

# alto

alternative operators in the communications market

**Response to Consultation on Treatment of regulated services  
within Bundled Retail Offers Ref: 08/05**

**Submission By ALTO**

**Date: Feb 8<sup>th</sup> 2008**

ALTO is pleased to respond to the Consultation on Treatment of regulated Services within Bundled Retail Offers.

While the Consultation is primarily related to price it is important to note that eircom has the obligation to offer services that are bundled on a standalone basis. They also have the obligation not to unreasonably bundle services.

ALTO welcomes the Consultation as a way of ensuring equal access and transparency. It will also provides a decree of Regulatory Certainty which encourages ongoing investment.

We note that there is a service dimension that need to be addressed to ensure that this is not used as a differentiator.

We also note that there could also be a market effect of bundles leveraging market power and thereby increasing barriers to entry to a particular market. This needs to be considered also as part of the test.

Response to Consultation Questions:

Q. 1. Do you agree that the decision framework put forward in figure 3.1 of Oxera's report is the most appropriate way to monitor mixed bundles with retail minus wholesale inputs? If not, please explain your answer.

*A 1. ALTO agrees with the decision framework as put forward in figure 3.1 of Oxera's report.*

*A review of current bundled products should also be conducted to determine if they would pass the various tests, with a view to taking some actions if they fail such tests.*

Q. 2. Do you or do you not agree that LLU is unlikely to be on a sufficiently large scale in Ireland over the next one to two years so as to remove the need to ensure no margin squeeze in bundles? Please explain your response.

*A2 ALTO agrees that LLU is unlikely to have a sufficiently large scale over the next two years so as to remove the need to ensure no margin squeeze in bundles. Although there have been improvements in recent months, it is too early to judge whether these will have an impact on the market take up of LLU.*

Q. 3. Do you or do you not agree that the equi-proportional mark-up approach (i.e. Option 2 as referred to in section 3.4.2 of Oxera's Report), is the most appropriate way to allocate the discount when such an allocation is necessary? Please explain your response.

*A 3 ALTO agrees that the equi-proportional mark-up approach is the most appropriate way to allocate the discount when such an allocation is necessary. Calculating by the Ramsey method is costly and disproportionate to the significance of the amounts involved.*

*There would however need to be a clear understanding by ComReg of the margins for the non-regulated portion of the bundle.*

Q. 4. Do you or do you not agree that the adjustment method detailed above (i.e. Option 2a proposed by Oxera), is the most appropriate way to adjust the retail minus regulated wholesale inputs where the imputation test is not passed? Please explain your response.

*A4 ALTO agrees that Option 2a is the appropriate way to adjust the retail minus regulated wholesale price which involves adjusting the blended rates based on the weights of standalone versus bundled sales, using the product mix sold by the incumbent.*

*This represents the most efficient way to gather the required data and implement changes quickly. Using a market weighting takes considerably longer without major differences of result given the market share of the incumbent and its influence over the total market.*

Q. 5. Do you or do you not agree that the use of an imputation test is the most appropriate way to monitor regulated wholesale prices sold within bundles so as to ensure that bundles do not lead to anticompetitive effects in the market? If not, what approach do you believe would be more appropriate? Please explain your response.

*A5 ALTO agrees that the use of an imputation test is the most appropriate way to monitor regulated wholesale prices sold within bundles so as to ensure that bundles do not lead to anticompetitive effects in the market*

Q. 6. Do you or do you not agree that the retail minus regulated wholesale input should be adjusted where the imputation test is not passed by the SMP operator? Please explain your response.

*A6 ALTO agrees that the retail minus regulated wholesale input should be adjusted where the imputation test is not passed by the SMP operator.*

*Should this adjustment take place the market would remain non competitive.*

Q. 7. Do you or do you not agree that any adjustment to wholesale prices required should be reflected in the current Eircom Reference Interconnect Offer ('RIO') Offer and the BARO schedules? Please explain your response.

*A7 ALTO agrees that any adjustment to wholesale prices required should be reflected in the current Eircom Reference Interconnect Offer ('RIO') Offer and the BARO schedules.*

*This is the accepted method of communicating wholesale prices and is transparent to all operators.*

Q. 8. Whose wholesale costs should be used in relation to fixed line calls to complete the imputation test – the SMP operator, or an equally efficient operator? Please explain your response.

*A8 ALTO agrees with ComReg that the wholesale costs of the SMP operator should be used to calculate fixed line calls. The required information can be provided to ComReg by the SMP operator more efficiently than any other method.*

*As the fixed calls market is mature, a certain amount of efficiency can be taken to be present in the cost structures of the SMP operator.*

Q. 9. Do you or do you not agree with ComReg's proposed method for deriving the retail price of calls? Please explain your answer and where possible, provide substantiated evidence and examples from the market.

