 100$$

#### **4.10 Average ULMP Fault Repair Time**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Sum of All ULMP Fault Repair Times of All Fault Repairs completed within the Data Collection Period}}{\text{Total number of All ULMP Fault Repairs completed within the Data Collection Period}}$$

#### **4.11 ULMP Fault Incidence**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Total number of ULMP Faults for the Data Collection Period}}{\text{Average Number of ULMP Lines within the Data Collection Period}} \times 100$$

#### **4.12 Quality of ULMP Repair**

This figure shall be collected and calculated by Eircom for each Data Collection Period. The figure for each Data Collection Period shall be calculated as follows:

$$\frac{\text{Number of ULMP Faults reported within 28 Days on Lines which had ULMP Fault Repairs completed within the Data Collection Period}}{\text{Total number of ULMP Fault Repairs completed within the Data Collection Period}} \times 100$$

## Annex 4

### Definition of metrics for the Terminating Segments of Wholesale Leased Lines Market

The leased line metrics, other than the fault metrics, are closely based on formats already provided by Eircom on an ongoing basis either published on its website, or provided historically to industry at the Leased Line and PPC Industry Forum of supplied to ComReg for inclusion in the ComReg Quarterly Report. These formats are published below in Tables 1, 2 and 3.

#### Definitions

<b>“Co-op Fault”</b>	means a request for technical information or active assistance by a customer in an instance where there is no fault on the Eircom network and no fault raised (e.g. providing a loop for customer testing)
<b>“Due Delivery Date”</b>	means the committed date for completion of a valid order for a Leased Line as per the relevant SLA
<b>“Ethernet Leased Line”</b>	means a Leased Line which presents an Ethernet interface to the end user
<b>“Leased Line Supply time”</b>	means the duration from the date all Valid Leased Line Connection Orders are received by Eircom to the date a working Leased Line Connection is made available for use excluding delays etc as per Eircom published SLA's – This definition should be used throughout this section
<b>“Leased Line”</b>	A Leased Line is a fixed permanent telecommunications connection providing broadly symmetric capacity between two fixed points. It is permanent in that capacity is always available between the two points, however this capacity could be reserved or shared through the associated network depending on the nature of the Leased Line
<b>“Leased Line Fault”</b>	means an incident of disrupted or degraded service of a Leased Line on the Eircom network
<b>“Leased Line Fault Report”</b>	means a Leased Line Fault reported by an OAO which is valid unless it can be reasonably attributed to components outside the Eircom network
<b>“Leased Line Fault Repair”</b>	means the repair of a Leased Line Fault resulting in the restoration of Leased Line Connection to normal working order;

<b>“Leased Line Fault Repair Time”</b>	means the duration from the instant of a Leased Line Fault Report to the instant of a Leased Line Fault Repair;
<b>“Legacy Ethernet”</b>	Eircom Ethernet services provided on legacy (pre-NGN) infrastructure
<b>“NGN Ethernet”</b>	refers to the Eircom Next Generation Network Ethernet network use to provide a suite of NGN services over the NGN core and/or NGN access network
<b>“Non-fault”</b>	means a reported fault which is found not to lie within the Eircom network
<b>“Non-Standard Order (Leased Line)”</b>	means an order which has been designated as "Non-Standard Order" as per corresponding SLA published on the Eircom wholesale website
<b>“OAO (Other Authorised Operator)”</b>	means a legal entity which is designated Under Section 4 (1) of the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2003 (S.I. No. 306 of 2003), to provide an electronic communications network or service
<b>“Project Order (Leased Line)”</b>	means an order which has been designated as "Project Order" and is usually exempt from the applicable SLA as the DDD (Due Delivery Date) is negotiated between the parties
<b>“Partial Private Circuits”</b>	refers to the Eircom wholesale offering as described on Eircom wholesale website, the constituent elements for the ordering process of which are; Transport Links (TL); Subsidiary Links (SL); End User Links (EUL).
<b>“Quarter (Year)”</b>	means a 3 month period (January to March or April to June or July to August or October to December) of a year
<b>“Retail Leased Line”</b>	refer to a Leased Line supplied to an Eircom retail customer or internally to Eircom for internal use which can be delivered as a Leased Line or used as an access path to various other services e.g. MPLS, Frame relay etc. Excludes digital access paths used to supply ISDN PRA services
<b>“SLA”</b>	means relevant or corresponding Service Level Agreement as published on the Eircom website

