

Annex C to Response to Consultation 11/51 – Draft Regulatory Impact Assessment (RIA)

Introduction

ComReg's approach to conducting RIA

- 1.1 This section sets out ComReg's Regulatory Impact Assessment ("RIA"), prepared in accordance with ComReg's RIA Guidelines (as set out in ComReg Document 07/56a) ("ComReg's Guidelines")¹ and having regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009 ("the Department's RIA Guidelines")², and the Policy Directions issued by the then Minister for Communications, Marine and Natural Resources to ComReg under Section 13 of the Communications Regulation Act 2002, as amended, on 21 February 2003 (the "Policy Directions")³.
- 1.2 ComReg's Guidelines on its approach to RIAs sets out, amongst other things, the circumstances in which ComReg considers it appropriate to conduct a RIA. In summary, ComReg indicated that it would conduct a RIA in any process that may result in the imposition of a regulatory obligation (or the amendment of an existing regulatory obligation to a significant degree), or which may otherwise significantly impact on any relevant market or on any stakeholders or consumers.
- 1.3 A RIA is an analysis of the likely effect of proposed new regulation or regulatory change. The RIA should help identify regulatory options and should seek to establish whether proposed regulation is likely to have the desired impact. ComReg's ultimate aim in conducting a RIA is to ensure that all proposed measures are appropriate, proportionate and justified.
- 1.4 Many of the draft provisions included in the initial consultation (ComReg document 10/92a and associated draft Code incorporated in ComReg document 10/92b) are interrelated, such that the implementation of one measure may obviate the requirement for another and the removal of a measure may require the implementation of another within the PRS regulatory framework. In addition, there were no specific proposals in relation to certain issues included in the initial consultation, merely a series of questions, the responses to which have assisted ComReg in drafting what it now considers to be reasonable, proportionate and justified provisions. For these reasons, it was not appropriate for ComReg to include a RIA with its initial consultation (ComReg document 10/92a). ComReg considers it appropriate at this stage to undertake an assessment of the proposed regulatory measures in the revised draft Code.

¹ ComReg, "Guidelines on ComReg's Approach to Regulatory Impact Assessment", Document 07/56a, 10 August 2007, http://www.comreg.ie/fileupload/publications/ComReg_0756.pdf

² Department of An Taoiseach, "Regulating Better", January 2004. See also "Revised RIA GUIDELINES: How to conduct a Regulatory Impact Analysis", June 2009, http://www.betterregulation.ie/eng/Publications/Revised_RIA_Guidelines.pdf

³ Policy Directions made by Dermot Ahern T.D. (the then) Minister for Communications, Marine and Natural Resources on 21 February, 2003 and 26 March, 2004 which provide that "The Commission, before deciding to impose regulatory obligations on undertakings in the market for electronic communications or for the purposes of the management and use of the radio frequency spectrum or for the purposes of the regulation of the postal sector, shall conduct a Regulatory Impact Assessment in accordance with European and International best practice and otherwise in accordance with measures that may be adopted under the Government's Better Regulation programme."

- 1.5 ComReg's RIA Guidelines note that a complete cost-benefit analysis may be difficult due to a lack of reliable data and that, in particular, estimating the effects on consumers, including intangible benefits, can be particularly difficult. However, ComReg seeks to implicitly consider the potential impacts before making a decision.
- 1.6 In arriving at the appropriate regulatory approach in this instance, ComReg has set out the key policy issues and objectives below, followed by an assessment of the relevant options and their respective impacts for stakeholders, including consumers and PRS providers.

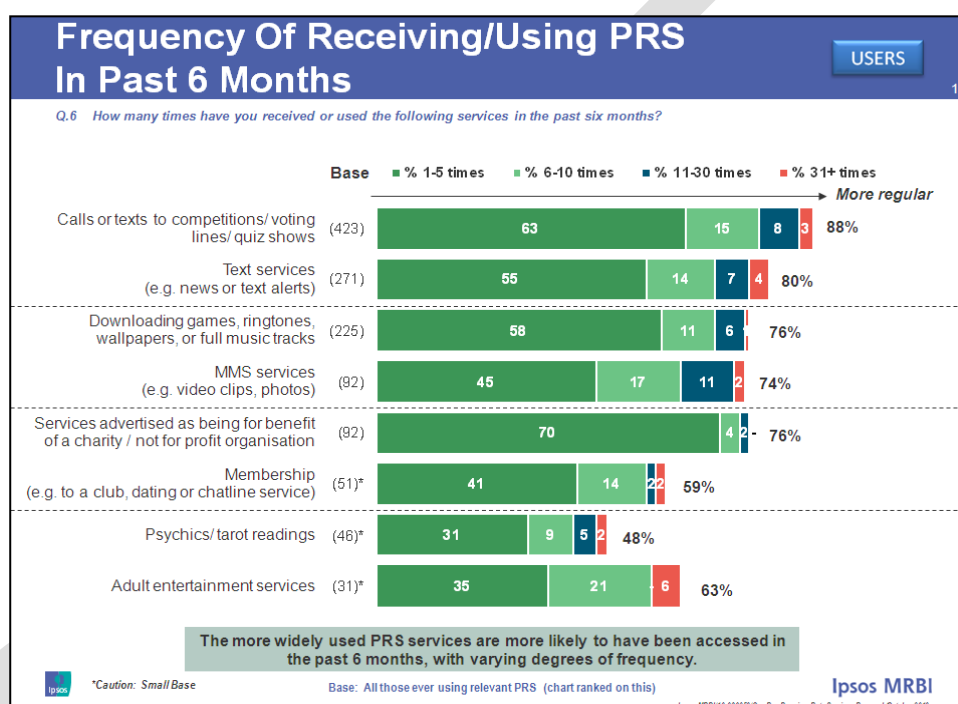
Policy issue and objectives

- 1.7 This RIA examines the current PRS market situation using information and data from a variety of sources such as historical consumer complaints, responses to the initial consultation document as well as research surveys on the PRS market in Ireland. The evidence presented provides support to ComReg's position that existing regulation in the PRS market should be enhanced because there is a verifiable level of harm to consumers. There are a number of proposed regulatory measures and, in order to assess these measures in as succinct a fashion as possible, it makes sense to focus on the key policy objectives. Therefore the objectives of "increased transparency" and "consumer protection" are addressed below respectively. Within these two overarching policy objectives, the proposed changes to the current Code of Practice are considered. A scenario where there is no change to the existing regulatory situation is implicitly considered as a benchmark against which other available regulatory options are then assessed.
- 1.8 While ComReg is an organisation which has a responsibility for promoting competition, for protecting consumers and encouraging innovation in the overall telecommunications (electronic communications services and networks) sector, the protection of the interests of end-users (consumers) of PRS is ComReg's singular statutory objective in accordance with its role as regulator of PRS in Ireland. Given ComReg's obligation to protect end-users, this RIA primarily considers whether certain individual elements of the Code and the overall Code itself will have a positive impact on end-users of PRS. However, while ComReg is obliged to protect the interests of end-users of PRS, it is ComReg's view that a safe and confident consumer will benefit all industry stakeholders⁴. As noted above, and in ComReg's Guidelines on its approach to RIA, the RIA considers potential impacts for all stakeholders and thus also takes into account what effect the proposed Code of Practice may have on PRS providers, as well as on competition, in Ireland. Furthermore, ComReg is bound by the principle of proportionality in considering the implementation of regulatory measures

⁴ In 2009 the PRS industry generated €81m in revenues, and this was at the height of a recession when consumers would be especially sensitive, with RegTel reporting approximately 28,000 complaints and queries. One could assume that if consumers feel more confident, both in terms of the economy and the business environment in which PRS providers and end-users interact, there would be a positive effect on revenue for PRS providers.

1.9 Over-regulation of the PRS industry may run the risk of PRS providers exiting the market and/or suppressing the range of PRS services from which consumers derive utility and/or applying inefficient price increases which could negatively impact consumers. Although there is a challenge in quantifying levels of customer satisfaction, it is clear from the results of the Ipsos MRBI survey⁵ undertaken on behalf of ComReg that there is a certain cohort of PRS consumers that are regular and repeat users. As evidenced from Figure C.1 some services are more likely to see repeat access than others. It is safe to assume that if consumers did not attach a value to the product on offer, they would not continuously use it over time.

