



Consultation & Draft Direction

**Setting a Maximum Fixed and Mobile Number
Porting Charge**

Document No:	08/65
Date:	15 August 2008

All responses to this consultation should be clearly marked:-
“Reference: Submission re ComReg 08/65” as indicated above,
and sent by post, facsimile, e-mail or on-line at www.comreg.ie
(current consultations), to arrive on or before 5.30pm on 19
September 2008 to:

Ms Caroline Jordan
Commission for Communications Regulation
Irish Life Centre
Abbey Street
Freepost
Dublin 1
Ireland

Ph: +353-1-8049600 Fax: +353-1-804 9680 Email:
wholesaleconsult@comreg.ie

Please note ComReg will publish all respondents submissions
with the Response to this Consultation, subject to the provisions
of ComReg’s guidelines on the treatment of confidential
information – ComReg 05/24

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1 Executive Summary

In ComReg Document No. 07/98¹, ComReg specified the appropriate costs an operator may recover through number porting charges to other operators. Following on from this specification ComReg requested price submissions, from both fixed and mobile operators, in order for those operators to demonstrate that their Number Portability ('NP') charge was compatible with the cost orientation specification in relation to the pricing of interconnection for NP. This document details ComReg's review of the operator price submissions and outlines its proposed decision on the maximum prices that should be charged by operators in order to comply with the specification as set out by ComReg.

In total fourteen responses were received by ComReg, of which seven responses included price submissions, from both fixed and mobile operators. ComReg carried out an extensive review of these price submissions to evaluate the compatibility of these submissions with ComReg's specification on the cost orientation obligation relating to the pricing of NP. This specification set out *that allowable costs for the pricing of interconnection related to the provision of NP are limited to the incremental (i.e. short term volume dependent) administrative cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process*. This consultation sets out in details the preliminary conclusions of ComReg's review of relevant costs and related charges. Set out below is a summary of these preliminary conclusions on the maximum charges proposed by ComReg;

- **Mobile Number Porting**

Based on ComReg's review of the price submissions and the mobile operator responses to the initial consultation, ComReg remains of the view that a single charge appears appropriate in terms of a mobile NP charge. Following ComReg's assessment of the price submissions, ComReg propose that a maximum wholesale charge of €2.05 should apply to all mobile operators for ports out.

- **Fixed Number Porting**

In relation to fixed number porting, ComReg is of the preliminary view that the current price structure in Eircom's RIO² should remain in place. ComReg proposes multiple fixed NP charges, consistent with Eircom's current structure. The proposed maximum charge for a single port out completed in normal hours is €4.02. ComReg has also proposed other fixed NP charges, including charges for ports completed outside of normal hours, ports deferred for a two hour period and ports validated and rejected. The multiple charges for fixed NP are set out in Section 5, table 4 (page 23) of this document. ComReg also propose a maximum charge of €3.50 for GNP in the context of Unbundled Local Metallic Path ('ULMP') and a maximum charge of €5.74 for Non-Geographic Number Portability ('NGNP').

The proposed charges, for both fixed and mobile NP, are based on those of a fully efficient number porting process. In addition, ComReg proposes that the charges determined for fixed and mobile NP are maximum charges which will allow some

¹ Response to Consultation & Specification on Number Portability in the Fixed and Mobile Sectors.

² <http://www.eircomwholesale.ie/dynamic/pdf/eircomRIOPriceList%202.23Unmarked.pdf>

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operators, who may have lower costs, to set lower charges in line with their obligation of cost orientation. The fixed and mobile NP charges, proposed by ComReg, will apply from the effective date of ComReg's final decision³ and these charges will remain in place until further specification or direction by ComReg. ComReg will consult separately on the appropriate refunds from 30 November 2007 to the date of ComReg's final decision on a maximum charge.

³ That is to say that Decision made by ComReg as a result of this Consultation.

2 Introduction

ComReg is responsible for the regulation of the Irish Telecommunications sector, this includes the regulation of Number Portability ('NP') under Regulation 26(1)⁴ of the Universal Services Regulations.

NP is a facility which allows subscribers to retain their existing fixed or mobile number when moving between network operators. NP was first introduced in the fixed sector in 2000 with the introduction of Non-Geographic Number Portability⁵ ('NGNP') and Geographic Number Portability⁶ ('GNP'). It was subsequently introduced to the mobile sector with the launch of Mobile Number Portability ('MNP') in 2003.

The 'Consultation on Number Portability in the Fixed and Mobile Sectors' (Document 07/21) was published on 10 April 2007. This consultation included the proposal to issue a specification to all relevant undertakings specifying the allowable costs for the pricing of interconnection related to the provision of NP for the purpose of ensuring that pricing for interconnection related to the provision of NP as provided for in Regulation 26(1) of the Universal Service Regulations is cost oriented. Secondly, to clearly identify who pays the NP charge, to establish whether retail users should pay a direct charge for NP and issue a specification to all relevant undertakings in relation to this. Eight responses to this consultation were received.

After due consideration was given to the responses received, a Response to Consultation and Specification was published on 30 November 2007 in ComReg Document No 07/98. The specification provided that the allowable costs for the pricing of interconnection related to the provision of NP should be limited to the incremental (i.e. short term volume dependent) administrative cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process. This was for the purpose of ensuring that pricing for interconnection related to the provision of NP as provided for in Regulation 26(2) of the Universal Service Regulations was cost oriented and the interpretation of cost orientation was properly set out. Secondly, ComReg concluded that there shall be no direct charges to subscribers for NP.

ComReg stated in Document no 07/98 that compliance with the new requirements to ensure cost orientation would be mandatory for all operators and that ComReg intended to monitor compliance with these new requirements as necessary. On 18 January 2008, ComReg requested pricing proposals from operators who provided

⁴ Regulation 26(1) states that "An undertaking providing a publicly available telephone service, including a mobile service, shall ensure that a subscriber to such service can, upon request, retain his or her number independently of the undertaking providing the service – (a) in the case of geographic numbers, at a specific location, and (b) in the case of non-geographic numbers, at any location'. This paragraph shall not apply to the porting of numbers between networks providing services at a fixed location and mobile networks."

⁵ Non-geographic number portability refers to a situation where a customer who has had allocated to him or her, a non-geographic number associated with a particular type of service (such as 0800 freephone, a 07 personal number, or a 090 premium rate number) can retain that number when changing to a different operator or service provider offering a service of the same or similar type.

⁶ Geographic Number Portability refers to a situation where a customer who has had allocated to him or her, a geographic number can retain that number when changing to a different operator or service provider offering a service of the same or similar type.

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number porting services. The submission was intended to allow operators to demonstrate that their NP charge was compatible with the costing principles specified. In total, fourteen responses were received, of which seven respondents included price submissions. The main sections of this consultation document discuss, in detail, the outcome of ComReg's review of the operator submissions and their compatibility with the specification on the cost orientation for the pricing of interconnection related to NP. In addition, the consultation document also includes ComReg's proposal on a cost oriented charge for fixed and mobile number porting, in line with the specification on cost orientation relating to the pricing of NP.

The table below includes the details of the respondents to ComReg's request for a price submission in relation to NP.

