



Commission for
Communications Regulation

Universal Service Obligation- Measures for disabled end-users; Terminal Equipment

Consultation

Reference: ComReg 15/52a

Version: Final

Date: 18/06/2015

An Coimisiún um Rialáil Cumarsáide

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Additional Information

All responses to this consultation should be clearly marked:

Submissions to ComReg 15/52

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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 Introduction

- 1 The Commission for Communications Regulation (ComReg), previously designated Eircom as the Universal Service Provider (USP), responsible for providing the Universal Service Obligations (USO) regarding the specific measures for disabled end-users, in accordance with Regulation 6 of the Universal Service Regulations (USR).¹
- 2 In accordance with Regulation 6 and 7 and ComReg D09/14², Eircom is currently the **only undertaking** obliged to provide terminal equipment to meet needs of specified disabled end-users as follows:-
 - For users who are hearing-impaired
 - For users with limited dexterity or mobility
 - For users with restricted vision
- 3 In order to satisfy these obligations, in addition to other handsets which satisfy some of the requirements, Eircom sells two types of handset for use with fixed services – the BigTel49 corded phone³ and the 9000B cordless phone⁴.
- 4 ComReg is monitoring the obligations in respect of terminal equipment, take-up statistics and other sources of terminal equipment to help determine its continued necessity.
- 5 ComReg proposes that Eircom, in accordance with Regulation 6 and 7 of the USR, should continue to be designated, at this time, to provide the terminal equipment necessary to meet these obligations for a further six months, until the end December 2015.
- 6 Regulation 6 of the Regulations provides that ComReg shall, with the consent of the Minister, specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can enjoy access to and affordability of certain services.
- 7 ComReg invites all stakeholders to respond to this consultation. ComReg will consider the views of respondents and subsequently issue its Decision.

¹ S.I. No. 337/2011 - European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011, 6. Measures for disabled end-users

² ComReg14/70 - Universal Service Obligation – Measures for Disabled End-Users – July 2014 s

³ <http://siteassets.eircom.net/assets/static/pdf/cpe/BigTel49.pdf>

⁴ http://siteassets.eircom.net/assets/static/pdf/cpe/eircom_9000B.pdf

2 Background

- 8 ComReg's Forum on Electronic Communications Services for People with Disabilities ("The Forum") was established in 2006 to further ComReg's statutory objectives to promote competition and to promote the interests of users. To date the Forum has worked in a collaborative manner to progress and implement measures both on a voluntary basis and in accordance with Regulation 17 of the USR. The functions of the Forum and key achievements to date are listed in Annex 2 of this paper.
- 9 In September 2014, a meeting of the Forum had a preliminary discussion on the specific measures for disabled end-users provided by Eircom as the USP, including terminal equipment and its take-up.
- 10 During the meeting there was an initial discussion regarding the continued need for Eircom to supply specialised terminal equipment for fixed voice services however, no preliminary view was formed. It was noted that the required terminal equipment (handsets) are sold to consumers and therefore they are offered commercially by Eircom. Also Eircom stated that it would likely continue to sell accessible phones absent a designation to meet consumers' needs. Details of take-up were also presented by Eircom and this presentation was subsequently published by ComReg⁵.
- 11 ComReg recently published further information on usage and take-up of measures for disabled end-users including specialised terminal equipment⁶.

⁵ <http://www.comreg.ie/fileupload/publications/ComReg1454a.pdf>

⁶ <http://www.comreg.ie/fileupload/publications/ComReg1522.pdf>

3 Consultation Issues

12 ComReg's preliminary views in are set out below.

Specialised Terminal Equipment for Disabled End-Users

13 Eircom is currently designated to provide the following specialised terminal equipment, so that disabled end-users can enjoy access to and affordability of other universal services:

For users who are hearing-impaired

- Inductive couplers which allow users with a hearing aid set to connect the set to their telephone in order to allow them to hear incoming speech clearly.
- Amplifier phones which allow the user to increase the volume of incoming speech.
- Teleflash Visual Alert which shows a flashing light, or makes a loud noise when the telephone rings.