Figure C.1 – Frequency of PRS usage



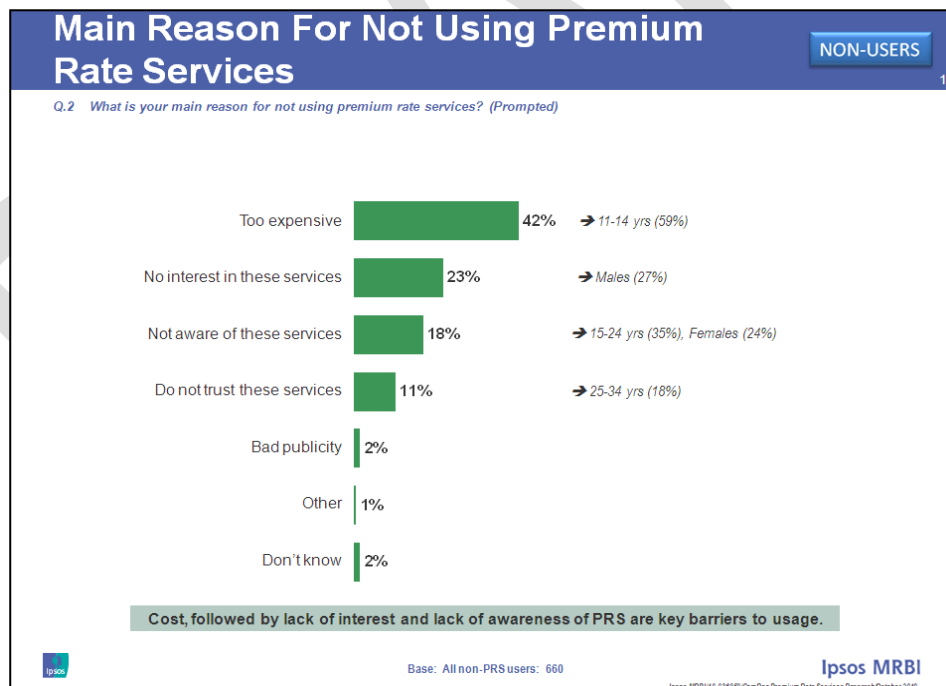
1.10 The balanced approach for ComReg is to impose regulatory measures with a focus on consumer protection, while also being cognisant of the need for proportionality. Consumer loss can be measured in a number of ways, but it is clear from historical complaints data collected by RegTel in its 2008/2009 Annual Report, that there were approximately 28,000 queries and complaints (a slight drop on the previous year) made by consumers. Of these, more than 50% were requests from consumers to unsubscribe from a Premium Rate Service and almost 35% were related to the denial of subscription. More recent survey data, captured by Ipsos MRBI on behalf of ComReg, suggests that 21% of PRS consumers have experienced difficulties using a PRS. Of this percentage, approximately one third are subscription service users. The type of difficulties experienced included not being able to unsubscribe, continuous receipt of texts and the perception of being somewhat misled.

⁵ Ipsos MRBI/ComReg Premium Rate Services Research Quantitative & Qualitative Analysis, October 2010 included as Annex A & B to this consultation document

1.11 The Code of Practice introduced by RegTel in 2008 has played an important role in ensuring fairness for PRS end-users. However, given the statistical evidence available, ComReg considers that further corrective measures are required to further improve the overall consumer experience for end-users. Drawing on its extensive research, ComReg’s actions should also serve to adopt a preventative approach as well as responding to harm, if and when it happens. These proposed measures should also help to further build trust and confidence in a market in which, for some, trust has been damaged. It can be seen in Figure C.2 that while the majority of those who do not use PRS explain it is because of expense or lack of interest, there is a considerable cohort who suggest lack of trust is the main reason.

1.12 ComReg also assessed potential impacts for industry players of revising the current Code of Practice. It is considered below that while certain administrative and set-up costs may initially arise, and there may be certain revenue impacts from uncommitted customers because of the double-opt in process, the proposed regulatory changes will also lead to enduring benefits for industry players. These include greater regulatory certainty in terms of dealing with consumer complaints. In addition, it will also promote greater consumer confidence in PRS provisioning which, in view of the regular and repeat PRS-user category identified above in Section 1.9, should reflect positively on the uptake of those services and associated revenues over the longer term.

Figure C.2 – Reasons to not use PRS



Assessing regulatory options and impacts for stakeholders and choosing the best option

1.13 This section considers whether the existing regulation goes far enough or whether other regulatory options are more appropriate to enhance the existing

Code to address the ongoing customer difficulties identified in the course of ComReg’s research. Given the number of individual elements to the Code, it is practical for the purposes of this RIA to consider the potential impacts of the individual components (original and revised proposals) for all stakeholders under ComReg’s two key objectives as follows:

- (1) increased transparency, and
- (2) consumer protection.

Increased transparency

1.14 This section assesses the various elements of the revised draft Code of Practice that ComReg considers are necessary to help increase transparency in the PRS market, particularly for the consumer but also for other stakeholders in the industry. Specific issues that have been considered in the consultation and relate to the policy objective of increasing transparency are as follows:

- Provisions applicable to PRS promotion and price information,
- Expenditure reminders and purchase receipts,
- “Double opt-in” or positive confirmation,
- Provisions relating to customer service, and
- Appropriate means for end-users to receive refunds.

1.15 It is evident from the level of complaints over time, and from the results of research conducted by Ipsos MRBI on behalf of ComReg, and research conducted by Amárach Research on behalf of the Irish Phone Paid Services Association (IPPSA)⁶ that there are transparency issues in the PRS industry. For an industry or market to be transparent, information must be widely held (available to and/or known by consumers) in relation to the types of products or services available, the prices of those products and services and from whom or where the products are available. If and when any of these three elements are missing, an informational asymmetry exists, where one party (the PRS provider) has more or better information than the other (the consumer).

Is information widely held in relation to the types of PRS products or services available?

1.16 According to the Ipsos MRBI research, over one third (37%) of the population do not feel confident in their ability to identify a PRS (this tends to be higher amongst females and those aged 25-34years). The research also indicates that further communication amongst the public is needed in terms of highlighting that you can be charged for receiving a PRS SMS text message (39% are unaware of this) and how to stop an unwanted PRS (59% don’t know how to). These results indicate an informational asymmetry between PRS providers and end-users. Additionally, there also seems to be an informational asymmetry between end-users of PRS and ComReg since 76% of respondents are unaware

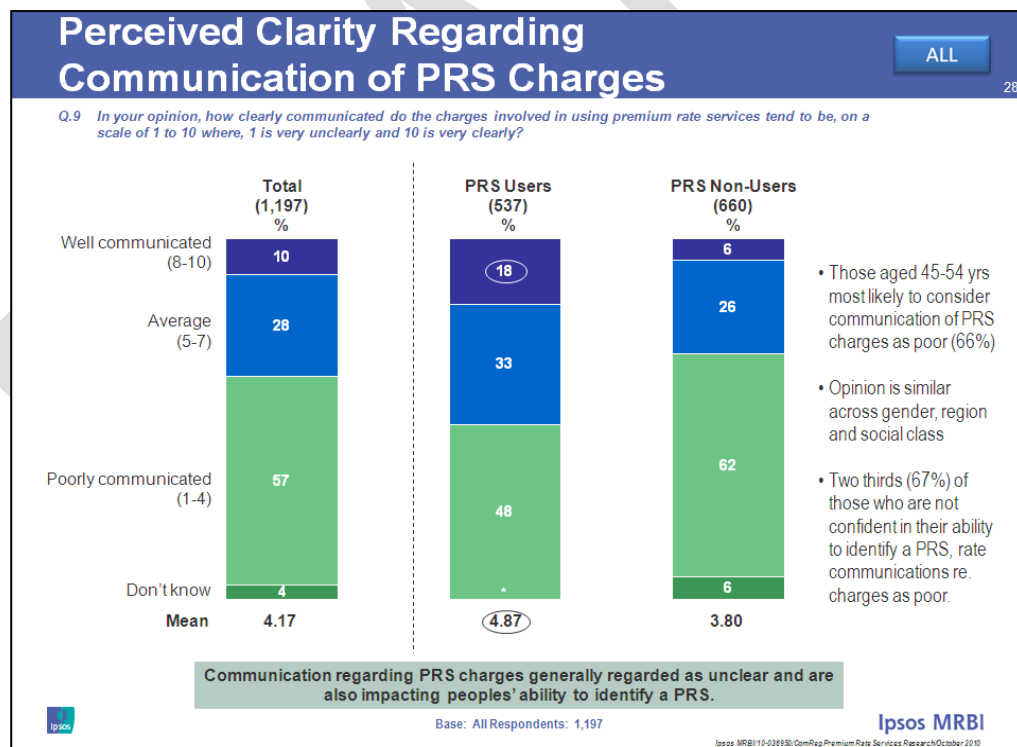
⁶ Amárach Research, *Phonepaid Services Omnibus (NOG S10-158), A Presentation Prepared for Phonepaid, April 2010*

of the existence of a PRS Code of Practice and 54% of respondents are unaware that ComReg is the organisation responsible for its implementation.