Operator	Fixed/Mobile Network
Hutchinson 3G Ireland Limited	Mobile Network Operator
Vodafone (Ireland) Limited	Mobile Network Operator
O2 Communications (Ireland) Limited	Mobile Network Operator
Meteor Mobile Communications Limited	Mobile Network Operator
Tesco Mobile Ireland	Mobile Network Operator
Eircom Ltd	Fixed Network Operator
BT Communications Ireland Ltd.	Fixed Network Operator
Colt Telecom	Fixed Network Operator
Blueface Limited	Fixed Network Operator
Imagine	Fixed Network Operator
Smart Telecom	Fixed Network Operator
Carphone Warehouse Networks (Opal Telecom Ltd.)	Fixed Network Operator
Virgin Media Ltd. (UK)	Fixed & Mobile Operator
Opera Telecom	Fixed Network Operator

The outcome of ComReg's review of operator submissions, as well as its proposal in relation to NP charges, is detailed in the following sections.

3 Legal Background

Regulation 26 of the Universal Service Regulations has been in force and provides that:

“(1) An undertaking providing a publicly available telephone service, including a mobile service, shall ensure that a subscriber to such service can, upon request, retain his or her number independently of the undertaking providing the service (a) in the case of geographic numbers, at a specific location, and (b) in the case of non-geographic numbers, at any location. This paragraph shall not apply to the porting of numbers between networks providing services at a fixed location and mobile networks.

(2) The Regulator may specify obligations for compliance by an undertaking to which paragraph (1) relates for the purpose of ensuring that pricing for interconnection related to the provision of number portability as provided for in paragraph (1) is cost oriented and that direct charges to subscribers, if any, do not act as a disincentive for the use of these facilities.

(3) Obligations under paragraph (2) may include a requirement that there shall be no direct charges to subscribers for number portability. Where retail tariffs for porting of numbers are permitted, the Regulator shall ensure that such tariffs may not be imposed in a manner that would distort competition and for this purpose may specify obligations to be complied with by an undertaking.”

Regulation 26 implements Article 30 of the Universal Service Directive⁷.

In July 2006, the European Court of Justice (‘ECJ’) in the ‘Mobistar’⁸ case provided further clarification on the interpretation of Article 30(2) of the Universal Service Directive (transposed in Ireland by Regulation 26(2) of the Universal Service Regulations).

The key clarification is as follows:

“Pricing for interconnection related to the provision of number portability, as referred to in Article 30(2) of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (Universal Service Directive), concerns the traffic costs of numbers ported and the set-up costs incurred by mobile telephone operators to implement requests for number porting.

Article 30(2) of Directive 2002/22 does not preclude the adoption of a national measure laying down the specific method to be used in calculating costs and which fixes in advance and on the basis of an abstract model of the costs maximum charges which may be charged by the donor operator to the recipient operator as set-up costs,

⁷ Directive 2002/22/EC of the European Parliament and the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services.

⁸ C-438/04, reference for a preliminary ruling under Article 234 EC from the Cour d’appel de Bruxelles (Belgium), made by decision of 14 October 2006, received at the Court on 19 October 2004, in the proceedings *Mobistar SA v. Institut belge des services portaux et des telecommunications (IBPT)*.

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provided that the charges are fixed on the basis of the costs in such a way that consumers are not dissuaded from making use of the facility of portability.”

The Consultation & Response to Consultation had two main purposes. Firstly, to set out a clear interpretation of cost orientation in the context of NP and to issue a specification to all relevant undertakings specifying the allowable costs for the pricing of interconnection related to the provision of NP for the purpose of ensuring that pricing for interconnection related to the provision of NP as provided for in Regulation 26(1) of the Universal Service Regulations is cost oriented. Secondly, to clearly identify who pays the NP charge, to establish whether retail users should pay a direct charge for NP and issue a specification to all relevant undertakings in relation to this.

The specifications included in ComReg Document no 07/98 are as follows:

SPECIFICATION 1

ComReg hereby specifies that allowable costs for the pricing of interconnection related to the provision of number portability are limited to the incremental (i.e. short term volume dependent) administrative cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process. This specification is for the purpose of ensuring that pricing for interconnection related to the provision of number portability as provided for in Regulation 26(1) of the Universal Service Regulations is cost oriented.

SPECIFICATION 2

ComReg hereby specifies that there shall be no direct charges to subscribers for number portability.

Further legal basis for making of Direction:

Regulation 31 of the Universal Service Regulations relates to Directions, it provides that:

“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 a person to do or refrain from doing anything which the Regulator specifies in the direction.”

ComReg now proposes to issue Directions to operators further specifying requirements to be complied with and which relates to the obligation imposed on them under these Regulation, and specifically, pursuant to Specification 1 contained in ComReg Decision 07/98 above.

4 Assessment of Relevant Costs

4.1 ComReg's Specification on cost orientation obligation for NP

In ComReg document no 07/21 ComReg discussed the related cost categories for NP. In brief, the NP related costs were categorised as follows:

- **General system provisioning costs:** These are once-off costs in modifying network and support systems to enable the inter-operator product and are independent of operator demand.
- **Per-line enabling/Transaction costs:** These are the operating and administrative costs of implementing NP facilities.
- **Central Database Reference Costs:** These are costs incurred by operators which require the use of a centralised hub or central reference database. There are two types of costs involved, the systems costs in the set up and developing of the database itself, and the annual costs of subscribing and maintaining the database. Included are 'IN' Costs and 'Look Up' Costs.
- **Ongoing Routing Costs:** This category of costs includes the cost of adding a routing prefix (the re routing element) and the cost of any additional routing between networks (the conveyance element) that may be required when a call is being routed to a ported number.

In relation to the **general system provisioning costs** ComReg was of the view that these should not form part of the NP charge and that each operator should pay their own general systems provisioning costs. Portability is intrinsic to a fully competitive telecommunications industry and each participant must make its network NP capable as a condition of entry. Furthermore, to allow these costs to be recovered on a per-transaction basis could introduce a degree of instability in pricing since these costs are, by definition, fixed in the short term while volumes are not. This last consideration could lead to a situation where charges for portability could be set at excessive levels by donor operators and might thereby dissuade consumers from making use of the facility.

In relation to the **per-line enabling/transaction costs** ComReg identified three elements of those costs incurred when porting an individual number from one operator to another: (i) The incremental⁹ administrative cost to the donor operator of exporting the number; (ii) The incremental administrative cost to the recipient operator of importing the number; (iii) The cost of changing routing data for all operators who carry out re-routing functions. ComReg specified that only the incremental administrative cost to the donor operator should be recovered against other operators in the form of NP charges and charged on a per event basis. ComReg was of the view that this approach reflected the principle of cost causation in that a cost is incurred by the donor operator at the point of issuing a port order and the recipient operator who benefits from the transaction should then pay an appropriate charge.

In relation to the **central database reference costs** ComReg considered that the database set up costs should be treated on the same basis as the general system

⁹ By 'incremental', ComReg means costs which are short term volume dependent. Costs which are not short term volume dependent should be included in the category General system provisioning costs (above).

provisioning costs as discussed above. Much the same reasoning as applied to these costs also applied here i.e. stability of pricing is best assured by including only variable volume related costs.

