



Commission for  
**Communications Regulation**

# **Electronic Communications Complaints Handling Code of Practice - Response to Consultation and Decision**

## **Response to Consultation and Decision**

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# 1. Introduction

- 1 The Commission for Communications Regulation (ComReg) is responsible for the regulation of Electronic Communications Networks and Services (ECN and ECS) in accordance with EU and national legislation.
- 2 In 2001 ComReg's predecessor, the Office of the Director of Telecommunications Regulation (ODTR) issued Decision Notice D13/01<sup>1</sup>, Codes of Practice for the Handling of Consumer Complaints by Telecommunications Service Providers. Decision notice D13/01 provided that Telecommunications Service Providers should include certain conditions in their codes of practice.
- 3 In 2003, in light of changes at EU level in respect of consumer protection obligations, ComReg consulted on how these changes would be addressed. The obligation for Electronic Communications Service Providers (Service Providers) to develop codes of practice for handling end-user complaints was maintained under the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2003<sup>2</sup> and this was further developed to include provisions in respect of reimbursement of payments/refunds in Decision Notice D16/03 "Users' Rights to Communications Services"<sup>3</sup>.
- 4 In its Electronic Communications Strategy Statement 2014-2016, ComReg noted that

*"In some cases, [service providers] do not appear to be dealing with complaints in an effective manner and, as a result, it becomes necessary for ComReg to intervene. ComReg considers that in a properly functioning system, its involvement should only be necessary when complaints related to more complex issues. ComReg will review this area with a view to establishing new procedures and rules that [service providers] will be expected to adhere to when dealing with consumers' complaints...and provide certainty for end-users so that they are aware of the existence of a code of practice and have transparent information available to them when raising a complaint with their ECN, ECS provider."*<sup>4</sup>

- 5 In its Electronic Communications Strategy Statement: 2017-2019<sup>5</sup>, ComReg confirmed that it was consulting on setting minimum requirements for Service Providers' codes of practice for complaint handling. ComReg is planning to subsequently initiate an awareness campaign in relation to codes of practice and the process involved for end-users in seeking redress. In the current strategy document ComReg states that it will pursue the following:

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<sup>1</sup> Codes of Practice for the Handling of Consumer Complaints by Telecommunications operators, Decision Notice D13/01, Document number ODTR 01/67, 29<sup>th</sup> August 2001.

<sup>2</sup> Regulation 28 European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2003/ S.I. 308/2003

<sup>3</sup> Response to Consultation and Decision Notice: Users' Rights to Communication Services – Protecting Consumers in a developing communications market, ComReg Decision D16/03, 25/07/03.

<sup>4</sup> ComReg (2014), Strategy Statement for Electronic Communications 2014-2016, 14/75, 17 July.

<sup>5</sup> ComReg 17/31 Strategy Statement for Electronic Communications

**Complaints:** *ComReg is obliged to ensure that complaints and redress procedures for end-users of Electronic Communications Providers, as outlined in Regulation <sup>27</sup> of the Users' Rights Regulations are implemented. ComReg is aware that some codes of practice fall short of ComReg's view of appropriate minimum standards. ComReg is currently seeking to improve the minimum standards in codes of practice for complaints handling and bring about change which will standardise commitments, for example response times, across all Electronic Communications, as well as encouraging a more systematic approach to the requirements of codes of practice in general.*

**Alternative Dispute Resolution (ADR):** *We consider ComReg best placed to deal with ECS and PRS disputes. In 2015 new legislation came into effect in respect of ADR for consumer disputes (S.I. No. 343 of 2015). In 2017, we will consult on ComReg's complaint handling process and this will encompass all relevant ADR aspects.<sup>6</sup>*

- 6 This decision on the minimum requirements for codes of practice for complaint handling is the initial step towards a revised end-to end process for complaint handling.

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<sup>6</sup> ComReg Strategy Statement 2017-2019, 17/31, 13 April, section 6.25

## 2. Executive Summary

- 7 In its public consultation document, Electronic Communications Complaints Handling Code of Practice, issued on 22 December 2016, ComReg set about addressing ComReg's concerns in relation to Service Providers' current complaints handling practices.<sup>7</sup>
- 8 Under the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011<sup>8</sup> ('the Universal Service Regulations'), each Service Provider is required to have a code of practice for handling consumer complaints in place. In preparing for this consultation, ComReg carried out comparative analyses of a sample of these codes of practice and found that they varied in content. Furthermore, ComReg was of the preliminary view that that complaint processes and approaches set out in these codes of practice were insufficient to meet end-users' requirements in certain circumstances.
- 9 Based on the information reviewed, ComReg sought to set out a number of proposed standards in its consultation document regarding the requirements of Service Providers' codes of practice.
- 10 In accordance with the Communications Regulations Act 2002 (as amended) ("the Act"), ComReg 'shall promote the interests of users' within the Community and in doing so shall ensure a high level of protection for consumers in their dealings with suppliers'.<sup>9</sup>
- 11 ComReg's consumer care team currently handles high volumes of contacts from end-users.<sup>10</sup> Some contacts are in relation to queries where no escalation to a Service Provider is required while other contacts relate to complaints which remain unresolved after direct contact by the end-user with their Service Provider's customer care department.
- 12 The decision to consult on proposing minimum requirements was influenced by the number of complaints ComReg's consumer care team deal with. ComReg was of the preliminary view that this is an appropriate time to seek to formalise its approach to Service Provider's complaints handling codes of practice to ensure a more transparent and uniform complaint handling practices are provided for stakeholders.<sup>11</sup>

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<sup>7</sup> Electronic Communications Complaints Handling Code of Practice, 16/118.

<sup>8</sup> <http://www.irishstatutebook.ie/eli/2011/si/337/made/en/print>

<sup>9</sup> Section 12 (1) (a) (iii) and Section 12 (1) (c) (ii) Communications Regulation Act 2002 (as amended)

<sup>10</sup> ComReg also manages contacts, queries and complaints in relation to postal issues. This consultation paper does not prescribe any amendments to the postal complaints handling process which now includes Alternative Dispute Resolution (ADR). For further information, please see ComReg document 14/06: *Complaints and Redress Procedures*.

<sup>11</sup> This consultation did not address the accessibility issues in relation to complaints procedures offered by ECS and PRS providers. A decision on this matter was published in 2014. For further information, see ComReg Decision D04/14 (document reference 14/52), *Electronic Communications: Measures to Ensure Equivalence in Access and Choice for Disabled End-Users*, <http://www.comreg.ie/publication/electronic-communications-measures-to-ensure-equivalence-in-access-and-choice-for-disabled-end-users-2/.pdf>.

- 13 Respondents submitted that their customer care departments endeavour to resolve all issues/queries raised at first point of contact and that the requirements of a code of practice should not include these types of contacts as they are not deemed as complaints. In addition it was noted that any issues or queries dealt with within 2 working days should not be classified as a complaint and therefore the detailed requirements in relation to complaints handling as set out in a code of practice should not apply.
- 14 A number of service providers submitted that no further amendments to the code of practice was required as robust internal procedures for end-user complaints handling were already in place and these processes are reflected in their current codes of practice.
- 15 We have considered all submissions and deem our intervention to be appropriate at this time.
- 16 In making this decision ComReg has taken into account the submissions received to the consultation and responses received on foot of requests from ComReg for further information from the respondents in relation to their current customer care contact points and internal processes when dealing with complaints received to their customer care departments.
- 17 In its public consultation (16/118), ComReg addressed three principal areas:
- Electronic Communications Service Providers' codes of practice for complaints handling
  - Reporting of complaints handling statistics
  - Quality standards for complaints handling
- 18 On 13 February 2017, ComReg received eight responses to its consultation document.<sup>12</sup> These were from the following organisations and companies:
- Alternative Operators in the Communications Market (ALTO)
  - Business Carrier Coalition (BCC) – an industry coalition representing AT&T, COLT Technology Services, Orange Business Services and Verizon Enterprise Solutions
  - eircom Limited (trading as 'eir' and 'open eir') and Meteor Mobile Communications Limited (MMC), collectively referred to as 'eir Group' (eir)
  - Sky Ireland (Sky)
  - Telecommunications and Internet Federation (TIF)
  - Three Ireland / Hutchison (Three)
  - Virgin Media Ireland Limited (Virgin Media)
  - Vodafone Ireland (Vodafone)
- 19 ComReg has considered the responses to its consultation and this document sets out ComReg's decision in respect of minimum requirements for Service Providers' codes of practice for complaint handling. In this context it also sets out a definition for a 'complaint'.

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<sup>12</sup> Submissions are published in ComReg Document reference 16/118s at [www.comreg.ie](http://www.comreg.ie)

- 20 ComReg has concluded after careful consideration that Service Providers codes of practice required amendments in the following main areas, full details are outlined in the document and in the Decision Instrument:
- 20.1 Inclusion of all end-user contact points offered for complaints handling, in the code of practice, at a minimum this must include:
    - 20.1.1 A Freephone (1800) number or a 19XX Customer Support Short Code number or a geographic or mobile telephone number or a number that is free to all end-users and
    - 20.1.2 An electronic means of contact, including an e mail address and/or a complaints online form or direct online communication plainly associated with making a complaint that offers the ability to attach a document and does not have a word character restriction and provides a record in a durable form to the end-user and
    - 20.1.3 An Address (excluding an address for an electronic means of contact);
  - 20.2 Complainants cannot be transferred to a telephone line costing more than the cost of a call to a geographic number or mobile telephone number;
  - 20.3 Complaints received must be tracked and recorded (minimum information also required to be recorded) and the end-user is to be provided with a reference number which allows their complaint to be referenced and tracked;
  - 20.4 The complaints acknowledgement is to be within 2 working days and must contain minimum details;
  - 20.5 The response to complaints is to be provided within 10 working days and where a final resolution cannot be provided within 10 working days the end-user is to be provided with a timeframe for resolution and the details of the Service Providers internal escalation process and details for contacting ComReg;
  - 20.6 The mechanism whereby end-users can avail of refunds process is to be specified in the code of practice;
- 21 The Decision also sets out requirements for the publication of Service Providers' code of practice.
- 22 At this time, ComReg is not placing obligations on Service Providers to proactively report complaints statistics to ComReg on a periodic basis.
- 23 We are not obliging Service Providers, at this time, to adopt a customer care accreditation standard such as the Q Mark.

## 3. Consultation responses - ECS codes of practice for complaints handling

### 3.1 Introduction

- 24 Regulation 27 of the Universal Service Regulations refers to dispute resolution, more specifically, that Service Providers shall implement a code of practice for settling unresolved disputes, including complaints, for end-users.<sup>13</sup>
- 25 Proposals raised, and questions asked, in ComReg's consultation were focussed on improving standards in this key area. In particular, it addressed the following:
- first point of contact for complainants
  - a means of recording complaints
  - response timeframe
  - procedures for resolving complaints
  - appropriate cases where reimbursement of payments is made
  - publication of the code of practice

### 3.2 Minimum Requirements

#### Description of the Issue

- 26 ComReg has the legal basis in accordance with Regulation 27(2) of the Universal Service Regulations to specify requirements to be met for the purpose of ensuring compliance with Regulation 27(1) of the Universal Service Regulations and the manner of publication of a code of practice referred to in paragraph (1) including, without limitation, any requirements to ensure that the code of practice and procedures for settling unresolved disputes are fair, prompt, transparent, inexpensive and non-discriminatory.
- 27 ComReg was of the preliminary view that there were issues arising whereby codes of practice did not adequately address the needs of consumers and therefore, ComReg was of the preliminary view that it should set the minimum standards for the codes of practice required to be implemented.
- 28 ComReg therefore asked the following question in the consultation.

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<sup>13</sup> For the purpose of this consultation, the term 'end-user' is defined in accordance with the Framework Regulations. <http://irishstatutebook.ie/eli2013/si/484/made/en/print>



Q. 1 Do you agree with ComReg's preliminary view that it is appropriate to review the minimum standards required in Electronic Communications Providers codes of practice for complaints handling? Please explain your answer providing appropriate evidence.