Is information widely held in relation to the prices of PRS products and services available?

1.17 In the qualitative element of the survey conducted by Ipsos MRBI on behalf of ComReg (separate to the quantitative research already mentioned), respondents were shown examples of the types of wording for PRS pricing and terms and conditions. Some respondents felt that the wording in some of the pricing was clear⁷, that no confusion arose and they easily interpreted the meaning of the statement. However, other pricing statements were considered unclear⁸ and respondents were confused over pricing terms. For example, some respondents were confused as to whether they were charged €2.50 every 6 days or €2.50 for 6 days. Overall, as highlighted in Figure C.3, there is a perceived lack of clarity in relation to PRS charges and pricing. This may lead to the conclusion that end-users are uncertain about their spend on PRS and indeed the quantitative analysis showed that just over 25% of those who had used a PRS were unsure of their spend.

Figure C.3 – Clarity of PRS charges



⁷ For example, "You will receive the starting no. for each Comp along with the winner of each Champ. 60c/msg rec." For further detail see Ipsos MRBI/ComReg Premium Rate Services Research Quantitative & Qualitative Analysis, October 2010

⁸ For example, "You are subscribed to MyXXYY at 2.50 euro every 6 days. Send 600 SMS/mnth." For further detail see Ipsos MRBI/ComReg Premium Rate Services Research Quantitative & Qualitative Analysis, October 2010

Is information widely held in relation to from whom or where the products are available?

- 1.18 While it is clear that users know how to access a PRS using their mobile or fixed line phone, there may be an issue with who they think is providing the service and this is another informational asymmetry, although perhaps not as serious as the asymmetry relating to price information. Indeed in the April 2010 survey conducted by Amárach Research on behalf of IPPSA, of those who had ever used a phone paid service, 71% would first contact the mobile network service provider with a complaint and only 8% would first contact the PRS provider. This highlights a clear lack of awareness on the consumer's behalf about where the product or service is originating from and to whom they are paying for the product or service. ComReg has already made efforts to assist the consumer by introducing the online Number Checker⁹, which provides the name and contact details for the PRS provider to whom the checked number is assigned.
- 1.19 Consequently, it is evident that there are informational asymmetries and the market is, to some extent, not transparent from the consumer's point of view, even taking existing regulation into account. A number of the policies and measures proposed in ComReg's revised draft Code of Practice seek to address and rectify the asymmetries that exist. These are discussed in the following sections in the order within which they are addressed and questioned in the consultation.

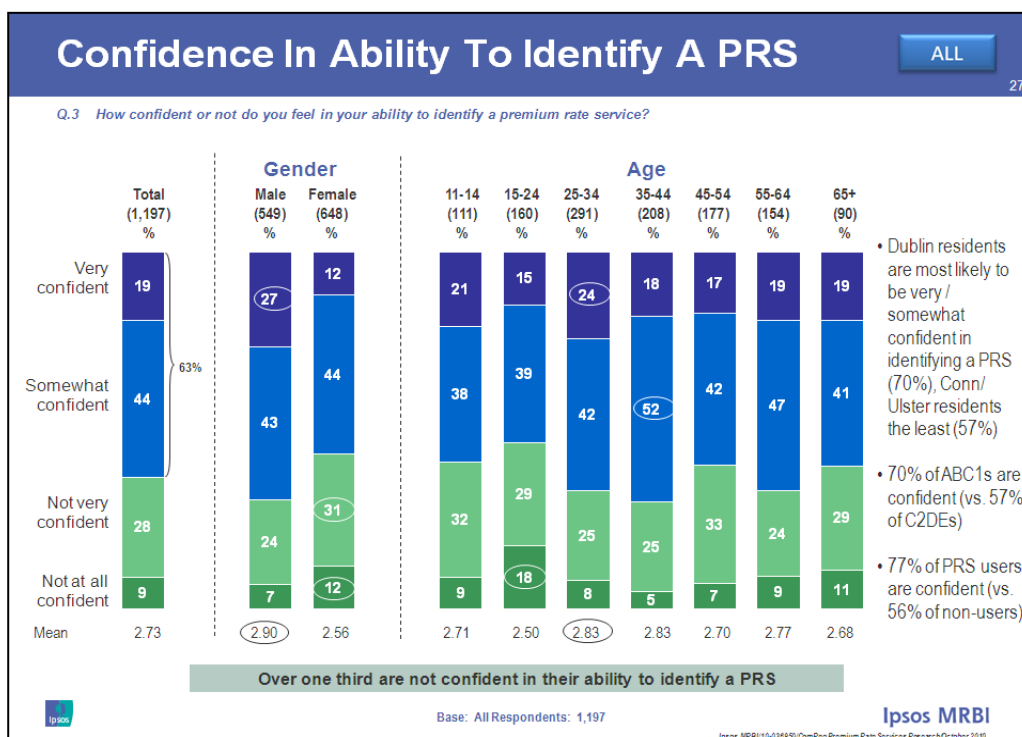
Provisions applicable to PRS promotion and price information¹⁰

- 1.20 The provisions set out by ComReg with respect to the promotion of PRS and price information were all designed and proposed to ensure that the revised draft Code of Practice was more transparent and more user-friendly for industry stakeholders and end-users. ComReg's stated policy, within the scope of the overall objective to protect the interests of end-users of PRS, is to ensure that PRS promotions should essentially neither mislead nor mask any important conditions. This objective would provide clear benefits to those consumers who seem to lack trust in the PRS industry and/or do not have enough clear knowledge to make rational choices and informed decisions. Based on the quantitative research carried out by Ipsos MRBI, there is clear evidence to indicate a requirement for these further measures in the revised draft Code of Practice in relation to promotions and price information in the interest of protecting consumers.

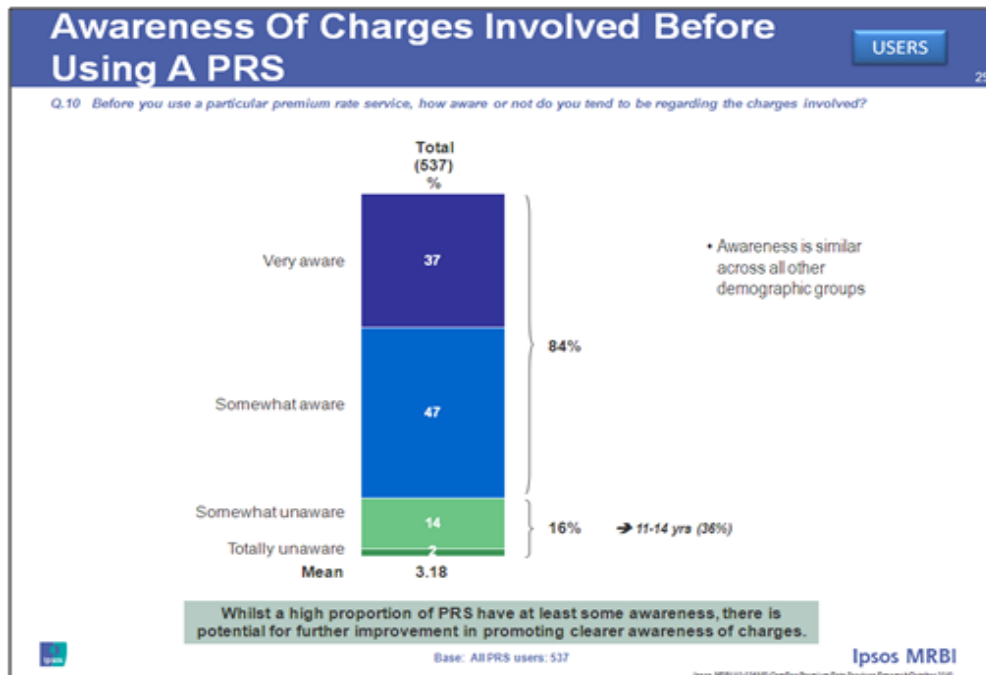
⁹ "Check a number: Look up an unknown number from your bill"; <http://www.phonesmart.ie/>

¹⁰ Specifically relating to questions 1,2,3,4 in the consultation document 10/92a

Figure C.4 – Confidence in identifying a PRS



1.21 As evident in Figure C.4 above, according to the survey data, almost 40% of respondents are not confident when asked to identify a PRS, and this figure is higher among the younger, arguably more vulnerable respondents (41% of 11-14 year olds and 47% of 15-24 year olds). A significant proportion of the Ipsos MRBI survey respondents also felt that they were somewhat unaware when asked about charges (cost) of a PRS before actually using it, as apparent in Figure C.5. This empirical data highlights the need for the provisions suggested in relation to promotion and pricing. There are obvious benefits to consumers in having clearer and more transparent information provided to them in advertising and PRS promotional material. Such transparent information obviously allows end-users to rationally decide if and how they want to use a PRS. However, in drafting its proposals ComReg is also cognisant that too much information could lead to “overload” or “clutter”, with the effect that potential end-users do not notice the price or terms and conditions that may be important to them and influence their decision to make a transaction.

