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Information Booklet

Role: Adjudicator,

ComReg Regulatory Adjudication Panel

**1. INTRODUCTION**

ComReg is seeking applications from suitably qualified individuals to be nominated by ComReg for appointment by the Minister as Adjudicators on ComReg’s Regulatory Adjudication Panel (RAP). Adjudicators may be selected for assignment as independent decision-makers to cases that will be managed by ComReg’s Regulatory Adjudication Unit (RAU). Adjudicators will play a key role in delivering on ComReg’s enforcement mandate by making decisions on cases referred by the compliance and enforcement teams in the three ComReg regulatory divisions (Wholesale, Retail and Consumer Services, and Market Framework).

If you are interested in submitting an application, this document sets out further information, including:

* what you need to submit (see section 3),
* how to submit your application (see section 3),
* how we will evaluate your application (see section 2), and
* how you can ask us questions prior to applying (see section 4).

**2. PROCESS OVERVIEW**

Applicants will be selected for nomination for appointment as Adjudicators based on:

1. an evaluation of their application against the Eligibility Requirements set out in section 2.1 below, and
2. performance at an interview.

Applicants must meet all essential Eligibility Requirements set out in section 2.1.1 to be eligible to be invited for interview. If the numbers meeting the essential Eligibility Requirements are such that it would not be practical to interview everyone, ComReg will short-list applicants for interview. It is therefore important to provide a detailed and accurate account of your qualifications/ experience in your application.

ComReg is working with a Recruitment partner, Executive Edge, on this project. Applications must be sent directly to them. They will store and manage applications in a confidential manner. CV’s and application forms will be deleted when the process is fully concluded.

The anticipated timetable for the competition process is set out below. Applicants should note that the timeline for interviews is indicative only and subject to change:

|  |  |
| --- | --- |
| **Milestone** | **Date (2023)** |
| Closing date for receipt of applications | Noon on Friday 25th August |
| Interviews | Week of 11 September and week of 18th September  *(Exceptionally, interviews may be held in the week commencing 25th September where this is unavoidable)* |

**2.1 ELIGIBILITY REQUIREMENTS**

The Eligibility Requirements are listed below.

Applicants must meet all essential Eligibility Requirements for the role to be considered for interview.

**2.1.1 Essential Eligibility Requirements**

Applicants for the position of Adjudicator must either:

Be a qualified barrister or solicitor (or the equivalent in another EU Member State), who has practised for at least 10 years in Ireland, another EU Member State, an EEA State or the UK,

or

Have a minimum 10 years’ experience in their professional discipline and expertise at the highest level of at least one of the following:

* Law – in particular, regulatory, competition, constitutional/administrative and/or EU law and complex litigation.
* Economics – in particular, the economics of regulated network industries.
* Regulation – in particular, the regulation of network industries.
* Accounting or finance – in particular, regulatory accounting or finance.
* Engineering – in particular, as regards electronic communications.
* The operation of the electronic communications sector.

Applicants must also have proven ability to:

* assimilate large quantities of detailed information.
* analyse, understand and assess complex arguments by reference to the evidence.
* make evidence-based decisions and provide cogent reasoning for same
* make fair judgments based on relevant evidence.
* understand the legal environment within which you will be deciding issues.
* work effectively both individually and collaboratively as part of a team.
* work to and meet often tight deadlines.
* act professionally, ethically and with integrity.

**2.1.2 Desirable Skills**

* Excellent leadership skills.
* Previous experience of collaborative decision-making at a senior level, such as boards, committees or tribunals.
* Experience of making reasoned judgments in matters involving the assessment of complex evidence.
* Availability to sit in hearings.
* Excellent administrative skills.

Please note that we particularly welcome applications from people with flexible availability.

**2.2. STEPS IN THE SELECTION PROCESS**

When your application is received, it will be checked to ensure it contains everything we have requested. We may ask you clarification questions about your application if necessary. If your application is not complete, it may be eliminated at any stage (even if evaluation has been commenced or completed).

Applications that are not eliminated based on completeness will be checked for compliance with the essential Eligibility Requirements set out above. If an application does not meet all the essential Eligibility Requirements for the position applied for then it will be eliminated from the competition.

Applications that are complete and compliant will be evaluated against the Eligibility Requirements.

If the number of applicants meeting the essential Eligibility Requirements is such that it would not be practical to interview everyone, applicants will be short listed and those selected called for interview.

ComReg wishes to ensure that the Panel is comprised of members with a mix of expertise across the range of disciplines listed in section 2.1.1 above.

Interviews are expected to take place in September in Dublin city centre.

Applicants should note that appointment as an Adjudicator does not guarantee selection as a decision-maker on a case.

All applicants will be informed of the outcome of their application.

