

# ICT PROFILE: IRELAND

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Ireland is in the fortunate position of being a tech hub for Europe; Microsoft, Cisco, Intel, Facebook, Google, S3, Verizon and IBM have chosen Ireland as their European base. Equally, companies such as UPC, O2, Vodafone and Yahoo!<sup>2</sup> have been investing heavily in the Irish market.

ICT businesses have had substantial penetration in the Irish economy, and proved to be its pillars during the recent recession. In return the State has provided the sector with favourable tax options and well-trained personnel.

## I. REGULATION OF THE ICT SECTOR

The responsibility for Ireland's national communications strategy lies within the *Department of Communications, Energy and Natural Resources* (DCENR). In 1996 the *Office of the Director of Telecommunications Regulation* (ODTR) was established in an attempt to conform with EU policy<sup>3</sup>. This was later replaced by the *Commission of Telecommunications Regulation* (ComReg).

Other regulating bodies are the *Office of the Data Protection Commissioner* responsible for upholding EU and national rights of the consumer with regard to data use, the *Broadcasting Authority of Ireland*, the *Competition Authority*, the *National Consumer Agency*, the *Professional Development Service for Teachers* (PDST) which manages the school broadband programme, and the *Department of Children and Youth Affairs*, responsible, inter alia, for telecommunications policy-making regarding children and young persons.

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<sup>2</sup> From 21<sup>st</sup> March 2014 Yahoo EMEA, an Irish company limited by guarantee, will provide the services of its European sites from Ireland, 'under Irish law' <http://uk.help.yahoo.com/kb/SLN22641.html?impressions=true>

<sup>3</sup> Article 86 of the Treaty of the European Community empowered the Commission to strip (usually public) undertakings clear of any rights that resulted in the breach of other Treaty rules. Initially *Telecom Éireann* was a state run public company that enjoyed a statutory monopoly. Likewise, *AnPost* was a limited liability statutory corporation with 'exclusive privilege' regarding all postal services

The Government has allowed Internet Service Providers (ISPs) in Ireland to operate under a self-regulatory system, overseen informally by the *Office for Internet Safety* (OIS) in cooperation with the *Internet Service Providers Association of Ireland* (ISPAI).

## II. CURRENT POLICY FRAMEWORK

### A. LEGISLATION

The ICT sector in Ireland is governed mainly by EU law, transposed into national statutory instruments.

ComReg was established by the *Communications Regulation Act, 2002* as the National Regulating Authority (NRA), which until today is responsible for the regulation of electronic telecommunications networks and services, broadcasting, and postal services. It is an independent body, funded by means of levy on providers of both electronic communications and postal services. Section 12 of the Act transposes Article 8 of the 2002/21/EC Directive into national law, outlining ComReg's powers and defining their exercise. These powers have been extended with the *Communications Regulation (Amendment) Act, 2007* by making undertakings that do not abide with its decisions criminally liable, affording whistleblowers with identity protection, and giving the body investigatory and evidentiary powers.

The 2002/21/EC Directive is further transposed into Irish law by the *European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003* (SI 307/2003) plus a bundle of other regulations transposing sister Directives (SI 305,306,308 and 535/2003) whose purpose is to provide for efficient market analysis, regulate authorisation and access, define consumer rights, and establish an appropriate accountability mechanism. Several amendments and licencing Directives have been implemented in Irish law since the adoption of the initial EU framework<sup>4</sup>.