For users with limited dexterity or mobility

- Push button telephone sets with speed and automatic redial buttons allowing pre-programmed telephone numbers (typically the most called numbers) or last called telephone numbers to be dialled without having to re-enter the telephone number.
- Hands free/loudspeaker phones means that the handset does not need to be used at all.

For users with restricted vision

- Restricted vision telephones which can help people with restricted vision to find other numbers more easily.

14 In order to satisfy these obligations, in addition to other handsets which satisfy some of the requirements, Eircom sells two types of handset for use with fixed services – the BigTel49 corded phone⁷ and the 9000B cordless phone⁸.

15 The statistics published by ComReg in March 2015 show the following in respect of the terminal equipment provided by Eircom to meet its obligations:

- that, 127 BigTel49 phones were sold by Eircom in 2014 (compared with 4,175 in 2013)
- that 3,901 9000B phones were sold by Eircom in 2014 (compared with 1,748 in 2013)

⁷ <http://siteassets.eircom.net/assets/static/pdf/cpe/BigTel49.pdf>

⁸ http://siteassets.eircom.net/assets/static/pdf/cpe/eircom_9000B.pdf

- a total of 4,028 BigTel49 and 9000B phones were sold by Eircom in 2014 (compared with 5,923 in 2013)
- 16 During the Forum meeting in September 2014, the disability representative groups made the following points
- that most land line (not-dect phones) had the necessary couplers built in for those end-users that are hard of hearing.
 - that although such handsets were generally available, there would be concern if an entity was not obliged to supply them.
 - they were concerned that some disabled end-users would not be able to access or use online purchasing facilities or may have difficulty accessing other stores selling accessible equipment in towns and cities and therefore they proposed that the handsets should continue to be provided by the USP, as a safety net.
- 17 At that Forum meeting, Eircom advised that it did not consider that it would stop selling the equipment if it was not obliged, as the USP, but questioned having an obligation to make the equipment available where the market is meeting the need. In response to ComReg 14/54 Eircom suggested that the target market for these handsets is growing and that they are likely to be served by the market absent any USO.
- 18 ComReg noted that it would gather further details from Eircom regarding the channels used by end-users to purchase the fixed handset equipment available to those with disabilities, as an input to its consultation on the matter.
- 19 Further to above, ComReg has sought and received additional information from Eircom in respect of the sales details of the phones.
- 20 Each phone unit is sold for €49.99 including VAT and the vast majority of sales of these phones by Eircom are via on-line sales as opposed to in-store. This may indicate that disabled consumers are using on-line sales channels and therefore would have access to other on-line handset sellers.
- 21 Considering all of the above, ComReg is of the preliminary view that as ComReg is continuing to monitor the necessity for the obligation it is appropriate to designate Eircom to continue to meet the obligations in respect of terminal equipment until end December 2015, at this time.
- 22 As Eircom is already meeting the obligation on a commercial basis any costs in meeting the obligation can be covered by revenue.
- 23 ComReg is inviting a further opportunity to provide information on any reasons as to why Eircom or another USP should be obliged to continue to provide specialised terminal equipment post 31 December 2015.

Q. 1 Do you agree that Eircom should be required, pursuant to Regulation 6 and 7 of the Regulations, to continue to provide the specific measures detailed in paragraph 13 for disabled end-users from 1 July 2015 to 31 December 2015? Please provide detailed reasons and supporting evidence for your view.

Q. 2 Do you have further information on reasons as to why Eircom or another USP should be obliged to continue to provide specific terminal equipment post 31 December 2015? Please provide detailed reasons and supporting evidence for your view.