We may at any stage (either during this competition or, if an applicant is successful, after appointment to the Panel) ask applicants to provide evidence to support any information contained in their application or supplied at interview. If an applicant fails to comply with such a request, or the evidence provided is not sufficient to satisfy ComReg, the applicant may be excluded from further participation in the competition (or removed from the Panel if already appointed).

**3. HOW TO APPLY**

To apply for a position on the Panel you must submit the following:

* Completed Application Form and
* Comprehensive and up-to-date C.V.

Your application must be submitted by 12 noon on Friday 25th August 2023 (Closing Date). You can access the Adjudicator Application Form at[www.comreg.ie/careers](https://eur02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.comreg.ie%2Fcareers&data=05%7C01%7Cmary.mcdermott%40comreg.ie%7C2ffeb312d7f5438b989008db8d28b0c6%7C7e3063639dee4b8d8a6b4fee706b37fa%7C0%7C0%7C638258978133319739%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=DTz0PTtcmMjyyjymPiOCASnGnEhCLJL3qlOKy3%2BPNuM%3D&reserved=0).Please send the completed form together with your CV by e-mail to  [comreg@executiveedge.ie](file:///C:\Users\fergal.OLAS\Desktop\Mary\comreg@executiveedge.ie) with the subject line “Adjudication Panel”.

It is your responsibility to make sure your application is complete and is submitted on time. If your application is not complete, it may be rejected without further clarification. **Please note, both CV and application must be received, otherwise the application is ineligible.**

**4. QUERIES**

If you have questions about anything in this document, please email;

|  |  |  |
| --- | --- | --- |
| Keith D’Arcy | Phone (01) 9121 892 | Email: [keith@ExecutiveEdge.ie](mailto:keith@ExecutiveEdge.ie) |

*Or*

|  |  |  |
| --- | --- | --- |
| Joe Friel | Phone (01) 9121 891 | Email: [joe@ExecutiveEdge.ie](mailto:joe@ExecutiveEdge.ie) |

before 5pm on 24th August 2023. We do have a discretion to respond to queries after this time, but there is no guarantee we will be able to do so. Applicants should note that we may issue general clarifications at any time.

**5. FURTHER INFORMATION ON THE ROLE**

The Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 introduces a new enforcement regime for ComReg, pursuant to which it will have significant administrative enforcement powers, including the imposition of a range of sanctions including administrative financial sanctions.

Under the new regime, while ComReg staff will carry out investigations into potential non-compliance with regulatory obligations, final decisions on whether there has been a breach of a regulatory obligation and what sanction should be imposed in respect of such a breach will be a matter for decision by independent Adjudicators. One or more Adjudicators (typically a “Division” of three Adjudicators) will be assigned to sit in respect of each enforcement case that falls for decision as to whether there has been a relevant regulatory breach.

The Adjudicator(s) will examine evidence and submissions presented by all parties and may also hear evidence from relevant witnesses and oral submissions. The Adjudicators will then form a view as to whether there has been a breach of a relevant regulatory obligation and what (if any) sanction should be imposed in respect of such a breach. Finally, they will draft a reasoned decision setting out their decision and the reasoning behind it. That decision will, formally, be a decision of ComReg. Where a decision is made finding that there has been a regulatory breach and/or that a regulatory sanction should be imposed, it will be open to the affected party to appeal that decision to the High Court (in which case ComReg would be the relevant respondent to such an appeal). Where no appeal is brought, the decision of the Adjudicator(s) will be subject to confirmation by the High Court before being executed.

Adjudicators will be appointed by the Minister for the Environment, Climate and Communications upon nomination by ComReg. It is ComReg’s intention initially to nominate at least 12-15 Adjudicators with a wide range of expertise to enable the Minister to form a Panel from which individual Adjudicators (or Divisions of more than one Adjudicator) will be assigned to individual matters as they arise.

If there are more qualified applicants than the 12-15 ComReg hopes to nominate for appointment initially, ComReg would like to appoint those applicants to a Reserve Panel, from which future nominations for appointment as Adjudicators could be made without a further competition. Applicants will be asked in the Application Form if they are willing to be placed on such a Reserve Panel.

Adjudicators will be appointed for a term of up to 5 years (renewable to a total of not more than 10 years) and will be paid on a per diem basis. Appointment as an Adjudicator does not guarantee assignment to any one or more actual cases. If an Adjudicator is assigned to a case, the time commitment required will depend on the case to which the Adjudicator is assigned. Adjudicators are under no obligation to accept any assignment offered.

Adjudicators who are selected for, and accept, assignment as decision makers to a case will be given a Letter of Appointment and will work under a contract for services (the Panel Agreement). They will not be employees of ComReg.

