

'Mediation Works' Symposium

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Mediation Works – In Practice

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Good morning everybody. I hope you can hear me OK. I am an unabashed Monkees supporter as well. I do remember the band, Mick...Mike Nesbitt was my favourite, the guy with the monkey hat. I just want to go through explaining to you how mediation works in Eircom. And to put that in context I am going to quickly now run through the context in which it was introduced in Eircom, some of the challenges and the business context around that. I am a passionate supporter of mediation. I have seen the benefits and I know how people can benefit to the extent that it actually overlaps into their home life. And one of the things I would say about the world of work today is that it overlaps an awful lot into people's home lives. Children know what we do. We talk at home about the world of work. We spend an awful lot of time in the ...in the workplace. And that should be a pleasant experience, a challenging experience, yes, but also something that a person is happy to do, and is able to realise the best of their talents when they are coming to the world of work. I am not too sure how to work this thing. Oh there we go, a busy slide. This is really just to go through some of the background piece to put it into context. We are looking at the sector death that is associated with the telecoms industry. We are looking at the level of globalisation that has taken place. And many of you would be familiar with all of the changes, because from the point of view of a business Eircom is not hiding in the background, it's not a small business. It's a big business. It's in everybody's homes. Many of our employees have been in many of your homes. So it is the ...the sort of business that it is up there, out there, and you can see the services we deliver and the type of people we employ. The privatisation piece, again that's not hidden. That's a very big public piece. It's well known. And I will go through that separately in a...in a later slide, to go through explaining to you the impact for people in the world of work around privatisation. We are looking at regulatory liberalisation and the fact that the regulator does impact on how we deliver our services and to the extent of the technologies also that we employ. And that again we talked earlier on of where of all...where is all this coming from, a lot of this is coming from the European Union. But it's also the fact that the business itself dictates these needs. We are looking at huge competition in the telco sector. Predominant...we were the predominant player in the business. And you can see yourselves from looking at stuff that would come in your door on a regular

basis, the sort of competition that is out there and the sort of service providers and the range of services that they will deliver to you. We are looking at changes too in technology. This piece alone has a huge impact on the employee in the workplace. And I will talk to you about how this impacts also on mediation. Because new technology, the provision of broadband and the new platforms and services, voice over internet technology pieces would impact on the skills range that employees need to have in order to stay in this business. And that itself then impacts on the employee in the world of work. We are looking at customer demands, although we wouldn't be able to fix the ...the washing machine at 12 o'clock at night. We do have an up to an 8 o'clock call out period and in...in emergency situations we go beyond that. You will see that you get an appointment from an Eircom employee if they are going to come to your house, which is a new development. So it's the world of 24/7 and increasingly we have internet facility to access customer needs as well. I am going to go through some corporate activity with you so that you will see where we are going in terms of the changes that have happened in Eircom. OK, it's Ireland's leading provider in telecommunications providing a comprehensive range. You can read it yourselves. So you can see, fixed, mobile, voice, data and internet services. 1.3m PSTN, that's the old fixed line telephone that most of you would know about. 92,000 in ISDN, integrated subscriber digital network lines. 380,000 digital subscriber lines. And digital...those...there is 380,000 customers with a target of moving to 480,000 by the end of 2008 and we are well on the way to achieving that. 72% market share of DSL and 51% of the total broadband market. And then the purchase of Meteor has led us back into the mobile network. And again I need to talk to you about what has happened in terms of bringing different employees with different customs and different employees practices back into the market place and trying to merge employee bases that are coming from different perspectives that have different histories. And this is something many...many organisations are facing today. Pablo who puts up the slides said to me, that's a very busy slide. But it was a very busy period. And I have to tell you I was there for most of it. I came in in '98 into the HR community. I have seen three CEOs, three CFOs and five HR Directors in that period. So I can tell you, it has been a considerable amount of change. And each time there is a new strategy, a new idea, a new proposition, a business case, strategic business initiatives, all of these impact on the employee in the workplace and how we do our work. You can see too at the bottom of the slide the change in the stats in terms of the numbers of people who were employed. At one stage P&T or Telecom Eireann had 18,000 employees. And it is now down to under 7,000. I should have updated that slide. And that is an environ...in an environment where we have a voluntary leaving offer. It's not statutory redundancy, it's voluntary leaving. And it creates a huge emphasis around managing the workplace