In relation to the **ongoing routing costs**, ComReg considered that it would be difficult to devise a mechanism to recover these costs as part of an up front charge and that it would be simplest to recover these using normal interconnection charging principles currently in place.

As part of the initial consultation document (07/21), ComReg also consulted on the proposal to issue a specification to all relevant undertakings specifying that the allowable costs for the pricing of interconnection related to the provision of NP should be limited to the incremental administrative cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process.

After considering all operator responses to the consultation document ComReg issued a specification in its response document no 07/98. This specification was as follows:

‘ComReg hereby specifies that allowable costs for the pricing of interconnection related to the provision of number portability are limited to the incremental (i.e. short term volume dependent) administrative cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process. This specification is for the purpose of ensuring that pricing for interconnection related to the provision of number portability as provided for in Regulation 26(1) of the Universal Service Regulations is cost oriented’.

ComReg also stated, in that document, that compliance with the new requirements to ensure cost orientation would be mandatory for all operators and that ComReg intended to monitor compliance with these new requirements as necessary. In addition ComReg stated that it would request price submissions from operators as appropriate.

4.2 ComReg’s request for price information from operators

An information notice was published by ComReg on 18 January 2008, Document no. 08/09¹⁰. ComReg also sent a number of formal letters to fixed and mobile operators on that date. However, due to the large number of authorised operators ComReg was of the view that it was not practical for it, in terms of time and cost, to send formal written requests to all fixed and mobile operators. However, operators that did not receive a letter from ComReg, but who supplied NP services, could make a submission to ComReg on the basis of the details set out in the information notice, which ComReg would then consider. ComReg also stated in its information notice and letter that in the event that an operator did not make a submission to demonstrate its compatibility with the specification any legal decisions by ComReg on the appropriate charge(s) would apply to that operator and all operators, irrespective of whether a submission was received or not.

¹⁰ Request for NP Price Submission from Fixed and Mobile Operators

Both the information notice & letter set out a formal request for specific data from operators to demonstrate how their number porting charge was in line with ComReg's specification. This data request included the following:

- A full description of the process (manual or automated) undertaken, together with any necessary documentation required to allow a proper understanding of the process;
- A detailed breakdown (by month) of the volumes (number of ports) based on the latest set of audited financial statements. In addition, a detailed breakdown (by month) of forecasted volumes for the financial year 2008/09;
- Detailed analyses of the incremental administration costs within general ledger accounts which would be necessary to understand the nature and purpose of such costs included in the submissions. The cost information should be based on the latest set of available audited financial statements together with forecasted costs for the financial year 2008/09;
- All appropriate supporting documentation and information to substantiate the incremental administration costs (as specified in document no 07/98) that are incurred by an efficient operator in exporting a number. The cost information should be provided in such a manner so as to enable ComReg to conclude that the submissions are cost oriented, that they contain no errors and in such a manner to enable ComReg to do so within a reasonable period of time, given the materiality of the relevant charges;
- The number of staff employed to carry out the porting process and their locations;
- A calculation of the number porting charge based on the volume and cost information above, this should include consideration of efficiencies gained from processing of one-off ports and multiple ports at any given time; and
- Any other details which the operator believes are necessary to satisfy the cost orientation obligation.

A number of responses were received to ComReg's request, as detailed in the table in section 2 (above). Of the total respondents, only seven respondents provided a pricing submission. The following subsections discuss, in detail, the outcome of ComReg's assessment of operator price submissions received.

4.3 Review of operator submissions

4.3.1 SUBMISSIONS FROM RESPONDENTS

Of the total fourteen responses, seven responses were received to ComReg's request to operators to demonstrate that their number porting charge was in line with the specification on the cost orientation obligation in the context of NP. The other operators who did not provide a price submission either used the rates in Eircom's RIO for fixed porting, one operator confirmed that it did not currently port numbers and another respondent confirmed that its porting was carried out by another company. The seven respondents who provided a price submission are detailed in the table below.

Operator	Fixed/Mobile Network
Hutchinson 3G Ireland Limited	Mobile Network Operator
Vodafone (Ireland) Limited	Mobile Network Operator
O2 Communications (Ireland) Limited	Mobile Network Operator
Meteor Mobile Communications Limited	Mobile Network Operator
Tesco Mobile Ireland	Mobile Network Operator
Eircom Ltd	Fixed Network Operator
BT Communications Ireland Ltd.	Fixed Network Operator

All information supplied by operators was considered although ComReg notes that the degree of detail varied considerably between the various submissions.

As stated in ComReg document no 07/98, ComReg’s review of the operator price submissions was to ensure that the operators number porting charges were in line with the cost orientation specification in relation to the pricing of interconnection relating to NP. ComReg’s review was based on the guidance provided in *Specification 1* on 30th November 2007. In essence, the only costs appropriate in the evaluation of the operator submissions were the incremental (i.e. short term volume dependent) administration cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process. ComReg’s review of the fixed and mobile operator submissions is discussed in detail in section 4.3.2 below.

4.3.2 COMREG’S REVIEW OF OPERATOR RESPONSES

4.3.2.1 Mobile operator submissions

ComReg carried out its assessment, of the mobile operator price submissions, to ensure that the operator’s costs for the pricing of NP were compatible with the specification for the purpose of ensuring that pricing for interconnection related to the provision of MNP was cost oriented. ComReg’s review highlighted the fact that most of the operators included costs categories which were not allowable costs in the terms prescribed in ComReg’s specification on cost orientation. The types of costs included by the majority of mobile operators were broadly similar in nature. As part of ComReg’s assessment of operator submissions, ComReg has set out below the details of the cost categories submitted by the mobile operators. ComReg has assessed the various costs submitted and has proposed which costs it believes are allowable costs and which are disallowed costs, in line with its specification.

4.3.2.2 Cost information submitted by mobile operators

The table 1 below sets out the categories of costs submitted by the mobile operators in demonstrating their compatibility with the specification on the cost orientation obligation in relation to the pricing of MNP. The table provides information as to how ComReg proposed to classify each cost category.

In ComReg’s view, the majority of the costs listed (below) are not incremental administration costs and are therefore not to be recovered via MNP charges. ComReg in its initial consultation document and response to consultation document highlighted the cost categories relevant to NP and specifically stated that the only cost category

relevant for the pricing of NP was the incremental administration cost, to the donor operator, of per line enabling. It is clear from the list of costs, submitted by the mobile operators, that the majority of these costs are not incremental administration costs of per-line enabling.

