



Commission for  
**Communications Regulation**

Information Notice

## **Information Notice on ComReg Consultation Procedures**

<b>Document No:</b>	<b>11/34a</b>
<b>Date:</b>	<b>6 May 2011</b>

## **Introduction**

The Commission for Communications Regulation (ComReg) is the statutory body responsible for the regulation of the electronic communications sector (telecommunications, radio communications and broadcasting transmission) and the postal sector. The third European Postal Directive (Directive 2008/06<sup>1</sup>) is currently being transposed into Irish law. Under the Communications Regulation (Postal Services) Bill 2010, ComReg is required to publish its public consultation procedures.<sup>2</sup>

## **Review of consultation procedures**

Given this obligation, ComReg has undertaken a review of its consultation procedures which date from 2001 (postal<sup>3</sup>) and 2003 (electronic communications<sup>4</sup>). As a result, ComReg has decided that it is timely to update and publish a single set of consolidated consultation procedures.

Document 11/34 updates and consolidates ComReg's public consultation procedures and will take effect from 6 May 2011. These procedures supersede and replace ComReg consultation procedure documents 01/09 and 03/31 which are hereby revoked. The new procedures are set out in an Annex to this Information Notice.

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<sup>1</sup> Directive 2008/6/EC of the European Parliament and of the European Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services

<sup>2</sup> Section 15 Communications Regulation (Postal Services) Bill 2010

<sup>3</sup> 01/09 Regulation of Postal Services – Procedures for seeking the views of interested parties

<sup>4</sup> 03/31 Future Regulation of Electronic Communications Networks and Services – ComReg Consultation Procedures

# Annex



Commission for  
**Communications Regulation**

## Consultation Procedures

### ComReg Consultation Procedures

<b>Document No:</b>	<b>11/34</b>
<b>Date:</b>	<b>6 May 2011</b>

**An Coimisiún um Rialáil Cumarsáide**

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## 1 Introduction

The Commission for Communications Regulation (“ComReg”) is the statutory body responsible for regulating the electronic communications (telecommunications, radio communications and broadcasting transmission) and postal sectors<sup>1</sup> in accordance with European Union and national law.

Where ComReg is required to conduct a public consultation process in the performance of its regulatory functions, it shall do so in accordance with these consultation procedures which are intended to give an opportunity to interested parties to make representations to ComReg. These procedures supersede and replace ComReg consultation procedure documents 01/09 and 03/31 which are hereby revoked.

These procedures are a general statement of the applicable principles. There may be circumstances where ComReg will be required to depart from these procedures, for example, including but not limited to, specific legislative requirements or where there is an urgent need to implement certain measures.

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<sup>1</sup> Communications Regulation Act 2002 (as amended)

## 2 Consultation Procedures

The purpose of public consultation is to provide information to the public on the topic being consulted on and to give interested parties an opportunity to make representations. Where ComReg is required to conduct a public consultation in the performance of any regulatory function it shall do so in accordance with these consultation procedures. These procedures are published on ComReg's website<sup>2</sup> and copies are available from ComReg upon request<sup>3</sup>.

### 2.1 Principles of Consultation

As set out in the Department of the Taoiseach's guidelines on consultation<sup>4</sup>, consultation is about seeking the views of those outside the decision-making process in order to better inform that process. Consultation is not intended to be a substitute for decision-making, but reflects the fact that the decision-making process benefits from having the widest range of views and fullest information on a particular issue.

ComReg is fully committed to a transparent consultation process and recognises that public policy-making can be enhanced through the active involvement and contribution of all stakeholders with an interest in particular policy developments. By ensuring that interested parties can express their views about a particular proposal, the decision-making process becomes better informed, more rigorous and more accountable.

Consultation processes should recognise that there may be a wide range of stakeholders on any particular issue, not just those with a direct financial or other interest.

Certain legislation under which ComReg operates identifies particular measures for which advance consultation is mandatory. The extent to which additional measures may be consulted upon will be decided on a case-by-case basis. In making such decisions ComReg will consider a number of factors including the number of parties who may be affected, whether points of principle are involved as opposed to detailed implementation of an existing measure, and the relative cost impact of the measure on users or operators. ComReg is not bound to and will not publicly consult on individual compliance and enforcement matters. ComReg does not consider itself bound to publicly consult on matters that are clearly settled by law.

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<sup>2</sup> [www.comreg.ie](http://www.comreg.ie)

<sup>3</sup> A copy of the procedures shall be made available, upon request, to interested parties at a cost not exceeding the reasonable cost of making a copy or, where appropriate, such cost and the amount of any postage involved.