relationships, knowing what skills base you have and being able to get the best you can for people and from people. David Begg spoke earlier on about the national...the ...the social partnership initiative. So I am not going to go through that in too much detail. But we have seen since 1998 an increase in the level of legislation, rightly so I would say. Because I come from a family of six girls. Two of my older sisters were in a situation where they had to leave the workplace when they got married. Fortunately I was not in that situation. So we are talking about the marriage ban. And I see a number of people nodding heads. So it's an experience a lot of people would have known about. So we don't have a prevalence of ...the experience of women who were married until a later period than most of the rest of Europe in the Irish economy. And that can have an impact in the workplace, particularly for women. So we have the holistic structure in terms of the social partnership initiatives. And that is rightly so. And I am going to carry that holistic theme into the world of work and talk to you later on about that. Through the social partnership model we have seen the legislation, but also the level of infrastructure increase. The first time seeing the implementation of mediation on an equality level was the setting up of the Equality Authority in 1998. In 1998 I was involved in a cross-border initiative with Counteract in Northern Ireland and I had the strange experience of mediation in the workplace with the PSNI...well it wasn't called the PSNI then and Sinn Fein advocates talking about flags and emblems policies in the workplace. And for somebody with a name like Grainne it was a very strange experience working in Belfast at that stage, but a wonderful experience at the same time. Eircom participated in the government expert advisory group which addressed the issue of bullying and harassment and stress in the workplace. A number of issues that came across would have been...a couple of prevalent factors that indicate when are you likely as a business to see an increase in the number of allegations of bullying and harassment. And through some of the reports what came across was if you are changing your business structure, if you are changing ownership, if you are relocating, if you are changing your skills base. These are all pointers to a likely increase in claims and allegations of stress, bullying, harassment and discrimination. And if you look at the slide that I showed you earlier Eircom hit all of those pointers. So we had a business case, a very strong business case to put a resilient process in place to address the issue of workplace grievances and have alternative dispute resolution that featured mediation as part of the resolution. We work in the...within the concept of partnership. 35% of the company is owned by the employees. Previously you would have seen the slides back in 1988/89 a partnership agreement was being put together. In 1999 partnership was fully realised. At one stage it was 14.9% of the shares were owned by the employees, but with the advent of Babcock & Brown the ESOP used €300m to purchase more shares, to the extent now that 35%

of the business is owned by the employees. And to date somebody who would be employed in Eircom, who would be entitled to the full range of shares, would have received 65,000 in shares to date, not an insignificant sum. But it's also a pointer to the fact that there is a strong business case to make sure that there are...the issue of grievances in the business are dealt with promptly, effectively and to the best interests of all. So we have the union ...the structure in terms of the partnership piece delivering change, it's the strategic partnership level, change initiatives are discussed, explored and agreed. At national partnership level the employee impact or staff impact is then addressed. And what is looked at then is, what will this mean for employees on the ground. And then local partnership groups have the responsibility of working together, management and unions, in implementing those pieces. And it's a tough call. It's not always easy. And you know it...it takes a huge amount of expertise. It takes a great deal of patience and a great deal of commitment from the people involved. The design of the mediation, the Eircom Workplace Charter was in actual fact the first point of designing mediation within Eircom. It is now the case that we use mediation in all aspects of dispute resolution. But it first started off through dealing with allegations of bullying, harassment, discrimination and intimidation within the workplace. It was designed in consultation with our legal advisors, naturally enough. All businesses would take on board whatever legal advice they would be given., the business area managers who would have the responsibility to implement it and our trade unions who are hugely...hugely supportive of mediation in the workplace, and who have gone out on a limb to make sure that employees are fully aware, as well as we have, of the ...the availability of mediation within the workplace. The benchmarking exercise we undertook was also involving other organisations. So we looked at what sort of processes were in place in other organisations. Some organisations have a default to mediation. Some organisations have different ways of conducting mediation. Do you use cold media...cold mediation? Do you use separate mediation? Do you use internal mediators? Do you use external mediators? We looked at all ranges of these issues. Who holds the mediation agreement? Does it go on the personnel file? Is it held on a separate diversity file which is the case in Eircom. So there is a whole range of different issues that we looked at. And we also worked with ...I don't know, do some of you know, Tony Bellack in...in the States. We worked with various private organisations. And we also worked looking at the...the codes of practice that are available there for organisations to look at in terms of how you would implement mediation and conflict resolution. And then we also looked at our own case law. What types of cases were emerging within the business? What were the patterns we were seeing? What had we learned, that we could do better? And I have to say hands up here now, just because I am speaking here today doesn't mean Eircom

