



**Commission for Communications Regulation**

**Dispute Resolution**

**Summary - Case number:** CDR Ref [REDACTED]

In this dispute an end-user (“the Applicant”) sought access to the 4G networks without change to his contract and in that regard relied upon his contract with Tesco Mobile Ireland Limited (“the Respondent”).

The contract between the Applicant and the Respondent was silent in relation to the type of technology or network to be used by the Respondent in providing the service. The Respondent’s submission that *“There was no reference to 2G, 3G in the terms as it was the only service, we had available.”* is accepted. It is not a term of the contract (express or implied) that whenever the Respondent upgrades its network in the future, the Applicant will be entitled to access that upgraded service on the original terms. There is also no regulatory obligation providing for similar.

ComReg found that the Applicant is, in general, capable of accessing the Respondent’s 3G network at, or in excess of, maximum performance capacity for 3G. The Applicant had not established that the Respondent had breached the contract in relation to data /internet services or otherwise.

The Applicant wished to access 4G networks without entering into a new contract in the form proffered by the Respondent. What the Applicant sought would not involve ComReg enforcing the existing contract, but rather would involve ComReg amending the existing contract between the Applicant and the Respondent, which it cannot do.

Therefore, even if a breach of contract had been established (which it had not), the remedy sought by the Applicant i.e. access to the 4G networks without change to his contract could not be granted by ComReg.

No resolution under Section 47(1) was proposed.