### **Respondent's views**

29 There were seven respondents to this question. These were:

- ALTO
- BCC
- Eir
- Sky Ireland
- TIF
- Three Ireland
- Virgin Media
- Vodafone

30 ALTO stated that *'It broadly favoured the approach taken by ComReg but submits that the proposals contained within the consultation document seem to significantly over-reach ComReg's remit. ComReg would be best placed fixing the clear and endemic economic wholesale regulation issues apparent in the market and let competition and the markets fix the consumer expectation and service production issues apparent.'*

31 BCC stated that *'While we acknowledge that individual domestic consumers and small business consumers should indeed have access to good quality complaints handling facilities, however we do not agree that that the requirement should extend to providers that exclusively offer services to business customers. We strongly urge Comreg to distinguish between consumer facing and non-consumer facing providers, granting an explicit exemption to the latter or otherwise making clear that this regulation does not apply to them.'*

32 Eir stated that *'ComReg refers to varying approaches being applied by service providers to date in meeting the requirements of regulation 27(1) of the Universal Service Regulations. We note that the regulations themselves set out detailed requirements with respect to timeframes, procedures reimbursement and the retention of records. In light of the fact that these are quite detailed and specific we do not consider it necessary to review these other than perhaps to be more specific, in relation to the timeline for acknowledging complaints.'*

33 Sky stated that *'Sky supports a review of the minimum standards however in our view the obligations proposed by ComReg are too far reaching.'*

34 TIF stated that *'TIF believes that in circumstances where operators fail to address customer complaints in a satisfactory manner it is open to the customer to simply move to another operator in what is a very competitive environment.'*

- 35 Three stated that *'Three agrees with ComReg in that it's time a review was carried out considering the previous decision was made in 2003. Three believes that ComReg should not be mandating the channels within which consumers can make complaints and this should be left to the operator to provide the methods to which its subscriber base demands to use.'*
- 36 Virgin Media stated that *'Rather than imposing detailed rules in relation to the handling of complaints by ECS providers, ComReg could instead provide guidelines on what it considers to be best practice in relation to complaints management.'*
- 37 Vodafone stated that *'Vodafone agree that a consistent approach is necessary to ensure compliance with the Code of Practice requirements. It is appropriate that there is a minimum standard and in general the basic principles established in the current ComReg Code of Practice requirements should be maintained.'*

### **ComReg's position**

- 38 ComReg notes that the majority of respondents supported ComReg's general proposal for a review of the minimum requirements of Service Providers codes of practice.<sup>14</sup> ComReg also notes that a number of respondents do not agree with certain measures proposed. In respect of the individual measures themselves, respondents' views relating to each measure are addressed in the relevant section of this document.
- 39 In preparing for the consultation, ComReg became aware of a number of recurring issues. These centred on levels of user dissatisfaction, the volume of queries and complaints escalated to ComReg and the inconsistent approach to, and implementation of, existing codes of practice. In the absence of clarity for end-users and consistency and minimum standards across these codes, ComReg is of the view that end-users will continue to have a low awareness of the requirement for Service Providers to implement a code of practice and what they can expect in respect of dispute resolution contained in those codes of practice.
- 40 Having considered the responses to this preliminary question, ComReg has decided that it is appropriate to review the minimum standards required to be implemented in Service Providers' codes of practice for complaints handling.
- 41 ComReg notes BCC's proposal to allow exemptions for B2B providers. ComReg notes that Regulation 27 specifically refers to disputes between undertakings and end-users and does not provide for any exemption for business end-users.
- 42 ComReg is aware that in many instances complaints handling procedures vary when dealing with medium sized and large business end-users. ComReg expects that Service Providers would provide the minimum service afforded to other end-users and in addition may wish to implement a higher standard for larger business end-users than that required by a code of practice.

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<sup>14</sup> Regulation 27(1) of the Universal Service Regulations

### 3.3 Definition of Complaint

#### Description of issue

43 Central to the process of complaints handling for end-users is a clear understanding of what a 'complaint' is and what should be categorised and recorded by Service Providers as a complaint. ComReg is aware that some Service Providers do not categorise all issues reported to them by end-users as 'complaints' albeit the end-users intention is to make a complaint. In many cases, this can cause unnecessary delay and confusion which is often compounded by end-user frustration. Based on this, ComReg considers that where an end-user wishes to complain or where an end-user is dissatisfied and wants the Service Provider to take action, the matter should be categorised as a 'complaint'.

44 In the consultation document, ComReg proposed a 'complaint' as meaning

*“ . . . an expression of dissatisfaction made to a service provider relating to its product or services, or relating to the complaints handling process itself, where a response or resolution is explicitly or implicitly expected”.*

45 ComReg expressed the preliminary view that an end-user may have a genuine case for complaint, although it is acknowledged that some complaints may be made as a result of a misunderstanding or an unreasonable expectation of a product or service. ComReg is of the view, however, that when an end-user concern is raised with a Service Provider and where action is sought by the end-user then this should be recorded as a complaint which requires attention.

46 ComReg notes that complaints to Service Providers may be made by end-users that are not customers of the Service Provider; for example, in relation to Regulation 3(4) of the Universal Service Regulations concerning reasonable requests for access at a fixed location (new installations). Other examples of where end-users who may not be customers complain include where complaints are made by end-users when they are former customers, in respect of switching, contractual or billing issues;

- where an end-user ceases their contract with a Service Provider and has an open complaint that is unresolved.
- where an end-user wishes to raise a complaint when the account is ceased regarding the final invoice.

47 ComReg asked the following question in the consultation.

Q2 - Do you agree with ComReg's preliminary views regarding the definition of a 'complaint'?
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### **Respondents' views**

48 There were seven respondents to this question. These were:

- ALTO
- Eir
- Sky
- TIF
- Three
- Virgin Media
- Vodafone

49 ALTO stated that *'This definition is so broad that it is difficult to apply in reality and it may be unworkable. ALTO submits that ComReg appears to be suggesting a general complaint definition that is wildly in excess of the requirements codified by Regulation 27.'*

50 Eir proposed the following definition *"An issue raised whether verbal or written, relating to a product or service, that remains unresolved following the initial attempt to resolve the issue'.*

51 Sky stated that *'ComReg's definition of "complaints" in our view, is too widely drawn and goes above and beyond the requirements set out set out in Regulation 27 of the Regulations. Sky Ireland appreciates the rationale for ComReg not restricting the definition of complaint to include just end-users however it is our view that the definition proposed by ComReg goes above and beyond the scope permitted by the Regulations.*

52 TIF stated that *'The definition is far too wide. Each member of TIF receives several thousand calls per week to their telephone line. Under the rules proposed by ComReg each such call where any expression of dissatisfaction is expressed would require members to (1) send a bespoke acknowledgement to the customer and (2) track the complaint and report to ComReg. The definition should mirror the Regulations which include a much narrower definition'.*

53 Three stated that *'Three does not agree with ComReg's preliminary views regarding the definition of a complaint.'* Three defined the 'complaint' as *'an expression of dissatisfaction made to a service provide relating to its products or services or relating to the complaints handling process itself where a review and resolution was offered in a timely manner to the end user but was not acceptable or satisfactory'.*

54 Virgin Media stated that *'a complaint should only arise when there is an explicit expectation of a response or a resolution. This is because, without an explicit expression of a response, there may be ambiguity about whether the customer wanted the ECS provider to treat the matter as a complaint or not.'*

- 55 Vodafone stated that *'Vodafone acknowledges the requirement for ComReg to develop a consistent definition and that any interaction where the end-user seeks their service provider to resolve a complaint, by its nature, requires the service provider to take action. However, the definition as proposed, covering "any expression of dissatisfaction" is extremely broad and gives rise to a number of practical challenges. Vodafone stated that 'A practical challenge also arises where a service provider is required to judge whether a response or resolution is "implicitly" expected.*
- 56 In relation to the application to non-customers a number of respondents submitted the view that the definition proposed goes above and beyond the scope permitted in the regulations. It was also noted that that some Service Providers internal systems are not set up to track and monitor issues before the individual becomes a customer.

### **ComReg's position**

- 57 ComReg is of the view that there is need for clarity and a common approach to complaint resolution.
- 58 ComReg has considered the definition as set out in the Framework Regulation in respect of end-users and for the purposes of Regulation 27 of the Universal Service Regulations where an end-user is a user not providing public communications networks or publicly available electronic communications services where "user" means a legal entity or natural person using or requesting a publicly available electronic communications service.
- 59 ComReg has considered the views of respondents in relation to the resolution of issues and queries at first point of contact and does not propose that these contacts form part of the complaints or complaints escalation process. However where the end-user has contacted the Service Provider and the issue remains unresolved then ComReg considers that it is at that stage the matter is a complaint in accordance with the definition as set out in the Decision Instrument.
- 60 Having carefully considered information collated as part of this consultative process, from submissions made and the two alternative definitions proposed, ComReg has revised its definition accordingly and notes that the end-user must express dissatisfaction:

*'Complaint' means an issue raised by an end-user to an undertaking relating to that undertaking's product or service or its complaints handling process where the issue remains unresolved following an initial attempt by the undertaking to resolve it or where there has been no attempt by the undertaking to resolve it and the end-user expresses dissatisfaction, through one of the channels set out in the code of practice, that the issue remains unresolved.*

### 3.4 First point of contact for complainants

#### Description of issue

- 61 Regulation 27(1) (a) of the Universal Service Regulations states that a code of practice will make provision for a first point of contact for complainants. ComReg has reviewed the contact points available to end-users and has found a disparity amongst Service Providers regarding what constituted a 'first point of contact.'
- 62 ComReg's review of sample codes found that first points of contact included, but were not limited to, telephone, email, in writing, online form and web chat. ComReg's preliminary view was that the use of public discussion forums do not qualify as a first point of contact for complainants. However, a complaints handling service that offers a facility for the end-user to privately message ("PM") the Service Provider online and the message to be handled by the Service Provider and not a community of visitors may constitute a valid first point of contact.
- 63 ComReg considered that making contact with a Service Provider should be simple, inexpensive and consistent across all such providers. While, for the purposes of transparency all methods should be included, it considered that all Service Providers should offer, at a minimum, a telephone number, an email address and an address.
- 64 ComReg stated that costs should be consistent across Service Providers in this instance. ComReg welcomed that many Service Providers use freephone (1800) and numbers of 19XX customer support short codes for end-users.
- 65 While preferable that such contacts be free to end-users, it proposed that Service Providers must indicate the maximum charges applying and/or clearly indicate if such calls are considered within inclusive minutes of price plans.
- 66 ComReg asked three questions on this topic of contact points and potential charges incurred in the consultation.

Q3 - Do you agree with ComReg's preliminary view that as a minimum, the first point of contact for Electronic Communications end-users should include a Freephone (1800) number or a 19XX customer support short code or geographic telephone number, an email address and an address?

Please explain your answer providing appropriate evidence including any cost implications to support your view.

Q4 - Do you agree with ComReg's preliminary view that if a provider chooses to use a number other than a Freephone (1800) number, a 19XX customer support short code or geographic telephone number then the provider must indicate maximum charges that can apply and whether calls to such numbers are generally within inclusive minutes or price plans?

Q5 - Do you agree with ComReg's preliminary view that a complainant cannot be transferred by the Electronic Communications provider to any form of information technology support line, if the transfer results in the complainant incurring a premium rate or higher call cost rate than the standard basic rate involved in making a complaint?

## Question 3

### Respondents' views

67 There were seven respondents to this question. These were:

- ALTO,
- Eir
- Sky Ireland
- TIF
- Three Ireland
- Virgin Media
- Vodafone

68 ALTO stated that *'ALTO does not agree with ComReg's proposals. The proposals contained in this area of the consultation are excessive.'* It further submits *'the proposals exceed the requirements set out in the European Union (Consumer Information, Cancellation and Other Rights) Regulations, 2013 implementing Directive 2011/83/EU on Consumer Rights. This is an equivocal maximum standards harmonisation instrument. This means that Member States, including Ireland and ComReg cannot go beyond, or add to, the Directive's harmonised provision in national legislation.'*

69 Eir stated that *'Eir agrees that ComReg should specify that the traditional means of raising a complaint by phone and by post must continue to be provided, however ComReg should be less prescriptive in respect of electronic means including e mail. Eir rationalised its email contact point in recent years through the use of an on-line form'*.

70 Sky stated that *'In Sky Ireland's view If two of the three methods of raising a complaint this will enable consumers to easily make a complaint and have sufficient choice as to their preferred method of communication. The prescriptive approach adopted by ComReg will in our view result in significant costs being incurred by some service providers , including Sky, will expose customers to unnecessary security risks and will not serve the ultimate objective of dealing with the customers concern as well as possible. In our view by insisting on service providers calling out the costs of non-Geographic Numbers or making a Freephone (1800) number or a 19XX Customer Support Short Code or Geographic telephone number ComReg would be going beyond the harmonised provisions of the Directive which is simply not permissible.'*

71 TIF stated that *'All operators do not currently accept complaints via all three media/methods. Implementing new solutions would be costly to implement and would expose customers to unnecessary security risks. TIF submits that allowing two of the three methods should suffice.'*

- 72 Three stated that *‘Three does not agree with ComReg’s preliminary view. Three believes that its COP complies with ComReg’s decision D16/03 as it clearly details the customer care phone number 1913, along with an address for a letter, a link to the contact us page where a customer can send us an e mail with a query or complaint along with other methods of contacting us.’*
- 73 Virgin Media stated that *‘Virgin Media agrees that the first point of contact should include a Freephone number (1800) number or a 19XX Customer Support Short Code or Geographic telephone number, an e mail and an address. Taking these factors into account, Virgin Media stated that ‘Promoting customers to select “complaints resolution” in the IVR is likely to channel a large volume of calls towards the complaint handling option that would have otherwise been addressed efficiently our its Customer Care agents, and which in most cases would have required no further action.’*
- 74 Vodafone stated that *‘Vodafone agree on proposals around phone and post. We suggest that online forms and web chat customer should have equivalence to email services. These services deliver enhanced customer engagement features and permit real time resolution of customer issues.’*

### **ComReg’s position**

- 75 ComReg may specify requirements for the purpose of ensuring compliance or to ensure that the code of practice and procedures for settling unresolved disputes are fair, prompt, transparent, inexpensive and non-discriminatory.
- 76 After careful consideration ComReg’s view is that evidence of an end-user initiating contact with a Service Provider via a designated complaints telephone number, complaints email address /complaints online form or any direct channel of online communication plainly associated with making a complaint in its code of practice, will itself create a presumption of a complaint having been made and will facilitate more transparent and efficient processes.
- 77 ComReg is cognisant of the obligations on Service Providers to provide email address details in accordance with the European Union (Online Dispute Resolution for Consumer Disputes) Regulations 2016<sup>15</sup>, the European Communities Directive 2000/31/EC Regulations 2003<sup>16</sup> and the European Communities (Consumer Information Cancellation and other Rights) Regulation 2013<sup>17</sup> and expects that Service Providers are aware of and will fulfil their obligations in this regard.
- 78 Pursuant to Regulation 27 of the Universal Service Regulations and in particular to the requirement for a first point of contact for dispute resolution, ComReg considers that a number of channels are necessary to meet the needs of all end-users and it sets out a requirement for an electronic means of contact that includes an email address and/or another electronic means of contact which is without any limitations or restrictions on attaching documents and which has no

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<sup>15</sup> Regulation 14(1) of the European Union ( Online Dispute Resolution for Consumer Dispute) Regulations 2016 S.I.No.32/2016

<sup>16</sup> Regulation 7 ( c) European Communities Directive 2000/31/EC Regulations 2003 S.I.68/2003

<sup>17</sup> Regulation 7 of the EU European Communities (Consumer Information Cancellation and other Rights) Regulation 2013/S.I. 484 of 2013



word character restriction and provides a record in durable form to the end-user.