<b>“Standard Order (Leased Line)”</b>	Order which has been designated as "Standard Order" as per corresponding SLA published on the Eircom wholesale website
<b>“Sub 10Mb/s Leased Lines”</b>	Leased Lines of bandwidth less than 10Mb/s
<b>“Sub 2Mb/s Leased Lines”</b>	Leased Lines of bandwidth 64Kb/s up to 1984Kb/s
<b>“Traditional Leased Line”</b>	a Leased Line delivered over a SDH/PDH network architecture of PDH/SDH bandwidths 64Kb/s and upwards, with corresponding interface standards (X.21, G.35, G703/G.704 etc). The current wholesale variants offered by Eircom are wholesale Leased Lines and PPC (Partial Private Circuits).
<b>“Leased Line Connection Order”</b>	means an order for a Leased Line which has been lodged by the appropriate means (by email or any other acceptable electronic means and that is not later deemed invalid
<b>“Working Hour”</b>	means 60 minutes duration between 9.00 – 17.00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays)
<b>“Working Day”</b>	means 9:00 – 17:00 from Monday – Friday (excluding Saturday, Sunday, bank and public holidays); and
<b>“Year”</b>	means the period between 1 July, Year X to 30 June, Year X + 1.

## Metrics associated with Supply of Services

### Metrics Associated with the Supply of Leased Line Services

All figures shall be calculated by Eircom for each Data Collection Period.

The figures for each Data Collection Period shall be calculated as described below. They will apply as relevant to each individual metric as laid out in the associated tabature form

The metrics for Traditional Leased Lines are the measurement of the delivery performance of the Eircom Retail Leased Line service and the performance of the combined wholesale services: Wholesale Leased Lines and Partial Private Circuits End User Links (PPC EUL's).

<b>Metric Reference</b>	<b>Title</b>	<b>Definition</b>
<b>5.1.1 to 5.1.24</b>	Average delivery supply-times for traditional Leased Lines Sub 2Mb/s for wholesale customers	Average supply-time in working days for delivery of traditional Leased Lines of bandwidths less than 2Mb/s for wholesale orders only (those to OAOs) in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.25 to 5.1.48</b>	Average delivery supply-times for traditional Leased Lines of 2Mb/s for wholesale customers	Average supply-time in working days for delivery of traditional Leased Lines of bandwidth equal to 2Mb/s for wholesale orders only (those to OAOs) in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.49 to 5.1.72</b>	Average delivery supply-times for traditional Leased Lines greater than 2Mb/s for wholesale customers	Average supply-time in working days for delivery of traditional Leased Lines of bandwidths greater than 2Mb/s for wholesale orders only (those to OAOs) in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.73 to 5.1.96</b>	Average delivery supply-times for legacy Ethernet Leased Lines Sub 10Mb/s for wholesale customers	Average supply-time in working days for delivery of legacy Ethernet Leased Lines of bandwidths less than 10Mb/s for wholesale orders only (those to OAOs) in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period

<b>5.1.197 to 5.1.120</b>	Average delivery supply-times for legacy Ethernet Leased Lines equal to or greater than 10Mb/s for wholesale customers	Average supply-time in working days for delivery of legacy Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s for wholesale orders only (those to OAOs) in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.121 to 5.1.144</b>	Average delivery supply-times for NGN Ethernet Leased Lines Sub 10Mb/s for wholesale customers	Average supply-time in working days for delivery of NGN Ethernet Leased Lines of bandwidths less than 10Mb/s for wholesale orders only (those to OAOs) in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.145 to 5.1.168</b>	Average delivery supply-times for NGN Ethernet Leased Lines equal to or greater than 10Mb/s for wholesale customers	Average supply-time in working days for delivery of NGN Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s for wholesale orders only (those to OAOs) in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.169 to 5.1.192</b>	Average delivery supply-times for traditional Leased Lines Sub 2Mb for retail customers	Average supply-time in working days for delivery of traditional Leased Lines of bandwidths 64Kb/s to 10Mb/s for retail orders only, in categories for standard, project and non-standard designated orders, for all orders (100%) , and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specific 3 month quarterly time-period
<b>5.1.193 to 5.1.216</b>	Average delivery supply-times for traditional Leased Lines of 2Mb/s for retail customers	Average supply-time in working days for delivery of traditional Leased Lines of bandwidth of 2Mb/s for retail orders, in categories for standard, project and non-standard designated orders, for all orders (100%) and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), delivered in a specific 3 month quarterly time-period
<b>5.1.217 to 5.1.240</b>	Average delivery supply-times for traditional Leased Lines greater than 2Mb/s for retail customers	Average supply-time in working days for delivery of traditional Leased Lines of bandwidth of 2Mb/s for retail orders, in categories for standard, project and non-standard designated orders, for all orders (100%) and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specific 3 month quarterly time-period