has it right, we are still learning and we are still growing and we are still developing new initiatives as we go along. And then the focus of the Charter is really...and I think this was said earlier on, to get to the issue at the...at the local point, at the point of origin. Because we all know if grievances fester they....they get worse as time goes on. So if you can get there quickly and deal with the issue at the point of origin, you have a much better chance of resolving it, and resolving it within the context of what is best in that particular business area for those particular people. And then the key requirement to build trust in the process. And where we built trust was making sure that we communicated well, that we dealt with any queries, that we had open forum discussions around mediation within the workplace. And we....the...an unusual experience, going separately to each of the shop stewards and having shop stewards conferences. So that any issues that would be raised by the union would also be addressed. And there is nothing that would build confidence better than having champions within the workplace. So at a high level we would have CEO championing thethe implementation of the mediation. We would have various directors making sure to have it clearly explained within their business areas. And then at local level line manager. But supported by that we would have the unions providing guidance to their shop stewards as to their role within the mediation process, and the cans and can'ts...what you can do and what you can't do in terms of mediation. The outcome, we began in 2004. When I was looking at that I couldn't believe I am this long at this, you know, but it is...it is good for business and I am very very passionate about it. I have probably bored the pants off most of my colleagues around this issue. But it is something that actually has done well. I think a key requirement, you won't see it on slides, and you very seldom hear it inin people speaking about this issue, is that if somebody is exposed to a grievance in the workplace their work colleagues tend to hear about it. But if it's resolved in a professional manner through a mediation process their work colleagues also tend to hear about it. And there is nothing better than that to sell something that you believe in. If it's working well it will spread it will be known about and people will get confident in the process. We selected our teams based on...we asked for self select...hands up...and then we were looking at age, gender, ethnicity, disability. We wanted to have a good mix in the mediator profile to give a better understanding of the sort of issues that could come across. We also dealt with co-mediation as a first initial piece, just to give people confidence in the model. Some stayed at a co-mediation model. Some of the teams still work in co-mediation, because they believe they work better in teams. Others now have moved on to working separately and on their own and they prefer to work that way. The other issue around that is, the teams were selected on the Myers Briggs profiling. And that was quite fun. You know, there is a whole range of different ways that you can actually select teams to work as mediators. You

