



Office of the Director of
**Telecommunications
Regulation**

Review of Major Activities of the ODTR July 1999 – February 2000

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July 1999 - February 2000: Review of Major Activities of the ODTR

Moving into its third year in July 1999, the ODTR has been turning more of its attention towards implementation of detailed elements of the liberalised regulatory framework for telecoms, many of which had been the subject of consultation papers in the first half of the year, and to following up on the programme providing for support for digital television and a more open, consumer friendly transmission regime. Progress already made was underlined in a study published by British Telecom and its allies in July 1999, ranking Ireland third out of 10 European countries in terms of its progress in liberalising the telecoms market, up one place from February 1999, and from 9th in September 1998, before liberalisation had been introduced. The third placing has been maintained in the latest version of the report, published in February 2000.

ACCESS

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Key new developments in terms of frameworks for access for operators were the licence framework for WLL, the consultation reports on internet interconnect and satellite, a consultation on digital trunked radio networks (TETRA), the new modular licences for mobile and the framework for carrier pre-selection. 20 new telecoms licences were issued.

Wireless in the Local Loop

Early in July the scope of the General Telecommunications Licence was broadened to encompass “Wireless in the Local Loop” (WLL) technology. A competition was already in progress for the award of up to four narrowband and four broadband WLL licences and the new amendment means that all licensed telecoms services can be delivered over the local loop by the new licensees. Ireland is at the forefront of Europe in the licensing of WLL services and the names of the highest ranked applicants in the competition were announced in September. Licensing arrangements are being completed, subject to appeals.

Internet

In July a new interconnect framework for calls to the internet that is designed to enable variety and choice in the provision of services to consumers and ensure a level playing field for Internet Service Providers and other operators in the telecoms market in Ireland was announced. The new principles recognise the key role played by the *eircom* network in the Irish market and are designed to ensure that *eircom* and the other operators will compete fairly and vigorously in the best interests of Internet users. Experience has shown that it is this type of competition that ultimately drives prices to consumers down. The new arrangements allow at least three models of “dial-up” Internet access to be developed by operators in the market, including:

1. “Pay-As-You-Go” or “Freeserve” access – the customer pays for the telephone calls to access the internet but does not pay any subscription fees.
2. “Flat Rate” – the customer pays no call charges but pays a regular subscription of flat rate that allows them to access the internet for a set number of hours, or even for unlimited time.
3. Combinations of subscription fees and call charges – the customer chooses a mix of subscription charges and call charges that gives them the best deal, depending on their pattern of use of the internet.

New pricing structures and lower prices have now been set out in Decision Notice 04/00, completing the current phase of work on internet pricing. Further issues to be examined are indicated in the Decision Notice (ODTR 00/17).

Satellite

In August the first phase in setting out a framework for Ireland's first licensing scheme for satellite services was completed. The necessary regulations under which satellite earth stations are to be regulated are expected to be introduced shortly. The new licensing structure is expected to encourage the development of satellite services in Ireland.

Tetra

In February the ODTR issued a consultation document inviting views on the introduction and licensing of new digital trunked radio services using the TETRA technology. TETRA is primarily aimed at professional business users of radiocommunications. It will provide users with a broad range of voice and data services in both public and private networks, such as communications for transport fleet management or on a major construction site. Many of the infrastructural and technical issues currently associated with two-way business radio communications will be effectively overcome by TETRA as a service provider will provide users with a broad based infrastructure which they can then tailor to their own specific needs. The consultation period runs until 24 March 2000 following which it is intended to award licences later this year.

CPS

A huge programme was completed in record time to ensure the introduction of Carrier Pre-Selection for the 1st January 2000. With CPS, consumers select an alternative service provider in advance to carry certain pre-defined types of call. The choices available to the consumer depend on the pre-selection scheme which has been defined by the ODTR after public consultation. The scheme currently offers three pre-selections, one for international calls, one for long distance national calls and one for all calls. The Office believes that this scheme will be easily understood by the consumer, whilst offering maximum choice. Additional call types may be added to the scheme over time. CPS has been introduced on a phased basis, providing operators with an

opportunity to ensure that the service is fully functioning without any problems, giving them time to decide what way they will price and market the service and organise porting agreements. The phased arrangements will be replaced by full operation on 1 April next.