- 79 However, ComReg considers that at a more advanced stage of the complaint process the availability of an email address is often necessary for the unsettled dispute to progress towards resolution and therefore this is reflected in the decision instrument.
- 80 ComReg is of the view that Service Providers should ensure end-users are provided with complaint contact information and that, in accordance with Regulation 27, inexpensive methods of contact are made available for the purpose of making a complaint must be included in a code of practice to ensure transparency. These should include at a minimum:
1. A Freephone (1800) number or a 19XX Customer Support Short Code number or a geographic or mobile telephone number or a number that is free to all end-users.
  2. An electronic means of contact - being a method of conveyance of the complaint over the internet without any limitations or restrictions on attaching documents and with no word character restriction and provides a record in durable form to the end-user.
  3. An Address (excluding an address for an electronic means of contact)

81 ComReg notes the concerns of respondents to the consultation regarding the impracticalities of routing complaints via the IVR and has decided not to implement this measure.

## Question 4

### Respondents' views

82 There were six respondents to this question. These were:

- ALTO
- Eir
- Sky
- Three
- Virgin Media
- Vodafone

83 ALTO stated that '*ALTO adopts a neutral position in relation to this proposal. In the event that an operator decided to have a premium rate number or other form of share costs number, then information about calling charges should be made known to the caller. Having reviewed Directive 2011/83/EU on Consumer Rights ALTO submits that ComReg's proposed measure could be legally impermissible.*'

84 Eir stated that '*eir agrees with ComReg's proposal that codes of practice must*

*indicate the charges that may apply for calling a number that is charged at a rate exceeding the standard rate, however it would be impractical to communicate the maximum charge or the treatment of such calls in respect of inclusive call allowances’.*

- 85 Sky stated that *‘Please note our reservations as to whether such a measure is permissible under Directive 2011/83/EU on Consumer Rights.’* Sky continues on to say that *‘In addition, a number of providers such as Sky will allow calls to their customer service line for free to their talk service customers. This does not appear to have been considered as part of the impact assessment conducted by ComReg into this matter.’*
- 86 Three stated that *‘Three agrees with ComReg’s preliminary view that if a provider chooses to a number other than a Freephone (1800), a 19XX Customer Support Short Code or Geographic telephone number , then the provider must indicate maximum charges that can apply and whether calls to such numbers are generally within inclusive minutes of price plans.’*
- 87 Virgin Media stated that *‘Virgin media uses 1908 for customer care, including to register complaints.’*
- 88 Vodafone stated that *‘Vodafone agree in principle that it is important to be clear about the costs of calling customer care. ComReg need to consider the complexities that arise depending on the calling customers calling scenarios’.*

## **ComReg’s position**

- 89 ComReg is of the view that Service Providers do not need to specify details of maximum charges in their code of practice as end-users must be able to contact a Service Providers customer care team on the following numbers - Freephone (1800) number or a 19XX Customer Support Short Code or a geographic or mobile number or a number that is free to all end-users.

## **Question 5**

### **Respondents’ views**

- 90 There were six respondents to this question. These were:

- ALTO
- Eir
- Sky
- Three
- Virgin Media
- Vodafone

- 91 There was general agreement from these six for the proposal.

## **ComReg's position**

- 92 ComReg considers that no end-user seeking to make a complaint with their Service Provider should be advised to contact another department or transferred to another operator where a higher call cost would be incurred.

### **3.5 A means of recording complaints**

#### **Description of the issue**

- 93 Regulation 27(1)(b) of the Universal Service Regulations states that a code of practice will make provision for a means for recording complaints.
- 94 In its consultation document, ComReg set out its proposal for the minimum information that must be recorded in relation to a complaint as follows:
- a. The complainant's name, phone number and contact details;
  - b. The complainant's account number;
  - c. The category/classification of issue e.g. billing issue;
  - d. The date when the complaint was initiated;
  - e. A copy of the complaint (or notes made of telephone/oral communications with the complainant relating to the complaint);
  - f. Details of any subsequent communication with the complainant including details of the response to the complaint;
  - g. Documentation, such as letters, bills, etc.;
  - h. Details of the resolution of the complaint and any determination in respect of the complaint; and
  - i. The closure date of the complaint.
- 95 ComReg's preliminary view was that adhering to such a framework would mean that the information available in respect of all complaints will be more uniform.
- 96 ComReg encourages the introduction and use of a unique reference number. Where this is both available and applied, it is ComReg's experience that this makes tracking of individual complaints easier for all those involved in the complaints process.
- 97 Reflecting these points, ComReg set out four separate parts to Question 6 in the consultation.

Q6 - (a) Do you agree with ComReg's preliminary view that all Electronic Communications providers should have a customer care management system to record end-user complaints with the ability to attach all relevant material pertaining to the complaint?

(b) Do you agree with ComReg's preliminary view that the minimum information as set out in Paragraph 53 is necessary/sufficient?

(c) What is your view on the use of a reference number where end-users raise a complaint with their Electronic Communications providers?

(d) For Electronic Communications providers – please explain your answer and provide appropriate evidence for your answers above including details of the system you currently operate when customers contact your company with a complaint, the minimum information you currently record and retain and an outline of your use of unique reference numbers, as applicable.

### **Respondents' views**

98 There were seven respondents to this question. These were:

- ALTO
- Eir
- Sky
- TIF
- Three
- Virgin Media
- Vodafone

### **Respondents' views (Question 6a)**

99 ALTO stated that '*It is not appropriate at all for ComReg to be prescriptive about an operator's ability to permit consumers to attach relevant materials.*'

100 Eir stated that '*Eir operates such a system and agrees that such a system would be necessary for any Service Provider to support and comply with its own code of practice.*'

101 Sky stated that '*In our view it is not appropriate to be prescriptive about the ability to attach relevant material.*'

102 TIF stated that '*TIF members' internal systems are not set up to track and monitor issues before the individual becomes a customer.*'

103 Three stated that '*Three agrees with ComReg's preliminary view. It also stated it would be completely disproportionate to require a separate management system for complaints.*'

104 Virgin Media stated that '*Virgin Media would, as a matter of practice, ensure that such systems are in place.*'

105 Vodafone stated that *'Vodafone agree that operators should have a system to record customer complaints. We do not believe it is necessary to capture minimum information in respect of routine queries as outlined in question 2. Vodafone assign unique complaint reference once an issue is recorded as a complaint.'*

#### **Respondents' views (Question 6b)**

106 While the majority of respondents expressed the view that this is a reasonable request. Eir submitted that the requirement to record the telephone number must be qualified whilst Sky submitted that it would be sufficient to include an account number which will enable the Service Provider to identify the customer.

#### **Respondents' views (Question 6c)**

107 Three respondents submitted that that they already assign reference numbers.

108 Two respondents submitted that such a number is not necessary/appropriate or will not result in better tracking of the complaint.

#### **Respondents' views (Question 6d)**

109 There were five respondents to this question. These were:

- ALTO
- Eir
- Sky
- Three
- Virgin Media

110 ALTO stated *'that operators generally do record and interface under a number of discrete areas. Those areas are: 1. Customer Account Number; 2. Issue Summary; 3. Notes; 4. Line of Business; 5. Products Offered to customer; 6. Fault classification; and 7. Engineering scheduler/Customer appointment/Update Listing.'*

111 Eir stated that *'All customer's interactions and contacts are recorded on eir's contact management system, including complaints. Complaints are recorded by creating a case which generates a unique reference number. Any notes relating to a customer query, issue or complaint are also recorded on this system. Notes can also be recorded for contact where applicable.'*<sup>18</sup>

112 Sky stated that *'Sky Ireland manages complaints via our 'My Help Request (MHR)' tool. Where we need to take action to resolve an issue, a MHR is created and marked as a complaint.'*

113 Three stated that *'Three uses a robust customer care management system which meets and exceeds the suggestions brought forward by ComReg which is used by all customer care agents regardless of channel chosen by the customer.'*

114 Virgin Media stated that '*Virgin Medias complaints handling team has a robust process in place to ensure that complaints are handled efficiently and our customer is kept in the loop.*'

### **ComReg's position**

115 ComReg may specify requirements for the purpose of ensuring compliance or to ensure that the code of practice and procedures for settling unresolved disputes are fair, prompt, inexpensive and non-discriminatory.

116 We understand that Service Providers endeavour to offer a first point of contact resolution to end-users. ComReg does not wish to require Service Providers to record as complaints all contacts from end-users making contact in relation to a general query/issue, however ComReg considers that all communications relating to complaints should be recorded in its customer care system or other system(s).

117 Regardless of the technology used, ComReg considers that all Service Providers should be able to demonstrate that it has a system/systems that records, and tracks all complaints including all communications and material pertaining to that complaint. This will assist the Service Provider's customer care team and ensure the end-user is able to be kept up-to-date on the status of the complaint on a regular basis even if no progress has been made at a particular stage of the complaints handling process.

118 Concerns were raised by some respondents in respect of the costs of introducing such a measure. ComReg is not mandating a requirement on Service Providers to develop a separate management system for complaints, however all correspondence in relation to an end-user's complaint should be accessible to the Service Provider from a Service Providers central system/s, if required.

119 ComReg considers that the minimum information to be recorded during the life cycle of the complaint should not pose an undue burden on Service Providers and ComReg has reviewed the requirement based on the feedback from respondents. ComReg expects that all complainants will have a contact phone number for the purposes of communicating with them. The minimum information that must be recorded in relation to a complaint is:

- The complainant's name, account number and contact details including a phone number;
- The date the complaint was raised by the end-user and dates of all communication throughout the life cycle of the complaint to final closure;
- A copy of the written complaint or notes made from the voice / online communications with the complainant relating to the complaint;
- Any communication with the complainant including details of the response to the complaint, final resolution and any determination in respect of the complaint with associated documentation;

120 ComReg notes from the responses received that some Service Providers currently provide unique reference numbers. ComReg is of the view that assigning unique reference numbers to a complaint can assist in managing a complaint. ComReg is not proposing to prescribe how Service Providers create and assign a unique reference number to manage and track a complaint. However, ComReg requires Service Providers to set out in their Code of Practice details of the unique reference number that will be assigned to identify the individual end-user's complaint and to provide this to the end-user as part of the complaint acknowledgement when the complaint is raised.

121 ComReg wishes to ensure that all end-users are familiar with the process, and that once an end-user complains, the end-user must be informed by their Service Provider if they are to be supplied with a complaint reference number or use their account number or other identifier.

### **3.6 Response timeframe**

#### **Description of the issue**

122 It is ComReg's direct experience that in some cases end-users contact the ComReg customer care team solely because no resolution, communication or update has been provided by a Service Provider.

123 Through its analysis of sample code of practice, ComReg is aware that different timelines apply when Service Providers are compared.

124 ComReg is also aware that Service Providers vary in their approach to acknowledging contacts received. While some Service Providers provide personalised acknowledgements of complaints there is also the custom of issuing an automatically generated template for acknowledgements to complainants.

125 Based on its experience and review of information, ComReg expressed the preliminary view in its public consultation that there should be two requirements for responding to and resolving a complaint while in some cases these may be provided at the same time:

- a response acknowledging the complaint to be issued within two working days (Complaint Acknowledgement)
- a response and resolution to the subject matter of the complaint where a complaint could not be resolved in the complaint acknowledgement timeframe to be set 2-9 days (Complaint Response and Resolution) with end-user being advised on Day 10 that they can raise the matter with ComReg

126 ComReg also proposed that each code of practice set out, and end-users be provided with, details of a complaint's escalation path within the Service Provider's customer care department, for further investigation of, and a final resolution to, the complaint. In ComReg's opinion, where the process was outlined clearly and succinctly in a code of practice, the number of complaints currently received by ComReg's Customer Care Team would decrease.