Figure C.5 – Awareness of PRS charges

1.22 ComReg also recognises that there may be costs incurred by PRS providers in updating relevant advertising/promotional materials. However, these initial implementation costs need to be viewed against the ongoing benefits which consumers will reap over several years from better pricing transparency, as well as the ongoing revenue opportunities that a more informed and confident consumer may present. Price misperceptions potentially generate a loss in welfare as consumers might be deterred from purchasing services which they might otherwise be willing to pay for at their true price. The Ipsos MRBI survey identified that communication concerning PRS charges was generally regarded as unclear with 57% of respondents considering PRS charges to be poorly communicated. Furthermore, 42% of non-PRS users claimed they did not use PRS because they were too expensive.

1.23 The revised and proposed provisions set out by ComReg in the revised draft Code of Practice with respect to the promotion of PRS, and the improved transparency of price information, should enable consumers to make more efficient pricing decisions. Enhanced transparency should further result in consumers feeling more confident in identifying a PRS and having a better understanding of the type of service they are subscribing to and paying for. It may therefore be expected that this enhanced consumer confidence would further promote increased use of PRS products and services over the medium to longer term.

1.24 One alternative to the amended provisions is to leave the Code of Practice unchanged which ComReg believes could leave the problem of consumers lacking confidence in PRS unresolved. However, ComReg considers the revised draft provisions to be reasonable and proportionate taking the identified informational deficiencies into account under the current regulatory scenario.

Expenditure reminders and purchase receipts¹¹

- 1.25 Based on the responses to consultation, ComReg has reconsidered its original proposal to introduce additional expenditure reminders and also its proposal to introduce a limit on the amount that an end-user can spend on entering a competition. Both proposals were set out with the consumer's best interest in mind and received support from some respondents. While the draft proposals would be helpful in providing an end-user with more clarity and transparency in terms of their expenditure, there may be situations whereby such additional expenditure reminders would actually impose restrictions on end-users who wish to exercise their discretion and engage with PRS, thereby reducing an end-user's utility and satisfaction. It is ComReg's view that for Live Services the existing €60 limit with an expenditure reminder after €30, which have been in force for a number of years, are sufficient to protect consumers and yet not infringe on customer engagement with the service. For Virtual Chat Services, ComReg has proposed a reminder message after a consumer has spent €20 on the service. In relation to Subscription Services, ComReg proposes retaining the provisions in the current Code of Practice which requires that end-users are provided with certain regulatory information after they have spent €20 and proposes a clause that requires such regulatory messages to be sent once per month, even where the end-user has not spent €20.
- 1.26 ComReg's proposal for PRS providers to issue end users with purchase confirmation receipts in certain circumstances provides an obvious benefit to the consumer, acting as a tangible confirmation for the PRS purchase that can be retained and referenced in case of potential disputes with the PRS provider. As previously set out, it is clear that issues currently exist in relation to pricing transparency and it is ComReg's opinion, agreed with by a number of respondents to the consultation, that a purchase confirmation message will be a positive development for consumers. However, the requirement that purchase receipts be sent for each and every transaction would potentially impose a financial cost on members of the PRS value chain as well as jeopardising the stability of mobile networks given the possibility of exponential traffic volume growth. While the requirement of purchase confirmation receipts for all PRS transactions is unnecessary, particularly given the new promotion and pricing provisions in the draft Code of Practice, there are some services (SMS payment for toll roads, for example) for which the confirmation receipt proposal can provide benefit to both the PRS consumer and provider. Once a purchase confirmation message has been issued by the PRS provider, it can point to it as evidence that the transaction took place and the end-user was correctly informed. Furthermore, as the National Consumer Agency points out in its response, a purchase confirmation message provides an extra degree of clarity regarding cost and may positively influence the end-user's decision to make further transactions, thereby generating additional revenue for the PRS provider. It is therefore considered appropriate and proportionate that end-users are provided with purchase confirmation receipts in respect of goods and services that are not delivered to end-users via mobile handsets.

¹¹ Specifically relating to questions 5,6,10 in the consultation document 10/92a

Double opt-in¹²

- 1.27 According to the quantitative research conducted by Ipsos MRBI, 59% of those consumers who had ever used a PRS, had used a subscription service. Among this group the claimed average monthly spend was €14.69, approximately 32% higher than what is claimed to be spent by non-subscription service users. While overall, 21% of PRS users surveyed had experienced difficulties over the past six months, 30% of subscription service users had experienced difficulties. Furthermore, the primary reason for PRS consumers to contact the regulator (formerly RegTel and now ComReg) is in relation to subscription services. This data lends to the conclusions that there is a significant premium on expenditure levels of subscription users relative to non-subscription users and there is a greater likelihood that subscription service users will have experienced difficulties compared with non-subscription users. Furthermore, based on this evidence, one could reasonably draw the conclusion that more consumer harm potentially originates within subscription services than non-subscription services.
- 1.28 The data is given additional support by a sample of the responses to the qualitative research carried out by Ipsos MRBI. Respondents were unanimous in agreement that a double-opt in is a good idea and that it will not make a difference to those who are currently using and satisfied with PRS¹³. Ipsos MRBI concluded that the double opt-in approach would allow users to carefully consider (think twice) before committing to the service, thereby removing any uncertainty about whether the service is subscription or not and is what the consumers wants.
- 1.29 A report submitted by IPPSA, as part of its response to consultation 10/92a, sought to test customer reactions to a single opt-in process versus a double opt-in process. The analysis suggested that under the double opt-in process, only 3% (out of a sample of just 131 users who sent a subscription request) continued with an 'AGREE' message and only 1.5% who sent the subscription request then proceeded beyond the first hour of making the request, suggesting that certain consumers may regret their initial consumption choice or may have subscribed unintentionally. However, the statistical significance and robustness of such a limited sample is open to question, especially considering that a sample of 236 was initially used to test the single opt-in process, while only 131 (almost half the original sample) was used for the double opt-in process, thereby undermining the comparability of the results.
- 1.30 While financial impacts from the proposed "double opt-in" process may arise for certain service providers as certain uncommitted customers do not complete their purchase, it should also be recalled that ComReg's primary regulatory responsibility is to the consumer and, under the existing regulatory situation, the majority of calls made to ComReg in relation to PRS concern subscription services. A relatively significant project cost for introducing double opt-in was estimated by one industry participant. However, it should be noted that

¹² Specifically relating to question 11 in the consultation document 10/92a

¹³ "If it's something you're really interested in, it's not going to make a difference if you have to say yes twice, you're going to do it anyway." [Female, 35-44]

consumers will derive ongoing annual benefits from not having to complain, follow-up on complaints, and seek redress in general. The consumer's opportunity cost of time lost in seeking redress is saved. While ComReg would acknowledge the implementation and operational costs for service providers in introducing double opt-in and other regulatory changes in the short to medium term, consumers are likely to derive benefits from enhanced consumer protection over several years. Furthermore, the implementation costs for PRS providers cannot be viewed in isolation from the positive revenue impacts which can also be expected in an environment of increased consumer confidence over the medium to longer term. As evidenced by the quantitative research conducted by Ipsos MRBI, as well as the annual revenue that the PRS industry generates, a significant cohort of end-users have used, and thus may be presumed to derive utility¹⁴ from consuming subscription services. It may be expected that the enhanced consumer protection measures would further reinforce general confidence amongst those consumers, thereby potentially promoting further engagement with subscription services. This would generate industry revenue growth, thus counterbalancing the initial cost impact over time.

- 1.31 In assessing the actual effects of the proposed measure, ComReg has observed that subscription services were, at some point, considered a significant source of potential or actual consumer harm in a number of countries until the regulator was moved to take remedial action. Double opt-in or "positive confirmation" of intention to purchase has been widely implemented, including in the United Kingdom, Belgium, Finland, Australia, South Africa, Sweden, Czech Republic and Finland. Some of these countries introduced double opt-in as far back as 2005 (Czech Republic) and 2006 (Sweden). Several regulators also report that, despite predictions from some quarters that the introduction of "double opt-in" would signal the demise of the PRS industry in their countries, this has not turned out to be the case. Further to this experience it is clear that ComReg's draft proposal is neither a radical nor novel one, but is in fact setting out similar consumer protections considered necessary by a host of regulators in other jurisdictions.