Mobile

In a move to ensure clarity and transparency in the mobile telecoms marketplace a pro-forma licence text, common to all mobile network and services operators, which would be publicly available was introduced in December. When an individual licence is granted, a schedule to the pro-forma text sets out the matters (if any) that are specific to that licence. A customer charter which provides for commitments to customers in respect of the standard and quality of service is a requirement of the new text. Operators are also required to implement appropriate codes of practice for the resolution of user disputes. In addition, licensees must ensure that non-ionising radiation emissions from their networks are within the limits specified by international guidelines. Both Eircell's and Esat Digifone's new licences are now available on the ODTR website.

Both Eircell and Esat Digifone were offered additional mobile spectrum in order to cater for the continuing expansion of their services. Since 1st January 2000 the companies have been able to use both 1800 MHz spectrum and the existing 900 MHz spectrum to provide a combined dual band mobile telephone service. It is expected that dual-band mobile phones will be used by the majority of subscribers to the new services, which will take advantage of good GSM900 coverage in rural areas and good GSM 1800 call handling capacity in urban areas, where there is an ongoing steep increase in the volume of calls. Both companies have licence obligations in respect of new data services as well as expanding existing network capacity to meet consumer demand.

In October an appeal by Orange Communications Limited against the decision by the ODTR not to award them the third mobile licence was upheld. This was appealed to the Supreme Court and was heard in January/February 2000. A judgement is expected shortly.

SMP

In December the second determination of operators with Significant Market Power (SMP) in the Irish Telecommunications market was announced. *Eircom* was designated as having SMP in public fixed telephone networks and services, in leased lines and in the national market for interconnection. Eircell and Esat Digifone were designated as having SMP in the public mobile telephony market and Eircell in the national market for interconnection. The SMP designation is required by European directives that have been transposed into Irish law. An operator designated as having Significant Market Power in the fixed market must comply with certain legal

obligations by adhering to the principles of non-discrimination, transparency and cost orientation in the following broad categories: interconnection, access, quality of service, accounting separation and cost oriented tariffs. For the mobile operators, similar conditions apply in relation to non-discrimination, accounting separation and, for Eircell (which has been designated as having SMP in the interconnection market), cost orientation.

Deflectors

Tackling a long-standing issue in television transmission delivery, it was announced in September 1999 that a short-term licensing scheme for UHF retransmission systems was to be introduced. The move saw the first ever licensing scheme for deflectors and aimed to facilitate consumers availing of their multichannel television services while preparations for Digital Terrestrial Television (DTT) are being completed. The scheme is based on up to four frequency channels per location. DTT will require the spectrum currently utilised by deflectors and it is intended therefore that deflector licences will terminate on the introduction of DTT. 21 applications were received for the new licences and in Feb 2000, 19 licences were offered.

DTT

In October proposals for a licensing framework for Digital Terrestrial Television (DTT) were issued. It is proposed to provide for two different licences - A Programme Services Multiplex Licence which will allow a multiplex provider to combine broadcasters' digital signals into a Programme Service Multiplex, and a Transmission Licence which will allow the DTT transmission service provider to modulate the Programme Service Multiplex and transmit it in the television broadcasting bands. The Broadcasting Bill is currently being discussed in the Oireachtas. The ODTR has contributed a submission to the Select Committee on Heritage and the Irish Language and an appearance before it. Appropriate adjustments to the proposed licensing regime will be made in the light of enacted legislation.

