EircomTribunal.com's response to the ODTR consultation paper "Future Delivery of Broadband in Ireland"

25.10.2002

"When you are deluded, even a thousand books of scripture are not enough." Feng-Yang

Before responding to the questions outlined on page 62 of the consultation paper a few fundamental issues need to be stated:

While the temptation for an administrative unit like the ODTR to gloss over the problems and failures is understandably a big one, this approach is counterproductive and should be stopped. An aggressive PR policy showing the true severity of the situation is needed urgently. For the ODTR to say that there was no reason why Ireland should not catch up and overtake the other countries is not helpful. There are plenty of reasons why the gap will widen significantly and rapidly in the near future.
This lengthy consultation paper fails to distinguish between the important and the unimportant, it manages to hide the meaningful under rubble of not so important, unimportant and plainly misleading information, opinion and assumptions.

"It is the pricing, stupid!"
If the Regulator understood this simple fact, proven again and again in each and every other country, we would all have been spared to read through a lot of this rather carelessly heaped up material.

What's wrong with stating the truth? It is simple and has got nothing to do with the technical complexities of the Internet and its delivery:

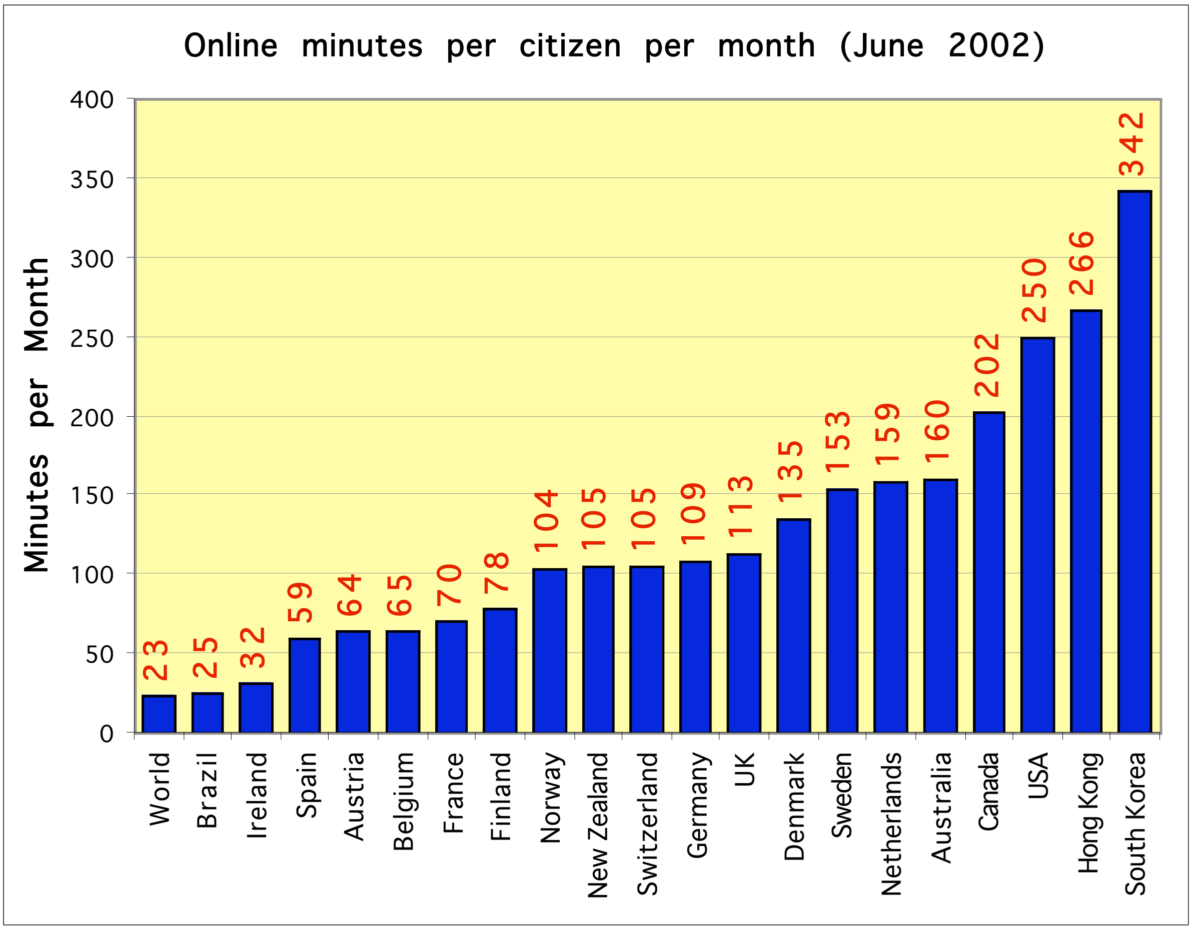

Chart sourced from Nielsen figures

Ireland, an English speaking country, has gone to last place with regards to Internet usage. (Only 15 percent active Internet usage; only 32 online minutes per citizen per month; least broadband connections, except for Greece; highest pricing for dial-up, ISDN and ADSL, lowest availability of broadband.)
The incumbent Telco Eircom dominates the market and perpetrates a relentless denial of service attack on a whole nation in clear breach of the competition laws of this country.

The situation is best illustrated by an analogy. Let as imagine the following:

"Eirtel" owns all means of television broadcasting in this country. It makes all television broadcasting on a pay per view basis at 3 euros per hour on daytime and somewhat less during nighttimes (will add up to 41 euros for one single day, somewhat less with discount schemes). All the programs are aired in black and white and mono sound only. Other companies can compete but cannot offer better pricing, as they have to buy from "Eirtel".
In a small area where "Eirtel" faces real competition it offers colour and stereo television for a monthly flatrate of 107 euros –

this is still three times the price it is offered in other countries, but enormously cheaper than the black and white offering it makes to 95 percent of the population. The regulator and the competition authority fail to see anything wrong.

Unimaginable?

Well, that is the current situation of Internet access in Ireland in a nutshell.
