



NEWS RELEASE

18th November 2005

The Competition Authority approves eircom's purchase of Meteor

The Competition Authority has today, 18th November, announced its determination that the proposed acquisition of Meteor Mobile Communications Limited (trading as Meteor) by eircom Group plc may be put into effect subject to a series of conditions.

The eight conditions attached to this transaction are designed to address concerns about the transparency of cost allocation and internal transfers within eircom (see Editor's notes for the full details of the conditions). Specifically these conditions will allow the Communications Regulator (ComReg) to obtain:

- Specific accountancy statements for Meteor;
- Specific accountancy statements for any future mobile phone entity established within eircom;
- Details on the allocation of costs and internal transfers between eircom's fixed-line business and Meteor;
- Details on the allocation of costs and internal transfers between eircom's fixed-line business and any future mobile phone entity established within eircom, and;
- Details on the allocation of costs and internal transfers between Meteor and future mobile phone entity established within eircom.

The Competition Authority received notification of the proposed acquisition on 12th August 2005. The Competition Authority is required under the Mergers and Acquisitions section of the Competition Act, 2002, to determine whether the result of the proposed acquisition will "*substantially lessen competition*" in markets for goods or services in the State.

After an extended Phase 1 investigation The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002, has determined that the result of the proposed transaction will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the proposed transaction may be put into effect subject to the specified conditions.

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EDITOR'S NOTES

Determination

The Competition Authority, in accordance with Section 21(2) of the Competition Act, 2002 ("the Act"), and having taken into account the proposals made by eircom Group plc in accordance with Section 20 (3) of the Act, has determined that, in its opinion, the result of the proposed transaction will not be to substantially lessen competition in markets for goods and services in the State and, accordingly, that the proposed transaction may be put into effect subject to the following:

Introductory Information¹

Following the proposed acquisition of Meteor Mobile Communications Limited (**Meteor**) by eircom Group plc (**eircom**), eircom intends to operate Meteor as a stand-alone subsidiary of eircom Limited (which is wholly owned by eircom). Therefore, Meteor will continue to prepare and publish its own statutory accounts.

In relation to eircom's plans to develop a presence in the post-paid mobile sector, eircom is considering setting up a possible future business entity (**the mobile phone entity**) to provide such services.

It is understood that the application of these commitments by eircom will take place in the context of the ordinary course of regulatory supervision of a combined eircom/Meteor entity by the Commission for Communications Regulation (**ComReg**). The Competition Authority will therefore liaise with ComReg in respect of eircom's on-going compliance with these commitments.

In light of eircom's intention to ensure its on-going compliance with these commitments and, for example, to ensure practical implementation of these commitments by eircom, The Competition Authority may discuss with eircom (including with the involvement of ComReg where it is considered necessary by eircom or The Competition Authority) any issue of interpretation or implementation eircom has with its ongoing compliance with these commitments.

The Competition Authority will review these commitments with eircom every three years (or may review at any other such time as eircom or The Competition Authority requests) to determine whether (based on objective criteria such as the competitive situation of the telecommunications sector in Ireland at the time, changes in the regulatory position of eircom or any change in any circumstances as may be considered relevant by eircom or The Competition Authority) such commitments are necessary or proportionate.

Accounting separation commitments - Meteor

Commitment no. 1

- a) Taking into account the requirements of the regulatory framework, eircom commits to extending the existing published Historical Cost Separated Accounts to include a separate profit and loss statement and balance sheet for Meteor. The format of these accounts will be similar to that of eircom's existing major lines of business.

¹ Please note that some commercially sensitive information has been omitted from the introductory information and the commitments.

- b) As part of this commitment, eircom will include a separate statement entitled "Other Business - Meteor" rather than including Meteor within "Other Business - Other Subsidiaries". Under the existing structure, Meteor's operations would form part of the "Other Subsidiaries" sub-section of the Separated Accounts which in turn forms part of the "Other Business" section.
- c) These statements will provide sufficient information to show the transfer of costs between eircom's fixed-line business and Meteor. These accounts will show whether there has been an allocation of costs as between eircom's fixed-line business and Meteor. Therefore related party transactions as between eircom's fixed-line business and Meteor will be contained within the allocation of costs as published in the accounts. ComReg can obtain from eircom further related party transaction details it requires.
- d) eircom provides ComReg with further details if ComReg needs to enquire into the relevant profit and loss account and balance sheet headings that are disclosed in eircom's Separated Accounts. eircom commits to provide, on reasonable request of ComReg and consistent with the appropriate rules under the regulatory framework, a description of costs which are common to its fixed-line business and Meteor, the amounts involved, the basis of the allocation of the costs between the fixed line business and Meteor, and any other elements of the transactions reasonably necessary for an understanding of the treatment of these costs in the financial statements.
- e) The structure of eircom's current Separated Accounts as mandated by ComReg has been set out in a number of ComReg Decision Notices. The list of product areas published in eircom's current Separated Accounts is set out in the Accounting Documents section.
- f) The commitments would be mandated by eircom's rather than Meteor's accounting obligations.