<b>5.1.241 to 5.1.264</b>	Average delivery supply-times for legacy Ethernet Leased Lines Sub 10Mb/s for retail customers	Average supply-time in working days for delivery of legacy Ethernet Leased Lines of bandwidths below 10Mb/s for retail orders only, in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), delivered in a specified 3 month quarterly time-period
<b>5.1.265 to 5.1.288</b>	Average delivery supply-times for legacy Ethernet Leased Lines equal to or greater than 10Mb/s for retail customers	Average supply-time in working days for delivery of legacy Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s for retail orders only, in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.289 to 5.1.312</b>	Average delivery supply-times for NGN Ethernet Leased Lines Sub 10Mb/s for retail customers	Average supply-time in working days for delivery of NGN Ethernet Leased Lines of bandwidths below 10Mb/s for retail orders only, in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period
<b>5.1.313 to 5.1.336</b>	Average delivery supply-times for NGN Ethernet Leased Lines equal to or greater than 10Mb/s for retail customers	Average supply-time in working days for delivery of NGN Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s for retail orders only, in categories for standard, project and non-standard designated orders for all orders (100%), and for 97.5% of orders (2.5% of orders with the longest supply-time discarded), measured monthly, delivered in a specified 3 month quarterly time-period

## Metrics associated with Designation of Service Orders

### Metrics associated with designation of Leased Line orders received by Eircom

All figures shall be calculated by Eircom for each Data Collection Period.

The figures for each Data Collection Period shall be calculated as described below. They will apply as relevant to each individual metric as laid out in the associated tablatore form.

The metrics for Traditional Leased Lines are the measurement of the order designation of the Eircom Retail Leased Line service and the performance of the combined wholesale services: Wholesale Leased Lines and Partial Private Circuits End User Links (PPC EULs). Similarly for Ethernet services, the metrics refer to customer portion of the services and exclude any orders for the interconnection portion of the various legacy and NGN services.

<b>Metric Reference</b>	<b>Title</b>	<b>Definition</b>
<b>5.2.1 to 5.2.9</b>	Order designation statistics for traditional Leased Lines Sub 2Mb/s for wholesale customers	Percentage of orders for traditional Leased Lines of bandwidths 64kb/s to 1984kb/s which are categorised as being standard, project and non-standard for wholesale orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.10 to 5.2.18</b>	Order designation statistics for traditional Leased Lines of 2Mb/s for wholesale customers	Percentage of orders for traditional leased of bandwidth 2Mb/s which are categorised as being standard, project and non-standard, for wholesale orders only as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.19 to 5.2.27</b>	Order designation statistics for traditional Leased Lines greater than 2Mb/s for wholesale customers	Percentage of orders for traditional leased of bandwidth s greater than 2Mb/s which are categorised as being standard, project and non-standard for wholesale orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.28 to 5.2.36</b>	Order designation statistics for legacy Ethernet Leased Lines Sub 10Mb/s for wholesale customers	Percentage of orders for legacy Ethernet Leased Lines of bandwidth less than 10Mb/s which are categorised as being standard, project and non-standard for wholesale orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.37 to 5.2.45</b>	Order designation statistics for legacy Ethernet Leased Lines greater than 10Mb/s for wholesale customers	Percentage of orders for legacy Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s which are categorised as being standard, project and non-standard for wholesale orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period

<b>5.2.46 to 5.2.54</b>	Order designation statistics for NGN Ethernet Leased Lines Sub 10Mb/s for wholesale customers	Percentage of orders for NGN Ethernet Leased Lines of bandwidth less than 10Mb/s which are categorised as being standard, project and non-standard for wholesale orders only, as defined in the corresponding Eircom SLA's , measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.55 to 5.2.63</b>	Order designation statistics for NGN Ethernet Leased Lines greater than 10Mb/s for wholesale customers	Percentage of orders for NGN Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s which are categorised as being standard, project and non-standard for wholesale orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.64 to 5.2.72</b>	Order designation statistics for traditional Leased Lines Sub 2Mb/s for retail customers	Percentage of orders for traditional Leased Lines of bandwidths 64kb/s to 1984kb/s which are categorised as being standard, project and non-standard for retail orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.73 to 5.2.81</b>	Order designation statistics for traditional Leased Lines of 2Mb/s for retail customers	Percentage of orders for traditional leased of bandwidth 2Mb/s which are categorised as being standard, project and non-standard, for retail orders only as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.82 to 5.2.90</b>	Order designation statistics for traditional Leased Lines greater than 2Mb/s for retail customers	Percentage of orders for traditional leased of bandwidth s greater than 2Mb/s which are categorised as being standard, project and non-standard for retail orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.91 to 5.2.99</b>	Order designation statistics for legacy Ethernet Leased Lines Sub 10Mb/s for retail customers	Percentage of orders for legacy Ethernet Leased Lines of bandwidth less than 10Mb/s which are categorised as being standard, project and non-standard for retail orders only, as defined in the corresponding Eircom SLA's placed within the given time period
<b>5.2.100 to 5.2.108</b>	Order designation statistics for legacy Ethernet Leased Lines greater than 10Mb/s for retail customers	Percentage of orders for legacy Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s which are categorised as being standard, project and non-standard for wholesale orders only, as defined in the corresponding Eircom SLA's , measured monthly, of those order placed within a specified 3 monthly time period
<b>5.2.109 to 5.2.117</b>	Order designation statistics for NGN Ethernet Leased Lines Sub 10Mb/s for retail customers	Percentage of orders for NGN Ethernet Leased Lines of bandwidth less than 10Mb/s which are categorised as being standard, project and non-standard for retail orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a