will all know there are definite competencies that need to be there in order for somebody to provide the skills of being a mediator. The Myers Briggs gives a fun exercise and allows people to kind of match together what is...what their key strengths are, particularly if you are using a co-mediation style. Then the supervisor meetings, so this is essential if you are implementing a programme like this. You do need to keep the team well supported, and that they have supervision throughout the...the time that they are dealing with cases, particularly at the beginning anyway. And post-training as well, and making sure that they can come back at any stage to the trainer or to the business to identify any further training needs. The team attended ongoing training and updates to ensure continual professional development. That's a key requirement with the Mediators Institute of Ireland. But also it's a key requirement for them to stay confident in what they are doing, and to make sure that they are delivering a professional service. I am not saying it's all roses. So I am going to talk to you later on about some of the difficulties we have experienced. So don't think I am up here selling myself as, you know, we have done it, hey hey, you know. The specific training delivered to managers and their teams, now I am using a word, contact people, here. I don't know do you use them yourselves. But within the world of ...world of work you are totally dependent on people like contact people to explain your policies and practices in terms ...particularly in terms of a Charter...a Dignity at Work Charter. The role of the contact person is to help somebody who believes that they are exposed to bullying, harassment, discrimination or any form of intimidation in the workplace. And we have trained the contact people into the benefits...around the benefits of mediation. And they are our first selling point. They are the people who will say, look, why not try mediation, see if it works. If it doesn't there is nothing lost in trying it. We move on then, we are talking about the programme itself. They were required to complete a pre-training programme. And this was a good exercise because of the teams that had come forward some at that stage deselected themselves feeling...uh, too arduous, no I don't think I am...I am really suited to this. So we lost two people at that initial stage, one because they believed the...their family commitments were too much, and a second because they felt 'I don't feel I have the skills, even though I put myself forward. I have a feeling I am not going to be good at this.' And we have left it for them if they want to come back at a later stage. But that's...that's a deselect. The second thing was, we had a 40-hour programme delivered by an external consultant and certified by the International Centre for Dispute Resolution at the Sullivan University in Louisville in Kentucky. This particular programme was very useful in that it was hugely built on role playing. You can give any amount of theory to people in terms of the mediation process, but if you don't give the skills, the experience and the role plays, it definitely is very difficult to transfer the skills into a practical use

within the workplace. And we had one individual who was working with Comreg, I hope there is nobody here from Comreg. But we had one individual who was negotiating with Comreg at the time and he felt it helped him immensely in his role after he had gone out from a couple of the training sessions. And one particular employee, who is a parent, his son was doing the Leaving Cert at the same time and they were trying to negotiate at home to get him to do more studying. And he believed he mediated between his wife and his son to make sure that an agreement was brokered in terms of what would happen as regards the Leaving Cert study profile. So it had an awful lot of benefits for people outside of their actual workplace. The training included...I have listed above the...what the training included. So you know these are...these are commonsense factors. These are the sort of things you would expect to see associated in a mediation training programme. One of the things that we really did need to go through was a summary understanding of employment law. Because our mediators needed to know that their role placed them in a situation where they had vicarious liability for their actions when they are working for Eircom in a mediating role...in a role of mediation. And that was something that they...they understood and werewere quite happy to do. But we needed to make sure that that was clear to them. And I think that's important for all employers who are hoping to implement a programme of this nature, that you would need to make sure that people who are hugely passionate about their work and hugely inclined to want to get involved in something like this, realise...realise the parameters of their role and the responsibilities attached to it. We went through quite a lot of techniques, working through with individuals different....I mean it's...because I don't know, do you remember when you were training initially yourselves, some of you who are mediators, that rush to get an agreement, that rush to get a...a written agreement drawn up, tended to be the thing that we needed to get people to step back from. And that is the piece that we needed to work on with people, building different techniques and not rushing too quickly to try to put in an agreement. I like the way Karen said the two people this morning [the story of the orange], the mediator stepped back and allowed them to make a decision as to what to do with the orange. And I think that's the key piece around mediation too. The emphasis was placed on them acquiring the skills of a mediator through the participation in the role plays. And we tried to use situations that would be very, very practical and that would relate to the workplace itself. And we used case studies that were very, very relevant to the workplace where these people were working. They were taken from different teams. So just to go through some practical issues in terms of the implementation of the ...of the training. We selected people across a wide range of business areas. We didn't select all managers. We had a number of union officials who trained as well. We had people who would be working in a sales area. We had individuals who