127 In Question 7, ComReg reflected both aspects of Section 27(1) (c)

Q7 - Do you agree with ComReg's preliminary view that two working days is a reasonable maximum timeframe for Electronic Communications providers to provide a unique complaints acknowledgement for written complaints (including a reference number, if appropriate)?

Do you agree that where a complaints response and resolution is not available at the time of issuing the complaint acknowledgement that a response and resolution that addresses all aspects of the complaint raised should be provided by the Electronic Communications provider between 2 and 9 working days?

### Respondents' views

128 There were seven respondents to this question. These were:

- ALTO
- Eir
- Sky
- TIF
- Three
- Virgin Media
- Vodafone

### Question 7 (Part 1)

129 ALTO stated '*That neither of ComReg's preliminary view nor its view in terms of Complaint Acknowledgement. Please also see ALTO's remarks regarding the proportionality of ComReg's proposals. ALTO also stated that 'in theory, the timelines proposed by ComReg appear to be reasonable but the over-prescriptive regulatory proposals will not work for many operators.'*

130 Eir stated that '*eir agrees with the preliminary view that two working days is a reasonable timeframe in which an acknowledgement of the complaint will be issued.'*

131 Sky stated that '*In our view the vast majority of complaints are resolved when they are first received by the service provider making an outbound call to the customer. In our view this requirement should only apply where the complaint remains unresolved'*

132 TIF stated that '*The rules should not apply if a complaint is resolved within the 2 day period (first time resolution). The wide definition of "complaint" could result in TIF members sending thousands of such responses.'*

133 Three stated that '*Three believes for e mail complaints, an auto-response that issues to a customer which acknowledges receipt of their complaint and details the complaint as submitted by the customer in the email using the contact us form, meets the requirements of the Complaints Acknowledgement requirement.'*



134 Virgin Media stated that *'Virgin Media agrees that two working days as a reasonable timeframe for ECS providers to acknowledge complaints and to provide the customer with a unique case ID. However it also stated 'However Virgin Media disagrees with ComReg's proposal set out in paragraph 66 that an automated response template response that does not reflect the actual details of the individual complaint is not acceptable as a Complaint acknowledgement.'*

135 Vodafone stated that *'It is important to avoid overly prescriptive and complex requirements around complaint acknowledgement and resolution. It is impossible to develop an exact science ensuring all questions, queries and complaints can be resolved within set timeframes. We note ComReg has rejected the use of automated responses however an immediate automated response provides assurance that the correspondence has been received and provided that sets a clear expectation as to when further contact will follow – that should suffice.'*

### **Question 7 (part 2)**

136 Sky stated that *'In our view it would be more appropriate to allow service providers to resolve matters in a timely manner and in circumstances where the case remains open or where we have reached an impasse and are at deadlock that the service provider should be required to issue a deadlock letter.. Some cases do naturally take time to resolve and that needs to be understood and accepted however, the correct management of the case and agreeing closure with the customer is a reasonable and fair principal to work towards.'*

137 Three stated that *'Three aims to provide a resolution to any query/complaint as soon as possible. This will usually happen within the 10 working day timeframe except in exceptional circumstances.'*

138 Virgin Media stated that *'Currently Regulation 27(1)c of the Users' Rights Regulations provides a 10-day response time for resolving complaints, or in exceptional cases where the case has not yet been resolved, for the operator to contact the customer and advise them of the reasons for the delay. ComReg has arbitrarily proposed to reduce that timeframe 9 working days. Virgin Media considers that the 10 working days provided for in the Regulations remain appropriate, and therefore disagrees with ComReg's proposal to shorten the response time for complaints to 9 working days.'*

### **ComReg's position**

139 Based on Regulation 27(1) (c) of the Universal Service Regulations, ComReg considers that Service Provider's code of practice should outline its internal procedures for acknowledging, responding to, resolving or escalating, a complaint. A code of practice should provide a defined complaints handling process which makes the resolution process simple for the complainant to follow.

- 140 Through the direct experience of its consumer care team, ComReg is aware that in many cases end-users make contact solely because no direct personalised communication, update or resolution, has been provided by the Service Provider. Part of the complaints process, ComReg contends, is clarity around timelines and meeting consumer expectation around how long it should take for an average complaint to be acknowledged and resolved and whilst ComReg is mindful that the Regulations state that the timeframe for referring the customer to the Regulator shall be no more than 10 working days and had reflected that in the 2-9 working day timeframe will accept 10 days.
- 141 ComReg has carefully considered the views of all respondents. Consequently, it is aware that in replying to the vast majority of issues/queries raised, Service Providers strive to deal with, and efficiently close, these (first contact resolution).. Taking into account the feedback provided, ComReg accepts that online live interaction that allows for end-users to attach documents, get a copy of the online communication and does not restrict the length of the communication for example web chat could also meet the requirement which is set out as follows:
- 142 The agent when communicating with the end-user either by phone or by electronic means or in writing must provide the following minimum complaint acknowledgement information :
- Acknowledgement of the complaint,
  - Confirmation that the complaint is recorded,
  - A timeframe for Complaint Response and Resolution and any other steps in the process,
  - Details of the unique reference number to identify and track the individual complaint
  - Appropriate contact details for the end-user to use in order for the consumer to contact the Service Provider
  - Next steps in the process
  - Details of the internet/world wide web link to the undertaking's Code of Practice
- 143 This will ensure that the customer's complaint has been accepted and that an acknowledgement will be provided to the customer for the complaint being raised.
- 144 ComReg specifies that the timeframe for acknowledging a complaint should be no more than two working days from the date that the complaint is received and a communication in the form of a Complaint Acknowledgement should be issued to all end-users within that time frame.

- 145 ComReg specifies that the timeframe for response /resolution of the complaint should be no more than ten working days from the date the complaint is received and a communication in the form of a Complaint Response should be issued from the undertaking to the end-user. The Complaint Response must address all aspects of the complaint raised by the end-user and provide reasons, where Complaint Resolution is not provided as part of the response, for any delay and the steps being undertaken by the undertaking in investigating and resolving the complaint together with a provisional resolution date where available;
- 146 A Complaint Resolution means a final resolution to the subject matter of the complaint which is satisfactory to the end-user and the undertaking.

### **3.7 Resolution Timeframes**

#### **Description of the issue**

- 147 ComReg accepts that not all complaints can be resolved quickly. To give consumers a clear understanding of the process involved therefore it is imperative to set out in a code of practice what happens if complaints remain unresolved after ten working days. Here, it expects that the end-user in question would be notified of the delay and its cause. Furthermore, ComReg would expect that the next steps of the process be clearly outlined with a provisional resolution date.
- 148 ComReg proposed that if this process is outlined for end-users in a transparent manner in the code of practice, the number of complaints from end-users currently received by ComReg will decrease.
- 149 In its public consultation, it suggested that in addition to the escalation process, further information regarding contact details of the areas/departments to which a complaint can be escalated should also be included.
- 150 ComReg asked the following question in the consultation.

Q8 - Do you agree with ComReg's preliminary view that the provision of information by the Electronic Communications provider in respect to the internal/external escalation process where the end-user remains dissatisfied with the resolution should include contact details of the areas/departments to which a complaint can be escalated (i.e. a telephone number and an email address)?

Please explain your answer providing appropriate evidence including any cost implications to support your view.

#### **Respondents' views**

- 151 There were five respondents to this question. These were:

- ALTO
- Eir
- Sky
- Three

- Vodafone

- 152 ALTO stated that *'ALTO agree that a form of escalation process is desirable but manifestly not in the prescribed form (i.e. a telephone number and email address) presented in the ComReg consultation paper.'*
- 153 Eir stated that *'While eir appreciates the intent of ComReg's proposal, we consider it to be 'too prescriptive while relying on the assumption that the customer would be passed from one department to another within customer care systems. High quality customer care is typically provided through a single point of contact through centralised contact points.'*
- 154 Sky stated that *'Sky has a natural escalation process aimed at resolving at first point of contact escalating as required. We do not publish this escalation process as we would not want customers circumventing the process of managing the issue, escalating where inappropriate again impacting resolution times.'*
- 155 Three stated that *'Three agrees with ComReg's preliminary view that the provision of information by the Electronic Communications Providers in respect to the internal/external escalation process where the end-user remains dissatisfied with the resolution should include contact details of the areas/departments to which a complaint can be escalated (i.e. a telephone number and email address).'*
- 156 Vodafone stated that *'The escalation path 'is currently provided for within the Code of Practice. It is not appropriate to require operators to specify telephone numbers at escalation level as escalation points may not be resourced to manage inbound calling lines'.*

### **ComReg's position**

- 157 ComReg accepts that a timeframe of ten working days within which the Service Provider should be able to bring the majority of matters to resolution. For complaints which remain unresolved outside this time limit, it expressed the view that a code of practice should provide information on the internal escalation process where the end-user remains dissatisfied with the resolution as well as details on how the end-user could contact ComReg should they believe the complaint has not been handled in accordance with of the Service Provider's code of practice.
- 158 After careful consideration of all views expressed, ComReg has decided in that the internal escalation processes where a person(s) handling the complaint conducts a further investigation of the complaint with a view to final resolution of the complaint, should be outlined in the code of practice. Specific phone and email contact information on how an end-user can escalate their complaint which remains unresolved (ten working day period) need not be set out in the code of practice but phone and email contact details must be provided to the individual complainant when requested at this stage of the process.

### **3.8 Appropriate cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made**

#### **Description of the issue**

159 Regulation 27(1)(d) of the Universal Service Regulations states that a code of practice will make provision for appropriate cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made.

160 Depending on the nature of the complaint, Service Providers can and often do offer refunds to end-users, as appropriate. ComReg proposes no change to this custom. It does, however, contend that details in respect of this practice should be included in individual provider's codes of practice.

161 In this public consultation, ComReg did not seek to determine the levels of payments of compensation and/or in settlement of loss. What it did expect, however, was that all Service Providers update their respective codes of practice to include detailed provisions, as applicable. In particular, it should be specified in respect of delays experienced in porting.

162 ComReg asked one question in respect of refunds and compensation in the consultation.

#### Question 9

Do you agree with ComReg's preliminary view that all Electronic Communications providers should set out a minimum level of refunds in appropriate cases in their scheme (or equivalent policy in compliance with Regulation 27.1 (d) of the *Users' Rights Regulations*) and apply those refunds to end-users without end-users having to specifically make a request?

If you do not agree, please provide alternative suggestions that comply with the requirements of Regulation 27.1 (d) of the *Users' Rights Regulations* and estimates of resources required to meet the requirement.

#### **Respondents' views**

163 There were seven respondents to this question. These were:

- ALTO
- Eir
- Sky
- TIF
- Three
- Virgin Media
- Vodafone

- 164 ALTO stated that *'ALTO agrees in part with ComReg's view, save for the areas where ComReg has made a decision already without taking into account the views of industry concerning automated compensation.'*
- 165 Eir stated that *'eir does not agree with the proposal that end-users should be refunded in the absence of a request.'*
- 166 Sky stated that *'We agree with ComReg's view that as part of the resolution of a complaint it may be appropriate to offer refunds to end-users in certain circumstances.'*
- 167 TIF stated that *'Setting a minimum level of compensation goes above and beyond the requirements in the Regulations. If ComReg were to mandate automated refunds which would be by definition apply to all customers that might be possibly have been impacted by an issue, it would impose significant costs on the sector which in such a competitive retail market would ultimately result in higher prices for consumers.'*
- 168 Three stated that *'By having a scheme in place where refunds are provided automatically this may actually drive complaints overall instead of a reduction. If a Service Provider can show that they are responsible, fair and transparent in their complaint handling process and resolving a customer's complaint, their methods of refunds should be left to their discretion.'*
- 169 Virgin Media stated that *'Virgin media disagrees with ComReg's preliminary view that all ECS providers should be required to set out a minimum level of refunds and apply those refunds to end-users without end-users having to specifically make a request.'*
- 170 Vodafone stated that, *'It is an oversimplification to require that the operator applies a credit without the end-user having to make a request or to require operators to specify minimum refunds for other different categories of complaint. The reality is that complaints are dealt with on a case by case basis and refunds where appropriate will be specific to the broad range of circumstances that can arise.'*

### **ComReg's position**

- 171 ComReg understands that if an end-users complaint is resolved, where possible, within ten working days, the levels of refunds, compensation and payments in settlement of losses will decrease.
- 172 ComReg contends that for a scheme or any policy set out in a Service Provider's code of practice to be in full compliance with Regulation 27(1) (d) of the Universal Service Regulations, it must communicate to end-users the process with respect to refunds, for example if the end-user have to request a refund or is it on a case by case basis. Being transparent about the approach will establish a realistic level of expectation as to the final outcome of a complaints. Containing such specifics is indicative that the scheme is to be provided fairly and promptly to all end-users.

173 In 2017, ComReg plans to carry out a public consultation in respect of the European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations, 2015 (S.I. No 343 of 2015) and ComReg's nomination as an ADR Entity. It is envisaged that the current service which ComReg offers through its consumer care team will form part of the ADR process, when adopted.