Table 1: ComReg’s assessment of the costs submitted by the mobile operators

	<u>ComReg’s Cost Categories for NP</u>	<u>General System Provisioning Costs</u>	<u>Per-line Enabling/ Transaction Costs i.e. Incremental</u>	<u>Per-line Enabling/ Transaction Costs i.e. Non Incremental</u>	<u>Central Database Costs</u>	<u>Ongoing Routing Costs</u>
		(B)	(A)	(B)	(B)	(B)
	<u>Mobile Operator Costs Submitted</u>					
1	Porting support staff		X			
2	IT support staff		X			
3	Invoice production/billing operators		X			
4	Cost of calls for port escalation problems (including multi-port escalation issues)		X			
5	Annual service charge to Ward Solutions (maintenance & development)				X	
6	Strategy support team			X		
7	Regulatory support team			X		
8	Porting training for customer care staff*					
9	Annual charge for SLA days			X		
10	New entrant costs	X				
11	Depreciation			X		
12	General training			X		
13	Reports for finance			X		
14	Maintenance and connectivity				X	
15	Return on capital**					
16	Testing and equipment upgrades	X				
17	Cost of customer care calls (porting)*					

Note to references used in table 1, above.

(A) – Allowable Costs

(B) – Disallowed Costs

* - This cost is not a wholesale cost and therefore is not relevant in determining a wholesale MNP charge.

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** - The specification does not allow for a return or margin to be considered as part of the charge for NP.

(A) PROPOSED ALLOWABLE COSTS

The main type of costs submitted by mobile operators and which ComReg believe fall within the allowable cost category include the following:

- Porting support staff
- IT support staff
- Invoice production/billing operations
- Cost of calls for single and multi port escalations (wholesale)

The type of costs listed above are incremental, volume dependent administration costs which in ComReg's view should be recovered by the donor operator. The cost of the porting support staff and IT support staff relate to the actual full time equivalent ('FTE') costs to the porting out process. ComReg is of the view that these costs should be recovered as part of the MNP charge as these costs can fluctuate with changes in the volume of ports out. ComReg also believe that the cost of invoice production (or billing operations) will fluctuate with changes in the volumes of ports out and in ComReg's view this cost should be recovered from the recipient operator. In certain cases where there are a large number of ports out, problems may often arise where it is necessary to resolve the issue by an inter-operator follow-up call. ComReg is of the view that such costs should be recovered by the donor operator.

Q. 1. Do you agree with the allowable costs, in the context of mobile number porting, considered by ComReg (in table 1)? Please state the reasons for your response.

(B) PROPOSED DISALLOWED COSTS

A number of the mobile operator submissions included costs which ComReg believe is not compatible with the specification on the cost orientation obligation in relation to NP. These disallowed costs are listed below.

- Annual service charge to Ward Solutions (for maintenance & development);
- Strategy support staff;
- Regulatory support staff ;
- Port training for customer care staff;
- Annual charge for SLA days;
- New entrant costs;
- Depreciation;
- General training;
- Reports for finance;
- Maintenance and connectivity;
- Return on Capital;

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- Testing and equipment upgrades; and
- Cost of customer care calls (porting related).

Table 1 of page 23 outlines ComReg's proposed treatment (into each of the four cost categories) of each of the costs submitted by the mobile operators. ComReg is of the view that the cost of customer care calls and the cost of training for customer care staff are not related to the provision of wholesale number portability, and are in fact related to the retail business, and should therefore not be recovered as part of the wholesale charge. ComReg also believe that a return on capital is not an allowable cost as part of the specification in determining the charge for NP and on this basis this should not be considered as part of the charge for NP.

A number of the costs submitted by the mobile operators are administration or operating costs but ComReg is of the opinion that none of these costs are incremental i.e. short-term volume dependent. On this basis ComReg has excluded the cost of the strategy support team, the cost of the regulatory support team, depreciation, general training and the cost of reports for the finance department. ComReg believe that these costs are not incremental and are incurred regardless of the changes in volumes of ports out.

Q. 2. Do you agree with the disallowed costs, in the context of mobile number porting, considered by ComReg (in table 1)? Please state the reasons for your response.

In light of ComReg's assessment of the allowable and disallowed costs above, and in the interests of transparency, ComReg will provide individual mobile operators with its assessment of the specific operator costs, allowed (or disallowed) by ComReg in accordance with its specification on cost orientation. If any mobile operator wishes to receive the details of ComReg's assessment of its cost submission then the operator should send an email to Caroline Jordan (caroline.jordan@comreg.ie) within one week of the publication date of this document. ComReg will then respond to the operator's request in writing and will include the assessment of allowable and disallowed costs for that specific operator. In circumstances where the costing information provided by the operator was considered by ComReg but not used in determining a cost oriented charge, then this will be detailed in ComReg's response to that operator.

4.3.2.3 Fixed operator submissions

ComReg carried out its assessment, of the fixed operator price submissions, to ensure that the operator's costs relating to the pricing of NP were compatible with their cost orientation obligation in relation to NP. Both fixed operator submissions were considered by ComReg as part of its review. ComReg carried out a full assessment of the actual data of the fixed operators and the outcome of ComReg's review is set out below.

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4.3.2.4 Cost information submitted by fixed operators

Table 2 below sets out the types of costs submitted by the fixed line operators in demonstrating how their costs are compatible with the specification on the cost orientation obligation in relation to the pricing of fixed NP. ComReg has assessed the costs submitted by the fixed operators and it has in the table below given its view as to the appropriate treatment of each of the costs.

In ComReg’s view, the majority of the costs listed (below) are not incremental administration costs and are therefore not relevant in setting a cost oriented fixed NP charge. ComReg in its specification described the cost categories relevant to NP and specifically stated that the only cost category relevant for the pricing of NP was the incremental administration cost, to the donor operator, of per line enabling. The table below sets out the proposed treatment of each of the costs submitted by the fixed operators into the relevant cost categories for NP.

Table 2: ComReg’s assessment of the costs submitted by the fixed operators

	<u>ComReg’s Cost Categories for NP</u>	<u>General System Provisioning Costs</u> (B)	<u>Per-line Enabling/ Transaction Costs -. Incremental</u> (A)	<u>Per-line Enabling/ Transaction Costs -. Non Incremental</u> (B)	<u>Central Database Costs</u> (B)	<u>Ongoing Routing Costs</u> (B)
	<u>Fixed Operator Costs Submitted</u>					
1	Provisioning i.e. support staff costs		X			
2	Product Management			X		
3	Marketing & Sales*					
4	Operations i.e. SLA ¹¹ work			X		

Note to references used in table 2, above.

(A) – Allowable Costs

(B) – Disallowed Costs

* - This cost is not a wholesale cost and therefore is not relevant in determining a wholesale fixed number porting charge.

(A) PROPOSED ALLOWABLE COSTS

The main costs submitted by the fixed operators and which ComReg believe fall within the allowable cost category include the following:

- Porting support staff.

ComReg is of the view that the only allowable cost, based on the actual costing data of the fixed operator submissions, is the incremental administration costs of support staff

¹¹ Service Level Agreement

involved in exporting the number. These incremental costs relate to the cost of FTE staff. These costs are incremental, volume dependent, administration costs which in ComReg's view should be recovered by the donor operator in relation to ports out.

Q. 3. Do you agree with ComReg's views on allowable costs, in the context of fixed number porting, considered by ComReg (in table 2)? Please state the reasons for your response.

(B) PROPOSED DISALLOWED COSTS

ComReg believe that a number of the costs, submitted by the fixed operators, are not compatible with the specification on the cost orientation obligation in relation to NP. These disallowed costs are listed below.