specified 3 monthly time period

<b>5.2.118 to 5.2.126</b>	Order designation statistics for NGN Ethernet Leased Lines greater than 10Mb/s for retail customers	Percentage of orders for NGN Ethernet Leased Lines of bandwidths equal to or greater than 10Mb/s which are categorised as being standard, project and non-standard for retail orders only, as defined in the corresponding Eircom SLA's, measured monthly, of those order placed within a specified 3 monthly time period
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## **Metrics associated with Repair of Services**

### **Metrics associated with repair of Leased Line services**

All figures shall be calculated by Eircom for each Data Collection Period. The figures for each Data Collection Period shall be calculated as described below. They will apply as relevant to each individual metric as laid out in the associated tabature form.

There is no differentiation made between the various technologies for the repair metrics. The wholesale metrics are the measure of repair performance for the combined wholesale offerings: Wholesale Leased Lines, Partial Private Circuit End user Links and the various Ethernet equivalents (Wholesale Ethernet Access Circuits provided on the Ethernet legacy products and on the Eircom NGN, Wholesale Symmetric Ethernet Access circuits).

<b>Metric Reference</b>	<b>Title</b>	<b>Definition</b>
<b>5.3.1 to 5.3.9</b>	Percentage of faults on wholesale Leased Lines repaired within 8, 24 and after 24 hours, (excludes non-faults and co-op faults)	Percentage of faults (excludes non-faults and co-op faults) reported on wholesale Leased Lines repaired within 8, 24 and after 24 hours, of all faults reported, measured on a monthly basis, within a given 3 month quarterly period
<b>5.3.10 to 5.3.18</b>	Percentage of faults on retail Leased Lines repaired within 8, 24 and after 24 hours, (excludes non-faults and co-op faults)	Percentage of faults (excludes non-faults and co-op faults) reported on retail Leased Lines repaired within 8, 24 and after 24 hours, of all faults reported, measured on a monthly basis, within a given 3 month quarterly period

## Appendix 1 - Legal Basis

### General Legal Basis

5.19 In accordance with Section 10(1)(da) of the Communications Regulation Act 2002, as amended, (“the Act”) one of the functions of ComReg is:

*(da) for the purpose of contributing to an open and competitive market and also for statistical purposes, to collect, compile, extract, disseminate and publish information from undertakings relating to the provision of electronic communications services, electronic communications networks and associated facilities and the transmission of such services on those networks”*

5.20 Further, at Section 12(3) of the Act, ComReg has the obligation, when carrying out its functions, of ensuring that the measures taken by it are proportionate.

5.21 In the Access Regulations<sup>7</sup>, Regulation 9 provides that when an operator has been designated with SMP the regulator shall impose, amend or withdraw the obligations as set out in Regulation 10-14 of the Access Regulations as it considers appropriate.

5.22 Regulation 10(1) of the Access Regulations provides that obligations can be imposed on an operator to ensure transparency in relation to interconnection, access or both interconnection and access, requiring such operator to make public specified information, such as accounting information, technical specification, network characteristics, terms and conditions for supply and use and prices.

5.23 In addition, ComReg can specify as part of the transparency obligation the precise information that is to be made available, the level of detail required and the manner of publication.

5.24 Finally, ComReg can also impose the obligation of non-discrimination as set out in Regulation 11 of the Access Regulations, in particular the following:

*The Regulator may in accordance with Regulation 9 impose on an operator obligations of non-discrimination in relation to interconnection, access or both interconnection and access.*

*(2) Any such obligations shall ensure, in particular, that the operator:*

*(a) applies equivalent conditions in equivalent circumstances to other undertakings providing equivalent services, and*

*(b) provides services and information to others under the same conditions and of the same quality as the operator provides for its own services or those of its subsidiaries or partners.*

5.25 The obligations of transparency and non-discrimination were imposed on Eircom in the following markets, following designations of SMP:

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<sup>7</sup> European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 (S.I. No. 305 of 2003), amended by the European Communities (Electronic Communications Networks and Services) (Access) (Amendment) Regulations 2007 (S.I. No. 373 of 2007).