4 Draft Regulatory Impact Assessment (“RIA”)

4.1 Role of the RIA

- 24 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether or not a proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate. The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders.
- 25 ComReg’s approach to RIA is set out in the Guidelines published in August 2007, Commission Document No. 07/56 & 07/56a. In conducting this RIA, the Commission takes account of the RIA Guidelines,⁹ adopted under the Government’s *Better Regulation* programme.
- 26 Section 13 (1) of the Communications Regulation Act 2002, as amended, requires ComReg to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings ComReg must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government’s *Better Regulation* programme. In conducting the RIA, ComReg also has regard to the fact that regulation by way of issuing decisions e.g. imposing obligations or specifying requirements can be quite different to regulation that arises by the enactment of primary or secondary legislation.
- 27 In conducting RIA, ComReg takes into account the six principles of *Better Regulation*. These are:
1. Necessity.
 2. Effectiveness.
 3. Proportionality.
 4. Transparency.
 5. Accountability.
 6. Consistency.

⁹See: http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf

- 28 To ensure that a RIA is proportionate and not overly burdensome, a common sense approach is taken. As decisions are likely to vary in terms of their impact, and if after initial investigation a decision appears to have relatively low impact, ComReg would expect to carry out a less exhaustive RIA. 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. This approach will be adopted when necessary.
- 29 ComReg's RIA Guidelines set out, amongst other things, the circumstances in which ComReg considers that a RIA might be appropriate. In summary, ComReg will generally conduct a RIA in any process that might result in the imposition of a regulatory obligation (or the amendment of an existing regulatory obligation to a significant degree), or which might otherwise significantly impact on any relevant market or on any stakeholders or consumers.
- 30 As set out in ComReg's RIA Guidelines, there are five steps to this RIA. These steps are:
- Step 1: Identify the policy issue and identify the objectives;
 - Step 2: Identify and describe the regulatory options;
 - Step 3: Determine the impacts on stakeholders;
 - Step 4: Determine the impacts on competition; and
 - Step 5: Assess the impacts and choose the best option.

4.2 Identify the policy issue and identify the objectives;

- 31 The measures specified in respect of disabled end-users to be delivered by the USP, Eircom, contained in D09/14, expire at the end of June 2015.
- 32 These measures include the provision of specialised terminal equipment by Eircom.
- 33 ComReg is monitoring the necessity for this obligation, but is concerned that if the obligation were removed there may be detriment to disabled end-users who wish to purchase specialised terminal equipment.

4.3 Identify and describe the regulatory options;

- 34 There are currently three options being considered by ComReg at this time.
- 35 Option 1: Not to require any undertaking to supply specialised terminal equipment for disabled end-users.

- 36 Option 2: To require Eircom, pursuant to Regulations 6 and 7 of the Regulations to provide specialised terminal equipment for disabled end-users for a substantive period.
- 37 Option 3: To require Eircom, pursuant to Regulations 6 and 7 of the Regulations to provide specialised terminal equipment for disabled end-users for a short period, at this time.

4.4 Determine the impacts on stakeholders;

- 38 Option 1: Should ComReg not require any undertaking to provide specialised terminal equipment, there is a danger that disabled end-users may not be able to source equipment to meet their needs.
- 39 Option 2: Should ComReg require Eircom to provide specialised terminal equipment for a substantive period there is a danger that disabled end-users' needs may change and/or the obligation becomes unnecessary.
- 40 Option 3: Should ComReg require Eircom to provide specialised terminal equipment for a short period it allows for any insights in respect of ComReg's ongoing monitoring to be evaluated and incorporated in any further decision on this aspect.
- 41 For Eircom, any cost of providing the terminal equipment is recouped in the price of the handsets as sold to consumers.
- 42 Additionally, ComReg's research indicated the handsets that Eircom are required to provide are widely available from multiple retail stores and online. ComReg, however, notes that all handsets are obliged to comply with EN standards which may be monitored by ComReg's Spectrum Compliance team.

4.5 Determine the impacts on competition;

- 43 ComReg is of the preliminary view that continuing the obligation on Eircom to provide specialised terminal equipment would have no negative impact on competition.

