



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Consultation Procedures Review

Information Notice

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1.1 Executive Summary

- 1.1 The Commission for Communications Regulation (ComReg) is the statutory body responsible for the regulation of the electronic communications sector (telecommunications, radio communications, broadcasting transmission and premium rate services) and the postal sector.
- 1.2 Seeking interested parties' views before adopting decisions is a key aspect of the way in which ComReg operates; in many instances a public consultation is a legal requirement and part of the steps that ComReg must take before making a decision. In many instances ComReg is required to conduct the public consultation in accordance with published procedure.¹

1.2 Review of Consultation Procedures

- 1.3 ComReg's current procedures for consultation are set out in ComReg Document 11/34, and these Consultation Procedures have been in place since 6 May 2011. With the commencement of the European Union (Electronic Communications Code) Regulations 2022 (S.I. No. 44/2022), it is timely to review the Consultation Procedures and ensure that they remain fit for purpose.
- 1.4 ComReg's proposed updated Procedures are set out in at Annex 1. It is proposed that the Consultation Procedures Document would replace all previous consultation procedure documents.

¹ See, e.g., Section 15(3) of the Communications Regulation (Postal Services) Act 2011; Regulations 101 and 102 of the European Union (Electronic Communications Code) Regulations (S.I. No. 444/2022).

1.3 Introduction

Consultation

ComReg welcomes inputs and comments from interested parties in respect of the draft updated Consultation Procedures set out at Annex 1.

The main updates in the document are:

1. Legislative referencing has been updated since transposition of the Code and commencement of the relevant Irish legislation (including S.I. No. 444/2022).
2. Updated reference to Guidance documents notably *Consultation Principles & Guidance*² published in 2019 by the Department of Public Expenditure, NDP Delivery and Reform.
3. Updated language to reflect ComReg best practice.

The consultation will run until 15 September 2023. Observations may be made in writing and sent by post or email to Consultations@comreg.ie on or before 17:00 on 15 September 2023.

Once any submissions received have been considered, the Procedures will be finalised to be published on the ComReg website.

² Department of Public Expenditure, NDP Delivery and Reform, “Consultation Principles and Guidance” (Last published 21 January 2019).

Annex 1: Draft Consultation Procedures



An Coimisiún um
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Commission for
Communications Regulation



ComReg Consultation Procedures

Document	
No:	
Date:	

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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 sectors³ in accordance with European Union and national law.

Consultations 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, 03/31 and 11/34a which are hereby revoked.

Where ComReg is required to conduct a public consultation in the performance of any regulatory function, it will do so in accordance with these consultation procedures as published on ComReg’s website⁴ and copies are available from ComReg upon request⁵. 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.

2 Purpose and principles of Consultation

The purpose of public consultation is to undertake a systematic process of meaningful engagement with those outside the policy-making process who have a clear interest in a particular policy area, in order to better inform that process. Consultation procedure allows ComReg to gather new ideas or views on proposals, collect evidence and factual data, validate assumptions, clarify the possible impact of the proposal on the wider community, or understand possible unintended consequences.

³ Communications Regulation Act 2002 (as amended)

⁴ www.comreg.ie

⁵ 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.

As set out in the *Consultation Principles & Guidance*⁶ published by the Department of Public Expenditure, NDP Delivery and Reform, meaningful citizen participation in the policy-making process helps decision-makers to make better decisions and can lead to improvements in the quality-of-service provision.

ComReg strives to follow the following three key principles of consultation:

1. Consultation with the public must be genuine, meaningful, timely, balanced and with the ultimate objective of leading to better outcomes and greater understanding by all involved of the benefits and consequences of proceeding with particular policy or legislation proposals. Consultation should aim to achieve real engagement and 'real listening' rather than being a pro-forma exercise for bureaucratic purposes. A genuine consultation process ensures that the real-world impact of policy options is considered.
2. Consultation should be targeted at and easily accessible to those with a clear interest in the policy in question. There is no 'one size fits all' approach to consultation. The size, type and scope of the consultative process depends on the proposed policy, the type and scale of the potential impacts of the proposal or decision being taken, the number of people or groups affected by them, and where relevant particular requirements of the child and young people and those who may be marginalised or vulnerable.
3. Systematic efforts should be made to ensure that interested and affected parties have the opportunity to take part in open consultations at all stages of the policy process on significant policy, services and legislative matters: development, implementation, evaluation, and review.

