



Commission for
Communications Regulation

Consumer Bills and Billing Mediums

Submissions to Consultation 11/78

Submissions to Consultation

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Submissions Received from Respondents

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1 ALTO

alto

alternative operators in the communications market

Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation - Ref: 11/78

Submission By ALTO

Date: December 19th 2011

ALTO is pleased to respond to the Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation.

General Authorisation Legislation

ALTO suggests that the latest regulations in terms of the modification of General Authorisation pursuant to European Communities (Electronic Communication Networks and Services) (Authorisation) Regulations 2011 (S.I. No 335 of 2011) (revoking S.I. No. 306 of 2003 and S.I. No. 372 of 2007) and European Communities (Electronic Communication Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (S.I. No. 337 of 2011) (revoking S.I. No. 308 of 2003 and S.I. No. 374 of 2007) do not fully allow ComReg to exercise the kind of granular and specific regulatory requirements that it endeavours to achieve through this consultation process.

In circumstances where ComReg seeks to proceed with these measures, ALTO responds to the consultation without prejudice to the above remarks.

It is our position that the General Authorisation should not be utilised as a vehicle to facilitate regulatory overreach, or as vehicle to set unfair and disproportionate antecedent billing criteria, contrary to the principles of the free market. Particularly in circumstances where existing rules for Consumer protection, privacy and the facilitation of services to users with disabilities operate effectively today in the normal manner.

Response to Consultation Questions:

Q.1. Do you agree or disagree that all providers of post-paid electronic communication services should provide consumers with an itemised bill free of

charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

A. 1. At present it is ALTO's view itemised bills are provided to customers free of charge. ALTO does not and would not support the introduction of any measure that may prohibit electronic communications providers from charging for this service in the future.

Q. 2. Do you agree or disagree that calls which are normally free of charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

A. 2. ALTO cautions against any proposals or changes to the General Authorisation that require immediate compliance with updates to the National Numbering Conventions, or other ComReg Market Framework initiatives. ComReg will need to carefully consider that operators will need appropriate timelines to update their systems to include any changes required by updates to the Conventions.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free of charge, on request, in paper format or electronically (as relevant)? Please provide reasons to support your view.

A. 3. See ALTO's answer in response to question 1.

ALTO does not agree that amendments to the General Authorisation should restrict an operator from choosing a preferred bill medium. In addition, ALTO states that as long as an operator informs its subscribers of this preferred medium and is

transparent in any costs associated with that medium an operator should be free commercially to pursue these options.

ALTO has concerns over the passing reference to a “reasonable timeframe” and “current period”. Given ALTO that members’ subscription bases can receive their bills bimonthly, six monthly or even yearly, the notion of a “reasonable timeframe” and the relevant “period” for the respective bill may vary quite considerably from one customer segment to another. ALTO asks ComReg for clarification on these particular references. Where customers seek copies of bills previously issued to them, an operator has to have the commercial freedom to charge for any costs incurred in the provision of such copies. ALTO notes that to restrict an operator’s ability to charge the individual customers for such costs would be disproportionate and would not be in the spirit of EU regulatory policy and Irish government policy.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer?

Please provide reasons to support your view.

A. 4. ALTO considers that a certain level of acceptable flexibility must be available to all operators. While we make no specific comment on the minimum set of information listed, we call on ComReg to ensure that the scope of what it is trying to achieve does not drive investment away from Ireland. Over prescriptive regulation can go un-policed and can have net impact on consumer contracts which as enforceable at common law.

ALTO urges ComReg to take the path of least resistance and information oversupply.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise,

they should continue to issue a paper bill? Please provide reasons to support your view.

A. 5. ALTO generally agrees that most members offer their customer a selection of different mediums to receive their bill at point of sale. Many also give customers a wide choice of payment methods. Payment can be made by direct debit, ebilling, credit and laser cards, bank, by cash and by post.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view.

A. 6. Yes ALTO generally agrees with the proposed ways of ensuring and being assured that consumers can access and use an alternative billing medium.

ALTO members are generally doing all that is reasonable expected of us to deliver payments methods suitable for our customers.

ALTO states that it is good for the consumer to have a choice of billing mediums. We give customers a wide choice where payment can be made by direct debit, e billing, credit and laser cards, bank, by cash and by post.