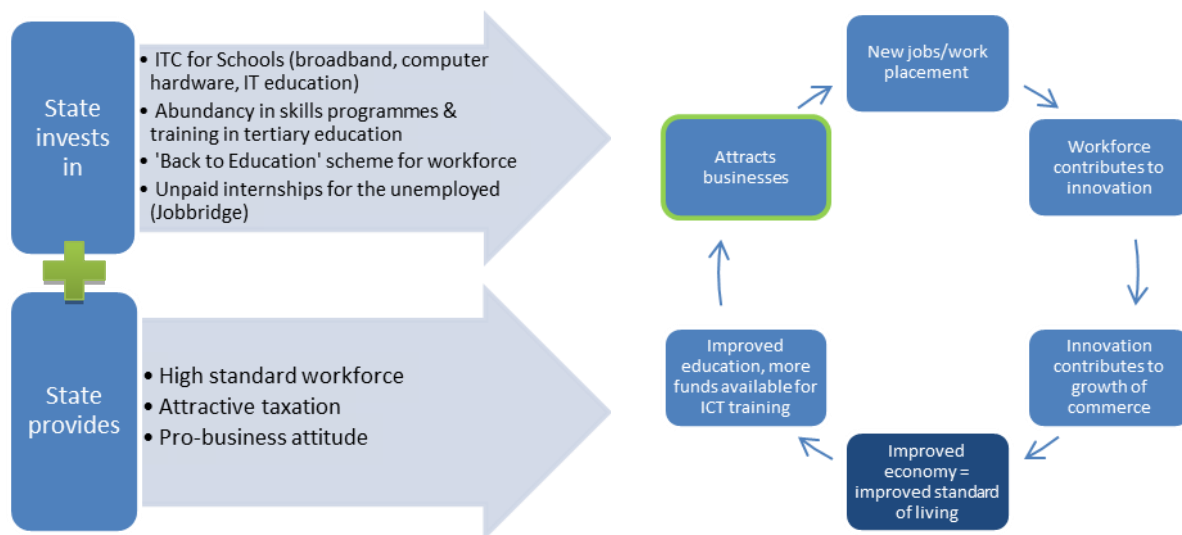
### B. STRATEGY

Ireland's economy is largely dependent on the ICT sector; the promotion and facilitation of investment in the sector forms part of the Programme for Government.

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<sup>4</sup> See [http://www.comreg.ie/about\\_us/legislation.501.html](http://www.comreg.ie/about_us/legislation.501.html)

Such investment will lead to the creation of jobs and increase of state funds. For a company to be interested in bringing its business to Ireland though, the standard of education of its potential staff should be high. It is therefore widely agreed, and endorsed as Government policy, that priority should be given to skills and training of employees and job candidates within the sector<sup>5</sup>.



### III. ADEQUACY TO MEET THE CHALLENGES

#### A. INDUSTRY

Challenges concerning the Industry are mostly related to competition where European law applies<sup>6</sup>, along with the discretion of the Irish Competition Authority. As Eircom is Ireland's *Universal Service Provider*, ComReg has tried to ensure that affordable connectivity will be available in all areas by imposing a separate pricing scheme<sup>7</sup>. This has brought great discomfort to the other providers as it has distorted competition. Unfortunately Eircom is the only Irish provider who uses copper for transmission and,

<sup>5</sup> See eg <http://www.merrionstreet.ie/index.php/2013/04/2000-additional-ict-graduates-to-be-provided-in-the-coming-year-as-part-of-government-drive-to-make-ireland-the-internet-capital-of-europe-minister-quinn-minister-bruton/> and [http://www.ictireland.ie/Sectors/ICT/ICT.nsf/vPages/Papers\\_and\\_Sector\\_Data~the-global-technology-hub/\\$file/The+Global+Technology+Hub+ICT+Ireland+ISA.pdf](http://www.ictireland.ie/Sectors/ICT/ICT.nsf/vPages/Papers_and_Sector_Data~the-global-technology-hub/$file/The+Global+Technology+Hub+ICT+Ireland+ISA.pdf)

<sup>6</sup> Articles 101, 102, 106 TFEU accompanied by a number of EU regulations and Commission Guidelines

<sup>7</sup> See eg <http://www.siliconrepublic.com/comms/item/31436-telecoms-industry-bewildere>

as a result, only Eircom can successfully cater for the four corners of the island at the moment<sup>8</sup>.

## B. GOVERNMENT

The Government has a number of challenges to deal with, such as social media regulation and copyright. A review committee was appointed in 2011 with the purpose of submitting a report with Copyright regulation proposals<sup>9</sup>. Another is underway regarding cyber-bullying, which is currently in public consultation stage<sup>10</sup>.

## C. CONSUMERS

The Government has to balance the interests of the Industry with those of the consumer. The current provisions are quite general and the Courts have oftentimes found it hard to adjudicate with these as a guide. Due to Ireland's separation of powers being on a constitutional footing, they have to dismiss a case and ask for the legislature to fill the lacuna. This results in governmental policy taking over the role of judicial reasoning, which is rarely in favour of the consumer.

## IV. MAJOR POLICY CHALLENGES IN THE NEXT THREE YEARS

Other than copyright and cyber-bullying, which legislation should be enacted during the next three years, an even bigger challenge will be that of privacy. Other than data mining as an unwilling implication, there is now a new method of *profiling*; an obligation of the end user to disclose their real identity, phone number and address to companies such as Google or Facebook, which are major stakeholders of the Irish ICT sector. It is expected that the EU will soon enact 'privacy policy' specific guidelines, to which Ireland is obliged to conform.

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<sup>8</sup> In distant places where the internet speeds are fairly low due to an outdated telecommunications grid and scarce population, Voice Over IP (VOIP) or aerial signal, would be of poor quality – and therefore not an option

<sup>9</sup> <http://www.enterprise.gov.ie/en/Publications/CRC-Report.pdf>

<sup>10</sup> <http://www.dcenr.gov.ie/Broadcasting/ICG/Public+Consultation.htm>