Commitment no. 2

- a) ComReg has launched a public consultation on the Proposed Financial Reporting Obligations for Fixed Dominant Operators having Accounting Separation and/or Cost Accounting Obligations (Consultation). eircom has responded to this Consultation. In the medium term, it is expected that the structure of the Separated Accounts may evolve from the existing "product view" to a "market view" and which would be aligned to the market analysis currently underway by ComReg under the Regulatory Framework. It is not expected that this would materially impact on eircom's Separated Accounts for its future mobile activities.
- b) eircom commits to notify The Competition Authority when the Consultation process is finalised and any relevant appeals are exhausted and to submit to The Competition Authority any proposed revised treatment of Meteor and 'the mobile phone entity's accounts, taking into account any changes in the accounting obligations as a result of the Consultation.

Accounting separation commitment in relation to 'the mobile phone entity'

Commitment no. 3

- a) eircom commits to producing accounts for 'the mobile phone entity' in a format which has been agreed with The Competition Authority. These accounts would be produced to ComReg only and eircom's auditors will produce an independent and appropriate form of audit opinion concerning 'the mobile phone entity'. This format of accounts would provide sufficient information to show the transfer of costs between eircom's fixed-line business and 'the mobile phone entity'. These accounts would demonstrate whether there has been an allocation of costs as between eircom's fixed-line business and 'the mobile phone entity'. These accounts will therefore contain related party transactions within the allocation of costs as between eircom's fixed-line business and 'the mobile phone entity'. ComReg can obtain from eircom further related party transaction details it requires.
- b) As part of this commitment, eircom will inform ComReg of the creation of 'the mobile phone entity' and will work with ComReg to finalise these accounting arrangements for 'the mobile phone entity'. Irrespective of whether 'the mobile phone entity' is a line of business within eircom or a separate subsidiary, eircom will provide these accounts to ComReg as set out in this commitment. If 'the mobile phone entity' is created as a separate incorporated subsidiary of eircom, statutory accounts will be produced for 'the mobile phone entity'.
- c) eircom provides ComReg with further details if ComReg needs to enquire into the relevant profit and loss account and balance sheet headings that are disclosed in eircom's Separated Accounts. eircom commits to provide, on reasonable request of ComReg and consistent with the appropriate rules under the regulatory framework, a description of costs which are common to its fixed line business and 'the mobile phone entity', the amounts involved, the basis of the allocation of the costs between its fixed line business and 'the mobile phone entity', and any other elements of the transactions reasonably necessary for an understanding of the treatment of these costs in the financial statements.
- d) eircom would propose discussing any appropriate accounting arrangements with ComReg when further details are determined regarding the structure and launch of 'the mobile phone entity'. eircom will inform The Competition Authority of the final agreed treatment of 'the mobile phone entity's accounts.

Transparency of transaction costs commitment

Commitment no. 4

- a) eircom is subject to the regulatory framework which imposes accounting obligations. These accounting obligations, set by ComReg, provide for the transparency of transaction costs by eircom.
- b) eircom commits to provide transaction costs information to ComReg relating to transfers between eircom's fixed-line businesses and, respectively, Meteor and 'the mobile phone entity' (as well as between Meteor and 'the mobile phone entity') as part of the agreed Meteor and mobile phone entity accounts. A transfer charge statement for Meteor

will be published by eircom in its Separated Accounts. In relation to 'the mobile phone entity', a transfer charge statement will be provided to ComReg. ComReg would therefore be provided with information concerning cost allocations in relation to eircom's relevant services, including Meteor and 'the mobile phone entity'. eircom will provide ComReg with information which would show related party transactions between eircom's fixed-line businesses and, respectively, Meteor and 'the mobile phone entity' (including as between Meteor and 'the mobile phone entity').

Other general commitments

Commitment no. 5

eircom commits to provide ComReg with the same level of information as set out in the statutory accounts for Meteor irrespective of Meteor's future legal composition for a period of up to 3 years following completion of the proposed acquisition of Meteor. This commitment is subject to any accounting changes imposed by ComReg on eircom under the regulatory framework. The remaining commitments shall continue in force and would be subject to on-going review as set out in the Introductory Information above.

Commitment no. 6

To the extent that ComReg imposes any new accounting obligations on eircom's accounts under the regulatory framework, eircom commits to ensuring that the commitments above reflect any such new accounting obligations as appropriate.

Commitment no. 7

To facilitate The Competition Authority in monitoring these obligations, eircom commits to provide The Competition Authority with copies of the relevant accounts when they are submitted to ComReg (in the case of 'the mobile phone entity's accounts) or when they are published (in the case of the Meteor accounts).

Commitment no. 8

eircom commits to verify to The Competition Authority, on an annual basis, its belief that it has complied with the commitments set out above to the best of its knowledge and in good faith. An appropriate statement to this effect would be published within the Statement of Responsibility as part of eircom's Separated Accounts. In addition, eircom's auditors will provide an independent and appropriate form of audit opinion (to the best of its knowledge and based on the information provided by eircom to such auditors) that eircom is in compliance with these commitments.