174 While this decision deals with the complaint process between the service provider and the end-user the consultation on ADR may result in a further review of the complaints handling processes and codes of practice to reflect ADR when finalised and as appropriate.

175 After careful review of all information submitted in response to Question 9, and taking into account the consultative process to take place on ADR, ComReg is deferring further consideration of refunds, compensation and related issues until another appropriate juncture. However, ComReg is of the view that the code of practice must specify any mechanism whereby end-users can avail of refunds.

### **3.8 Requirements and manner of publication of the code of practice**

#### **Description of issue**

176 Regulation 27(2) of the Universal Service Regulations provides that ComReg may specify requirements to ensure that the code of practice and procedures for settling unresolved disputes and the manner of publication of a code of practice are fair, prompt, transparent, inexpensive and non-discriminatory.

177 ComReg considers that all codes of practice should be easily accessible to all end-users.

178 In addition, ComReg maintains that such codes should be easily located on the homepage of a Service Provider's website and clearly marked accordingly.

179 Regulation 14(2) (g) of the Universal Service Regulations states that a contract shall specify in a clear, comprehensive and easily accessible form 'the means of initiating procedures for settlement of disputes in accordance with Regulation 27. ComReg expects therefore that end-users will be made aware of the details of their Service Provider's code of practice for complaints handling when they receive their contract.

180 ComReg asked three questions regarding the requirements and manner of publication of the code of practice.

Q10 - Do you agree with ComReg's preliminary view that in order for the Electronic Communications providers' codes of practice to be accessible, the codes should be available in accessible formats to end-users? If you do not agree, please provide alternative suggestions that comply with the requirements of Regulation 27.1 (d) of the Users' Rights Regulations and estimates of resources required to meet the requirement.

Q11 - Do you agree with ComReg's preliminary view that an Electronic Communications provider's code of practice should be accessible from an Electronic Communications provider's Home page of the corporate website, social media and web pages?

Q12 - Do you agree with ComReg's preliminary view that the code of practice should be accessible using the search terms 'code of practice' or 'complaint' or 'how to make a complaint' within its corporate website, social media and web pages established by the Electronic Communications provider for dealing directly with customer complaints? If you do not agree, please explain your answer providing appropriate evidence including alternative suggestions that comply with the requirements of Regulation 27.2 of the Universal Service Regulations and estimates of resources required to meet the requirement.

## Question 10

### Respondents' views

181 There were six respondents to this question. These were:

- ALTO
- Eir
- Sky
- Three
- Virgin Media
- Vodafone

182 ALTO, Eir, Sky, Virgin Media and Vodafone provided responses agreeing with/or not objecting to ComReg's preliminary view.

183 Three stated that *'Three agrees that the COP should be available and accessible for its subscribers. as per ComReg Decision D04/14, section 4.2 Accessible Information this requirement is already there however as ComReg has raised this issue for consultation, Three would request based on its own experience of demand, if all formats as suggested is actually required to be present on the Service Providers websites.'*

## Question 11

### Respondents' views

184 There were six respondents to this question. These were:

- ALTO
- Eir



- Sky
- Three
- Virgin Media
- Vodafone

185 ALTO stated that *'ALTO has some concerns over the expansiveness of the suggestion that the ECS code of conduct/practice be made available on platforms and on media over and above on the corporate website. It might be that operators of the social media accounts could send links to the code in question, but mandating the location of the codes elsewhere is not appropriate.'*

186 Eir stated that *'eir agrees that these Codes of Practice should be provided in an accessible format from Electronic Communications Providers' Home Pages.'*

187 Sky stated that *'Whilst we understand 'the logic for the Code of Conduct being accessible from the home page of a service provider's corporate website we do not understand why or how this could be extended to include social media and webpages. In effect this would include all website (e.g. for corporate social responsibility).'*

188 Three stated that *'Three agrees in part to ComReg's preliminary view in that the COP should be accessible from the homepage of the Service Providers website and social media websites that the Service Provider has ability and control to edit. Three's terms and conditions clearly advises customers as to how they can initiate a dispute and refers to the COP in the terms.'*

189 Virgin Media stated that *'Virgin Media has no objection to providing a direct link to the customer complaints code of practice on the Home Page of our website. 'Virgin Media does not have specific social media accounts set up for handling customer complaints, but has general social media accounts where customers can report issues and chat with customer care agents. These are general purpose commercial social media accounts, and it is not practical or, in Virgin Media's view, appropriate to provide a direct link to the code of practice for handling complaints on these social media profile pages.'*

190 Vodafone stated that *'Vodafone agree with this requirement.'*

## **Question 12**

### **Respondents' views**

191 There were six respondents to this question. These were:

- ALTO
- Eir
- Sky
- Three
- Virgin Media
- Vodafone

192 ALTO stated that *'In ALTO's view it is more than sufficient if a search on the corporate website of the electronic service provider returns a link to the code of practice. Some of the social media preliminary views expressed by ComReg seem not to be practically achievable and would exceed reasonable resource requirements. Not all operators have social media resources staffing complaint lines on a 24/7 basis consequently ComReg must look at its preliminary view/views expressed carefully.'*

193 Eir stated that *'eir considers it reasonable to expect that a search for key words that will appear in the title of the Code of Practice would enable end-users to navigate to the Code of Practice.'*

194 Sky refers to its response to Question 11. Furthermore, it stated *'it is unclear to us if it is even possible to have a search facility set up on all social media pages. In our view it is more than sufficient if a search on the corporate website of the service provider returns a link to the code of practice.'*

195 Three stated that *'Three already has the COP using the search terms provided when the search bar on the top right of webpage. This search bar is available on every webpage of the website. Not all social media channels have a search bar available therefore it should be left to the discretion of the Service Providers to choose where, how and if it should be published on social media.'*

196 Vodafone stated that *'Vodafone believe there should be a clear path for customers to the Code of Practice. Prescriptive search terms are not warranted.'*

197 Virgin Media stated that *'Virgin Media has no objection to providing a direct link to the customer complaints code of practice on the home page of our web site.'*

### **ComReg's position**

198 ComReg has carefully considered responses submitted to these three questions which centre on access to a code of practice.

199 ComReg contends that on request by an end-user, undertakings shall without undue delay, provide a copy of the code of practice to the end-user in a durable medium.

200 ComReg is minded that undertakings must ensure that the code of practice is directly accessible to end-users from the Home page of their corporate website, and web pages established by the undertakings for dealing directly with customer complaints where available.

201 Furthermore, ComReg has decided that a code of practice in an accessible format should be available on request.

202 Regarding the capability of social media to be a platform carrying relevant information, ComReg is reserving its decision at this juncture. It will, however, continue to monitor this situation.

## 4. Reporting of complaints handling statistics

### Description of issue

203 In its public consultation document, ComReg proposed to collate information from Service Providers on their complaints handling (volumes and types of complaints). The rationale for such a proposal was to publish this information at regular intervals.

204 At present, there is no comparable publication available to end-users setting out the level of complaints made by end-users of Electronic Communications to their Service Providers.

205 In the consultation document, ComReg stated the structure of what it envisaged to be in a quarterly report. It proposed that each Service Provider submit the following information:

- the number of complaints from end-users in the quarterly period under review including the type of issue raised;
- the number of days open;
- Key Performance Indicators (KPIs) reported internally; and as agreed with ComReg as appropriate
- the levels of satisfaction recorded for end-users who contacted the provider.
- In addition ComReg requested that any standards accredited or valid at that time period
- In this context, ComReg would also seek to collate information on the number of contacts to enable it to establish an overall ratio of contacts to complaints.

206 On this matter, ComReg asked one question.

Q13 - Do you agree with ComReg's preliminary view that all Electronic Communications providers should submit to ComReg on a quarterly basis details of numbers of complaints made by their end-users (including the type of issue raised), the number of days open, Key Performance Indicators (KPIs) reported internally as agreed with ComReg as appropriate and levels of satisfaction recorded for end-users contacting the relevant service provider as well as any standards accredited or valid for the quarter?

If you disagree, please explain your answer providing appropriate evidence.

### Respondents' views

207 There were seven respondents to this question. These were:

- ALTO
- Eir

- Sky
- TIF
- Three
- Virgin Media
- Vodafone

208 ALTO stated that *'ALTO does not agree with the preliminary view. ALTO is at a loss to know precisely what the legal basis is for ComReg to require providers to submit data on a quarterly basis in the manner almost prescribed within the Consultation paper. It well may be that this proposal emulates a MLOP scenario which is not ideal.'*

209 Eir stated that *'With respect to customer satisfaction measures, such measures can be very subjective and dependent on the methodology and medium used to capture satisfaction ratings. It would be inappropriate to draw conclusions to make comparisons where variations in approaches to satisfaction ratings prevail.'*

210 Sky stated that *'The legal basis on which ComReg is relying in order to impose this requirement is unclear. The regulations make no reference to such reporting.'*

211 TIF stated that *'The Regulations make no reference to such reporting. This would require significant additional work for each service provider with little or no added benefit for ComReg or customers.'*

212 Three stated that *'Three strongly disagree with this proposal for a number of reasons.'*

213 Virgin Media stated that *'Virgin Media disagrees with the proposal that ECS providers should be required to provide this information. Virgin Media considers that ComReg's current practice of monitoring and publishing its own complaint data on a quarterly basis is a sufficient means of monitoring the incidence and escalation of complaints, and that there is no need for ComReg to intervene in complaints handling at an operator level.'*

214 Vodafone stated that *'Vodafone believe this is an unwarranted high level of investigation and urge ComReg to reconsider its proposals. It is our strongly held view that complaints statistics that ComReg publish on a quarterly basis are sufficient to ensure ComReg are meeting their objective to publish comparable complaint information.'*

### **ComReg's position**

215 ComReg is of the opinion that greater transparency is welcome in the activities of Electronic Communications Service Providers generally and does not agree that end-users are not interested in the volume of complaints that Service Providers handle. Prior to ComReg's decision to publish the quarterly statistics ComReg was regularly in receipt of requests under Freedom of Information requesting details of number of complaints by Service Providers. ComReg also considers that increased availability of information on complaints and complaints handling would be of great benefit to end-users.

216 In order to consider further the responses to Question 13 and the alleged impact on resources and the ability to audit, ComReg is not placing obligations on operators at this time but may return to this matter. In the interim, ComReg notes that it may collect relevant information using its information gathering powers as relevant.

## 5. Quality standards for complaints handling

### Introduction

217 This section of the consultation deals with Service Providers obtaining accreditation from a relevant authority in order to give assurance to their customers that they offer high quality complaints handling services.

218 In 2010, ComReg worked with the Excellence Ireland Quality Association (EIQA) to publish 'The Q Mark for Customer Service Complaints Handling.' Such an accreditation is a certified continuous improvement programme for Electronic Communications Service Providers in Ireland. It is designed as a framework for consistency in practices dealing with end-user complaints across Ireland's electronic communications sector.

219 Currently, the Q Mark for Customer Service Complaints Handling is a voluntary standard. No Service Provider has applied for - and thus, attained - the Q Mark.

220 On the Q Mark, ComReg asked one question.

Q14 - Do you agree with ComReg's preliminary view that all Electronic Communications providers should be required to apply for 'The Q Mark for Customer Service Complaints Handling?'

If you disagree, please explain your answer providing appropriate evidence and set out details of what alternative standards are in place that you have attained (or are aware of), the means of certification and duration of the standard.

### Respondents' views

221 There were seven respondents to this question. These were:

- ALTO
- Eir
- Sky
- TIF
- Three
- Virgin Media
- Vodafone

222 ALTO stated that '*ALTO does not agree with this preliminary view or proposal at all. ComReg is not entitled to mandate a certification standard that operates on commercial terms as a matter of law.*'

223 Eir stated that '*eir does not agree with ComReg's preliminary view.*'

224 Sky stated that '*The legal basis on which ComReg is seeking to impose such a certification standard on service providers is unclear.*'

225 TIF stated that *'The legal basis on which ComReg is seeking to impose such a certification standard on service providers is unclear'*.

226 Three stated that *'Three is open to learning more about what involves. However Three would have an issue with ComReg mandating that operators apply for this Q Mark.'*

227 Virgin Media stated that *'While an ECS provider may find it useful to engage an external auditor to test its complaints handling process, in Virgin Media's view it is not appropriate, nor is it necessary, for ComReg to require ECS providers to apply for a quality standard administered by a third-party'*.

228 Vodafone stated that *'We are not clear on the basis for mandating the ComReg standard. It is our view that the ComReg standard should remain voluntary.'*

### **ComReg's position**

229 For ComReg, the Q Mark would ensure transparency with respect to levels of customer service available to customers of Electronic Communications Service Providers.

230 ComReg is cognisant that other accreditations exist and acknowledges that some providers may wish to have those other customer service standards in place.

231 ComReg has carefully considered views expressed in response to this question. While noting that no Electronic Communications Service Provider currently has a Q Mark nor has communicated that they have any similar accreditation, it has decided not to put in place obligations in respect of a quality standard for complaints handling, at this time. Instead, it intends to continue monitoring customer service standards going forward and return to accreditation at a future date.