Just as television-viewing figures would nosedive at a pay-3-euros-per-hour-of –viewing pricing, Internet usage can never get off the ground with this pricing model. Tim Berners-Lee compared it to forcing car drivers to have a person waving a flag walking before them. Other countries have this model too, but only for the purpose of facilitating the needs of occasional Internet users - practically confined to email usage.

This is the crux of the problem – if it is not addressed, no amount of window-dressing and no amount of consultation papers about the complexity of the technology issues will make a change for the better.

There are strong indications to predict that the gap between Ireland and its European and global neighbours will soon grow to such embarrassing proportions that the government will have no other choice but to act against Eircom's misuse of its dominant market power. Why not act now, before the damage has become irreversible?

Concluding recommendations:
Stop glossing over the true extent of the failure of Internet development in Ireland.
Understand that Internet access is not about the occasional user.
Concentrate on getting the pricing right and the sea change will occur. It happened everywhere else.

Specifically to the questions

1.Do you agree with the ODTR's analysis of the current state of Ireland's broadband market as presented in chapter 4

Denial of service attack
On the Internet, a denial of service (DoS) attack is an incident or situation in which users or organizations are deprived of the services of a resource they would normally expect to have. Typically, the loss of service is the inability of a particular network service, such as e-mail, to be available or the loss of all network connectivity and services. In rare cases a denial of service attack can happen accidentally (through incompetence), but usually a DoS attack is intentional and malicious. These attacks can cost the target persons or companies a great deal of time and money.

4.1 Background to Broadband Market in Ireland

“Given their limited use of the Internet, 56kbit/s dial-up access often represents the most cost-effective option for this group’s current needs”.

You just don’t get it! That is not only turning the situation on its head but also adding insult to injury: Your statement implies wrongly the existence of other options than the overpriced 3 euros per hour dial-up or a slightly rate-reduced dial-up by paying an additional subscription fee (the fee already as high as one month flatrate access in other countries!). Or what do you mean by “often represents the most cost-effective option”? If you are aware of other options, please name them.
The reality is: As there is only an Internet access model on offer that is strictly geared for the occasional user there are mainly only occasional users of the Internet in Ireland. The flatrate dial-up model, as an important stepping-stone for broadband acceptance is missing. The ODTR’s excuse that it cannot force Eircom to provide such a product is invalid, since Eircom are providing another flatrate Internet access in areas where they face competition.