ComReg is aware that choice is limited to what we as the operator can offer in running a commercial business.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

A. 7. ALTO does not agree that service providers should be required to provide paper bills free of charge.

ALTO members are operating in a competitive landscape. We feel we provide bills that are easy and accessible to ensure they are available to our customers.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

A. 8. See A. 7. It is in industry's interest that the customer has access to their bill so that they can pay it on time.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

A. 9. ALTO does not agree. Where the customer asks an ALTO member to make them aware that their bill is available then that ALTO member will make every effort to do so. This should not however be a mandatory obligation imposed on a service provider where the customer for specific reasons may have chosen not to have the bill sent directly to them.

This requirement is also contrary to the Irish Payment Services Organisation's – ISPSO, scheme rules where it is only necessary to alert customers paying by direct debit to a change in their billed amount rather than each time a direct debit will be taken from their account.

Customers who pay their bills by other methods will receive a text message each time their bill is ready to view online.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

A. 10. ALTO agrees with this sentiment generally, although each member's business will have to examine the viable cost efficient ways of ensuring customers with disabilities are treated fairly.

For example, the cost of Braille bills is substantial for a business. The access to different billing mediums must be pass the test of proportionality and be objectively justifiable.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

A. 11. ALTO members are generally very mindful that people with disabilities need to be treated with respect and dignity. We do all we can to assist people with disabilities.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

A. 12. Please see our general comment at the beginning of this submission relating to the relevance and application of the law relating to modifications to General Authorisations. The below marks are made without prejudice to our view, as expressed.

Condition 18.7.1

“Every Authorised Person who provides Authorised Services to consumers on a post paid basis, shall issue itemised invoices or bills for such services free of

charge to each consumer, a reasonable period in advance of each payment due date.”

ALTO has no particular comment in relation to this condition.

Condition 18.7.2

“Itemised bills or non itemised bills issued in accordance with Condition 18.7.1 shall be in a paper medium, unless the Authorised Person has, at least one month in advance of using an alternative billing medium, verified that the consumer can access and use an alternative billing medium, and the Authorised Person has informed the consumer of any changes to their billing mechanism.”

ALTO has no particular comment in relation to this condition.

Condition 18.7.3

“Every Authorised Person who provides Authorised Services to consumers on a post-paid basis shall offer the option of a non-itemised invoices or bills for such services free of charge to each consumer.”

ALTO has no particular comment in relation to this condition.

Condition 18.7.4

“Every Authorised Person who provides Authorised Services to consumers on a post-paid basis, shall provide each customer with details in respect of their billing options, including itemised billing, non-itemised billing, and billing mediums, when the consumer enters into a contract with the Authorised Person.”

ALTO has no particular comment in relation to this condition.

Condition 18.7.5

“Calls which are normally free-of-charge to all calling consumers, including calls to

help-lines, free-phone numbers, calls to emergency services, and calls to harmonised numbers for harmonised services of social value, are not to be identified in the calling consumer's itemised bill."

ALTO does not agree that it is necessary to insert this provision in the General Authorisation, as ComReg issued a Decision Notice (Decision Notice 09/01) where operators are directed to comply with these obligations. The insertion of the same provision into the General Authorisation does not make sense unless Decision Notice 09/01 is being revoked. Regulation 8(1) of the Framework Regulations suggests that it would not be appropriate to insert an obligation into the General Authorisation where this has already been dealt with elsewhere.

Condition 18.7.6

"Itemised bills and non-itemised bills issued in accordance with Condition 18.7.1 shall be provided in paper medium, free-of charge, if the consumer has, since the receipt of their last bill, informed the Authorised Person who is their service provider that the consumer cannot use an online bill, or does not have internet access for an online bill, or does not have a valid personal e-mail address in the case of a bill sent electronically by email."

ALTO does not agree with the insertion of this provision. There is a high level of switching in the market and therefore it is in every operator's interest to keep their customers happy and indeed to ensure that their bills are paid.

To this end operators are fully aware that customers need to be provided with copies of their bills, but operators should be free to determine with their customers what the appropriate billing medium for individual customers is rather than being limited and /or obliged to offer bills in a medium that may not be the preferred option for a large number of its customer base, particularly with the advances in technology.

Condition 18.7.7

“Itemised bills or non-itemised bills issued in accordance with Conditions 18.7.1, to a consumer with disabilities shall be provided free of charge in a medium properly accessible to that consumer (including Braille) if requested.”