- Product management costs;
- SLA costs; and
- Marketing and sales costs.

With regard to disallowed costs, ComReg is of the view that the cost of product management and related SLA work are not incremental costs and are therefore not allowable in determining the charge for fixed NP. In ComReg's opinion these costs are incurred regardless of the fluctuations in the volumes of ports out. ComReg is of the view that marketing and sales costs are retail costs and therefore these costs are not relevant in determining a wholesale fixed number porting charge.

Q. 4. Do you agree with ComReg's views on disallowed costs, in the context of fixed number porting, considered by ComReg (in table 2)? Please state the reasons for your response.

In light of ComReg's assessment of the allowable and disallowed costs above, and in the interests of transparency, ComReg will provide individual fixed operators with its assessment of the specific operator costs, allowed (or disallowed) by ComReg in accordance with its specification on cost orientation. If any fixed operator wishes to receive the details of ComReg's assessment of its cost submission then the operator should send an email to Caroline Jordan (caroline.jordan@comreg.ie) within one week of the publication date of this document. ComReg will then respond to the operators request via formal letter which will include the assessment of allowable and disallowed costs for that specific operator. In circumstances where the costing information provided by the operator was considered by ComReg but not used in determining a cost oriented charge, then this will be detailed in ComReg's letter to the relevant operator.

5 Setting a cost oriented charge for fixed and mobile number porting

5.1 Efficient Operator Basis

5.1.1 COMREG'S VIEW

In the initial consultation and response to consultation documents, ComReg was of the view that the operators' allowable costs for the purpose of the cost orientation obligation for NP should be based on those of an efficient operator i.e. the charge to be recovered should be based on the assumption that a fully efficient NP process is in place. This approach encourages efficiency, since only efficient operators would recover all their allowable costs. Efficient operators would not be penalised by their inefficient competitors.

ComReg also considered that an efficient operator is one whose relevant operating and capital costs are those of a hypothetical efficient operator, although the measurement of the implied cost base is grounded in empirical evidence. In the context of NP, ComReg examined the NP processes for both the fixed and mobile sectors to determine the charge(s) based on that of an efficient operator. Bi-lateral discussions were held with some operators, in this regard. Following ComReg's review of the operator submissions and an insight into the processes involved in porting as well as a detailed review of the level and type of costs incurred, ComReg remains of the opinion that the charge(s) for NP should be those of an efficient operator. ComReg has considered the concept of operator efficiency in evaluating the operator costs submitted as part of the price submissions. The mobile number porting system employed in Ireland is a highly automated system. The current fixed number porting system used by Eircom is semi automated, in that the single geographic ports are processed through an automated system and the bulk ports through a manual system. Based on discussions with Eircom, it appears due to the complexity of fixed number porting, some level of manual intervention is required with regard to bulk ports. However, Eircom must fully justify, to ComReg, why the automated system is not used for all ports i.e. single and bulk. In addition, Eircom must demonstrate to ComReg how the charges for bulk ports are compatible with ComReg's specification of a fully efficient number porting process. This has been further assessed, by ComReg, as part of the determination of a cost oriented charge below.

5.2 Cost Modelling

5.2.1 COMREG'S VIEW

ComReg was of the view, in the initial consultation and response to consultation document, that the use of independent models could play a useful part in the determination of a cost orientated rate for NP. ComReg also noted that the European Court of Justice ('ECJ') in the 'Mobistar' case clarified that Article 30(2) of the Universal Service Directive (transposed in Ireland by Regulation 26(2) of the Universal Service Regulations) did not preclude the use of an abstract model (i.e. an independent, bottom up model) in the determination of cost-orientated NP charges¹².

¹² See Paragraph 36 – "Mobistar" case

Based on ComReg's review of operator submissions, it is ComReg's view that an independent price model is not necessary at this stage since the relative simplicity of the process lends itself to an evaluation of actual incurred costs.

5.3 Standards of Efficiency

5.3.1 COMREG'S VIEW

With regard to the measurement of efficiency, in the initial consultation and response to consultation document, ComReg identified three alternatives. Firstly an independent "abstract" model of costs may be used. Secondly, the most efficient operator's costs could be used as the basis for all NP charges. Both of these approaches would imply uniformity of tariffs across operators. The third alternative would be to define "efficiency" such that it reflected the scale of the operator in question. This would only make sense if scale effects were significant, which is unlikely if only volume dependent costs are at issue.

ComReg remains of the view that applying different standards of efficiency would only make sense if scale effects were significant. ComReg considers that this is unlikely to be the case if inter operator charges are recovered by volume dependent per enabling transaction costs. ComReg has reviewed the operator price submissions and as part of this review has considered the efficient operator costs in determining the charge(s) for fixed and mobile number porting. This is discussed further in the section below on determination of a cost oriented charge.

5.4 Pricing Structure for NP

5.4.1 COMREG'S VIEW

In the initial consultation and response to consultation, ComReg discussed two possible charging methods for NP. One option was a charge based on a simple/single pricing structure for all types of processes, regardless of the level of activity involved or outcome. Another option was to have different charges depending on the outcome (i.e. one charge for a correct type of port and another charge for failed ports etc.). In the case of a single charge, it was assumed that the overall cost to the operator will even out in the long run, even if particular types of ports over recover or under recover individually. The main advantage of this method was its simplicity and while the individual cost of each type of outcome may not be recovered, the overall costs would be. A detailed charging system based on each type of outcome could be argued to be a more precise approach as it recognises that all processes do not always have the same outcome (i.e. a process can fail). ComReg also recognised that it was important that cost-based transaction charges applied for porting unallocated numbers to reduce uneconomic churn. Given the differences between the porting process in the fixed and mobile sectors, it is not appropriate to have a single charge for fixed and mobile transactions. This has been further confirmed by ComReg's review of the individual operator price submissions.

In the operator responses to ComReg's initial consultation document, ComReg noted that the majority of mobile operators favoured a simple pricing approach as they believed it is more efficient and easy to manage. On the other hand Eircom believed

that multiple charges are required for fixed number porting, especially considering the high level of ports failing validation. Currently the fixed number porting charges are included in Eircom’s Reference Interconnect Offer¹³ (‘RIO’), GNP is included in Service Schedule 303 in Eircom’s RIO and Non Geographic Number Portability (‘NGNP’) is included in Service Schedule 301. Eircom suggested simplifying the current price structure by withdrawing charges for services that are largely unused. Eircom proposed withdrawing the charges for ‘2 Day Deferred Port’ as there has been no orders for this type of port during the last year. In addition, this operator also proposed removing two of the multiple Caller Line Identity (‘CLI’) port categories as there are very few orders processed under two of these CLI categories. This operator therefore proposed that the revised pricing structure should include three levels of charges for CLI’s, one for a single CLI, one for CLIs between 2 and 100 and a third category for CLIs greater than 100. ComReg is of the view that the current pricing structure should remain in place until operators have given their views on it. Table 3 below includes the proposed categories of charges for fixed GNP.