Provisions relating to Customer Service¹⁵

- 1.32 In the first three months of 2011, consumers raised approximately 4,000 PRS-related issues with ComReg's customer service centre - an average of almost 45 per day. In the previous two years, RegTel reported an average of 24,000 calls per year to its customer care centre, which is an even higher per day average than the figure for 2011 so far. Calls to the customer service centre are classified as either queries, complaints, advice or compliance issues. This is obviously an on-going administrative cost of regulation to ComReg. Current PRS customer service procedures could be considered as ineffective if consumers feel they need to contact the mobile network operator and/or ComReg in order to seek redress for their complaints.

¹⁴ "It was good, I knew exactly what I was getting into. We had a specific event happening so I wanted to be fully up to date." [Male, 55-64]

¹⁵ Specifically relating to question 19 in the consultation document 10/92a

- 1.33 It can be seen from both the Ipsos MRBI survey and the Amárach Research survey that a significant number of end-users are either unsure or there is a lack of awareness about who to contact should they have a problem in relation to Premium Rate Services. Lack of awareness of how to complain was cited by 48% as their main reason for not complaining. Three quarters of those who have complained actually approached their mobile phone company (vs. RegTel at 16% and ComReg at 9%). Problem resolution amongst those who have complained is considered largely unsatisfactory (51% dissatisfied¹⁶).
- 1.34 Enhanced regulation in relation to customer service should have a positive effect on consumer benefit as they will have to make fewer calls in order to find redress, as well as their usage of PRS in the long run becoming a more enjoyable experience. However, it is possible that stricter regulation in relation to enhanced customer service provision would place an additional cost on PRS providers in terms of staffing. At the same time, positive revenue implications may be generated over the longer term through an enhanced level of consumer confidence in the industry. Over time, as PRS providers deal more effectively with customer complaints this should have a positive effect on the customer's PRS experience, reduce churn and consumer loss and therefore, create a long run positive impact on the PRS industry - customers feel happier to use the services leading to increased revenue generation. This would point to a net benefit, particularly in light of ComReg's specific obligation to the consumer under its role as regulator of PRS in Ireland.
- 1.35 Furthermore, in terms of the overall social cost of this regulatory measure, this is potentially offset by a reduced cost of regulation/administration to ComReg. Without imposing provisions in the Code of Practice in relation to PRS customer service, there is the potential risk that consumers continue to look to ComReg for redress, imposing a growing cost and burden of regulation.

Appropriate means for end-users to receive refunds¹⁷

- 1.36 Although the majority of the provisions relating to refunds are being placed in the Regulations, given that there is a residual clause proposed in the revised draft Code of Practice and in the interests of completeness, ComReg has included a discussion on refunds in the RIA.
- 1.37 As well as a timely refund, the policy objective should be clarity and transparency for the consumer, in that they have options available to receive the refund and will know upfront how the refund is to be made. At its simplest, if money is paid to a PRS provider by method X then the PRS provider should be able to refund to the consumer by method X. However, not all consumers will have the ability to receive refunds through all traditional and/or more contemporary/technological methods. Similarly it will not be economically feasible for all PRS providers to offer refunds through all methods. Therefore while regulation is necessary to specify the types of refund methods, logic,

¹⁶ However, it should be noted that this related to a small base comprising all PRS users who have experienced difficulties and complained.

¹⁷ Specifically relating to questions 22,23 in the consultation document 10/92a

rationality and proportionality has to be taken into account. There should be a definite and agreed array of refund methods that are clear to consumers and PRS providers alike for the sake of transparency. Consumer choice and the scale of refunds have to be considered by the consumer, the PRS provider and by ComReg when deciding what refund methods should be applied. Allowing a number of different methods, and then letting the consumer and the PRS provider agree the final method of refund between them, seems to be the optimal approach.

- 1.38 In this case, the positive effects include a clear and visible choice for consumers if and when they are being refunded. Given a consumer's practical circumstances, the less constrained (s)he is in how (s)he receives the refund, the better. There are few downsides, or negative effects, to this regulatory measure as evidenced by the general consensus in the consultation response. Although making available a number of alternative refund methods will potentially add to the operating costs of a PRS provider, it should foster improved relationships with customers, which in turn can generate increased demand and therefore greater revenue for PRS providers.
- 1.39 By dictating a small, closed number of refund methods ComReg would restrict consumer choice, and subsequently the PRS providers' choice, on how to make and receive refunds. By allowing and implementing a wider framework, providing the boundaries and then letting consumers and PRS providers agree among themselves the preferred refund method, ComReg is promoting a more "*laissez-faire*" environment. Payments to consumers' phone accounts at the end of the month, the credit card model as mentioned in the response to consultation, is a reasonable and proportionate option for ComReg to take as the consumer still receives their refund in a timely manner and there is a fairness to the PRS provider which helps it to budget more effectively.

Consumer protection

- 1.40 This section assesses the elements of the revised draft Code of Practice that ComReg considers will help to reduce consumer harm and increase consumer protection in the PRS market. Specific issues that have been considered in the consultation and relate to the policy objective of reducing consumer harm are as follows:
- expenditure limits,
 - undelivered messages,
 - Adult Entertainment Services, and
 - Age Verification Framework.
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- 1.41 It is difficult to quantify the extent to which consumers have been, or are being, harmed by a problematic or difficult interaction or experience with a PRS. The overall welfare cost of negative PRS experiences and/or of price misperceptions under the current framework can only be properly understood by estimating the resulting impact on consumer surplus which, as discussed further below, would

require detailed insight into consumer valuations and behavior in respect of PRS. Given the inherent uncertainty and subjectivity of such an exercise, it is not possible to obtain a precise value for the overall damage to consumer welfare under the existing Code of Practice and thus the corresponding benefits resulting from enhanced consumer protection under the revised Code of Practice. The RIA must therefore rely on the extensive qualitative evidence available.

- 1.42 The data that is available and estimable from the Ipsos MRBI research, however, includes the approximate number of people who are aware that they have ever used a Premium Rate Service (according to the quantitative Ipsos MRBI research, 33% of the population aged 11+, which if extrapolated to the general population would work out at approximately 1.22 million people), and the number of complaints that have been lodged (the Ipsos MRBI research suggests that 51% of those who experienced difficulties with PRS actually complained to an industry organisation¹⁸).
- 1.43 According to the Ipsos MRBI quantitative research, 21% of PRS end-users have experienced difficulty when using a PRS. While recognising that this research is based on a snapshot, or sample, of respondents over a six-month period, inferring for the general population would work out at approximately 256,000 end-users. The Ipsos MRBI research also suggests that 51% of those who experienced difficulties actually complained to an industry organisation and extrapolating for the general population, this is estimated at just over 130,000. Therefore the 49% of those who did experience difficulty but did not complain can be estimated at just over 125,000. Of the cohort of complainants (estimated at 130,000 for the general population), the Ipsos MRBI research showed that 49% of respondents were satisfied with the resolution, while 51% were dissatisfied. Extrapolating for the general population, we estimate that approximately 64,000 were satisfied and 66,000 were dissatisfied. The workings are shown in Figure C.6.

¹⁸ The Ipsos MRBI research noted that a mobile operator, RegTel, the PRS subscription provider, ComReg, the NCA, and the Consumer Association of Ireland were the main points of contact. RegTel/ComReg's average annual figure of calls to its customer care centre is approximately 24,000.