- ComReg decision No.05/11 Market Analysis – Wholesale Broadband Access – Designation of SMP and Related Remedies, dated 17 February 2005
- ComReg Decision No. D05/10 Market Review: Wholesale (Physical) Network Infrastructure Access (Market 4) , dated 20 May 2010
- ComReg decision No. 08/103 Market Analysis – Leased Lines Market Review, dated 22 December 2008
- ComReg Decision No. 07/61, Decision Notice- Market Analysis : Retail Fixed Narrowband Access Markets, dated 24 August 2007 (“the Relevant Markets”).

5.26 Regulation 17 of the Access Regulations provides that for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under the Access Regulations, ComReg may issue directions to an undertaking to do or refrain from doing anything which the Regulator specifies. Therefore the KPIs discussed in this document are proposed to form directions to Eircom for the purposes of further specifying requirements in relation to its existing obligations of transparency and non-discrimination.

5.27 In addition, to requiring Eircom to provide ComReg with the information, in line with its relevant transparency obligations in the various markets, when directed pursuant to Regulation 17 of the Access Regulations, Regulation 17(11) of the Framework Regulations<sup>8</sup> provides that:

*The Regulator shall, subject to the protection of the confidentiality of any information which it considers to be confidential, publish from time to time such information as would, in the opinion of the Regulator, contribute to an open and competitive market.*

5.28 As such, ComReg is also entitled to publish the information if it considers that it is going to contribute to an open and competitive market, subject to the protection of confidential information.

5.29 In addition, ComReg is also entitled to publish information provided by Eircom in accordance with Regulation 18(1)(d) of the Authorisation Regulations<sup>9</sup> provides that:

*The Regulator may require an undertaking to provide information under the general authorisation in respect of a licence or a right of use for numbers or a specific obligation but only where such requirement is proportionate and objectively justified for:*

*(d) publication of comparative overviews of quality and price of services for the benefit of consumers,*

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<sup>8</sup> European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 (S.I. No. 307 of 2003), amended by the European Communities (Electronic Communications Networks and Services) (Framework) (Amendment) Regulations 2007 (S.I. No. 271 of 2007).

<sup>9</sup> European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2003 (S.I. No. 306 of 2003), amended by the European Communities (Electronic Communications Networks and Services) (Authorisation) (Amendment) Regulations 2007 (S.I. No. 372 of 2007).

5.30 Under section 6.1 of the general conditions of the General Authorisation ComReg, in document 03/81 R1 dated 25 July 2003, provided for the following:

*6.1 The Authorised Person shall provide such information requested from time to time by the Commission, in the form and at the times specified by the Commission, for the purpose of the objectives set out in Regulations 17(1) and 18(1) of the Authorisation Regulations and in Regulation 17(1) of the Framework Regulations; and in accordance with the provisions of Regulation 18(3) of the Authorisation Regulations and Regulation 17(2) of the Framework Regulations.*

ComReg believes that it is necessary to request Eircom to publish the KPIs associated with the inputs to its self supplied services so as add to Eircom's obligation of transparency and for the purposes of Eircom's non-discrimination obligation, the comparison with the KPIs associated with the inputs to Eircom's equivalent wholesale offerings. ComReg believes that this will provide for consumers a comparative overview of quality of services as between Eircom and OAOs services. ComReg believes that the further specification in this Decision made in accordance with Eircom's transparency and non-discrimination obligations, already imposed in each relevant market, will provide clear information for all stakeholders, including OAOs, end-users, Eircom and ComReg.

5.31 Finally, ComReg believes that having taken into consideration information already available in the relevant markets, including the ComReg Quarterly Report, SLAs, USO targets and information provided on [www.callcosts.ie](http://www.callcosts.ie), the KPIs and the collective manner in which they are to be published, add to the information available, where there is a need for further information.

5.32 In light of all of the above, the publication of the KPIs will aid in assisting open and competitive markets and as such, this decision is considered to be justified and proportionate at both a retail and wholesale level.

### **Legal Basis – Retail Narrowband Access Market**

5.33 Eircom was designated with SMP in this market in accordance with ComReg decision No. 07/61, Decision Notice- Market Analysis: Retail Fixed Narrowband Access Markets, dated 24 August 2007 (“the Retail Narrowband Decision”).

5.34 At section 6.4 of the Retail Narrowband Decision, Eircom has the obligation of non-discrimination. In addition, at section 6.7, ComReg determined that in furtherance of the non-discrimination obligation imposed on Eircom, the obligation of transparency in relation to the services to which the non-discrimination obligation applied was also to be imposed. It is not anticipated to impose KPIs on services that fall outside of those specified in the Retail Narrowband Decision.