ALTO does not agree with the insertion of this provision. The insertion of the words “properly accessible” and “including Braille” if requested impose what will be a disproportionate obligation on undertakings to put in place a range of medium for individual customers with disabilities regardless of whether or not this represents an onerous and disproportionate cost on the undertaking.

ComReg does not in ALTO’s view have a legal basis for the insertion of this condition into the General Authorisation. Whilst ComReg does have powers to insert consumer protection conditions into the General Authorisation any attachment of conditions must be non discriminatory, proportionate and transparent.

Condition 18.7.7 as currently drafted is not proportionate. It fails to take into account the costs that may be involved in implementing for example a Braille solution, or a solution which qualifies as being “properly accessible”. The words “properly accessible” can be very widely defined and in reality suggests that operators will be required to comply with a wide range of requests which may require software development and are likely to involve significant costs on undertakings. ALTO also fails to understand why a condition dealing with disabilities is being inserted into the General Authorisation when a working group is looking at the provision of services to people with disabilities and has yet to report.

Condition 18.7.8

ALTO agrees that where it can comply with any of (i) to (iv) in condition 18.7.8 this will be sufficient to show that an Authorised Person has verified that the consumer

can access and use an alternative billing medium.

Condition 18.7.9

“An Authorised Person providing an online itemised bill or non-itemised bill, shall adequately notify the consumer, using a means separate to the online service, that the bill is available online .”

ALTO does not understand why it is proposed that this condition be inserted into the General Authorisation when no analysis of this particular provision is carried out in the RIA. Furthermore if someone has signed up for broadband services and has consented to ebilling, it does not make sense to alert them that their bill is available by another medium unless the customer has asked that this be done.

Condition 18.7.10

“An Authorised Person who provides Authorised Services to consumers on a pre-paid basis, shall give the consumer access to their transaction history including usage and charges (within a reasonable timeframe) free of charge on request.”

The words in brackets “within a reasonable timeframe” should be defined and in any event should not exceed a three – six month period. The words free of charge should be removed as there will be circumstances where it will not be possible to provide customers with a transaction history free of charge, due to the level of work that may be involved. ALTO refers ComReg to the data protection environment where it is well recognised that requests for information from consumers are not cost neutral and parties subject to an access request are free to impose charge.

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued?

Please provide reasons to support your view.

A.13. The insertion of conditions into the General Authorisation makes them legally binding on undertakings. The effect of this is that non-compliance can result in significant penalties being imposed on the undertaking in breach. Given the severity of penalties that can be imposed under the General Authorisation Regulations a timeframe of two months for the conditions to come into effect is not acceptable.

Some of the proposed conditions may require systems/software changes which can take some time to implement.

ALTO believes that the effective date for the proposed amendments should be at a minimum 6 months from the date of ComReg's decision notice. This will give operators a realistic lead in time to make any changes that may be required.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

A. 14. ALTO favours the views of mobile networks operators in relation to this question.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

A. 15. ALTO expresses no view in relation to this question. On their face, the changes appear to be objectively justifiable.

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

A. 16. There are three separate sections to ComReg's RIA. Please see ALTO's

comments in respect of each of these set out below.

(i) Provision of an itemised or non itemised bill free of charge to post paid customers as required (paper or electronic). ALTO agrees with ComReg's assessment as set out in this section of the RIA.

(ii) Calls which are normally free of charge to all calling consumers should not be itemised on the consumer's bill. ALTO agrees with ComReg's assessment as set out in this section of the RIA.

(iii) Bills issued to a consumer with disabilities shall be in a medium that is accessible to that consumer free of charge if requested.

ALTO does not agree that minor costs will apply, where for example a particular medium is chosen by a consumer which ALTO is not in a position to support. Considerable costs may apply depending on the medium chosen by the customer. We would refer ComReg you ALTO's response to questions 12 and 13 and our submissions at section 2(1) of this response on proportionality.

The legal test that must be complied with makes it clear that an imposed measure may not be excessively burdensome in relation to the objective that is intended to be reached. ComReg therefore needs to amend this section so that it is clear that operators should be free to make available mechanisms for customers with disabilities to access their bills rather than seeking to mandate specific solutions that might be applied. Failure to do so will result in operator's being forced to put in place costly solutions contrary to the principle of proportionality.