Figure C.6 – Sample calculation of minimum consumer detriment over 6-month period based on Ipsos MRBI research

Ipsos MRBI Survey		General Population		Cohorts of dissatisfied and complainants	
All respondents (11+)	1,197	Approx. Population >11	3,700,000	1. Those who did not complain but experienced difficulty	125,641
33% who have ever used PRS	395	33% who have ever used PRS	1,221,000	Assume a basic cost of a generic PRS text message	2.00
21% who experienced difficulty in the past 6 months	83	21% who experienced difficulty in the past 6 months	256,410		251,282
51% of those who experienced difficulties actually complained to a relevant body, ComReg, MNO, PRS provider etc.	42	51% of those who experienced difficulties actually complained to a relevant body, ComReg, MNO, PRS provider etc.	130,769		
Therefore 49% did not complain but still experienced difficulty	41	Therefore 49% did not complain but still experienced difficulty	125,641	2. Those who did complain but were dissatisfied	66,692
49% of complainants were satisfied with resolution	21	49% of complainants were satisfied with resolution	64,077	Assume a basic cost of a generic PRS text message and the cost of time spent seeking redress, based on half the hourly industrial wage	10.50
51% of complainants were dissatisfied with resolution	22	51% of complainants were dissatisfied with resolution	66,692		700,269
				3. Those who did complain and were satisfied/refunded	64,077
				Assume the cost of time spent seeking redress, based on half the hourly industrial wage; initial loss should have been refunded = zero-sum	8.50
					544,653
				Total consumer harm	1,496,204

1.44 As is clear from the responses in the qualitative Ipsos MRBI research, there are those end-users who feel complaining is not “worth the hassle”¹⁹. What kind of value can be put on the frustration and annoyance felt by those who might have had a bad experience but didn’t complain, and those who spent time making calls but to no avail? It is extremely difficult to put an estimate on this level of frustration but in order to include this cohort of people for the sake of completeness, assume, for the purposes of an illustrative example, that these end-users were “chastened” by their experience of PRS and their initial loss is simply the estimated cost of a generic premium rate SMS text, €2.00²⁰. Given some of the anecdotal responses in the Ipsos MRBI qualitative research, this

¹⁹ Two examples of response; “Felt the effort I’d have to put in to get at those people wasn’t worth the €20 I lost.” [Male, 55-64]; “I just moved on from it really. I said what I needed to say to Vodafone and I got them to stop. Reporting them to Vodafone was as far as I went.” [Male, 35-44]

²⁰ This is an internal estimate of a generic price per text for Subscription Services, based on data received from the PRS industry, although the overall subscription charge paid by the end-user could vary significantly depending on the number of messages involved in any one billing period.

may be a reasonably conservative figure and reflects just one possible way of estimating the initial loss experienced. Furthermore, it would not take into account broader welfare impacts such as the potential dampening effect of a negative experience on future PRS consumption. Nevertheless, for the purposes of this simple and partial estimate, this would imply an estimated initial cost of just over €250,000 for those who have experienced some level of frustration with their PRS experience but did not take the issue any further.

1.45 The next cohort to estimate some minimum level of initial consumer detriment are those who claimed to be dissatisfied in the survey, took the time to make a complaint but did not receive a refund, which we have estimated as approximately 66,000 consumers. In this respect, the time that individuals spend seeking redress is an intangible variable that must also be considered. We therefore use the same initial loss figure as used for the previous cohort, the cost of a generic premium rate SMS text, €2.00, and add to it the time spent seeking redress. We again make a conservative estimate, this time on the time spent and its value, assuming they spent half an hour seeking redress (making calls, being put through to the correct customer service operator, sending and receiving emails and letters, etc.) and based on the average estimated hourly industrial wage of approximately €17²¹, this would give an additional estimated cost for this cohort of approximately €700,000. It is again important to note here that this reflects just one possible method of estimating some initial level of loss experienced by these dissatisfied consumers.

1.46 Finally, those who according to the survey did complain and were satisfied with the resolution (assume this to mean a refund was given) amount to approximately 64,000 consumers. Again we use the cost of time spent seeking redress (half the average hourly industrial wage, €8.50) but, in order to make a conservative estimate of the minimum consumer detriment initially experienced, we assume that the initial loss is made good by the refund. Therefore, the total cost for this cohort amounts to approximately €545,000. Overall, this would amount to an estimate of just under €1.5 million as a minimum level of the loss initially experienced by those who, according to the Ipsos MRBI research, have in some way been aggrieved and/or complained about PRS over a six month period. The calculation methodology used here is just one possible way of estimating some degree of the initial consumer detriment associated with a negative PRS experience and the cost of seeking redress. It should be reiterated that the above represents an indicative and partial estimate only and potentially understates the actual welfare loss by a significant degree. It is, therefore, more correctly interpreted as a lower bound to the initial level of consumer detriment experienced by PRS consumers identified as being dissatisfied over a six month period.

²¹ Central Statistics Office, 2010 Statistical Yearbook, "In Quarter 4 2009, average weekly earnings across all sectors of the economy were €716.09, a decrease of 0.6% over the year from quarter 4 2008." Dividing this by a 40 hour week comes to approximately €17 per hour.

1.47 To fully understand the precise impact on consumer welfare, it would be necessary to identify the consumer surplus foregone under the current framework. In this respect, it would be important to consider the demand elasticity of PRS consumers at an aggregate level as well as the elasticity of supply of PRS. Given the essential nature of the broad scope of telecommunications, individuals' demand for telecommunications may be viewed as relatively inelastic. However, the demand for mobile telephony²² specifically would be somewhat more elastic than the demand for fixed telecommunications in general²³ and, as a significant proportion of PRS users access these services with their mobile phone (according to the Ipsos MRBI research), and we consider PRS to be, to some extent, a luxury good²⁴ (which by definition have a high elasticity of demand), it is fair to assume that the demand for PRS is relatively elastic. On the supply side, there is a wide variety of PRS products, and given the type of product on offer in the industry, it may be assumed that supply is not in any way fixed. Therefore, it may be assumed that the supply of PRS is also relatively elastic. This implies that both the demand and supply curves for PRS are potentially quite flat. Notwithstanding this, an area of consumer surplus can be identified, as in the illustrative Figure C.7 below, between the price consumers actually pay (the market price) and the maximum price they would have been willing to pay (the reservation price²⁵). Any change in the observed consumer surplus is thus important in terms of ComReg's remit to protect PRS consumers.

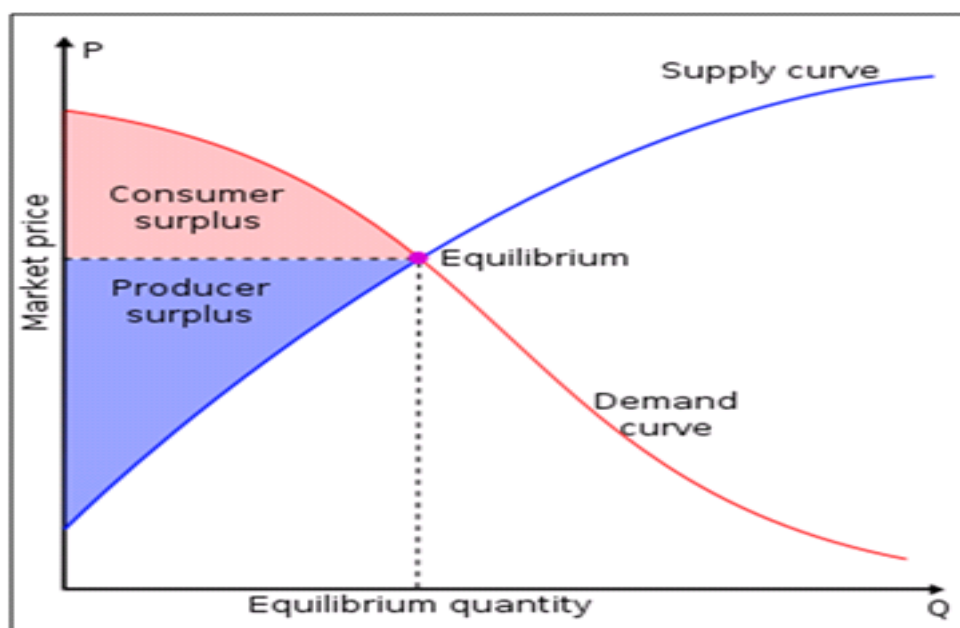
²² Regarding the empirical literature on mobile telephony, Parker and Roeller (1997) use US data from 1984 to 1988 to estimate a structural model of the mobile telephony industry. They report an own price elasticity of demand of -2.5. Madden and Dalzell (2004) use annual panel data for 56 countries from 1995-2000. They estimate an own-price elasticity of -0.55. Hausman (1997) reports an own-price elasticity of subscription of -0.51 for cellular subscription in the 30 largest US markets over the period 1988-1993. Hausman (2000) using more recent data reports an own-price elasticity of subscription of -0.71. In a study on the Australian mobile market, Access Economics reports a price elasticity of -0.8. Summarising the results from different studies by DotEcon, Frontier Economics and Holden Pearmain, in its 2003 report on the charges for terminating calls from fixed and mobile networks, the UK Competition Commission reports own-price elasticities for mobile calls ranging between -0.48 and -0.65.