5.35 Therefore, in accordance with the Retail Narrowband Decision and Regulations 9, 10, 11 and 17 of the Access Regulations and Regulation 14(1) of the

Universal Service Regulations<sup>10</sup>, ComReg proposes to further specify the requirements to be complied with in relation to Eircom's transparency and non-discrimination obligations, to direct Eircom to publish the relevant KPIs for the Retail Narrowband Market.

- 5.36 As discussed throughout this paper and consultation 10/74, ComReg believes that to give meaning to the KPIs relating to Eircom's wholesale offerings, and in accordance with Eircom's obligations of transparency and non-discrimination, it is essential to publish Eircom's KPIs for the equivalent self supplied products. As such, for the purpose of comparison and in accordance with Regulation 10 of the Access Regulations, Regulation 18(1)(d) of the Authorisation Regulations and section 6.1 of the General Authorisation, ComReg is entitled to require Eircom to publish the KPIs for the purposes of producing comparative overviews of quality and price of services for the benefit of consumers. ComReg may also publish, pursuant to Regulation 17(11) of the Framework Regulations, the KPIs to ensure that the information contributes to an open and competitive market.
- 5.37 In addition, to ComReg's obligation, at Section 12(3) of the Act, to be proportionate in relation to the carrying out of its functions, which includes being proportionate in relation to the transparency and non-discrimination obligations already in place in this market. ComReg is also required to be proportionate and objectively justified when requiring the information under Regulation 18(1)(d) of the Authorisation Regulations. ComReg believes that as it is giving consideration in this Decision to existing metrics and targets required of Eircom, this decision is proportionate, as ComReg is collating information already provided and seeking further information that it considers is required for the purposes of aiding an open and competitive market. Therefore, ComReg believes that the requirements of this decision are justified and in line with ComReg's obligations and functions in Sections 10 and 12 of the Act.

## **Legal Basis – Wholesale Broadband Access**

- 5.38 Eircom was designated with SMP in this market in accordance with ComReg Decision 03/05 (Doc No.05/11r) Market Analysis – Wholesale Broadband Access – Designation of SMP and Related Remedies, dated 17 February 2005 (“the WBA Decision”).
- 5.39 At section 6 of the WBA Decision Eircom has the obligation of non-discrimination, in addition at section 7 Eircom also has the obligation of transparency.
- 5.40 Therefore in accordance with the WBA Decision, Regulations 10, 11 and 17 of the Access Regulations, ComReg is further specifying requirements to be complied with in relation to Eircom's transparency and non-discrimination

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<sup>10</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2003 (S.I. No. 308 of 2003), amended by European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) (Amendment) Regulations 2007 (S.I. No. 374 of 2007).

obligations, by directing Eircom to publish the relevant KPIs for the WBA Market.

- 5.41 As discussed throughout this paper, ComReg believes that to give meaning to the KPIs relating to Eircom's wholesale offerings, and in accordance with Eircom's obligations of transparency and non-discrimination, it is essential to publish Eircom's KPIs for the equivalent self supplied products. As such, for the purpose of comparison and in accordance with Regulation 10 of the Access Regulations, Regulation 18(1)(d) of the Authorisation Regulations and section 6.1 of the General Authorisation, ComReg is entitled to require Eircom to publish the KPIs for the purposes of producing comparative overviews of quality of service for the benefit of consumers. ComReg is directing Eircom to also publish, pursuant to Regulation 17(11) of the Framework Regulations, the KPIs to ensure that the information contributes to an open and competitive market.
- 5.42 In addition, to ComReg's obligation, at Section 12(3) of the Act, to be proportionate in relation to the carrying out of its functions, which includes being proportionate in relation to the transparency and non-discrimination obligations already in place in this market. ComReg is also required to be proportionate and objectively justified when requiring the information under Regulation 18(1)(d) of the Authorisation Regulations. ComReg believes that as it has given consideration in this Decision to existing metrics and targets required of Eircom, this decision is proportionate, as ComReg is collating information already provided and seeking further information that it considers is required for the purposes of aiding an open and competitive market. Therefore, ComReg believes that the requirements of this Decision are justified and in line with ComReg's obligations and functions in Sections 10 and 12 of the Act.

### **Legal Basis – Wholesale Physical Network Infrastructure Access**

- 5.43 Eircom was designated with SMP in this market in accordance with ComReg decision No.D05/10 Response to Consultation and Decision, Wholesale Physical Network Infrastructure Access, Market 4, dated 20 May 2010 ("the WPNIA Decision").
- 5.44 At section 9 of the WPNIA Decision Eircom has been given the obligation of non-discrimination. In addition, at section 10 Eircom have the obligation of transparency. In particular at section 10.9 it provides that Eircom are obliged to publish, on its publicly available website, information about performance metrics.
- 5.45 Therefore, in accordance with the express provision in the WPNIA Decision and Regulations 10, 11 and 17 of the Access Regulations, ComReg is further directing Eircom in relation to its transparency and non-discrimination obligations, to publish the relevant KPIs for the WPNIA Market.
- 5.46 As discussed throughout this paper, ComReg believes that to give meaning to the KPIs relating to Eircom's wholesale offerings, and in accordance with Eircom's obligations of transparency and non-discrimination, it is essential to publish Eircom's KPIs for the equivalent/similar self supplied inputs that are within the WPNIA market. As such, for the purpose of comparison and in