ComReg is fully committed to their effective implementation to promote transparent and comprehensive participation in the policy development process. This means that

⁶ Department of Public Expenditure, NDP Delivery and Reform, "Consultation Principles and Guidance" (Last published 21 January 2019).

ComReg recognises that there may be a wide range of stakeholders on any particular issue, not just those with a direct pecuniary or other interest.

It also means that in addition to the matters in respect of which prior consultation is mandatory, ComReg will give consideration to consult on other appropriate matters, on a case-by-case basis, having regard to factors such as 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 will never publicly consult on individual compliance and enforcement matters, or on matters in respect of which ComReg has no discretion.

ComReg is not legally bound by its consultation documents and they do not constitute legal, commercial, financial, technical or other advice and do not set out ComReg's final, definitive position on any particular matter.

3 Form of Consultation

Consultation can take a variety of forms to best suit any particular decision-making process. Where ComReg conducts a public consultation, all consultation documents will be made available on its website. E-mail notifications will be sent to parties who have signed up on ComReg's website 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 point within ComReg. ComReg reserves the right to seek clarification from respondents, as necessary, throughout the consultation process.

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.

4 Making Submissions

4.1 Duration of consultation

4.1.1 *Minimum period*

The amount of time required for a consultation will depend on the specifics of the proposal, its objectives and complexity, its likely impact, and the diversity and number of interested parties.

ComReg will set a reasonable period of time for consultation, so that participants have sufficient time to submit their views. Sufficient time means that all relevant stakeholders have time to become informed, examine the issues, debate/dialogue/consult within their organisations and develop a response.

As a default, a period of 30 days is considered to be the reasonable minimum period for consultation, noting the provisions of Regulation 101 of the European Union (Electronic Communication Code) Regulations (S.I. No. 444/2022) which requires that a consultation, “*except in exceptional circumstances, shall not be shorter than 30 days.*” Where a shorter period is required due to exceptional circumstances, or otherwise, ComReg will, unless it is not possible in the circumstances, allow the minimum period of two weeks recommended by Government Guidance. In all cases where a period of less than 30 days is allowed for consultation, ComReg will give reasons for doing so.

All submissions received during the consultation period will be considered by ComReg. Where submissions are made late, whether or not they are taken into account is entirely at ComReg’s sole discretion.

4.1.2 *Extension*

In exceptional circumstances, ComReg, at its sole discretion, may extend the period of consultation at its own initiative or at the request of one or more respondents, where adequate and sufficient reasons for the extension request have been provided. A request for extension should be made within 10 days of the beginning of the consultation

period. ComReg will take into account the amount of time left in the consultation in considering whether to grant the request. ComReg may extend the consultation period for the respondent who requested the extension, or for all respondents, and will take into account the reasons for the request in this regard. Where ComReg decides to extend the period of consultation for all respondents, ComReg will give notice of the extension via its website and via e-mail to those persons who are registered with ComReg to receive notifications.

4.2 Submission of comments

4.2.1 Form

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. ComReg is committed to sustainable work practices and where possible, comments should be provided in writing in electronic format with read/write access, but comments delivered by post, by hand or in other formats will also be accepted.

ComReg will at all times seek to ensure that all of its consultations are as open, transparent and fair, 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.

4.2.2 Treatment of confidential information

It is ComReg's policy to publish all responses in order to make them available for inspection. Where submissions include confidential information, such information should be clearly identified, with the reasons supported the claim, in accordance with ComReg's Confidentiality Guidelines, and the respondent should provide at the same time a non-confidential version of its submission. Claims of confidentiality will be treated in accordance with ComReg's published Confidentiality Guidelines⁷.

For more information on how ComReg treats personal data see ComReg Privacy Notice.⁸

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

⁷ See www.comreg.ie

⁸ <https://www.comreg.ie/privacy/>