You mention ISDN – please don’t be shy and name the outrageous pricing too: 6 euros per hour for 128kbit/s in addition to a hefty monthly subscription and set-up fee.

4.2 Size and Structure of Broadband Market in Ireland

The figures are already history. Even the UK, the “lagger” with broadband, has now 20 000 residential ADSL subscriptions per week (over 1 million of households are connected by now with a maintained strong growth) pricing starting from 30 euros per month and cheap set-up.

4.2.1 Leased Lines

Why not spell it out clearly? 90 % of the leased lines in Ireland are simply hugely overpriced narrowband connections, an anomaly as a result of Eircom’s unchecked misuse of its dominant market position. Surely the ODTR is communicating about this with the competition authority?

4.2.2 DSL

DSL is happening all around us with massive rollouts. And Ireland has got 1200 DSL lines and no signs of a change. Will an emerging Eircom/EsatBT Duopoly change that? Why should it?
Is the ODTR ringing the storm bells?
There is information missing here: In most other countries the success of DSL rollout has not been done on the local loop unbundling route, but via DSL wholesale. Eircom’s wholesale DSL offering has not been taken up by a single operator. Why? The ODTR has agreed to Eircom’s wholesale pricing that is in multiples of that of other countries and not calculated on the cost price of an efficient operator, as is the legal requirement.

4.2.3 Cable Modem

Why not say it clearer: In many other countries cable is a strong competition force driving forward the broadband rollout. In Ireland this is not the case. The existing cable network is not capable of carrying Internet traffic, while the existing copper telephone network is. The cable upgrade is expensive and slow and with the imminent emergence of terrestrial digital Television, which cannot carry Internet traffic, it is becoming ever more doubtful that cable will be an important factor for the Internet situation in Ireland. No use for the ODTR to wait for that.

4.2.4 Alternative Broadband Technologies

The approximate 300 two-way satellite users are mentioned. May we suggest a little ODTR survey into those users: How many of them would really have needed this expensive method for their internet access (1500 euros set up and considerable monthly costs), had the dominant market player Eircom not been allowed its continued denial of service attack? A perfect and cost effective DSLcapable way of Internet access exists in form of the telephone copper network and is used in all other countries for this purpose, while here people are forced to resort to use expensive equipment geared for the remote areas of this world.

4.2.5 ISDN Connections

The information about 330 000 ISDN access channels in Ireland is misleading, although it is technically correct. In the general media it is falsely interpreted as Ireland having 330 000 ISDN subscribers.

4.3. Future Strategies of Major Broadband Groupings

4.3.1 Major Fixed-Line Operators

To cut a long story short: There are chances that we will see the development from an unhealthy monopoly situation towards an equally unhealthy duopoly situation. Both companies will not cut into their profits from overpriced dial-up and overpriced fixed-line business, as their almost identically priced100 euro plus ADSL offerings are suggesting.

4.3.2 Alternative Fixed-Line Operators

4.3.3 Cable Operators

“Competition to Eircom and EsatBT in the residential broadband market may come from the cable operators.” Due to the missing Internet capable network this is very unlikely.

4.3.4 Fixed Wireless Operators

It will take too long for the alternative operators on licence exempt spectrum to accelerate through competition the progress of DSL rollout. And it does not make sense. This technique should be an integrated part of the broadband system, supplementing the copper based delivery, where it makes sense. To use it where existing and cheap copper is already there is a waste of resources just as the use of the two-way satellite system. Operators who try to offer it in areas where many households are too far from the exchanges to avail of ADSL cannot offer it because they fail to get a fairly priced backhaul from the incumbent.

4.3.5 Mobile Operators

"Mobile devices have the potential to become a key means of access to the Internet". Not in the near future, one might add.

4.4. Conclusion

"Sorry lads, due to the lack of competition in Ireland you can't participate in the global Internet development."