accordance with Regulation 10 of the Access Regulations, Regulation 18(1)(d) of the Authorisation Regulations and section 6.1 of the General Authorisation, ComReg is entitled to require Eircom to publish the KPIs for the purposes of producing comparative overviews of quality and price of services for the benefit of consumers. ComReg therefore will publish the KPIs, pursuant to Regulation 17(11) of the Framework Regulations, to ensure that the information contributes to an open and competitive market.

- 5.47 In addition, to ComReg's obligation, at Section 12(3) of the Act, to be proportionate in relation to the carrying out of its functions, which includes being proportionate in relation to the transparency and non-discrimination obligations already in place in this market. ComReg is also required to be proportionate and objectively justified when requiring the information under Regulation 18(1)(d) of the Authorisation Regulations. ComReg believes that as it has given consideration in this consultation process to existing metrics and targets required of Eircom, this decision is proportionate, as ComReg is collating information already provided and seeking further information that it considers is required for the purposes of aiding an open and competitive market. Therefore, ComReg believes that this decision is justified and in line with ComReg's obligations and functions in Sections 10 and 12 of the Act.

### **Legal Basis – Terminating Segments of Wholesale Leased Lines**

- 5.48 Eircom was designated with SMP in this market in accordance with ComReg decision No. 08/103 Market Analysis – Leased Lines Market Review, dated 22 December 2008 (“the Leased Lines Decision”).
- 5.49 At section 8 of the Leased Lines Decision Eircom has the obligation of non-discrimination. In addition, at section 9 Eircom has an obligation of transparency imposed on it. At section 9.9 Eircom are obligated to publish KPIs, subject to further consultation.
- 5.50 Therefore, in accordance with the express provision in the Leased Lines Decision, ComReg, pursuant to this Decision and Regulations 10, 11 and 17 of the Access Regulations, it is going to further specify requirements to be complied with in relation to Eircom's transparency and non-discrimination obligations, to direct Eircom to publish the relevant KPIs for the Leased Lines Market. However, as discussed in this paper, ComReg is not setting any KPI targets at this time.
- 5.51 As discussed throughout this paper, ComReg believes that to give meaning to the KPIs relating to Eircom's wholesale offerings, and in accordance with Eircom's obligations of transparency and non-discrimination, it is essential to publish Eircom's KPIs for the equivalent self supplied products. As such, for the purpose of comparison and in accordance with Regulation 10 of the Access Regulations and 18(1)(d) of the Authorisation Regulations and section 6.1 of the General Authorisation, ComReg is entitled to require Eircom to publish the KPIs for the purposes of producing comparative overviews of quality of services for the benefit of consumers. ComReg will also publish, pursuant to Regulation 17(11) of the Framework Regulations, the KPIs to ensure that the information contributes to an open and competitive market.

5.52 In addition, to ComReg's obligation, at Section 12(3) of the Act, to be proportionate in relation to the carrying out of its functions, which includes being proportionate in relation to the transparency and non-discrimination obligations already in place in this market. ComReg is also required to be proportionate and objectively justified when requiring the information under Regulation 18(1)(d) of the Authorisation Regulations. ComReg believes that as it has given consideration in this consultation process to existing metrics and targets required of Eircom, this decision is proportionate, as ComReg is collating information already provided and seeking further information that it considers is required for the purposes of aiding an open and competitive market. Therefore, ComReg believes this decision is justified and in line with ComReg's obligations and functions in Sections 10 and 12 of the Act.

## Appendix 2 - Revised Presentation of Metrics

	Retail PSTN	SB-WLR	WLA
<b>Metrics associated with Supply of Service</b>			
1. In-Situ Connection in 2WD	%	%	%
2. Average In-Situ Connection Time	WDs	WDs	WDs
3. Connections in 10WD	%	%	%
4. Average Supply Time	WDs	WDs	WDs
5. Quality of Supply	%	%	%
<b>Metrics associated with Repair of Service</b>			
6. Fault Repair in 2WD	%	%	%
7. Fault Repair in 5WD	%	%	%
8. Fault Repair in 10WD	%	%	%
9. Average Fault Repair Time	WDs	WDs	WDs
10. Fault Incidence	%	%	%
11. Quality of Repair	%	%	%