(iv) Service providers who provide pre-paid services to consumers shall give their consumer access to their current bill and call history within a reasonable timeframe) (free of charge) on request.

ALTO notes that the term “*reasonable timeframe*” is not defined and no effort is made by ComReg to explore whether or not costs may apply.

In principle subject to the definition of reasonable timeframe being clarified, operators will in general not have a difficulty with providing a customer with details on their call history, where it does not amount to a disproportionate burden on the operator to do so. However it is important to note that to the extent that compliance with a request imposes a disproportionate burden on an operator, that operator must be free to recoup the costs involved. Indeed this is a principle that is well recognised under data protection law where parties subject to a data access request are free to impose a charge for such a request, as there is a recognition that complying with an access request can have costs and therefore parties subject to an access request are free to impose a charge for that request.

(v) Service providers who provide bills in a medium not sent directly to the customer (by post or email) to provide an alert to the customer that their bill is available.

ALTO disagrees that no foreseeable cost applies.

Text messages cost money and therefore compliance with this particular provision will result in increased costs for operators. Furthermore it is contrary to the Irish Payment Services Organisation Limited payment direct debit scheme rules where once a direct debit customer is provided with a payment schedule there is no need to notify the customer unless there is a change in the amount to be debited to the customers account. Where customers have requested a billing mechanism whereby a bill is not provided directly to the customer, but for example to a family member, the operator and the customer should be free to agree whether or not the customer should be notified that their bill is now available, as the customer may in fact not want to be notified. ComReg should carry out a more detailed of the costs that may be involved in respect of this particular section in the RIA as it is simply not correct to say no additional costs apply if for example operators are required to send text messages each month to customers who they currently do

not send text messages to.

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

A. 17. Please see response to question 12.

Conclusion

While ALTO has taken the time to express views in relation to this consultation, we caution ComReg in that we believe that the current legislative framework does not allow modifications in all of the instances proposed. Further, we are anxious not to overburden users and providers of services with regulatory requirements that may be unpoliced, in the main. It might be useful and appropriate for ComReg to re-visit their legal advisers in relation to the more granular aspects of what is proposed.

ALTO

19th December 2011

2 An Post



An Post

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BY HAND, POST AND EMAIL

14 December 2011

Ref: Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation

Dear Michelle

Please see the An Post response to the above consultation.

We are happy to discuss further, as required.

Yours sincerely

Brian Fay
Head of Regulatory Affairs

Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation

Consultation

ComReg Document 11/78

Response by An Post

December 2011



Section 1: Introduction

An Post has taken a keen interest in this subject which is set out in our response to ComReg's preliminary consultation¹.

There are three very fundamental issues that are being addressed within this consultation and any decision therefore requires very careful consideration. These are

- ComReg has issued this consultation due to an overriding need to protect consumers' rights to receive a bill in a medium appropriate to the consumer and having given their consent which is a fundamental right for consumers to choose. This should not be a charter to allow large corporates to migrate to cheaper solutions to improve their profitability.
- In the context of increasingly complex pricing strategies it is vital that customers have access to (in a media of their choice) bills that enable customers to control their spends.
- The protection of the Mails Universal Service in respect of which ComReg also has a responsibility².

As stated in our detailed response to that consultation, it is our core business³ to process and deliver mail, and in the area of transactional mail, we have used two leading agencies, Ipsos MRBI and Millward Brown Lansdowne to aid us in understanding the preferences of this core customer group (see below). We have also used the experience that we have gained in our postfone business to inform our response in respect of mobile operators.

We trust that this response will be of benefit in informing this consultation and we will, of course, be willing to develop this further with ComReg and other stakeholders.

Our research and experience demonstrates that

Mail remains - despite high levels of promotion of alternatives - the preferred communication channel. E Billing has been around for some time yet consumer take up is relatively low – in many cases consumer choice is non-existent as the alternative medium is forced upon them by service providers.

¹ Response of 13 January 2011 to Document 10/96 'Electronic, and other, itemised bill formats' ComReg, December 2010

² See Act No 21 of 2011

³ In addition to our other businesses such as we have built upon this expertise to develop specialities in our businesses, PrintPost, BillPost, BillPay and most recently postfone.