Is the ODTR seriously suggesting that Ireland's Internet access situation will have to stay in its deplorable state, because there is no competition? Or will the ODTR take its task serious and counteract the effects of lacking competition? This is clearly signalled as the task for national regulators from the EU wide adopted policies.
If the ODTR needs more powers to do that it should demand them clearly and openly.

The misuse by Eircom of its dominant market position needs to be confronted urgently.
The European Competition Authority has fined Irish Sugar and Irish Cement for much milder misuse of their dominant market position and the damage their actions caused was miniscule compared to the negative impact the Internet access debacle has on the future of our nation.

2. Do you consider that alternative ranges 512kbit/s, 2mbit/s and 5mbit/s are appropriate and why?

More emphasis should be given to the lower range. Although the higher speeds are welcome, it is important to include lower ranges to facilitate a successful even rollout. Speeds of 144 kbit/s (IDSL) and 256 kbit/s (RADSL) would give always-on Internet access the same coverage as ISDN.

3. Do you agree with the analysis of initiatives adopted internationally and presented in chapter 7: which if any do you consider may have relevance in Ireland?

The precondition for Internet take up is affordable Internet access pricing. Countries whose regulatory bodies have understood that and implemented the measures specific to the situation in their countries to achieve that have succeeded. Ireland has not done so.

It is neither “still too early to draw conclusions on the success or otherwise of one policy over another” nor would “international experience tend to suggest that it is a combination of supply and demand initiatives.” To the contrary: It is absolutely clear from all international experience that the problem of broadband is not a lack of demand but a lack of supply. It is absolutely clear from all international experience that the availability of cheap always on ADSL broadband Internet access for a price of 30 to 40 euros is the single most important factor for the spread of broadband. (And an affordable flatrate dial-up access is necessary as a stepping-stone and a temporary measure for people outside the broadband reach)
The ODTR’s task is to regulate for compelling wire and modem provision – and it should stop its delusions about the compelling content factor.
Perhaps John Raczka (senior vice-president of content, BT) can finally put this matter to rest, which rises its ugly head not only in this part of the document: “I was not saying that people in the UK were not subscribing to broadband due to the lack of broadband content offerings…When BT Openworld cut prices and introduced its self install solution, broadband subscriptions rocketed, and continue to grow.”

May the ODTR help to spare us more money-wasting PR gimmicks like the cyber-town Ennis project?
The Irish government has pumped huge amounts of money into demand side initiatives, company web site creation was grant aided on a big scale, immense sums have gone into the development of the government’s web presence. There is nothing wrong with bringing web surfing skills to disadvantaged youths in Ballymun – but if the precondition for using those skills afterwards, namely affordable Internet access as the rest of the world has got, are not met first, the exercise is a pointless waste of effort and taxpayers money.

4. Do you agree with the conclusions of the TNS MRBI survey on demand for broadband in Ireland? Do you agree with the segmentation presented by MRBI? How important do you think demand stimulation is to the future delivery of Broadband?

Do not ask the blind to lead the blind! Chinese

While it is easy to agree with the conclusions of the survey: broadband needs to be offered for 30 – 40 Euros per month, the whole survey is a frivolous and senseless way of wasting money and time. One look abroad would have sufficed to reach these conclusions.

The survey may be well meaning, but it is fundamentally flawed and meaningless from the outset. What on earth did the ODTR mean to achieve by asking the very people who are denied a meaningful Internet access? Who on earth would want to draw conclusions from surveying the ones who can’t know because they have been denied the means to know? Catastrophic misinterpretations and nonsense assumptions have been done in newspaper articles stemming from this survey since its publication.

As the question is asked again about the importance of demand stimulation: The studies conclusion “More fresh and relevant content combined with…. may help to stimulate demand for future broadband services” is painfully ridiculous. This discussion is over. If people have cheap Internet access “fresh and relevant” content will spring up. That is the story of the

Internet. It just does not work the other way round as much as some content providers want to make gullible governments (and regulators?) believe.

The description of the existing Irish dial-up Internet access pricing is grossly misleading in its false suggestion that there was anything other than a pay per minute access model available. These inaccurate descriptions of the dial-up packages available surface both in the residential ("At present, pay-as-you-go packages account for 65% of Internet users subscriptions, while 19% of users pay a monthly subscription and share cost of calls when online") and the SME survey ("The second most popular option is a monthly subscription and a share of the cost of the calls while online…").