²³ See European Commission, Commission Staff Working Document accompanying the Commission Recommendation on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU. Implications for Industry, Competition and Consumers, {C(2009) 3359 final}, May 2009, page 20, http://ec.europa.eu/governance/impact/ia_carried_out/docs/ia_2009/c_2009_3359_en.pdf

²⁴ Luxury goods refer to goods and services that have a high income elasticity of demand for which demand increases more than proportionally as income rises. As an example, demand for Caribbean holidays rises significantly as average income increases. Conversely when the price of a Caribbean holiday rises, the number of Caribbean holidays demanded falls sharply. Contrast this with necessities, such as milk or bread, which people usually demand in quite similar quantities whatever their income and whatever the price. The Economist glossary; <http://www.economist.com/research/economics/>

²⁵ Reservation (or reserve) price is the highest price a buyer is willing to pay for a good or service. It is the maximum value the consumer places on the good or service.

Figure C.7 – Illustration of consumer surplus



1.48 As already noted, consumers derive some consumer surplus from PRS and if, at an aggregate level, a PRS consumer's reservation price is higher than the equilibrium or market price shown in Figure C.7 above, it is possible to calculate a consumer surplus figure²⁶. However, if the satisfaction or utility that the consumer derives from the PRS experience does not equate to the reservation price, then there is a loss in consumer surplus. Furthermore, as discussed earlier, price misperceptions can contribute to lower levels of consumer surplus and consumption as consumers might be deterred from purchasing services which they might otherwise be willing to pay for at their true price.

1.49 So, while some attempt has been made to quantify the level of dissatisfaction experienced by a segment of PRS consumers (over a six month period), this is likely to significantly understate the actual welfare cost. For example, this figure would not reflect the full extent of the loss in consumer surplus associated with any PRS price confusion (e.g. due to unclear promotional offers) and/or distress experienced (e.g. by difficulties in opting out of certain subscription services), as well as the potential dampening effect of reduced consumer confidence on the general level of PRS consumption. It is, therefore, important

²⁶ For example, assume at a market price of €5 for a subscription service, the equilibrium quantity demanded is 5. A hypothetical market demand curve reveals that consumers are willing to pay at least €9 for the first unit of the good, €8 for the second unit, €7 for the third unit, and €6 for the fourth unit. However, they can purchase 5 units of the good for just €5 per unit. Their surplus from the first unit purchased is €9 - €5 = €4. Similarly, their surpluses from the second, third, and fourth units purchased are €3, €2, and €1, respectively. The sum total of these surpluses approximates the consumer surplus: €10. Any downward revision to the reservation price arising from consumer dissatisfaction with PRS would thus result in a decrease in this consumer surplus value which is relevant when formulating consumer policy.

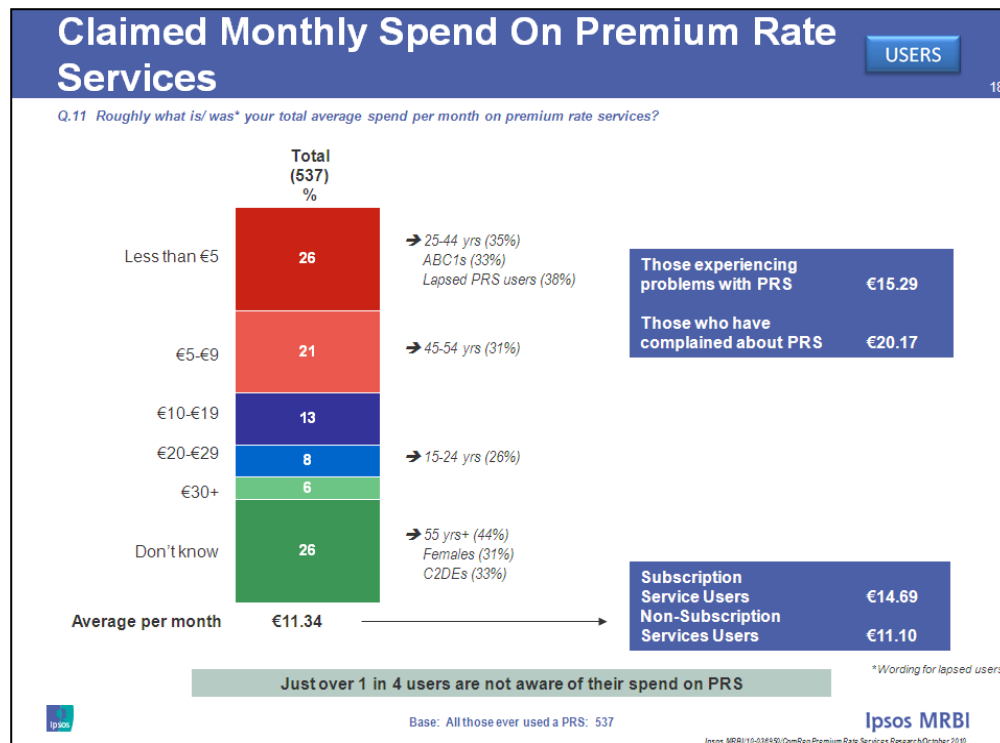
to note that there is this economic value of reduced consumer surplus that, while difficult to estimate, nevertheless does exist and is important from a consumer policy perspective. ComReg considers that the regulatory measures discussed in the following sections aimed at substantially reducing this loss in consumer welfare are thus proportionate and justified.

Expenditure Limits²⁷

- 1.50 Expenditure reminders have already been discussed above and ComReg's preliminary decision, following the consultation and further proposal, that it does not consider it warranted to introduce additional expenditure reminders, with the exception of Virtual Chat Services and the monthly reminder in relation to Subscription Services, leads reasonably to a similar decision in relation to expenditure limits. The policy objective in question was to consider whether placing expenditure limits on end-users would be of benefit and if such limits were beneficial, what would be the basis for the expenditure limit. While there is anecdotal evidence of consumers incurring significant charges, it must be said that this seems to be the exception rather than the rule.
- 1.51 As is evident from Figure C.8 below, PRS end-users claim to typically spend an average of €11.34 per month and while those who have experienced a problem with PRS tend to have spent 34% more than the average (€15.29) or who have complained about PRS tend to have spent 78% more than the average (€20.17), these figures are still short of monthly expenditure on other luxury goods for entertainment - for example a Sky Sports or Movies package, a mobile broadband add-on etc., which is estimated at €30 per month. The intention of an expenditure limit would be to minimise consumer harm by simply blocking or restricting the end-user from continuing with a transaction beyond a certain charge incurrence. In cases where vulnerable users such as children or those with reduced mental capacity overuse a PRS without awareness of cost, there does seem to be a case for introducing an expenditure limit. However, other regulatory measures, such as the age verification framework and double opt-in should be sufficient to minimise this type of consumer harm. Therefore, as already mentioned, ComReg has reconsidered its initial proposal to introduce expenditure limits taking proportionality considerations into account.

²⁷ Specifically relating to questions 7,8,9 in the consultation document 10/92a

Figure C.8 – Monthly spend on PRS



Undelivered messages²⁸

1.52 The objective in relation to undelivered messages being stored-up and delivered en masse is to ensure that the consumer is not hit with a significant accrual of messages over a period of time and the consequent costs, creating a bill-shock for post-paid users or credit-shock for prepaid users, which is obviously an example of consumer harm that has to be minimised. ComReg believes that it is reasonable and proportionate to both end-users and PRS providers for no end-user to receive any more messages within a charge period than they originally signed up for. In respect of undelivered messages that are not part of a subscription service, ComReg considers that no further attempts should be attempted to send it after the initial charge period has elapsed. This provision is considered appropriate to afford the PRS provider sufficient time to resend the message and prevent the end-user from receiving an inordinate, and perhaps unexpected, number of messages at the same time.

1.53 Regulation in this area is necessary because there have been instances²⁹ where stored-up messages have been delivered when eventually the consumer's phone is available to accept text messages (e.g. when the account is back in credit after being topped-up). The National Consumer Agency response to consultation highlights a case based on their own research that a backlog of messages built up on a phone represents the potential for significant consumer harm. Both

²⁸ Specifically relating to question 14 in the consultation

²⁹ <http://debates.oireachtas.ie/dail/2009/10/08/00011.asp>

elements of the proposed regulation, no charge for a failed message and no further attempts to deliver message outside the initial charge period, are positive for consumers. Some respondents suggested that a fair balance is struck between protecting consumers and ensuring that PRS providers are not unduly disadvantaged. Cognisant of the impacts for PRS providers, ComReg considers the proposed provision affords the PRS provider sufficient time within which to re-send any failed messages. Thus, in addressing the potential for consumer harm where an end-user suffers bill- or credit-shock from receiving a built up number of messages all at once, it is considered that the revised draft proposals meet the obligation to protect consumers in a fair and proportionate manner.