## 6. Regulatory Impact Assessment (RIA) – respondents' views

232 As part of its consultative process, ComReg carried out a Regulatory Impact Assessment (RIA) and published a draft RIA on the options proposed.

233 In its consultation document, ComReg addressed three principal areas. These were as follows:

- Electronic Communications providers codes of practice for complaints handling;
- Reporting of complaints handling statistics;
- Quality standard for complaints handling.

234 The RIA followed the same format. It identified and analysed the options presented therein.

235 One question was asked about the RIA presented in the consultation document.

Q15 - Do you agree with ComReg's draft high level assessment of the impact of the proposed regulatory options? Are there any other factors that you consider to be relevant?

Please explain your answer providing appropriate evidence and costings, if applicable.

### Respondents' views

236 There were six respondents to this question. These were:

- ALTO
- BCC
- Eir
- Sky
- Three
- Virgin Media

### Objective 1 - Electronic Communications Providers' codes of practice for complaints handling



## Option 1

- 237 ALTO stated that *'Paragraph 115 of the Regulatory Impact Assessment deals with the incurring costs by operators, but is deficient in that it cannot conclude what the outlays will be. This is linked to the breadth of ComReg's definitions as impugned above, renders this option unworkable. Paragraph 116 of the Regulatory Impact Assessment concludes that certain assessment concludes that certain unspecified costs may be offset against others. ComReg provides no basis of the assertion. Another business issue for Option 1; and Paragraph 117 of the Regulatory Impact Assessment stated that once introduced and functioning, on-going additional costs of standardising responses would seem unlikely. ALTO must disagree with this assessment.'*
- 238 The BCC stated *'that the Regulatory Impact Assessment (RIA prepared by ComReg in Section 6 of this consultation document requires it to adhere to the six principles of Better Regulation. In this regard it appears that ComReg has not only failed "To ensure that a RIA is proportionate and not overly burdensome, a common sense approach is taken, it has also failed to meet three of the six principles, these being Necessity, Effectiveness and Proportionality.'*
- 239 Eir stated that *'The regulatory impact assessment (RIA) lacks quantitative vigour and instead makes a number of speculative assertions. For instance it assumes that ComReg will achieve a standardised approach to complaint handling even though ComReg acknowledges that it may not be possible to solve all complaints within the proposed 10 working day target. Indeed, eir and likely other operators are already working to the 10 day target with a view ensuring customer satisfaction and to avoiding the requirement to advise customers that they can escalate the complaint to ComReg. Similarly it assumes that savings can be made by substituting one form of contact with another.'*
- 240 Sky stated that *'The Regulatory Impact Assessment provides in paragraph 115 that that providing a standard number of contact points may incur costs but it is difficult to know at the outset what these might be. The Regulatory Impact Assessment goes on to look at the cost impacts of providing a telephone number and written channel for complaints but doesn't appear to consider the impact of an e mail communication channel. In our view the impact assessment is incomplete as it has not considered the costs of implementing such a solution or the security risks associated with allowing all call centre agents to access outbound e mails. ComReg states, at paragraph 16 of the Consultation that increased costs may be offset against others, balancing out expenditure over time. There is no evidence provided to support this position. At paragraph 117 of the consultation ComReg states that once introduced and functioning ongoing additional costs of standardising responses would seem unlikely. We would disagree with this assessment, in particular where ComReg is stating that a basic Complaint Acknowledgement is not sufficient.'*

241 Three stated that 'point 112) *Three notes ComReg's view on different approaches across Electronic Communication Providers. Three believes that allowing the different approaches allows competition in the marketplace. As noted by ComReg there is a variant in the information provided by the code of practice but Three exceeds its requirements and does not want to see the quality of our current code of practice fall. Re point 113 Three has a dedicated channel for complaints through email which is found on [thethree.ie/contact us](http://thethree.ie/contact-us) page. The form which the customer populates provides the ability for customers to detail their issue, complaint or compliment and submit it to Three – on submission the customer receives an automatic acknowledgment via email which includes the contents of the information as supplied by the customer. Three doesn't provide an actual email address to its customers – the email is accommodated via the form. This method records all interactions with the customer and the customer has email evidence of same.*

242 Virgin Media stated that '*Virgin media disagrees with ComReg's assessment. For reasons explained throughout this response, Virgin Media considers that ComReg's proposed interventions are in many cases unnecessary or disproportionate. Please see response to Q1.*'

### **Option 2**

243 ALTO stated that '*It appears to ALTO that ComReg attempts to disregard the status quo ante on the basis that transparency is obscured if the codes are not aligned between all operators. The view being that an end-user is therefore unable to compare service providers when making their initial choice, and they are often unaware what level of service they can expect This does not appear to be a sensible approach.*'

244 Three stated that '*Retaining the status quo is reasonable as Three outlined above the minimum standard for complaint handling as per ComReg's Decision in 2003 are replicated in ComReg's proposed measures. Of our own initiative Three is constantly reviewing processes in place with particular reference to customer channels and the options available to customers.*'

245 Sky stated that '*ComReg disregards the status quo on the basis that transparency is obscured if the codes aren't aligned between operators. The view being that an end-user is therefore unable to compare service providers when making their initial choice, and they are often unaware what level of service they can expect.*'

## **Objective 2 - Reporting of complaints handlings statistics**

### **Option 1**

246 ALTO stated that '*Paragraph 133 of the Consultation provides that information provision carries no cost for the end-user. ComReg is of the view that measures are currently in place industry wide in relation to customer satisfaction, complaints measurements, etc. Consequently, ComReg erroneously believes that the cost to industry of providing such data is minimised, that servicing requests for such is merely a resource issue as the information is already being generated for in-house purposes.*

247 Eir stated that *'With respect to the proposed reporting requirements, ComReg refers to its publication of the trends in queries and complaints that are escalated to it and suggests that similar transparency on the part of service providers would "greatly enhance the transparency of the sector overall". As outlined above, Eir considers end-users and indeed ComReg itself to be provided with ample information from the quarterly reports that ComReg produces. Furthermore, the publication of such detailed reports could act to inhibit competition and unduly skew the public perception of service providers. For instance the proposal to publish queries and complaints similar to ComReg's current reports, could cast a service provider in a poor light merely because it has a more formal means of capturing queries which might otherwise go unrecorded by other providers.'*

248 Sky stated that *'ComReg is of the view that measures are currently in place industry-wide in relation to customer satisfaction, complaints measurements etc.'*

249 Three stated that *'As detailed in the answer to question 13, Three disagrees with this objective and option 2 is the preferred option.'*

### **Option 2**

250 ALTO stated that *'Paragraph 137 of the Consultation paper ComReg suggests that the lack of accessibility to information carries no obvious benefits. We would argue that in the absence of very clear guidelines and auditing of each service provider there is a real risk that there will be disparity between the reporting provided by each service provider. This will lead to the service providers who tightly monitor complaints and report on those complaints accurately being punished for their diligence.'*

251 Sky stated that *'ComReg provides at paragraph 137 that lack of accessibility to information carries no obvious benefits. We would argue that in the absence of very clear guidelines and auditing of each service provider there will be real disparity between the reporting provided by each service provider. In our view the real benefit for customers is seeing the number of complaints that could not be resolved by the service provider and needed to be escalated to ComReg.'*

### **Objective 3 - Quality standard for complaints handling**

#### **Option 1**

252 ALTO stated that *'At paragraph 145 of the Consultation paper ComReg maintains that being accredited highlights one service provider over another as it indicates that a certain level of service is provided and acknowledged. This is a deeply problematic issue as has been seen in previous ComReg initiatives. While in concept ALTO members agree with this we argue that it should be up to each operator to decide whether it applies for certification unilaterally. If all operators must meet the required standard then this is no longer a point of differentiation, also no operator treats a product set the same way.'*

253 Eir stated that *'As regards the Q Mark proposal, as outlined in response to question 14, ComReg has provided insufficient detail for stakeholders to consider the merits of the proposal. In the absence of such detail it is not possible for service providers to determine how well the Q Mark would measure up relative to their existing quality control systems or indeed against alternative proprietary standards.'*

254 Sky stated that *'It should be up to each operator to decide whether it applies for certification as if all operators must meet the required standard then this is no longer a point of differentiation.'*

255 Three stated that *'As noted in question 14 Three does not agree with the mandatory applications as proposed.'*

## **Option 2**

256 ALTO stated that *'At paragraph 148 of the Consultation paper ComReg suggests that the costs of the application and assessment for the Q Mark is minimal compared to the benefits that it can bring the individual service provider. ALTO submits that if this is actually so, then it should not be necessary to mandate service providers to apply for the certification. ALTO submits that benefits of having such a certification are really minimal and would not be taken into account by customers when deciding upon a service provider, in particular when all service providers are mandated to apply for the certification.'*

257 Sky stated that *'In our view the benefits of having such a certification are minimal and would not be taken into account by customers when deciding upon a service provider.'*

## **ComReg's position**

258 ComReg is cognisant that the consultation invited respondents to provide cost details in their responses to support any arguments. ComReg notes that while respondents put forward views that the RIA lacked 'quantitative vigour' it did not receive any details to substantiate their claims in respect of the proposals other than a reference to an impact on resources with no monetary or other quantifiable indications being provided.

259 A significant number of respondents believed that the reporting of statistics and the quality standard were too onerous. ComReg has taken the comments into consideration and is not placing obligations at this time in relation to these matters. The final RIA reflects this.

260 As set out in Sections 4 and 5 the proposals which relate to reporting of complaints handling statistics and a quality accreditation are not subject to a decision at this time and therefore are not be addressed further.

## 7. Decision Instrument – respondents' views

### Description of the issue

261 In its public consultation document, ComReg presented its draft Decision Instrument. Views were invited on both the contents and the proposed date that the Decision Instrument would take effect.

262 Two questions were asked in this regard. The first referred to the contents of the Decision Instrument while the second referred to the effective date.

Q16 - Do you agree or disagree with the wording of ComReg's draft Decision Instrument? Please explain your answer providing appropriate evidence.

Q 17. Do you agree with the effective date? Please explain your answer providing appropriate evidence

### Respondents' views

Question 16

263 There were six respondents to this question. These were:

- ALTO
- BCC
- Eir
- Sky
- Three
- Virgin Media

264 ALTO stated that '*ALTO does not agree with the wording contained in the draft Decision Instrument. ALTO submits that given the above comments, that the draft Decision requires significant change, if not a fundamental re-working. ALTO does not agree that these proposals should apply to business communications providers, where there is no clear need for such regulation.*

265 The BCC stated:

- Change scope as set out in 1.1. of the Instrument to refer explicitly to Domestic and Small Business consumers, and to exclude B2B providers. Some example drafting is included below.
- "This Direction and Decision Instrument (Decision Instrument) is hereby made by ComReg for the purpose of ensuring access to a standardised code of practice for complaints handling which is efficient, transparent and consistent, that end-users domestic and small business consumers are informed in respect of the complaints handling services provided by ECN and ECS Providers (Electronic Communications Providers) who serve domestic and small business consumers (excluding those providers which provide business to business service exclusively), that Electronic Communications Providers such Providers avail of accredited quality standards for their customer care process.'

- Removes the reference to “end-user” from the Decision Instrument (both in the definitions set out in 2.1 and throughout the document), and replace all instances of “end-user” with “Domestic and Small Business Consumer.”

266 Eir stated:

- In respect of the Definitions section, eir disagrees with ComReg’s definition of a complaint - See eir response to question 2 above.
- In respect of section 4.1 of the Draft Decision Notice please note the response to question 3 above.
- In respect of section 4.3 please note the response to question 4.
- In respect of section 4.6 of the Draft Decision Notice 4.6 please note the response to question 6(b).
- In respect of section 4.8 of the Draft Decision Notice please note the response to question 7 above.
- In respect of section 4.14 of the Draft Decision Notice, please note the response to question 13 above.
- In respect of Section 4.15 of the Draft Decision Notice,, please note the response to question 14.

*267 Sky stated that ‘In our view the wording in the draft Decision instrument requires significant change and indeed may even require a complete overhaul.’*

*268 Three stated that ‘Three disagrees with the wording of ComReg’s draft Decision Instrument for the reasons outlined in the above responses. Three believes that once all concerns raised throughout this consultation process are addressed by ComReg, then we can review and input into a revised Decision Instrument.’*

*269 Virgin Media stated that ‘Virgin Media suggests that rather than imposing detailed rules in relation to the handling of complaints by ECS providers, ComReg should instead provide guidelines on what it considers to be best practice in relation to complaints management.’*

### **Respondents’ views**

Question 17

270 There were four respondents to this question. These were:

- ALTO
- Eir
- Sky
- Three

271 ALTO stated '*That effective date is only appropriate in circumstances where the reporting requirements and certification are removed from the Decision Instrument.*'

272 Eir stated that '*eir is proposing a far less intrusive approach to specifying the requirements of service providers' complaint handling codes of practice, that ComReg continues to rely on the extensive information that is available to it from escalated complaints that it receives absent any specific additional reporting obligations on service providers and the maintenance of a voluntary approach to the Q Mark and similar standards. On this basis eir considers a six month timeframe for compliance to be reasonable. Failing this eir would call for further consultation and a robust RIA before imposing any further obligations and related compliance.*'

273 Three stated that '*Three believes that we cannot agree to an effective date, when the final Decision Instrument will dictate if new and unnecessary requirements, most notably the reporting requirements are mandated on operators and as a result will require IT development / build. Furthermore the reporting requirements refers to KPIs but these KPIs are not detailed – operators have their own KPIs and these would not be consistent across the industry. If this is the case then Three would need more than 6 months to implement such changes. ComReg should let the market drive customer experience and let customers decide on which service provider best fits their service needs including complaint handling.*'

274 Sky stated that '*the effective date is only appropriate in circumstances where the reporting requirements and the certification are removed from the Decision Instrument.*'

### **ComReg's position**

275 Having considered carefully the responses of the consultation ComReg remains of the view that intervention is required in relation to the minimum requirements of a code of practice.