Table 3: ComReg proposed pricing structure for fixed GNP

<u>GNP Transaction Type</u>	<u>1 CLI</u>	<u>2-5 CLIs</u>	<u>6-30 CLIs</u>	<u>31-100 CLIs</u>	<u>101+ CLIs</u>
	<u>100%</u>	<u>90%</u>	<u>70%</u>	<u>40%</u>	<u>15%</u>
(1) Normal Hours Validated and Rejected (A)	X	X	X	X	X
(2.1) Normal Hours Completed	X	X	X	X	X
(2.2) Outside Of Normal Hours Completed	X	X	X	X	X
(3.1) Normal Hours Completed Deferred Port 2 HR	X	X	X	X	X
(3.2) Outside Normal Hours Completed Deferred Port 2 HR	X	X	X	X	X
(4.1) Normal Hours Completed Deferred Port 2 DAY	X	X	X	X	X
(4.1) Outside Normal Hours Completed Deferred Port 2 DAY	X	X	X	X	X
(5.1) Normal Hours Cancel	X	X	X	X	X
(6.1) Normal Hours Emergency Cancel	X	X	X	X	X
(6.2) Out of Normal Hours Emergency Cancel	X	X	X	X	X

In the case of NGNP, included under Service Schedule 301 in Eircom’s RIO, currently only one charge is applicable for the successful porting of a non-geographic number.

¹³ <http://www.eircomwholesale.ie/dynamic/pdf/eircomRIOPriceList%202.23Unmarked.pdf>

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However, with an increase in Voice over Internet Protocol ('VoIP') Technology in the future there maybe an increase in the demand for the '076' number range which in effect would increase volumes for NGNP. If this were the case it maybe necessary to have a price structure similar to that of GNP in place. This would therefore accommodate the various outcomes from the porting of a NGNP (or '076') number.

Q. 5. Do you agree that the existing price structure for GNP, in table 3 above, remains appropriate? If not please provide suggested amendments in your response.

Q. 6. Do you agree with Eircom's proposal to withdraw the category of charges for '2 Day Deferred Port' on the basis that there is currently no industry requirement for this type of port? Do you believe that the current categories of CLI's i.e. 1 CLI, 2-5 CLIs, etc should be refined to just three categories of CLIs i.e. 1 CLI, 2-100 CLIs and 101+ CLIs? Please provide a detailed response to both questions.

Q. 7. Do you believe that there should be a similar pricing structure, to that of GNP, for NGNP services? Under what circumstances do you believe a detailed price structure for NGNP services is warranted? Please provide a detailed response to both questions.

5.5 Setting a maximum charge

In July 2006, the European Court of Justice ('ECJ') in the Mobistar¹⁴ case provided further clarification on the interpretation of Article 30(2) of the Universal Service Directive (transposed in Ireland by Regulation 26(2) of the Universal Service Regulations).

In this case it was clarified that 'Article 30(2) of [The Universal Service Directive] does not preclude the adoption of a national measure laying down the specific method to be used in calculating costs and which fixes in advance and on the basis of an abstract model of the costs, *maximum prices* which may be charged by the donor operator to the recipient operator as set up costs, provided that the prices are fixed on

¹⁴ C-438/04, reference for a preliminary ruling under Article 234 EC from the Cour d'appel de Bruxelles (Belgium), made by decision of 14 October 2006, received at the Court on 19 October 2004, in the proceedings Mobistar SA v. Institut belge des services portaux et des telecommunications (IBPT).

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the basis of the costs in such a way that consumers are not dissuaded from making use of the facility of portability’.

On the basis of the clarification provided by the ECJ, ComReg is of the view that consideration should be given to the proposal of a maximum charge for fixed and mobile number porting. This does not therefore preclude the possibility that some operators might have lower costs and might be in a position to set lower charges.

Q. 8. Do you agree that a maximum charge is appropriate in setting a charge(s) for fixed and mobile number porting? If not please provide detailed reasons in your response.

5.6 Determination of a cost oriented charge

In section 4 (above), ComReg detailed its review of the operator price submissions for the purposes of evaluation of operator submissions with the specification on the pricing of interconnection related to the provision of NP. As part of this assessment the operators submitted a number of costs which they incurred in providing the NP service. However, ComReg is of the view that some of these costs are not incremental administration costs to the donor operator of per line enabling/transaction costs, based on a fully efficient number porting process. In table 1 on page 12 and in table 2 on page 15, ComReg set out its assessment of the costs submitted and its proposed treatment in relation to each cost i.e. allowable costs and disallowed costs. ComReg sets out in the sections below, its assessment of the level of the allowable costs, in the context of NP, for both mobile and fixed porting.

5.6.1 MOBILE NUMBER PORTING CHARGE

Table 1 on page 12 proposes that allowable costs include only the incremental cost of porting support staff, the incremental cost of IT support staff, the incremental cost of invoice production and the incremental cost of calls for inter-operator port escalations.

Taking these costs into account provides a range of possible MNP charges based on actual cost of €1.92 to €2.54. ComReg proposes to take the weighted average by volumes¹⁵ of the relevant mobile operator’s actual costs as adjusted to comply with ComReg’s specification of 30 November 2007. This works out at a charge of €2.05 per port to be levied only by the operator losing the customer. This charge is based on a fully automated number porting process.

¹⁵ This is volumes of ports out.

Q. 9. Do you agree, on the basis of the assessment carried out by ComReg, that a cost oriented maximum charge of €2.05 should apply to all mobile number ports out? If not please provide a detailed response.

5.6.2 FIXED NUMBER PORTING CHARGE

In terms of assessing the fixed number porting submissions, ComReg has in table 2 of page 15 set out the proposed allowable costs in determining a cost oriented charge in the context of fixed number porting. The proposed allowable costs in the context of fixed number porting include the incremental cost of support staff time on porting out. Only the incremental, short term volume costs, administration costs are allowable as part of the proposed charge for fixed number porting. It should be noted that ComReg remains of the view that the operators' allowable costs for the purpose of the cost orientation obligation for NP should be based on those of an efficient operator i.e. the charge to be recovered should be based on the assumption that a fully efficient NP process is in place. One of the fixed operators presented costs which appear to be in excess of industry best practice. ComReg has discounted the submission on this basis. In addition, the submission from Eircom in relation to fixed number porting indicated that single number ports are based on an automated system while bulk porting involves technical manual handling. It appears that due to the nature of the bulk geographic number ports relating to Internet Service Digital Network ('ISDN') lines, manual intervention is required for successful completion of the order. However, ComReg need to understand how the charges proposed for bulk porting comply with the specification with regard to '*fully efficient number porting process*' and the reasons why the bulk porting process is not automated, similar to the single porting process. The charges proposed by ComReg below for bulk ports are based on the inclusion of a manual handling cost. It appears that the system employed by BT in the UK is largely manual for fixed number porting, depending on the volumes of ports. The current Openreach charges reflect a lower charge for a single line geographic port while geographic ports of multi lines are based on higher charges. This appears to reflect similar charging for fixed number porting (geographic) applied by Eircom.