**Table 1:** Retail Narrowband Access KPIs

Note: WD means Working Days

	Retail Broadband	Wholesale Bitstream
<b>Metrics associated with Supply of Service</b>		
12. In-Situ Connection in 2WD <sup>7</sup>	%	%
13. Average In-Situ Connection Time <sup>8</sup>	WDs	WDs
14. Connections in 5WD	%	%
15. Average Supply Time	WDs	WDs
16. Quality of Supply	%	%
<b>Metrics associated with Repair of Service</b>		
17. Fault Repair in 2WD	%	%
18. Fault Repair in 5WD	%	%
19. Fault Repair in 10WD	%	%
20. Average Fault Repair Time	WDs	WDs
21. Quality of Repair	%	%

**Table 2:** Wholesale Broadband Access KPIs

	Retail Broadband	Wholesale Line Share
<b>Metrics associated with Supply of Service</b>		
22. Connections in 5WD	%	%
23. Average Supply Time	WDs	WDs
24. Quality of Supply	%	%
<b>Metrics associated with Repair of Service</b>		
25. Fault Repair in 2WD	%	%
26. Fault Repair in 5WD	%	%
27. Fault Repair in 10WD	%	%
28. Average Fault Repair Time	WDs	WDs
29. Quality of Repair	%	%

**Table 3:** Wholesale Physical Network Infrastructure Access (Line Share) KPIs

	Retail PSTN	Wholesale ULMP
<b>Metrics associated with Supply of Service</b>		
30. Connections in 10WD	%	%
31. Average Supply Time	WDs	WDs
32. Quality of Supply	%	%
<b>Metrics associated with Repair of Service</b>		
33. Fault Repair in 2WD	%	% <sup>9</sup>
34. Fault Repair in 5WD	%	% <sup>9</sup>
35. Fault Repair in 10WD	%	% <sup>9</sup>
36. Average Fault Repair Time	WDs	WDs <sup>9</sup>
37. Quality of Repair	%	% <sup>9</sup>
38. Fault Repair in 3WD	N/A	% <sup>10</sup>
39. Fault Repair in 6WD	N/A	% <sup>10</sup>
40. Fault Repair in 11WD	N/A	% <sup>10</sup>
41. Average Fault Repair Time	N/A	WDs <sup>10</sup>
42. Quality of Repair	N/A	% <sup>10</sup>

**Table 4:** Wholesale Physical Network Infrastructure Access (ULMP) KPIs

<sup>9</sup> With Test results

<sup>10</sup> Without Test results

Metrics associated with Supply of Service – Leased Lines	Retail				Wholesale			
	STD	Prj	NSTD	Total	STD	Prj	NSTD	Total
<b>100% of Orders</b>								
43. Average Supply Time < 2Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
44. Average Supply Time = 2Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
45. Average Supply Time > 2Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
<b>97.5% of Orders</b>								
46. Average Supply Time < 2Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
47. Average Supply Time = 2Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
48. Average Supply Time > 2Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs

**Table 5:** Terminating Segments of Leased Lines (Leased Line Supply) KPIs

Metrics associated with Supply of Service – NGN Ethernet	Retail				Wholesale			
	STD	Prj	NSTD	Total	STD	Prj	NSTD	Total
<b>100% of Orders</b>								
49. Average Supply Time < 10Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
50. Average Supply Time ≥ 10Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
<b>97.5% of Orders</b>								
51. Average Supply Time < 10Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs
52. Average Supply Time ≥ 10Mb/s	WDs	WDs	WDs	WDs	WDs	WDs	WDs	WDs

**Table 6:** Terminating Segments of Leased Lines (NGN Ethernet Supply) KPIs

Metrics associated with Order Designation- Leased lines	Retail			Wholesale		
	STD	Prj	NSTD	STD	Prj	NSTD
53. 100% Orders < 2Mb/s	%	%	%	%	%	%
54. 100% Orders = 2Mb/s	%	%	%	%	%	%
55. 100% Orders > 2Mb/s	%	%	%	%	%	%

**Table 7:** Terminating Segments of Leased Lines (Leased Line Order Designation) KPIs

Metrics associated with Order Designation- NGN Ethernet	Retail			Wholesale		
	STD	Prj	NSTD	STD	Prj	NSTD
56. 100% Orders < 10Mb/s	%	%	%	%	%	%
57. 100% Orders ≥ 10Mb/s	%	%	%	%	%	%

**Table 8:** Terminating Segments of Leased Lines (NGN Ethernet Order Designation) KPIs

Metrics associated with Fault Repair	Retail			Wholesale		
	<8WHs	<24 WHs	>24 WHs	<8WHs	<24 WHs	>24 WHs
58. Leased Lines	%	%	%	%	%	%
59. NGN Ethernet	%	%	%	%	%	%

**Table 9:** Terminating Segments of Leased Lines (Fault Repair) KPIs