276 ComReg notes respondents' views in relation to costs/ regulatory burden and staffing and has decided at this time to defer any decision in relation to Service Providers reporting on consumer complaint statistics to ComReg and the accreditation of the Q Mark.

277 ComReg has also taken into account any views on implementation date and in light of the reduced set of obligations when compared with those proposed, ComReg is of the view that a compliance date of six months from now is appropriate.

## Annex: 1 Legal Basis

The legal basis is, as provided for, in the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (the "Regulations"), the functions and objectives assigned to ComReg by sections 10 and 12 of the Communications Regulations Act 2002 (as amended) and the tasks and objectives of ComReg, as provided for, in Regulation 12 and 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.

1 A.1 The Universal Service Directive ("USD") as amended<sup>19</sup> was transposed into national law by the Regulations on 1 July 2011. Specifically, Article 34 of the USD provides for "Out-of-Court dispute Resolution" and provides that Member States shall ensure that transparent, simple and inexpensive out-of-court dispute resolution procedures are available for dealing with unresolved disputes, involving consumers, relating to issues covered by this directive.

2 A.1.1 The recitals to the Directive provide that "effective procedures should be available to deal with disputes between consumers and service providers" (Recital 47) and Recital (49) provides "the directive should provide for elements of consumer protection including clear contract terms and dispute resolution

3 A.1.2 The legal basis for the Regulator to specify requirements to be complied with by undertakings, in implementing a code of practice and procedures for resolving disputes, is set out in the Regulations. Provisions of particular relevance are set out below.

### **Regulation 27 of the Regulations provides:**

*27(1) Without prejudice to any legal rights of action which may apply, an undertaking providing electronic communications networks or services shall implement a code of practice for settling unresolved disputes, including, complaints, between end-users and the undertaking arising under these regulations and relating to the contractual conditions or performance of contracts concerning the supply of electronic communications networks or services and any other issues arising under, or covered by these regulations. The code of practice shall make provision for the following matters-*

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<sup>19</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009



- (a) *first point of contact for complainants*
- (b) *a means of recording complaints*
- (c) *a timeframe within which the undertaking concerned shall respond to complaints,*
- (d) *procedures for resolving for complaints, including a timeframe for referring the customer to the Regulator which shall be no more than 10 working days from the day a complaint is first notified,*
- (e) *appropriate cases where reimbursements of payments, payments of compensation and payments in settlement of losses incurred will be made, and*
- (f) *retention of records of complaints ( including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination) for a period of not less than one year following the resolution of the complaint.*

*27(2) The Regulator may specify the requirements to be met for the purposes of ensuring compliance with paragraph (1) and the manner of publication of a code of practice referred to in paragraph (1), including without limitation any requirements to ensure that the code of practice and procedures for settling unresolved disputes are fair, prompt, transparent, inexpensive and non-discriminatory.*

*27(3) The Regulator may issue directions to an undertaking to which paragraph (1) relates to require that undertaking to make such alterations or additions to its code of practice as the Regulator considers appropriate and specifies in the directions.*

**Regulation 30 of the Regulations further provides:**

*The Regulator may, for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under these Regulations, issue directions to an undertaking to do or refrain from doing anything which the Regulator specifies in the direction.*

Section 10 and Section 12 of the Communications Regulation Act, 2002 (as amended) sets out ComReg's statutory functions and the objectives to be pursued on achieving in its statutory powers.

Section 10 of the Communications Regulation Act, 2002 (as amended) sets out the functions of ComReg.

10 (1) the functions of the Commission shall be -

(a) to ensure compliance by undertakings with obligations in relation to the supply of and access to electronic communications services, electronic communications networks and associated facilities and the transmission of such services on such networks

3) The Commission shall have all such powers as are necessary for or incidental to the performance of its functions under this Act.

Section 12 of the Communications Regulation Act, 2002 (as amended) outlines the objectives of ComReg, including as follows:

*12. (1) the objectives of the Commission in exercising its functions shall be as follows—*

*(A) in relation to the provision of electronic communications networks, electronic communications services and associated facilities—*

*(i) to promote competition,*

*(ii) to contribute to the development of the internal market, and*

*(iii) to promote the interests of users within the Community,*

*[...]*

*12. (2) In relation to the objectives referred to in subsection (1)(a), the Commission shall take all reasonable measures which are aimed at achieving those objectives, including—*

*(c) in so far as the promotion of competition is concerned—*

*(ii) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved,*

ComReg is also mindful of section 12(3) of the Communications Regulation Act, 2002 which provides:

*12. (3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.*

# Annex: 2 Decision Instrument

## 1. STATUTORY FUNCTIONS AND POWERS

This Decision and Decision Instrument (“Decision Instrument”) is hereby made by ComReg for the purposes of imposing minimum requirements to ensure access to and compliance with a uniform code of practice for complaints handling which is fair, prompt, transparent inexpensive and non- discriminatory and to ensure that end-users are informed in respect of the complaints handling services provided by ECN and ECS Providers (Electronic Communications Providers).

This Decision and Decision Instrument is made:

1. Pursuant to Regulations 27(1), 27(2) and 27(3) of The Universal Service Regulations ;
2. Pursuant to Regulation 30 of the Universal Service Regulations;
3. Having regard to the provisions of Regulation 27 of the *European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013*
4. Having regard to the analysis and reasoning set out by ComReg in Decision No D13/01 (Document ODTR 01/67) *Codes of Practice for the Handling of Consumer Complaints by Telecommunications operators* and in Decision D16/03 (Document 03/86) *Users’ Rights to Communications Services – Protecting users in the developing communications market* (25 July 2003):
5. Having regard to the analysis and reasoning set out by ComReg in ComReg 16/118 *ECS Complaints Handling Code of Practice’* (22 December 2016): and
6. Having regard to the analysis and reasoning set out in the responses to consultation and final decision document entitled ComReg Document No. 17/62 which shall, where appropriate, be construed together with this Decision Instrument.
7. Having regard to the Commission’s functions and objectives under sections 10 and 12 respectively of the Communications Regulation Act 2002 (as amended) and Regulations 12 and 16 of the European Communities ( Electronic Communications Networks and Services) (Framework) Regulations 2011.
8. Having, pursuant to Section 13 of the 2002 Act, complied with Ministerial Policy Directions where applicable.

## 2. DEFINITIONS

The following words and phrases shall have the following meaning unless the context otherwise requires

“The 2002 Act” means the Communications Regulation Act 2002 (as amended)

‘Complaint’ means an issue raised by an end-user to an undertaking relating to that undertakings product or service or its complaints handling process where the issue remains unresolved following an initial attempt *by the undertaking to resolve it* or where there has been no attempt by the undertaking to resolve it and the end-user expresses dissatisfaction, through one of the channels set out in the code of practice, that the issue remains unresolved.

‘Complainant’ means the end-user making the complaint and includes non-customers.

‘Complaint Acknowledgment’ means a response from an undertaking, in the same medium the complaint was made which includes the following minimum information:

- (i) Acknowledgement of the complaint,
- (ii) Confirmation that the complaint is recorded,
- (iii) A timeframe for Complaint Response and Resolution and any other steps in the process,
- (iv) Details of the unique reference number to identify and track the individual complaint
- (v) Appropriate contact details for the end-user to use in order for the consumer to contact the undertaking
- (vi) Next steps in the process
- (vii) Details of the internet/world wide web link to the Code of Practice

‘Complaint Response’ means a communication from the undertaking to the end-user that addresses all aspects of the complaint raised by the end-user and provides reasons, where Complaint Resolution is not provided as part of the response, for any delay and the steps being undertaken by the undertaking in investigating and resolving the complaint together with a provisional resolution date where available.

‘Proposed Complaint Resolution’ means a resolution offered by an undertaking to an end-user to resolve the complaint.

‘ComReg’ means the Commission for Communications Regulation established under Section 6 of the 2002 Act.

“Decision Instrument” means this Decision Instrument ComReg Document 17/62 D04/17 which is made pursuant to, inter alia, Regulation 27 of the Universal Service Regulations.

“Distance Selling Regulations” means the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013, S.I. No. 484 of 2013.

‘Electronic Communications Provider’ means an undertaking providing Electronic Communications Networks (ECN) or Electronic Communications Service (ECS);

‘Electronic means of contact’ is a method of conveyance of the complaint over the internet or world wide web without any limitations or restrictions on attaching documents, with no word character restriction and provides the end-user with a record in durable form.

‘Framework Regulations’ means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011, S.I. No. 333 of 2011.

‘Internal Escalation Process’ means the process where a person or persons handling the complaint conducts a further investigation of the complaint with a view to final resolution of the complaint.

“Ministerial Policy Directions” Means the policy Directions made by Dermot Ahern TD, then Minister for Communications, Marine and Natural Resources, pursuant to Section 13 of the Communications Regulation Act 2002 ( as amended), dated 21 February 2003 and 26 March 2004.

‘Undertaking’ has the same meaning as it has in Regulation 2 of the Framework Regulations.

‘Unique reference number’ is a number that is used to exclusively identify and locate records in relation to the individual end user’s complaint. It can be an account number, phone number or other unique number.

‘The Universal Service Regulations’ means the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations, S.I. 337 of 2011.

References to European Union legislation or to Irish primary legislation or secondary legislation shall be construed as references to that legislation as amended from time to time.

Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise admits or requires.

Examples shall not be construed to limit, expressly or by implication, the matters they illustrate.

Other terms that are used in this Decision Instrument shall have the same meaning as when they are used in the Universal Service Regulations and the Framework Regulations, unless the context otherwise admits or requires.

### **3. SCOPE**

3.1 This Decision Instrument applies to all undertakings providing electronic communications networks (ECN) or services (ECS).

This Decision Instrument specifies minimum requirements to be implemented and complied with by undertakings in complaint handling codes of practice.

## **4. Application - Electronic Communications Providers' codes of practice**

### ***4.1 First point of contact for Complainants***

4.1.1 Undertakings shall ensure that their Code of Practice contains details of all first points of contact offered to end-users and the following minimum information shall be included through which end-users can make contact:

- (i) A Freephone (1800) number or a 19XX Customer Support Short Code number or a geographic or mobile telephone number or a number that is free to all end-users and
- (ii) An electronic means of contact and
- (iii) An address (excluding an address for an electronic means of contact);

4.1.2 While a complaint is being made, an undertaking shall not transfer a complainant, to any form of information technology support line or other service if the transfer results in the complainant incurring a premium rate or higher call cost rate than the standard rate of calling a geographic or mobile telephone number involved in making a complaint.

### ***4.2 A means of recording complaints***

4.2.1 Undertakings shall ensure that all complaints are recorded and tracked regardless of contact medium.

4.2.2 Undertakings shall specify in their code of practice how they record and track complaints and provide details of how a unique reference number is used in their complaint tracking process.

4.2.3 Undertakings shall ensure the minimum information recorded in relation to a complaint includes:

- (i) The complainant's name, account number and contact details including a phone number;
- (ii) The date the complaint was raised by the end-user and dates of all communication throughout the life cycle of the complaint to final closure;
- (iii) A copy of the written complaint or notes made from the voice / online communications with the complainant relating to the complaint;

- (iv) All communications with the complainant including details of the response to the complaint, final resolution and any determination in respect of the complaint with associated documentation;

### **4.3 Response timeframes and Resolution Procedures**

**4.3.1** Undertakings shall inform End-Users of the code of practice at the first point of contact on making a complaint.<sup>20</sup>

An undertaking shall ensure that:

- (i) The Complaints Acknowledgement is provided to the end-user (including the communication of the unique identifier to be used in respect to complaints and an internet/world wide web link to their code of practice) within a maximum timeframe of two Working Days;
- (ii) The Complaints Response is provided to the end-user within a maximum timeframe of 10 Working Days;
- (iii) The Proposed Complaints Resolution responds to all aspects of the complaint raised;
- (iv) Where a Complaint remains unresolved after 10 Working days the escalations team must communicate to the end-user an email address to progress the complaint in addition to any other forms of contact.

### **4.4 Refunds and reimbursements**

4.4.1 Undertakings shall specify in their code of practice the mechanism whereby end-users can avail of refunds.

### **4.5 Manner of publication**

4.5.1 Undertakings shall ensure that a direct link to the code of practice is clearly displayed on the Home page of the corporate website, and web pages established by the Undertakings for dealing directly with end-user complaints including web pages established by third parties where possible.