4.6 Assess the impacts and choose the best option

- 44 In light of the above, and in light of the continued monitoring by ComReg of the necessity for this obligation, ComReg is of the preliminary view that it is most appropriate that Eircom continues to be designated to meet the obligations for six months at this time (Option3).

Q. 3 Do you have any comments on the Draft RIA? Please provide detailed reasons and supporting evidence for your view.

5 Draft Decision

1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1.1 This Decision and Decision Instrument, made by the Commission for Communications Regulation (“ComReg”), relates to the provision of universal services in the Irish telephony market and is made:

- i. Having regard to sections 10 and 12 of the Communications Regulation Act 2002;
- ii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 7(1) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (“the Regulations”);
- iii. Having regard to Regulations 6 and 8 of the Regulations;
- iv. Having taken account ComReg Decision document No. 14/52 (D04/14)
- v. Having taken account of the representations of interested parties submitted in response to ComReg document No. 14/54 and
- vi. Having regard to the following analysis and reasoning set out in ComReg document No. [-].

2. DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Specific Measures for Disabled Users

2.1 In accordance with Regulation 7 of the Regulations, Eircom Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 6 of the Regulations, the USP shall therefore provide the following specific services:

(a) **For users with limited dexterity or mobility:**

(i) Push button telephone sets with speed and automatic redial buttons allowing pre-programmed telephone numbers (typically the most called numbers) or last called telephone numbers to be dialled without having to re-enter the telephone number.

(ii) Hands free/loudspeaker phones means that the handset does not need to be used at all.

(b) **For users who are hearing-impaired:**

(i) Inductive couplers which allow users with a hearing aid set to connect the set to their telephone in order to allow them to hear incoming speech clearly.

(ii) Amplifier phones which allow the user to increase the volume of incoming speech.

(iii) Teleflash Visual Alert which shows a flashing light, or makes a loud noise when the telephone rings.

(d) **For users with restricted vision:**

(i) Restricted vision telephones which can help people with restricted vision to find other numbers more easily.

3. GEOGRAPHICALLY AVERAGED PRICING

As provided for by Regulation 8 (3) of the Regulations, Eircom Ltd., as the USP, shall apply geographically averaged prices throughout the State for the services referred to in this Decision.

4. CONTINUATION OF OBLIGATIONS

All other obligations imposed on the USP by ComReg in relation to its universal service obligations, which were immediately in force prior to the effective date of this Decision and Decision Instrument, shall continue to have full force and effect.

5. EFFECTIVE DATE AND DURATION

This Decision and Decision Instrument is effective from 1 July 2015 until 31 December 2015.

6 List of Questions

- Q. 1 Do you agree that Eircom should be required, pursuant to Regulation 6 and 7 of the Regulations, to continue to provide the specific measures detailed in paragraph 13 for disabled end-users from 1 July 2015 to 31 December 2015? Please provide detailed reasons and supporting evidence for your view.**
- Q. 2 Do you have further information on reasons as to why Eircom or another USP should be obliged to continue to provide specific terminal equipment post 31 December 2015? Please provide detailed reasons and supporting evidence for your view.**
- Q. 3 Do you have any comments on the Draft RIA? Please provide detailed reasons and supporting evidence for your view.**
- Q. 4 Do you have any comments on the substance or the drafting of the draft Decision Instrument? If necessary, please provide a marked up version of the draft Decision Instrument, indicating what changes you believe are appropriate and why.**

7 Submitting Comments

- 45 The consultation period will run 11 June 2015 to 25 June 2015. This short period is due to the expiration date of 30 June 2015 of the current measures (D09/14) and previous discussions on this matter at the Forum.
- 46 Responses must be submitted in written form. If responses are submitted electronically, they must also be unprotected so as to facilitate online publication.
- 47 It is sometimes necessary for respondents to provide confidential information in their submissions. Confidential information must be clearly identified as such. ComReg will publish all of the responses it receives to this consultation, subject to its guidelines on the treatment of confidential information.¹⁰
- 48 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.
- 49 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.
- 50 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.
- 51 Such material will be subject to the provisions of ComReg's guidelines on the treatment of confidential information.¹¹