*A9 When deriving the retail price of calls it would be appropriate to use the*

*current SMP operator calls bundles. Generally the price of the bundle is less than that charged for line rental.*

Q. 10. What is the appropriate level of retail costs associated with calls to be used when implementing the imputation test? Please explain your answer and where possible, provide substantiated evidence and examples from the market.

*A10 The retail cost should be calculated using the most recent historic cost accounts of the SMP operator.*

Q. 11. In order to populate the imputation test, should the wholesale and retail cost of provision of calls be calculated using the most recent historic cost accounts of the SMP operator in question? If not, please suggest an alternative and outline the reasoning for your suggested approach. If yes, do you feel a further adjustment should be made to allow a closer approximation to the economic margin? Please explain your response.

*A11 ALTO agrees that the wholesale and retail cost of provision of calls be calculated using the most recent historic cost accounts of the SMP operator. A further adjustment will be necessary given that some form of discount applies to the package on the prices charged per each individual call.*

*This approach is favoured on the basis that it will provide reasonably accurate solutions without major delays.*

Q. 12. Do you or do you not agree with ComReg's proposed methodology for

inclusion of unregulated products in the proposed imputation test? Please explain your answer providing substantiated evidence and / or examples from the market where possible.

*A12 ALTO agrees that calculation of retail prices can be based on existing standalone products or closest to. In the absence of these products (involving content mainly) an imputed margin of 10% can be used to be reviewed on an annual basis.*

*In addition some services are offered in the market by other operators that may offer indicators of the market price of such a product on a standalone basis. These retail surveys should also be used to impute a retail price.*

Q. 13. What do you believe might be a reasonable efficiency gain that an operator could expect to achieve from selling a number of products / services as part of a bundle as opposed to on a standalone basis (i.e. “e” in the imputation test)? Please explain your answer and where possible provide substantiated evidence and examples from the market.

*A 13. Given the dominant position and economies of scale of the incumbent operator it is hard to visualise any real efficiency gains from selling a number of products in a bundle as opposed to selling them standalone*

Q. 14. Do you agree or disagree with ComReg that even where there is evidence of an efficiency gain that, due to the subjective nature of estimating its value and the continued change in bundled offers, a value of €0 is a more practical approach when testing bundled offers? Please explain your response.

*A14 ALTO agrees with ComReg that a value of €0 is a more practical approach given the economies of scale enjoyed by SMP operator*

Q. 15. Where ComReg is testing bundled offers of Eircom, do you agree that the proposal to assess Eircom's historical retail costs (which include economies of scale and scope of the incumbent) in the proposed test provides further weight to taking an efficiency gain of €0? Please explain your response.

*A15 ALTO agrees that the proposal to assess Eircom's historical retail costs (which include economies of scale and scope of the incumbent) in the proposed test provides further weight to taking an efficiency gain of €0. This is based on the market share currently held in Voice and DSL.*

Q. 16. Do you agree or disagree with the proposed methodology above for the treatment of discounts and promotions? Please explain your answer.

*A 16 ALTO agrees that discounts should be factored into the price and amortised over the average life of the customer. Individually regulated products with discounts should be considered under the appropriate regulation and should be considered on an ex-post and ex-ante bases.*

*Some discounts have been extended and have an impact on competition in the market.*

Q. 17. Do you agree or disagree that discounts and promotions should only be offered for a finite period of time? If so what do you think is the appropriate

maximum period over which they can be offered? Please explain your answer.

*A 17. Promotions should run for no longer than three months and discounts should apply to customers for no longer than three months from the date the product is provisioned.*

Q. 18. Do you agree or disagree that bundles should be notified to ComReg on an *ex ante* basis in line with the timelines specified in ComReg Decision No. D07/61 and D01/06? Please explain your answer.

*A18 ALTO agrees that bundles should be notified to ComReg on an ex-ante bases prior to introduction. OAOs should also be notified of the proposed changes at the same time.*

Q. 19. Do you agree or disagree that existing bundles that include services subject to retail minus wholesale price controls should be notified to ComReg within one month of the proposed imputation test being adopted? Please explain your answer.

*A19 ALTO agrees that existing products should be notified once the proposed imputation test is notified. Where products fail such a test then any Wholesale price reductions should be implemented and backdated.*

Q. 20. Do you agree or disagree that in the event that an existing bundle fails the imputation test the associated wholesale prices should be amended and that any change required would be applied to prices on a forward looking basis

only? Please explain your answer.

*A20 ALTO disagrees that wholesale price changes on the basis of bundles that fail the imputation test should be implemented on a go forward basis only. Eircom has had the benefit of extra revenues as a result of improved market share and retail margins. OAOs have lost market share and the associated margins; retrospective price adjustments would go some way to redress the balance. Go forward also encourages delays to implementation.*

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