would be working in a highly technological area, in our IT area. And we would have people who are working in administration roles and administration area. So it would...we would have selected people from a wide range of different business areas so that the skills base would be there and the knowledge of the different features of what goes on in the business would be there. The fact too that they started off as co-mediators, the feedback we got from that was that that was particularly useful to them. Because they felt that they were in a ...a supported role working together and they could share ...you know, if they were working in a mediation they could rely on each other to work through particular issues or see if somebody had forgotten something, missed something, the other person might pick it up. And they felt that they were in a better position to learn from that perspective. The ...I have mentioned Tony Belack. Tony has worked quite strongly with the team. He has met with them on a couple of occasions. And the external consultant has also met on several occasions. We have used a range of consultants at this stage since 2004 to refresh the skills and to keep the...the team attuned to...to the changes in legislation, indeed even since 2004. We have also had the inhouse training scoped to meet their needs. One of the unusual requests that we got was that they wanted to attend professional witness training. And that really means, what is it like to appear in court. Now usually speaking you wouldn't expect mediators to have to appear in court, because what goes in mediation...what goes on in mediation stays in mediation. And we haven't yet had a situation where individuals would be required to attend in court. But it was a...it was a...a request from the mediators and we felt it was a valid request. So we did give them some training around attendance in court, protocols, what evidence can be sought, and the various issues around that too. And I think it also gave them a bit of a...a comfort. But they have never had to use it thankfully. The mediators attend regular employment law workshops that we provide through HR right across the different business areas. Interestingly we work with the Northside Legal Aid Centre. One of the individuals there is particularly resilient in being able to provide workshops to Eircom managers and challenging them in some of their views. And we have all sorts of perspectives from...different views from managers, in terms of how the law should be implemented. And then you will get that in any business. But what is very important is that they know what exactly they must do in terms of managing people. The experience to date, there is a...there is a huge... a far increasing trend now to avail of mediation. Because it definitely works. The investigative process, although it is necessary in some cases, can leave the parties very drained. And they still have to go back into the workplace after that. And that can have a difficulty in terms of workplace relationships. So mediation is beginning to be used much more prevalently. It has proven successful and it is fully supported by the managers. So we are...we are very lucky in that in the initial stages there was a huge

reluctance around it and not clear about what were their roles in terms of mediation. But to step back from the process and allow the mediator to deal with the issue was a key thing to try to train managers in. It has been said already that mediation is less costly. And it has a better impact on the workplace relationships. I need to point out this final ...this point I am dealing with now, the fourth point, which is the increasing tendency to avail of external mediators. Although we have trained a team of internal mediators we are entirely dependent on their ability to be freed up from their ongoing role, and that is a challenge. If you look at the slides that I told you in terms of the business and how it has changed, the technology and all the rest, it is increasingly more and more difficult for the internal team to be freed up for the level of time it requires. So we are finding that...and then we have a voluntary leaving programme where we are reducing over such a period of time from 12,000 to 7,000. So we are increasingly finding that we are resorting to using external mediators moreso than ever before because of a resource issue. So I have to say that up front, that that is one of the...one of the findings that we have realised to date. We are reviewing the Charter to date and we are building towards reinforcing mediation. Now really what we are trying to do is set it up as a default mechanism. So less resort to external agencies is one of the experiences we have had. Where mediation is used, and even when mediation is used and ...and the matter is referred to an external agency, it tends to be a better relationship. So although there is...there may be conflict in the relationship, because it has already been visited at the level of mediation there tends to be less agro in the relationship so to speak. The trade unions are very supportive. They have actually designed a guide for their...for their shop stewards in terms of how to implement mediation in the workplace and make sure that mediation is offered or supported in their role. In the long term we gain from deploying this skill into all areas of the business, because the business managers themselves have reported back that these individuals are delivering key skills, key requirements to the business areas by using the skill. OK. The issue in relation to...if you are going to use an internal team - just on a practical basis, if you are going to use an internal team and train them up as I have explained, you need to be able to be fair to them, to build in measuring that performance as part of their overall performance. Because you don't want to be unfair to these people. If you recruited somebody who is an IT specialist who is working with particular skill range you need to make sure that if they are working in a team of mediators that that specifically is ...is given credence and they get adequate recognition for that role. And I think that might be a difficulty for a lot of employers when they are building in internal teams of mediators. To date we have had a significant reduction in the number of investigations that would take place. Now whether that is because we have offered mediation or whether it is because mediation is a success is ...will have to be

	<p>reviewed over time. But we are feeling that we are entirely happy and unabashed supporters of the mediation process in Eircom. Thank you. [applause]</p>
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