¹⁰ ComReg 05/24

¹¹ ComReg 05/24

Annex: 1 Legal Basis

Universal Service Requirements

- A 1.1 Current US obligations in relation to terminal equipment are set out in Decision D09/14¹², which applies from 7 July 2014 until 30 June 2015.
- A 1.2 Regulation 7 of the Regulations, provides that ComReg may designate an undertaking, for such period as may be specified, to comply with a universal service obligation.
- A 1.3 Regulation 6 of the Regulations, provides that ComReg shall, with the consent of the Minister, specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can enjoy access to and affordability of certain services.
- A 1.4 Regulation 8 of the Regulations provides that ComReg may, with the consent of the Minister, require an undertaking designated under Regulation 7 to apply common tariffs including geographical averaging throughout the State.

¹² Contained in ComReg document 14/70 “Universal Service Obligation – Measures for Disabled End-Users – Response to Consultation and Decision”.

Annex: 2 ComReg Disability Forum

A 2.1 The Forum was established in 2006 to further ComReg's statutory objectives to promote competition and to promote the interests of users.

A 2.2 The Communications Regulation Act, 2002 envisages that ComReg takes specific measures in relation to those objectives including the following measures:

- Ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality
- Promoting the provision of clear information
- Addressing the needs of specific social groups, in particular disabled users

A 2.3 The Forum comprises of members representing the Disability sector in Ireland and Electronic Communications Service providers. The goal of the Forum is to ensure that organisations represented at the Disability Stakeholders Group (DSG) are also represented at the Forum. To that end, ComReg requested nominations from the Chairperson of the DSG to attend the Forum. Organisations currently nominated by the DSG and representing the Disability sector at the Forum include:-

- The National Disability Authority
- People with Disabilities in Ireland
- The Disability Federation of Ireland
- The Not for Profit Business Association
- The Irish Mental Health Coalition
- The Federation of Voluntary Bodies

A 2.4 Undertakings represented at the Forum include:-

- Fixed Market: Eircom, UPC and Vodafone
- Mobile Market: Vodafone, O2, 3 and Meteor

A 2.5 Functions of the Forum include the following:

- The identification of services provided by providers that are relevant to the needs of users with disabilities
- The identification of accessibility issues for people with disabilities in relation to electronic communications services

- The promotion of good practice by providers in relation to the accessibility of customer service
- The promotion of accessible information provision by providers to users with disabilities so that such users can exercise choice in respect of services and service provider
- The promotion of the needs of users with disabilities through a review of the effectiveness of existing services in meeting the electronic communications needs of users with disabilities and recommending improvements and/or new services

A 2.6 Key initiatives developed and implemented to date include:

- Survey of the electronic communications needs of consumers with disabilities - March 2007 & April/May 2010
- Publication of the Phone and Broadband Guide for People with Disabilities and Older People – October 2007
- Hosting of the CEO'S Breakfast Briefing and Workshop for electronic communications companies to raise awareness at industry-level of the benefits of universal design and its benefits for all aspects of business (product design, marketing and customer services) - October 2008
- Introduction of a Quality Standard for Bill Presentation, with a specific section relating to Accessibility - November 2008
- Development of the “One Click Initiative” to improve accessibility of providers websites and services - September 2009
- Directory Enquiry Services – Eircom, as USP, provides registered customers with free access to directory enquiry services. The Forum has successfully facilitated the extension of this service to other fixed-line and mobile providers, thus providing greater choice of provider for customers with disabilities - November 2009

A 2.7 ComReg Consultation 13/58; Electronic Communications:- Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users – June 2013. To date the Forum has worked in a collaborative manner with its membership to progress and implement measures on a voluntary basis. It is proposed to continue working in this way to implement measures to satisfy the requirements of Regulation 17 of the Regulations.