As a rough guide, a “standard” case is likely to involve a time commitment of 30-40 days spread over a period of approximately 6 months for each Adjudicator assigned to that case, though there may be significant variation both above and below this range depending on the complexity of the case.

One Adjudicator will be appointed by ComReg to be the Chief Adjudication Officer, and this person, in addition to being an ordinary Adjudicator, will have a range of administrative and statutory functions and responsibilities, including assignment of cases to individual Adjudicators or Divisions of Adjudicators. The Chief Adjudication Officer may be appointed on different terms and conditions to ordinary Adjudicators and will be paid at a higher rate to reflect the significance and additional responsibilities of this role.

In addition to the above, ComReg also has been given a range of new powers under the Competition (Amendment) Act 2022, including the power to impose administrative financial sanctions. Again, a Panel of Adjudicators will be appointed to make relevant decisions under this alternative legislative regime (the Competition Adjudication Panel). Applicants for the role of Adjudicator on the Regulatory Adjudication Panel will be asked on the Application Form if they would also be interested in being considered for nomination for appointment to the Competition Adjudication Panel.

**6. OTHER INFORMATION**

If your application is successful:

* You will be nominated by ComReg to the Minister for appointment as an Adjudicator on ComReg’s Regulatory Adjudication Panel. It is open to the Minister in certain circumstances to decline to appoint an individual nominated by ComReg.
* If the Minister appoints you as an Adjudicator on the ComReg Regulatory Adjudication Panel, you will be required to sign a Panel Agreement with ComReg. The Panel Agreement sets out the overall relationship between ComReg and the successful applicants over the lifetime of the Panel. Applicants who are invited to interview will be provided with a copy of the Panel Agreement and will be required to confirm prior to interview that, if successful, they will sign this document. Successful applicants will be asked to sign and return the Panel Agreement upon appointment by the Minister.
* As a pre-condition to entering into any Panel Agreement with you, we will check that you have a current, up to date Tax Clearance Certificate (TCC) from the Irish Revenue Commissioners.  Any payments due to an Adjudicator will only be made provided the Adjudicator holds a valid current TCC from the Irish Revenue Commissioners.
* Appointment to the Panel will be for an initial term of up to 5 years. The exact term will be specified in the instrument of appointment. This term may be renewed subject to a maximum total of 10 years’ service as an Adjudicator.
* Appointment as an Adjudicator does not guarantee selection for assignment as a decision maker to a case. If an Adjudicator is assigned as a decision maker to a particular case, the time commitment required will depend on the case to which the Adjudicator is appointed.
* Adjudicators who are selected for assignment as decision makers to a case will be given a Letter of Appointment and will work under a contract for services (the Panel Agreement) with flexible working arrangements and not as an employee of ComReg.
* ComReg reserves the right to deduct any relevant taxes from payments made to certain service providers in accordance with relevant tax law, albeit that a contract for services exists between the parties. The contract will not give rise to an employment relationship between ComReg and the service provider.
* Positions as Adjudicator are remunerated on a work done basis, i.e., there are no retainer fees payable. On assignment as a decision maker to a case, a daily rate (pro-rated for part days) will be payable in respect of all work carried out as an Adjudicator. The remuneration rate is as follows: €1,000 per day, pro-rated for part days.
* ComReg will pay, by prior agreement, and at public sector rates, vouched travel, and reasonably incurred accommodation expenses by appointed Adjudicators.
* The names of all persons who are appointed as Adjudicators will be published on ComReg’s website.
* ComReg may organise decision maker training seminars from time to time and Adjudicators will be expected to attend such seminars.
* All appointments as Adjudicator will be subject to Ministerial approval and vetting requirements of ComReg.

**7. IMPORTANT INFORMATION**

**Publicity, confidentiality, data protection and access to information:**

* We have the right, and in some cases we are obliged, to disclose information to third parties about this process and any Panel Agreement entered into on foot of it. This includes statements to the media and/or publication on any website or on social media.
* We are, or may become subject to, legislation on access to information, such as the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014. Information you provide to us (including any personal data submitted) may be liable to be disclosed under any such legislation.
* As part of your response, you may provide us with personal data within the meaning of data protection legislation. Our [Data Protection Privacy Notice](https://www.comreg.ie/privacy/) regarding how we collect and use personal data is on our website. Any information provided by you will be used for the purposes of this competition only and will be treated in a confidential manner. If we provide you with personal data as part of this application process, we expect you to process it in full compliance with data protection law.

**8. DISCLAIMER**

We make no commitment to enter into a Panel Agreement on foot of this application process. We may cancel this process at any time without appointing any Adjudicators. This Guide is not contractually binding on us, and you shall have no legitimate expectations arising from it.