Non-Geographic Number Portability

Number portability allows telephone users to change to a new telecommunications service provider without having to change their telephone numbers. Its implementation removes one of the main barriers to consumers switching between telecommunications service providers. Number portability is being introduced on a phased basis which began on 1st January 2000. Since Jan 1 2000 number portability of non-geographic numbers (such as freephone, premium rate, shared cost, i.e. numbers whose prefix does not denote location) has been required. This requirement will be extended to geographic numbers (i.e. numbers that indicate location such as 01 – Dublin, 021-Cork, 043-Longford) on 1st July 2000. The current system of partial number portability between mobile operators is continuing in the short term.

PRICE

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Continuing with its work on pricing that it started in 1997 with the introduction of the first wholesale prices for OLOs, the ODTR pushed ahead with several strands initiated in late 1998/early 1999. These included work on interconnect costing (and also on the scope of the RIO briefly noted below) on separated accounts and on consumer pricing, in particular on the price cap, that culminated in a new price cap in December 1999.

RIO

Work was completed on the scope of the RIO following public consultation. However *eircom* decided to appeal the determination and the matter is before the courts. To provide an opportunity to move forward on the RIO issues that are of key importance to all players in the market, a new consultation has been opened by the ODTR on all matters in the disputed decision notice. After consideration of replies, the ODTR will issue a new decision. Interconnection rates for the period from 1 December 1998 to 1 December 1999 (previously set on an interim basis prior to liberalisation) have been finalised. These were within the EU benchmarks for 1998/9. New interim rates that will apply from 1 December 1999 to 31 March 2000, involving a reduction of some 6% approximately for service providers have been introduced. Work proceeded on the LRIC model following publication of the LRIC decision notice in June with advice from an industry group comprised of *eircom* and OLOs. This has assisted the ODTR in reviewing *eircom* proposals for RIO pricing. A major project covering key aspects of *eircom*'s costs including pricing for internet interconnect was initiated and is nearing completion and will be used for finalising rates.

Accounting Separation

Work on the development of new accounting procedures to prevent discriminatory charging and promote effective competition in the telecommunications marketplace was completed in August. *Eircom* is now obliged to disclose the accounting information of its main business areas and subsidiaries separately, thus helping to ensure transparency of internal cost transfers and to discourage cross-subsidisation between activities. A key aspect of ensuring a level playing field is to prevent cross-subsidisation of activities of the major operator, who has the ability to price low in contested markets while pricing high in markets much less open to competition. The purpose of accounting separation is to provide an analysis of information derived from the accounting records to reflect as closely as possible the performance of parts of the business as if they had operated as separate businesses. It can be applied to those licensees that have been designated as having significant market power (SMP). *Eircom* has been so designated by the ODTR since 1998. Eircell and Esat Digifone have been designated as having SMP in the mobile market in 1999 and will need to develop similar procedures in the future.

Price Cap

In December an order amending the price cap on *eircom* was signed. The new price cap places a requirement on *eircom* to reduce charges to consumers by 8 per cent before inflation every year for the next three years. Initial proposals for the price cap were set out by the Regulator in October 1999. Information including regulatory accounts produced by *eircom* and information from *eircom* and others during the consultation period of two months was considered in coming to the final cap. The cap sets out to achieve the best deal for users while fairly balancing the interests of other parties, including *eircom* itself and the other operators in the market. At the same time certain specific safeguards have been included to ensure affordability is maintained, particularly for users in rural and high cost areas and members of vulnerable groups.

Key details of the new cap are:

- The requirement to make annual reductions of 8% minus inflation compared to the current price cap which requires *eircom* to reduce prices on a basket of services by 6% minus the inflation rate each year.
- All services in the existing price cap will be in the new price cap except for international calls where competition is developing more quickly.
- The services in the price cap are - connection and rental charges for telephone lines and ISDN connections, local and trunk calls, directory enquiries, operator calls and calls from payphones.
- The prices for any individual service in the basket may not increase by more than 2% plus inflation annually except for directory enquiries which may be adjusted freely within the overall requirement for reductions.
- The bill of the “lower quartile” user, representing consumers who do not make many calls, may not increase by more than CPI +0 annually.