4.5.2 Undertakings shall ensure that the code of practice is returned or displayed to end-users using search terms which include 'code of practice', 'complaint', 'how to make a complaint' or 'how to complain', using the search facility of its corporate website and any web pages created for dealing directly with end-user complaints.

4.5.3 Undertakings shall ensure that details of an internet/web link to the code of practice is included in the Complaint Acknowledgement; and on receipt of a request from an end-user, undertakings shall without undue delay, provide a copy of the code of practice to the end-user in a format accessible to that end-user.

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<sup>20</sup> In accordance with Regulation 27 (1) (c) of the Universal Service Regulations.

## **5. Compliance**

5.1.1 Undertakings shall comply with this Decision Instrument and shall confirm and demonstrate to ComReg's satisfaction that they are in compliance with this Decision Instrument by 31 December 2017.

- **STATUTORY POWERS NOT AFFECTED**
  - Nothing in this Decision Instrument shall operate to limit ComReg in the exercise and performance of its statutory powers or duties conferred on it under any primary or secondary legislation (in force prior to or after the Effective Date of this Decision Instrument) from time to time.
  
- **MAINTENANCE OF OBLIGATIONS**
  - If any section, clause or provision or portion thereof contained in this Decision Instrument is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that section, clause or provision or portion thereof shall, to the extent required, be severed from this Decision Instrument and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this Decision Instrument, and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.
  
- **EFFECTIVE DATE AND DURATION**
  - This Decision and Decision Instrument is effective from the date of its publication (the Effective Date), and shall remain in full force unless otherwise amended by ComReg.



## Annex: 3 Final Regulatory Impact Assessment (“RIA”)

A 3.1 ComReg’s approach to RIA follows the RIA Guidelines<sup>21</sup> published by us in August 2007 and takes into account the “Better Regulation” programme<sup>22</sup> and international best practice (for example, considering developments about RIA published by the European Commission<sup>23</sup> and the OECD).

A 3.2 Section 13(1) of the Communications Regulation Acts 2002 to 2011 requires us to comply with Ministerial Policy Directions. In this regard, Ministerial Policy Direction 6 of February 2003<sup>24</sup> requires that, before deciding to impose regulatory obligations on undertakings, we must conduct a RIA in accordance with European and international best practice and otherwise in accordance with measures that may be adopted under the “Better Regulation” programme.

A 3.3 This RIA is an overall analysis of the likely effect of proposed regulation or regulatory change. Its purpose is to help identify regulatory options, and should establish whether the proposed regulatory approach is likely to have the desired impact in terms of promotion of the interests of consumers through ensuring that ECS providers comply with applicable regulations in respect to dispute resolution.

A 3.4 Our aim in conducting this Final RIA is to ensure that all proposed measures after taking into consideration the responses received from the draft RIA and the further information received from an information request under our powers under Section 13D, are appropriate, proportionate and justified in light of the analysis conducted, having regard to our statutory role in respect to consumer protection.

A 3.5 ComReg’s approach to RIA follows five steps:

- (v) Step 1 Describe the policy issues and identify the objectives
- (vi) Step 2 Identify and describe the regulatory options
- (vii) Step 3 Determine the impacts on Stakeholders
- (viii) Step 4 Determine the impacts on Competition
- (ix) Step 5 Assess the impacts and choose the best option

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<sup>21</sup> ComReg, “Guidelines on ComReg’s Approach to Regulatory Impact Assessment”, [ComReg Document 07/56a](#), 10 August 2007 (the “**RIA Guidelines**”).

<sup>22</sup> Department of the Taoiseach, “Regulating Better”, January 2004. See also “Revised RIA Guidelines: How to conduct a Regulatory Impact Analysis”, June 2009, [http://www.taoiseach.gov.ie/eng/Publications/Publications\\_2011/Revised\\_RIA\\_Guidelines\\_June\\_2009.pdf](http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf).

<sup>23</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Second strategic review of Better Regulation in the European Union”, COM(2008) 32 final 30.01.2008, p. 6.

<sup>24</sup> Ministerial Policy Direction made by the Minister of Communications, Marine and Natural Resources on 21 February 2003.

## 1.1 Describe the policy issue and identify the objectives

### Policy Issue

A 3.6 Regulation 27 of the Universal Service Regulations sets out minimum requirements for Electronic Communications Service Providers code of practice for settling unresolved disputes including complaints. ComReg has undertaken a consultation in respect to further specifying the requirements as set out by Regulation 27.

### Objectives

A 3.7 ComReg's principal objective when in issuing this decision is to ensure that end-users can access, from their Service Provider, a complaints handling code of practice that sets out all details in respect of the dispute resolution mechanism available to them in a clear and transparent manner.

A 3.8 Our statutory objectives are set out under section 12 (1) (a) (iii) of the Act in relation to the provision of electronic communications networks, electronic communications services and associated facilities. Objectives in respect to consumers that are relevant to this policy issue include:

*“in so far as promotion of the interests of consumers within the Community is concerned—*

*. . . (ii) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved,*

*. . . (3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.*

A 3.9 Regulation 27 of the Regulations sets out specific areas that must be addressed in a Service Provider's Code of Practice. Further to our consultation ComReg 16/118 and having evaluated the responses received ComReg considered if it is necessary, appropriate and proportionate to specify requirements for the complaints handling code of practice.

## 1.2 Identify and describe the regulatory options

A 3.10 We recognise that any regulatory measures should be kept to the minimum necessary while ensuring adequate consumer protection is available. For the purpose of the RIA we have considered the following options:

1. Rely on Regulation 27 as set out in S.I. no 337 of 2011, the existing obligations as specified (no intervention measures)
2. Further specifying requirements for a code of practice for settling unresolved disputed between end-users and Service Providers.

### **1.3 Determine the impacts on stakeholders**

A 3.11 For the stakeholder analysis, there are 3 groups to consider: end-users comprising of consumers, end-user comprising of business (split for small and medium SMEs v large business) and Service Providers.

#### **Option 1: Rely on existing obligations ('no intervention measures')**

A 3.12 To maintain the status quo would mean relying solely on Regulation 27 of the Regulations without ComReg, at this time, specifying further requirements for end-user protection.

#### **Benefits**

A 3.13 Currently Service Providers have codes of practice in place and forbearance or maintaining the status quo could be expected to be a benefit for Service Providers (industry) as no further requirements would have to be put in place. However, it could also be argued that a lack of consistency and minimum standards across industry leads to consumer confusion and increased unnecessary contacts from end-users.

A 3.14 In considering the impact on business, ComReg considers that the complaints handling implemented for small and medium sized businesses (SMEs) can differ greatly from that of large businesses that have dedicated account managers. That said, the status quo should have no material impact on any of the business groups.

A 3.15 A similar benefit for consumers would not be realised, as ComReg has concerns regarding the current approach and notes that based on an omnibus survey undertaken by ComReg in November 2016 and February 2017 on average 47% of consumers are unaware that service providers' have a complaints handling code of practice.

#### **Costs**

A 3.16 Currently Service Providers are already required to have codes of practice in place and forbearance or maintaining the status quo could be expected to be a benefit for industry.

A 3.17 A potential cost of not further specifying minimum requirements that must be implemented in the code of practice is that providers may have little incentive to fully inform end-users of the various facets of their complaints handling process.

A 3.18 In considering the cost to business of the status quo ComReg considers that there is likely to be a cost to SMEs which is informed by the companies that contact ComReg's Business Line for assistance in resolving complaints. Whereas there is likely to be no cost to large businesses.

A 3.19 The cost of maintaining the status quo is that nearly half of all consumers are not aware of the specifics of their service provider's codes of practice and therefore there is a cost to society due to the lack of awareness. The consumer welfare impact is likely to be negative where consumers are not adequately aware or sufficiently informed of the complaints handling code of practice.

A 3.20 Additionally, the number of people potentially requiring access to complaints handling and incurring costs in so doing due to lack of choice of first point of contact, or awareness of resolution timeframes etc. is not quantified.

### **Net Welfare**

A 3.21 On the basis of the principles set out above, the consumer and SME welfare impact, without any additional minimum measures in respect to the availability of a code of practice, is likely to be negative. On the other hand, maintaining the status quo will have no incremental impact on Service Providers or large businesses.

A 3.22 On balance, complete forbearance by us at this time is not likely to fully meet the our objectives nor meet the objectives of Regulation 27 to ensure that procedures for settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory.

## **Option 2: Specify minimum requirements for a code of practice for settling unresolved disputed between end-users and undertakings**

A 3.23 This option considers if it is necessary, appropriate and proportionate taking into account the requirements as set out in Regulation 27 of the Regulations to further specify requirements.

A 3.24 Our omnibus research (Nov 2016 and Feb 2017) indicates that consumer awareness of their Service Providers codes of practice is not particularly extensive.

A 3.25 The objective of option 2 would be to specify further detail in respect of codes of practice amongst other things,

- First point of contact – telephone number, electronic means of contact and address to be provided at a minimum to end-users;
- A standardised approach to what information is to be recorded, regardless of the medium used for contact or systems used to record the details of the complaint;

- The response timeframes offered – two working days deadline for the initial acknowledgement of the complaint where the complainant contacted the provider in writing;
- Procedures for resolving complaints – up to 10 working day deadline and internal escalation process;
- Details in respect to reimbursements of payments in accordance with a scheme (or equivalent policy in compliance with Regulation 27 (1)(d) of the Universal Service Regulations): and
- Manner of publication including availability for complainants using the Service Providers website.

### **Benefits**

A 3.26 The new measures have been designed by ComReg to ensure, in accordance with Regulation 27, that procedures for settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory.

A 3.27 In light of the final requirements, following consideration of the submissions, leading to reduced requirements from those proposed in the consultation, it would appear that there is a relatively low level of impact on Service Providers.

A 3.28 Better information to consumers and SMEs could be expected to allow them to make informed decisions in respect to how to consider complaints handling as a differentiator when making a switching decision. Notwithstanding, consumer welfare could be expected to be enhanced by improving minimum standards, therefore consistency and better managed consumer expectations and information flow.

### **Costs**

A 3.29 Based on the responses received there were suggestions that providers would incur costs in meeting the requirements specifically in respect of submitting complaints statistics and implementing the quality mark, however, ComReg now believes that due to the reduction in the obligations imposed the cost of these further specifications for the code of practice is not material.

A 3.30 The cost of not further specifying the requirements could lead to detriment for consumers and SMEs to the extent that there is insufficient information which could lead to the inability to make a complaint in the required method and not be informed of expected timeframes for resolution etc. This creates a risk of consumers and SMEs contacting ComReg with complaints when they could have been handled efficiently by their Service Provider.

A 3.31 There is no perceived cost for large businesses.

**Net welfare**

A 3.32 The net effect of the benefits and costs of further specifying is likely to be positive for consumers and SMEs with no change to large business. This is because consumers are fully informed as to the process, they can be assured as to what to expect as a minimum standard irrespective of service provider and they are likely to be more satisfied. Service Providers can expect more informed and satisfied end-users and possibly less contacts in respect of complaints.

A 3.33 In respect of industry, in view of the responses received and the insistence that they each offer a quality service the net effect of the benefit and costs should not have a material negative impact but more likely a positive impact.

A 3.34 Measures that increase appropriate minimum information and processes available to consumers and end-users would empower them to make informed choices and gain effective redress. ComReg is of the view that the measures will help ensure that procedures for settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory.

A 3.35 Additional provisions, appear to have relatively limited cost implications, such that the net effect on consumer welfare would be expected to be positive and in line with the objectives of Regulation 27.

**1.4 Determine the impacts on competition**

A 3.36 The previous sections have addressed the potential impacts of the regulatory changes on both end-users and service providers. We now consider whether each option is likely to have a positive or negative effect on competition.

A 3.37 The interventions could involve some initial implementation and operational costs for service providers.

A 3.38 It may even be argued that the enhanced measures should help to promote competition between service providers as consumers and end-users would be better informed about the service characteristics including any potential limitation and options available to them.

A 3.39 The proposed measures would likely reduce any (perceived) barriers to switching. This may stimulate the market and encourage confidence in the market to move operator which is positive for competition.

## **1.5 Assess the likely impacts and choose the best option**

A 3.40 Option 1 (no intervention measures) is the benchmark against which we assess the incremental net effects of other potential options. This option would be the lightest regulatory approach and would rely solely on service providers to comply with Regulation 27 of the Regulations. ComReg is concerned that without intervention the objectives of Regulation 27 to ensure that procedures for settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory would not be achieved.

A 3.41 Option 2 – ComReg considers that it is in the public interest to specify minimum requirements for complaints handling codes of practice. The availability of complaints handling procedures is an important means to empower end-users to make better decisions when switching and when raising a complaint with their service provider and reaching a resolution. It will facilitate effective redress mechanisms.

A 3.42 In light of this, we have decided to adopt option 2 as we are of the view that it is the most appropriate and proportionate regulatory approach.

A 3.43 Overall, the intervention would be expected to enhance consumer welfare through informing and protecting end-users in particular consumers and SMEs. The approach is the most appropriate way to ensure the objectives of Regulation 27 to ensure that procedures for settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory are met.