With regard to NGNP, ComReg propose a charge of €5.74 which relates to a single port with successful completion. ComReg has also proposed a charge for GNP in the context of Unbundled Local Metallic Path ('ULMP') or GLUMP (GNP + ULMP). The proposed charge is €3.50. This charge is currently included in Eircom's Access Reference Offer ('ARO') price list under Service Schedule 106, where the current charge is €1. The reduced charge for GNP in the context of GLUMP compared to standard GNP is due to the efficiencies achieved by Eircom in combining the services together, as compared to providing the two services separately.

It should also be noted that ComReg in its assessment of the allowable costs has only considered those costs that are consistent to ComReg's specification on cost orientation. On this basis, ComReg proposes the fixed number porting charges for ports out as set out in the table 4, 5 and 6 on page 23.

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Table 4: ComReg proposed charges for fixed GNP

<u>GNP Transaction Type – Per CLI</u>	<u>1 CLI</u>	<u>2-5 CLIs</u>	<u>6-30 CLIs</u>	<u>31-100 CLIs</u>	<u>101+ CLIs</u>
(1) Normal Hours Validated and Rejected (A)	1.15	2.79	2.17	1.24	0.46
(2.1) Normal Hours Completed	4.02	11.27	8.77	5.01	1.88
(2.2) Outside Of Normal Hours Completed	6.03	16.90	13.15	7.51	2.82
(3.1) Normal Hours Completed Deferred Port 2 HR	4.83	13.52	10.52	6.01	2.25
(3.2) Outside Normal Hours Completed Deferred Port 2 HR	7.24	20.28	15.78	9.02	3.38
(4.1) Normal Hours Completed Deferred Port 2 Day	5.63	15.78	12.27	7.01	2.63
(4.2) Outside Normal Hours Completed Deferred Port 2 Day	8.45	23.67	18.41	10.52	3.94
(5.1) Normal Hours Cancel	1.15	2.79	2.17	1.24	0.46
(6.1) Normal Hours Emergency Cancel	4.02	11.27	8.77	5.01	1.88
(6.2) Out of Normal Hours Emergency Cancel	6.03	16.90	13.15	7.51	2.82

Table 5: ComReg proposed charge for NGNP

Non-Geographic Number Portability (successful port)	€5.74

Table 6: ComReg proposed charge for GNP in context of GLUMP

GNP charge in context of GLUMP	€3.50
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Q. 10. Do you agree, on the basis of the assessment carried out by ComReg, that the charges proposed in table 4 (page 23) should apply to all fixed operators in relation to ports out for GNP? If not please provide a detailed response.

Q. 11. Do you believe that the charges for the bulk porting of geographic numbers should include the cost of technical manual handling? Please provide a detailed response.

Q. 12. By including the cost of technical manual handling, do you believe that the charges for bulk ports are in line with Specification 1¹⁶ relating to a *'fully efficient number porting process'*? Please provide a detailed response.

Q. 13. In terms of the current fixed number porting system used by Eircom, is it reasonable to automate single geographic number ports but require manual intervention for bulk ports? Please provide a detailed response.

Q. 14. Do you agree, on the basis of the assessment carried out by ComReg, that the charges proposed in table 5 (page 23) should apply to all fixed operators in relation to successful ports out for NGNP? If not please provide a detailed response. In addition, do you believe that there should be a multiple charges, similar to GNP, for NGNP services? Please provide a detailed response.

Q. 15. Do you agree, on the basis of the assessment carried out by ComReg, that the charge proposed in table 6 (page 23) for GNP in the context of GLUMP is appropriate and reasonable? If not please provide a detailed response.

5.6.3 CONCLUSIONS AND NEXT STEPS

It is proposed that these maximum charges will remain in place until such time as ComReg believe that a subsequent review is necessary or there is a significant change

¹⁶ ComReg document no 07/98, 30 November 2007.

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in circumstances. It should also be noted that the proposal of a maximum charge(s) allow some operators to agree lower charges with specific operators.

The charges proposed by ComReg will be effective from the date of the final decision¹⁷ (direction), allowing operators 28 days to appeal any part(s) of the direction proposed. With regard to the refunds due from 30 November 2007, ComReg will consult separately on the appropriate refunds due in the period from 30 November 2007 to the date of ComReg's final decision on a maximum charge. ComReg propose to publish this separate consultation document shortly.

¹⁷ That is to say the Decision made as a result of this Consultation.

6 Draft Direction

6.1 Statutory Powers giving rise to directions

These Directions are made by the ComReg pursuant to Regulation 31 of the Universal Service Regulations 2003 and the obligations contained in ComReg Decision D05/07 and having regard to its functions and objectives under sections 10 and 12 respectively of the Communications Regulation Act, 2002.

Decision D05/07 specified at Specification 1, for the purpose of ensuring that pricing for interconnection related to the provision of number portability (as provided for in Regulation 26(1) of the Universal Service Regulations) is cost oriented, that “*the allowable costs for the pricing of interconnection related to the provision of number portability are limited to the incremental (i.e. short term volume dependent) administrative cost to the donor operator of per-line enabling/transaction costs, based on a fully efficient number porting process*”. Accordingly ComReg now directs as set out below and this direction applies to an undertaking providing a publicly available telephone service including a mobile service:

MOBILE NETWORK OPERATORS

DRAFT DIRECTION 1

ComReg hereby directs pursuant to Specification 1 of ComReg Decision No D05/07, until further specified or directed by ComReg, that a maximum charge of €2.05 shall be applied by all mobile operators for wholesale mobile number porting outwards, from the effective date of ComReg’s final decision (DATE TO BE INSERTED).

FIXED NETWORK OPERATORS

DRAFT DIRECTION 2

ComReg hereby directs pursuant to Specification 1 of ComReg Decision No D05/07, until further specified or directed by ComReg, that the maximum charges, as set out in the table below¹⁸, shall be applied by all fixed operators for wholesale fixed number porting outwards from the effective date of ComReg’s final decision (DATE TO BE INSERTED).

This direction is made on the X day of X Month 2008.

¹⁸ The fixed number porting charges are set out in Section 5, Tables 4, 5 & 6 of this document.

7 Regulatory Impact Assessment

7.1.1 INTRODUCTION

According to ComReg's Approach to Regulatory Impact Assessment ('RIA'), ComReg Document 07/56 & 07/56a, the purpose of a RIA is to establish whether regulation is actually necessary, to identify any possible negative effects which might result from imposing a regulatory obligation and to consider any alternatives. ComReg's proposed approach to the RIA is that in the future it will continue to conduct RIAs in respect of any proposed statutory instruments which would impose regulatory obligations, or in respect of any market analyses which propose to impose, amend or withdraw obligations, through the finding of SMP or effective competition. Appropriate use of the RIA should ensure the most effective approach to regulation is adopted.

In conducting the RIA ComReg will take into account the RIA Guidelines¹⁹, adopted under the Government's Better Regulation programme. The RIA Guidelines are not legally binding upon ComReg, however, in conducting the RIA ComReg will have regard to them, while recognising that regulation by way of issuing decisions e.g. imposing obligations or specifying requirements in addition to promulgating secondary legislation may be different to regulation exclusively by way of enacting primary or secondary legislation. In conducting a RIA ComReg will take into account the six principles of Better Regulation that is, necessity, effectiveness, proportionality, transparency, accountability and consistency. To ensure that a RIA is proportionate and does not become overly burdensome, a common sense approach will be taken towards RIA. As decisions are likely to vary in terms of their impact, if after initial investigation a decision appears to have relatively low impact, then ComReg would expect to carry out a lighter RIA in respect of those decisions.