Consumers opting for e-billing need to have a computer or a web accessible device, and a printer.

For paper billing consumers need only a letterbox.

ComReg's recently published 'Postal Services Residential Survey 2010' (December 2010) (ComReg document 10/107b) which at Q.49 provides research on the likelihood of consumers switching transaction mail on line. This shows that 77% of households are very/quite unlikely to move such mail over the next twelve months. In fact the percentage stating that they very unlikely to move to such a format has increased from 52% in 2009 to 68% in 2010.

Section 2: General Comments

The importance of mail to consumers including the benefits of receiving paper bills should be emphasised.

- Mail is tangible and can be viewed at any time as there is no need to be online. Particularly without ubiquitous broadband and readily accessible printing facilities, this may be an issue.
- Mail is a service which the customer receives rather than has to proactively access and hence provides for better consumer protection and information. For example, the customer does not have to remember different logins and passwords for different services. Notifications and bills risk getting lost in the accidentally deleted/junk mail folder. In the event that a company ceases to trade, electronic records may not continue to be available. Computer literacy is also an issue too.
- Mail acts as a continuous and visual reminder for tasks such as bill payment and increases the consumer's awareness of the costs of the service provider by their supplier.
- Over 18% of the Irish population do not have access to a bank account or credit card; in the absence of a paper bill it is difficult to see how consumers could make payments, especially in the heavily used Post Office channel.

This is of vital importance with regard to household budgeting in the current climate.

- Mail is also useful for identification purposes (e.g. bank accounts etc.) and is seen as more trustworthy and secure for sensitive information.

There can be VAT, legal and accounting implications.

- For companies, mail has high levels of relevance and engagement with their customers.
- We do agree that ComReg should set a default bill type. Given recent moves by certain utilities to unilaterally – and without notice – enforce a particular billing type, it would be beneficial to have paper bills continue as a default. This would also provide for easier compliance action were this not to be respected⁴.
- We note and agree with ComReg's contention that paper bills may be the most appropriate way for customers to control and analyse their usage e.g. with increasing use of smartphones such printing and review facilities are unlikely to be available.
- We agree that the customer should only be switched to another billing medium if they explicitly consent to such a switch. Referring to the research set out above and given the widespread promotion of utilities such as Electric Ireland and Bord Gáis in promoting e-Billing as part of their bills, we understand that the level of take up is low, and that c. 70% simply do not wish to switch. This should be respected as a matter of consumer choice.

Section 3: Specific Responses

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

We agree as this is prescribed as the default by law⁵ and as per the evidence set out is required by consumers.

Itemised bills are important in allowing customers understand the fees they are being charged. Due to changes in bill payment behaviour An Post is of the view that customers have a greater desire to part-pay bills to better manage their cash flow. It is An Post's view that customers need more control of their bills due to increasingly pressurised financial circumstances. This approach ensures that the consumer is in control of his/her billing.

The proposal from ComReg ensures that the decision as to whether the consumer is provided with an itemised bill free of charge is a decision for the

⁴ We note in this regard 'ComReg notifies Vodafone of findings of Non-compliance with respect to electronic billing', October 2011

⁵ European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations S.I. 337 of 2011

consumer and not a decision of the provider of post-paid electronic communications services.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to helplines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

We agree as this is an obligation set out in the Regulations.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant)? Please provide reasons to support your view.

An Post believes that in the context of increasingly complex pricing all customers (including prepaid) should have access to paper bills. This will dramatically increase the awareness of consumers spend patterns and allow them to access better value offerings.

All of the features identified are required for customers to make an informed choice about the billing medium that best suits them. In fact, many customers of pre-paid services have a greater need to control their costs and written (paper/electronic) details help in providing this information. For example, where minors are using this service it is important that they can easily understand what their pre-paid credit is being used on. In the case of paid for subscriptions to alerts/services the fees charged for these services must be clear and understood by the user, particularly where the user may have signed up in error.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

We agree – provided that the consumer has/ will have control over his/her preferred billing mechanism and the extent to which this is facilitated. Without knowing the options for e-billing and how it may affect them, customers may inadvertently sign up – or be signed up – for an option that does not suit their needs.

Consumers in Ireland have an expectation that bills are in paper format with full details on their transactions and sent to them by post on a regular basis. It is imperative that consumer have access to any alternative bill medium and give their consent on any change to their billing medium.