<sup>4</sup> Department of the Taoiseach "Reaching Out - Guidelines on Consultation for Public Sector Bodies" 2005

It should be noted that ComReg is not legally bound by its consultation documents nor do they constitute legal, commercial, financial, technical or other advice or necessarily set out ComReg's final, definitive position on any particular matter.

## 2.2 Publication of Consultation Documents

Where ComReg conducts a public consultation, all consultation documents will be made available on our website. E-mail notifications will be sent to persons who are registered with ComReg to receive notifications of publications. Hard copies and other accessible formats of consultation documents will be available from ComReg upon request.

Consultation documents will include the closing date for receipt of submissions and a contact person within ComReg. Where appropriate, consultation documents will outline the measure being contemplated and the factors which ComReg considers to be pertinent to the issue.

In certain circumstances, ComReg may conduct a Regulatory Impact Assessment (RIA) in accordance with its RIA guidelines<sup>5</sup> and the Department of the Taoiseach RIA Guidelines<sup>6</sup>.

Prior to a formal public consultation, preliminary discussions with affected parties or representative groups or associations may take place. Such discussions are not a substitute for public consultation but they may be used by ComReg to inform the consultation and to prepare draft measures and analysis and formulate questions.

As far as possible, ComReg will publish the dates of forthcoming consultations in advance on its website.

## 2.3 Submissions

### 2.3.1 Duration of consultation

Normally, the period of time allowed for interested parties to respond to a consultation will be four weeks, but this may vary in certain cases due to:

- the urgency of the matter;
- the complexity of the issues addressed;
- the stakeholders who might be most likely to wish to respond to the document;
- other documents that might be addressed to the same interested parties (and therefore the total effort required to respond);
- any statutory timing requirements; or
- the mobilisation of resources to deal with the issues raised.

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<sup>5</sup> ComReg's current guidelines are set out in "Approach to Regulatory Impact Assessment" (Document 07/56).

<sup>6</sup> Department of the Taoiseach "Revised RIA Guidelines – How to conduct a Regulatory Impact Analysis" 2009

Where ComReg proposes a shorter period of time than four weeks for responding to a consultation, ComReg will give reasons for doing so. In exceptional circumstances, ComReg, at its sole discretion, may consider extending the period of consultation if requested to do so by a respondent(s). A request for an extension should be made within one week of the date of publication of the consultation concerned. Requests made after this period may not be considered. Where ComReg decides to extend the period of consultation, ComReg will publicly notify all interested parties via its website and via e-mail to those persons who are registered with ComReg to receive notifications.

### *2.3.2 Submission of comments*

Submissions in relation to individual consultations are welcomed from all interested persons, including end-users, manufacturers and providers of services. Each consultation document will contain instructions on how to send submissions to ComReg. Where possible, comments should be provided in writing in electronic format with read/write access but comments delivered by post, by fax or by hand will also be accepted.

ComReg will at all times seek to ensure that all of its consultations are as open, transparent, fair and complete as possible, and ComReg will take proper consideration of all submissions that are received. However, ComReg will also seek to conduct its consultations in as efficient and timely a manner as possible and interested parties can assist in this regard by formatting their submissions in a manner which closely follows the format of the consultation paper and by bringing especially relevant or important points to the fore. Comments and input should therefore be referenced according to the relevant sections and questions in the consultation document. Further, while ComReg will consider the full text of all submissions that are received, lengthy submissions should nevertheless include summaries setting out the most relevant and important points. Respondents should set out their reasoning and all supporting information for any views expressed.

As it is ComReg's policy to publish all responses in order to make them available for inspection, responses to consultations should be provided as non-confidential documents, with any information for which confidentiality is claimed (e.g. commercially sensitive information) supplied in a separate annex<sup>7</sup>.

### *2.3.3 Consideration of comments*

The purpose of public consultations is to allow ComReg to consider the views of interested parties in the context of reaching a decision on particular matters. All views will be considered and account taken of the merits of views expressed. It should, however, be noted that the process is not equivalent to a voting exercise on proposals and ComReg will exercise its judgement having considered the merits of the views expressed. It is not practical for ComReg to provide commentary on each

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<sup>7</sup> See ComReg document 05/24 "Guidelines on the treatment of confidential information" for further details.



individual submission, however non-confidential versions of each submission will be published.

## **2.4 Responses**

ComReg will publish a response to each consultation, providing a general review of submissions received on the matter being consulted upon. Where appropriate, a Decision Notice will be issued, setting out the decision(s) taken following the consultation, together with a review of submissions and ComReg's reasons for any decision.