In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate or in exceptional cases where robust, detailed and independently verifiable data is available. Such comprehensive review will be taken when necessary.

ComReg would like to point out that as it is not imposing a new regulatory obligation on an undertaking, it is not mandatory for it to provide a RIA. However it has decided to do so in order to demonstrate that it has considered and evaluated the alternative options available. The main objective of this review is to ensure operator submissions are in line with the specification on cost orientation in relation to NP.

7.1.2 DESCRIPTION OF POLICY ISSUES AND OBJECTIVES

The consultation has the following purposes:

- (a) to detail ComReg's assessment of operator compatibility with the cost orientation obligation in relation to the pricing for interconnection of the provision of NP; and

¹⁹ See "RIA Guidelines: How to conduct a Regulatory Impact Analysis", October 2005, www.betterregulation.ie

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(b) to propose a maximum cost oriented charge(s) for ports out for both fixed and mobile operators.

7.1.3 IDENTIFY AND DESCRIBE THE REGULATORY OPTIONS

Option 1- Further to ComReg’s specification on the cost orientation obligation in relation to the pricing of NP, ComReg allow the individual operators to set the appropriate cost oriented charge for fixed and mobile number porting.

One option available to ComReg was to allow the individual operators to set a cost oriented charge for fixed and mobile number portability based on ComReg’s specification provided on cost orientation in relation to the pricing of NP. However, given that operators have an obligation to provide NP and also an obligation to ensure that the charge applied is cost oriented, ComReg did not consider this option to be optimal. It lacked transparency and could cause confusion in the market place as operators would not be in a position to determine if their number porting charges were in line with their obligations. In addition this could lead to a large range of porting charges, as each individual operator determines their allowable costs.

Option 2- Further to ComReg’s assessment of operator submissions regarding the allowable costs for the pricing of NP, ComReg will determine the cost oriented charge for fixed and mobile number porting.

ComReg considered *Option 2* to be the most appropriate as it was fully transparent, it facilitates operators in ensuring their number porting charges are in line with the cost orientation obligation, will provide clarity and predictability as well as send the appropriate signals to the marketplace.

7.1.4 IMPACT ON STAKEHOLDERS

In determining the impact on stakeholders, in relation to the regulatory options above, ComReg considered the following options:

<u>Option 1: Operators set the cost oriented charge for fixed and mobile number porting</u>		
<u>Impact on Donor Operator</u>	<u>Impact on Recipient Operator</u>	<u>Impact on Consumers</u>
<ul style="list-style-type: none"> • Operator uncertainty regarding compatibility with the cost orientation obligation in relation to NP. • The potential that some operator NP charges are in excess of costs (cost orientation) and are therefore overcharging the recipient operator. 	<ul style="list-style-type: none"> • The potential that the donor operator is charging in excess of cost and therefore the recipient operator’s competitive opportunity may be constrained. • The potential of a large number of varying NP charges, which proves difficult in terms of reconciliation of payments and invoices of the various operators. 	<ul style="list-style-type: none"> • Increased possibility of an excessive retail charge being passed indirectly to the consumer through another pricing mechanism.

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This also allows the donor operator to achieve greater revenues.		
Option 2: ComReg sets the cost oriented charge for fixed and mobile number porting		
<u>Impact on Donor Operator</u>	<u>Impact on Recipient Operator</u>	<u>Impact on Consumers</u>
<ul style="list-style-type: none"> • The assurance of certainty and clarity in the marketplace. • Assurance of compliance with the cost orientation obligation. 	<ul style="list-style-type: none"> • Price protection for the recipient operator as the price is in line with cost. 	<ul style="list-style-type: none"> • The possibility of excessive, indirect retail charge passed onto consumers, by another pricing mechanism, is less likely and will be based on costs.

7.1.5 COMREG'S PROPOSED CONCLUSION

As ComReg is not imposing a new regulatory obligation on an undertaking it is not mandatory for it to provide a RIA. However it has decided to do so in order to consider and evaluate the alternative options available and to inform the decision making process.

ComReg is of the view that the preferred approach would ensure that operator's number porting charges are in line with their cost orientation obligation in relation to the pricing of interconnection relating to the provision of NP. In addition it would provide greater certainty in the market place and increase levels of transparency in NP charging.

7.1.6 CONSULTATION QUESTION

Q.16. Respondents are requested to provide views on whether the proposed directions are proportionate and justified and offer views on other factors (if any) ComReg should consider in completing its Regulatory Impact Assessment.

8 Submitting Comments

All comments are welcome; however it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

The consultation period will run from 15 August 2008 to 19 September 2008 during which the Commission welcomes written comments on any of the issues raised in this paper.

Having analysed and considered the comments received, ComReg will publish a response to consultation and final decision. This document will, in effect, summarise the responses to the consultation.

In order to promote further openness and transparency ComReg will publish all respondents submissions to this consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24. We would request that electronic submissions be submitted in an-unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.

Please note

ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful.

As it is ComReg's policy to make all responses available on its web-site and for inspection generally, respondents to consultations are requested to clearly identify confidential material and place confidential material in a separate annex to their response

Such Information will be treated subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24

Appendix A

List of Questions

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- Q. 7. Do you believe that there should be a similar pricing structure, to that of GNP, for NGNP services? Under what circumstances do you believe a detailed price structure for NGNP services is warranted? Please provide a detailed response to both questions. 20
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- Q. 10. Do you agree, on the basis of the assessment carried out by ComReg, that the charges proposed in table 4 (page 23) should apply to all fixed operators in relation to ports out for GNP? If not please provide a detailed response..... 24
- Q. 11. Do you believe that the charges for the bulk porting of geographic numbers should include the cost of technical manual handling? Please provide a detailed response..... 24
- Q. 12. By including the cost of technical manual handling, do you believe that the charges for bulk ports are in line with Specification 1 relating to a '*fully efficient number porting process*'? Please provide a detailed response..... 24

Consultation & draft direction in setting a maximum fixed and mobile number porting charge

Q. 13. In terms of the current fixed number porting system used by Eircom, is it reasonable to automate single geographic number ports but require manual intervention for bulk ports? Please provide a detailed response.....24

Q. 14. Do you agree, on the basis of the assessment carried out by ComReg, that the charges proposed in table 5 (page 23) should apply to all fixed operators in relation to successful ports out for NGNP? If not please provide a detailed response. In addition, do you believe that there should be a multiple charges, similar to GNP, for NGNP services? Please provide a detailed response.....24

Q. 15. Do you agree, on the basis of the assessment carried out by ComReg, that the charge proposed in table 6 (page 23) for GNP in the context of GLUMP is appropriate and reasonable? If not please provide a detailed response.....24

Q. 16. Respondents are requested to provide views on whether the proposed directions are proportionate and justified and offer views on other factors (if any) ComReg should consider in completing its Regulatory Impact Assessment.....29