In order to assist the consumer decision making process the service provider

should provide at the very minimum the set of information as per the consultation. Consumer consent is paramount in this regard before any Service Provider moves the consumer to alternative billing platforms.

It is important to note that many account holders of phone and internet services are not the end user of the service – particularly in the case of parents paying for a service that their childrens' use. In this case it may be very important for the account holder to be given a choice on how they receive their billing information as they may not have access to or the ability to use the actual service being paid for.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

We disagree.

ComReg have issued this consultation due to an overriding need to protect consumers' right to receive a bill in a medium appropriate to the consumer and having given their consent which is a fundamental right for consumers to choose.

E Billing has been around for some time yet consumer take up is relatively low, unless consumer choice is nonexistent as the alternative medium is forced upon them by service providers. We fundamentally disagree that Service Providers migrate consumers to E Billing on the basis that they can ensure and be assured that the consumer can access and use the alternative mediums as this compromises consumer choice – as outlined in the response to Q.4 there are situations where the bill payer is not the user of the service and this must be considered.

If a consumer wishes to switch to alternative medium it should be upon their request and not based on the assumptions made by very large corporate entities that are solely looking for further maximisation of their profit and the expense of consumers.

Therefore, explicit confirmation from the consumer that an alternative medium can be accessed is required to ensure that consumers' rights are not compromised. Any Service Providers' drive to move customers to E Billing without consumer consent is contrary to contractual terms and conditions.

Under the current proposals, ComReg proposes that in the absence of consent of the service provider may switch a consumer, without his/her knowledge to an alternative billing mechanism where the service provider has taken reasonable steps to verify that the consumer can access their bill in an alternative billing form. Three of the four ways in which the service provider

can make the decision to change the consumer to an alternative billing mechanism do not appear to require consumer consent.

Instead, the service provider analyses the consumer's behaviour and in two instances may access information unrelated to the service to which the bill in question relates to verify that the customer can access their bill when switched to an alternative billing mechanism.

This raises possible Data Protection Law problems not to mention consumer protection issues as it may not be apparent to the consumer that their behaviour outside the use of their phone is being assessed for the purposes of making a decision as to the billing format they will be provided with

ComReg have issued this consultation due to an overriding need to protect consumers' rights to receive a bill in a medium appropriate to the consumer and having given their consent which is a fundamental right for consumers to choose.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including ebills? Please provide reasons to support your view.

We disagree.

The only way a service provider can be sure that their customer can access and want the alternative billing medium is where the service provider obtains the **explicit** consent of the consumer.

The proposals put forward in the Consultation are aimed at improving consumer protection, however, if adopted, such proposals would result in removing consumer control over their own information and consumers would be forced to adopt a reactionary response, *after* decisions about their billing information have been made without their contribution and/or consent.

The issue should not be based on the consumer ability to access the alternative medium but more fundamentally their wishes to migrate to the alternative medium. Also consumers are asked to migrate to a medium in which is not tested or proven to be as accessible as paper billing or suitable for the consumer to manage as easily as an official paper bill.

Having internet access as a component of a consumer service or previous use of a service provider online service should not give a service provider the right to migrate a consumer to alternative medium. Consumers whilst having access to the internet should not be deemed to want to use the internet for management of their bill management and household budgeting. For example, internet access on a mobile device does not constitute acceptance to an alternative billing medium. A consumer's decision to buy a broadband and/or internet service from the same supplier of their mobile phone services

may not be based and should not be assumed to be based on ensuring access to their billing information. Consumers may choose internet services for reasons and uses unrelated to e-billing access.

Customers who do not have internet access or strong pc skills may as a one-off use online billing outside of their normal circumstances e.g. they may have a need to access a bill online in a situation where they're away, using an internet cafe, work computer or a friend's internet. Accessing a bill online is not evidence of long-term, regular access or ability to view their bill. It **cannot** be assumed that just because a bill has been accessed online once or even several times that this is the normal situation, that consistent access is available or that this is the customer's preference.

If the issuance of an email to a service provider is deemed sufficient basis to migrate consumers to alternative mediums this will also lead to issues in bill management and household budgeting due to SPAM, use of work email, changes in email address and lapses of free email accounts, all of which can ultimately result in multiple unused email addresses.