Age Verification Framework³⁰

- 1.54 Not mentioned above is the extent to which children are vulnerable to PRS. Research conducted by Ipsos MRBI on behalf of ComReg indicates that (of a small sample size) 45% of 11-14 year olds have used PRS, a higher percentage than the population overall (33%). Furthermore, according to 2008 research conducted by Analysis Mason for PhonepayPlus in the UK, “47% of 11-17 year olds use phone-paid services”. These figures indicate that children, a vulnerable group, which may be more easily misled and less able, or willing, to complain, are just as likely if not more likely to use PRS more regularly than adults, given the type of services on offer (ringtones, game downloads, music downloads etc.).
- 1.55 With this in mind, the policy objective in relation to an age verification framework should be to specifically differentiate between consumers that are under eighteen and those adults over the age of eighteen. It is clear that children use PRS for age-appropriate transactions (for example ringtones, football results, downloading games, TV-voting etc.) as often, if not more often, than adults. Without an age verification framework, there is always the chance that a child will be exposed to Adult Entertainment Services (AES). If children are exposed to AES, there is clear consumer harm. There is a social responsibility to ensure that younger mobile users are denied access to inappropriate content while retaining the freedom for adults to access the services they desire. The question is, however, on whom does the social responsibility lie? ComReg proposes that this can be provided by an age verification framework if properly implemented.
- 1.56 An age verification framework should lead to prevent complaints by parents in relation to access to inappropriate content, thus helping to minimise administration costs for ComReg. Undoubtedly some PRS users under the age of eighteen will want to access AES but, by definition, these are adult services and it is neither fitting nor lawful for them to do so. There is a social benefit in forbidding children access to AES. There may be situations where some children will still circumvent the access block, however, for the most part a rigorously implemented age verification framework should work. There is certainly a cost to PRS providers and network operators (both mobile and fixed) of implementing the framework and while quantifying any social benefits of

³⁰ Specifically relating to question 28 in the consultation document 10/92a

such a framework is difficult, if PRS providers want to offer these services they must ensure that children's access is severely restricted. This framework will also assist in restricting the activities of unscrupulous PRS providers who may look to exploit the easy spending and instant gratification provided by personalised mobile phone access, which is a characteristic of usage by children.

Adult Entertainment Services ("AES")³¹

1.57 The age verification framework places an onus on both the PRS provider (implementation of a system) and on the consumer (proving and verifying age) while the number barring system seems to be overly prescriptive and to some extent may actually restrict the consumer. Once the age verification framework is in place, ComReg, PRS providers and network operators have each taken a significant share of responsibility for the control of access to AES. Consumers must also be trusted with responsibility for their actions, unless they are children, but that is the point of the age verification framework in the first place. Once the age verification framework is in place, adults should be allowed act freely within the law in relation to AES.

1.58 A Live Service Providers' Compensation Scheme, which would provide for refunds to end-users whose telephones have been the subject of unauthorised use to call AES, is closely related to the issue of refunds. In the specific case of AES, having such a scheme in place would be beneficial to end-users who have been billed for transactions they did not make. In other words, someone else got hold of their phone and made calls/texts to run up a bill. However, this is extremely liable to abuse by individuals running up high charges and then making claims that someone else made the transaction and while ComReg is obliged to limit consumer harm, it should not foster a situation whereby consumers themselves are the ones defrauding the industry. The implementation of the age verification framework is one step in the process of ensuring such abuse does not occur. Fundamentally, the idea of the compensation scheme is sound but, as already mentioned, the objective could be met with proper regulatory measures in relation to refunds. Cognisant of the need for any change to the existing regulatory situation to be proportionate and justified, there is undoubtedly an added cost to industry if such a scheme is put in place. Over-regulation by ComReg on this issue could create a further cost to the industry as well as potentially limiting the freedom, perhaps, of consumer choice.

Assessing the impact for competition

1.59 In exploring the various regulatory options, the previous sections have assessed the potential impacts of the proposed regulatory changes on both consumers and service providers. ComReg's RIA guidelines also indicate that the RIA should look to determine what impact the proposed regulatory changes might have on competition in the market.

1.60 As has already been suggested in the previous sections, the proposed amendments to the Code could involve some implementation and operational costs for PRS providers, such as in updating advertising/promotional materials

³¹ Specifically relating to questions 29,30,31 in the consultation document 10/92a

or implementing relevant complaint handling procedures. Furthermore, some revenue implications may arise e.g. from uncommitted customers not completing their purchase during the double opt-in process. Notwithstanding these potential impacts, the enhanced regulatory measures would apply to all service providers providing similar services. While certain providers may have greater reliance on certain types of PRS, the regulatory proposals are intended to be industry-wide and to create greater transparency across the PRS sector, rather than targeting any one specific niche of the industry. Therefore, the potential effect of these proposals is to raise the standard of service transparency across all providers. The proposed changes to the Code may therefore be considered relatively neutral in relation to competition between service providers.

- 1.61 It may even be argued that the enhanced transparency measures should help to promote competition between service providers as consumers would be better informed on the PRS options available to them and better able to choose according to the PRS price and service offering. The proposed regulatory changes should therefore perform well in terms of better equipping consumers to make competitive choices based on the merits of the service offering. Improved transparency should thus help promote price competition and service innovation among PRS providers, in turn, generating further benefits for consumers over the medium to longer term.
- 1.62 Furthermore, by reducing the scope for misleading/fraudulent marketing practices by opportunistic and errant PRS providers, the proposals may be viewed as providing a more secure commercial and regulatory environment for legitimate PRS providers to operate and invest within, thereby providing greater revenue certainty and supporting more efficient and sustainable competition over the longer term.
- 1.63 As also noted above, in the long term, given increased consumer confidence and a reduction in consumer harm, consumers may also be more minded to use the products and services that the industry has to offer, leading to increased revenues and increased market entry. This will, in effect, grow competition as firms not already in the industry could see it as a favourable and positive place to do business.

Conclusion

- 1.64 This RIA has assessed regulatory options for amending the draft Code of Practice for Premium Rate Services by focusing on ComReg's two key overarching policy objectives in relation to PRS:
- increased transparency, and
 - consumer protection.
- 1.65 Against the background of these objectives, ComReg has drawn on a broad range of qualitative and quantitative evidence and demonstrated that, even taking existing regulation into account, the PRS industry or market continues to lack transparency with significant informational asymmetries persisting in respect of PRS price and service details and evidence of consumer detriment occurring through the substantial complaints received in relation to these

services. In this RIA, ComReg has assessed the options that appear to be reasonably open to it to deal with the transparency issues identified above.

- 1.66 ComReg has set out a number of revised draft proposals aimed at enhancing the visibility and clarity of the material terms in a PRS within PRS promotions. These enhanced transparency measures recognise that there are customers which clearly derive utility from consuming PRS products and services, the revised proposals are further aimed at supporting further customer engagement in PRS through enhancing customer confidence by providing measures which *inter alia* facilitate clear double opt-in mechanisms, help avoid bill shocks and strengthen complaint handling procedures.
- 1.67 In the course of the RIA, ComReg has also considered what positive and/or negative impacts these proposals could have primarily on consumers but also on other industry stakeholders, as well as on competition.
- 1.68 The proposed enhanced measures should facilitate increased price and service transparency for customers and reduce the potential for consumer harm while also facilitating appropriate redress mechanisms in the event of actual consumer harm. This will create a net benefit for consumers, which is ComReg's objective given its key obligation to protect the interests of PRS end-users. In terms of the impacts for PRS providers, ComReg acknowledges potential implementation and set-up costs for service providers as well as possible revenue impacts e.g. from uncommitted customers opting out. At the same time, however, ComReg envisages longer term benefits for the PRS industry as the introduction of these proposals should promote confidence and trust in consumers towards the PRS operators which the empirical evidence would suggest consumers seem to lack currently. It is clear from the evidence in this paper that there is a clear consumer value attached to certain PRS services and, thus, greater consumer confidence should promote further customer engagement and uptake of those services. Furthermore, the increased regulatory certainty that the proposed amendments provide should, in the long term, have positive impacts for both consumers and PRS operators.
- 1.69 As regards the impact on competition, ComReg is of the view that the proposals will impact the entire industry in a non-discriminatory manner as they would apply to all service providers providing similar services. The enhanced transparency measures should also help better equip consumers to make competitive choices. In addition, by reducing the threat posed by errant PRS providers, the proposals would support efficient and sustainable competition between legitimate PRS providers over the longer term, generating more enduring benefits for consumers in terms of price and service choice. Moreover, as enhanced consumer confidence helps generate revenue opportunities, this may in turn help "grow" competition, as firms not already in the industry could see it as a more positive environment in which to conduct business.