5. What is your view of the Ovum work on network roll-out costs for broadband in Ireland? Do you agree with the assumptions, both demographic and technical that Ovum have used to come to their cost conclusions? Are there alternatives you believe should be considered – please outline and give reasons?

Let us not forget a basic technical reality: ADSL would work perfectly even with an old phone switch of the fifties era.

The assumptions of the study of a likely 30% broadband take up and a possible 60% take up are totally unreasonable if there is not an immediate removal of the bottleneck of the last mile, artificially created by Eircom. Broadband will need a roll-in time with cheap flatrate dial up 56k modem and ISDN packages happening immediately. For the ODTR in the year 2002 to praise the arrival of some prepaid off-peak minutes packages –120 hours of off-peak dial-up Internet access for the price of 30 euros, that is equivalent to the price of one month flatrate broadband ADSL in countries around us – is simply shameful and does not augur well for the future delivery of broadband in Ireland. Without a present delivery of broadband (and there are no technical reasons why it should not happen) and its stepping-stone, the dial-up flatrate access, the future delivery of broadband will not be a success.

6. The initiatives the ODTR is currently supporting which assist Internet usage/broadband are represented in this report. Please outline any further measures you consider we could adopt as appropriate?

Immediately force the incumbent Eircom to offer a wholesale dial-up flatrate package for 56k modem and ISDN Internet access on the basis that Eircom is offering a flatrate Internet access package already in areas where it faces competition. The fact that “istream” is based on ADSL technology does not make any difference from a point of the competition legislation. Work together with the competition authorities if necessary. The pricing should be based on the cost price an efficient operator would have. The fact that Eircom have made unjustified profits over the last years from an Internet access pricing that could only be achieved by misusing its dominant market position should be taken into account.
The grip of the incumbent on the last/first mile has anyway to be broken for the governments ambitious NDP Regional Broadband Programme to succeed all the way to the end user. So why not do it now?

Immediately revise the wholesale DSL pricing agreement with Eircom. It is so unbelievably far out of line from the DSL wholesale pricing everywhere else that it is simply hard to believe that it is based on the pricing of an efficient operator. More than likely Eircom has either used creative accounting to arrive at those prices or Eircom are working so inefficiently in comparison to incumbents in other countries that it would be ludicrous to adopt that pricing.
Be aware that LLU is not the answer. A Duopoly situation will not per se bring a lot of advantages on the competition front.
Successful broadband countries are not getting that success from LLU.

Change your defensive approach to one of courage and self-confidence. Take account of the formidable change of the public opinion as expressed in the media towards the Internet and broadband issue and change your general strategy and your information strategy accordingly. You need no longer be defensive and reactive. Instead of saying: “We don’t have cheap and widespread ADSL available in Ireland because there is no strong cable industry here as a powerful competition,” say:” Because we do not have the competition factor of the cable industry to make the incumbent provide cheap and widely available ADSL, we have to regulate to this effect”. Don’t say: “We don’t have flatrate dial up like in the UK because Eircom did not make the ‘mistake’ as BT did by introducing a flatrate offer themselves,” but say: “The UK regulator used this way to introduce flatrate dial-up, the German regulator used that way…for our specific situation we will use this specific way.” Take account of the fact that the new minister for Communications is not compromised by the bungled Eircom sale.

Last but not least: Change the line repair modalities of the incumbent. The current line repair service situation with the incumbent is simply not acceptable. Telephone and Internet connectivity are surely as important as our electricity supply. The standard Eircom responses to a line fault notification are indicative of their inefficiency and monopoly holder’s arrogance: “Somebody will be out to look at it sometimes next week.” “You can take out a subscription and then we will try to do the repair on the next working day, but still not over the weekend days.”

Tomi Ungerer created this illustration for a folk song about the fatal consequences of lady farmer Mary's ignorance. Mary thought she could simply bring home her newly acquired goat by tying her to the train – with tragic results. Let us not allow that to become the story of the Internet in Ireland!

Regards

Peter Weigl
Coordinator eircomtribunal.com