QUALITY

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Quality of delivery is of critical importance and significant progress was made in completing the framework and implementing key measures to support this. These included Service Level Agreements and Dispute Resolution Procedures. Work was also completed on a framework for Measuring Operator Performance.

SLA's

Where OLOs rely on services from *eircom* to provide retail services to end users, the service levels provided by *eircom* are a critical driver in determining the level of services to the final customer. In August the ODTR issued a report outlines the Director's position on the delivery timeframes, quality levels and maintenance terms for services provided by *eircom* to OLOs. These were set having regard to the views of *eircom*, OLOs and two business consumer groups -

the Small Firms Association and IBEC's Telecommunications User's Group. *Eircom* itself put forward improved target delivery times, starting with between 40 and 60 days at present, moving down to 10 days by September 2000. With the new standards, *eircom* will move into the upper quartile of comparable European operators, in particular in terms of service provisioning. The Service Level Agreements (SLAs) offered by *eircom* to other telecommunications operators were introduced on 1st November. Penalties fall due to OLO's where the targets set are not met.

Dispute Resolution

As markets develop, there are issues which cause difficulty, in particular for new market entrants. It is essential that these are dealt with quickly and effectively, with the weight of the Regulator's office behind them, as appropriate. Disputes between telecommunications operators in the market can hinder the development of competition, or delay the provision of innovative services and reductions in prices. The effective and timely resolution of disputes and the mechanisms to ensure this are therefore a key priority for the ODTR. In September new procedures to facilitate the effective resolution of inter-operator telecommunications disputes were put in place. The mechanisms for the lodging and handling of disputes, including the level of information required to enable the Office consider the issues, and guiding timeframes for resolution were detailed. The Office is mindful of the role that less formal procedures may play in resolving disputes. In particular the ODTR is prepared to help mediate between parties where it is felt that such a course of action would be more appropriate in reaching a more speedy resolution to a dispute. Operators have embraced this forum as a way of settling disputes and the Office has issued five determinations to date.

Operator Performance

Operators can make promises about the quality of service that they provide, but in many cases it is hard for the consumer to judge whether, in reality, operators can keep these promises. Further steps to ensure consumer protection in the telecoms market were taken with the introduction of a service quality measurement programme for licensed telecommunications companies. In January a programme for the publication of key quality indicators for telecommunications companies was set out. The key areas for performance measurement covered are Service Provision, Fault Management, Complaints and Billing. Additional information will be required from *eircom*, as the fixed line SMP operator, covering: Directory Enquiry Services, Public Payphones and quality of service for other licensed operators. The development of comparable data is a complex exercise and will take time to prepare. The first published data under this Programme will appear in 2001. The ODTR has convened an industry group to agree the specific detailed criteria underlying the performance parameters. This will ensure that the information published under the programme is meaningful and enables consumers to make accurate comparisons.

MARKET IMPACT

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On the 1st December one year after the Irish telecommunications market liberalised the ODTR produced a status report on the market. As at 1/12/99 there were over sixty licensed operators

with over two-thirds providing services to the Irish consumer. Liberalisation has seen market size increase with a growth of 18% in voice traffic during the year. Competition was initially fierce in the business, long-distance and international telephony sectors, but signs were showing that competition was on the increase in the supply of local telephone services. The market trends developing in the early stages of liberalisation mirror the experiences of other European countries who have successfully liberalised. New entrants to the market aim to establish a customer base in the higher value/volume ends of the market to establish credibility and ensure cash flow in the start up phase of the business. While a few operators have moved into the full range of markets, most are still at this stage. As the market matures and these new operators become more established competition is likely to broaden across all of the different customer bases in the telecommunications market. The Irish market is beginning to see this happen with the ever increasing variety and sophistication of services being offered to all customers in the market place.

For full information on developments in the regulatory framework please consult our web site at www.odtr.ie