Having internet access as a component of a consumer service or previous use of a service provider online service should not give a service provider the right to migrate a consumer to alternative medium.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

We agree.

For consumers who originally received a paper bill and subsequently give their **explicit** consent to migrate to the online billing medium, they must retain their the right to a paper bill free of charge (should for example circumstances change). Part of the Consumer Terms and Conditions is to receive a paper Bill as part of their contract with the Service Provider free of charge. This right should not be compromised.

Irish consumers are constantly facing changes to their lifestyles with unemployment, changing work situations, tightening financial situations and living situations. Now, more than ever, Irish consumers are seeing a lot of change which would include change in access to internet caused by a change in their circumstances – move house, change/lose job, unable to replace/repair broken laptop/pc, unable to afford internet, change in a corporate internet policy (blocking access to a site) or lack of a printer. It is imperative that consumers gave the option at all times to revert to receiving a paper bill, free to charge to the consumer.

Customers wishing to pay at the Post Office require a paper copy of their bill for scanning purposes – as already outlined in the response to Q.1 it is An Post's view that customers have an increasing requirement to have the ability to part-pay bills, payment at the Post Office is the easiest way for them to do this locally and with cash.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

We agree.

For consumers who originally received a paper bill and subsequently give their **explicit** consent to migrate to the online billing medium, they must retain their the right to a paper bill free of charge (should for example circumstances change).

Customers who do not have access to or the ability to use pc/internet and those with disabilities may be unable to use an ebill in any instance. In addition to this anyone wishing to pay at the Post Office would require a paper copy to pay their bill requiring that the customer have access to a printer in addition to internet and pc access.

Part of the Consumer Terms and Conditions is to receive a paper Bill as part of their contract with the Service Provider Free of charge. This right should not be compromised.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

Whilst an alert should be mandatory this alone will not have the same effect of a Paper Bill which is tangible and delivery is assured through the postal system and is visibly present in the customer's letter box and postal address.

If an email bill is sent direct to a customer this can still present issues for consumer due to SPAM, changes in email address which ultimately results in multiple unused email addresses. With the volume of SMS a consumer could over look an alert.

Where the Consumer has consented to the change from traditional Billing to an alternative medium the alert will be part of contractual expectation. Where the Service Provider has not received Consumer consent the breach of consumer terms and Conditions may cause payment notification to be misplaced due to SPAM, changes in email address which ultimately results in multiple unused email addresses.

Again in this instance it is imperative that Consumer consent is secured before any Service Provider moves to compromise Consumer contractual Terms with their service provider.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

We agree.

This is a fundamental requirement of all communications regulation whereby the Universal Service Obligation is the primary one. This holds across all sectors⁶. Paper bills are the most likely means of ensuring this requirement.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

This is a good example why only explicit opt-out consent can be a valid reason to move a consumer from a paper bill. This will ensure that there is no need to maintain a register of consumers with a disability.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

We disagree.

Joint users of a service may wish to receive a paper bill which can be kept in a file rather than one or the other's personal email address. Personal email addresses aren't always regularly accessed and non-use can even result in a lapse of an email account.

People may not understand that a work email is not a private personal account. Free/employer email addresses are not necessarily regulated as they may not even be operated in Ireland which means varying levels of security and software in use – this means that customer's private account information is potentially at risk of hacking/viruses.

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

We disagree with the proposed amendments and therefore do not agree with any planned implementation.

⁶ Regulation 2008/6/EC

It is important that any changes to current contracts, or those available at the time of purchase are explained in detail and the implications set out. This would require a rigorously developed and audited Code of Practice.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

We do not agree with the proposal as set out and therefore do not agree with any planned implementation.

Existing customers in particular should be able to continue to receive the level of service they always had unless they explicitly consent to a change. New customers should be allowed to have a paper bill if that is their preference. Communications companies should take into consideration varying levels of customers' pc skills and internet access, email access, email security and access to a printer should the customer wish to have a paper bill.

Customers tied into contracts will not feasibly be able to move to another supplier and should at the very least be in a position whereby their billing medium should not be changed until the end of their existing contract or without their express written permission.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view

We do not agree with the proposal as set out and therefore do not agree with any planned implementation.

Explicitly, will Braille bills not longer be offered?

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

We agree with aspects of ComReg's RIA – in particular that the paper bill free of charge remains a default.

However, as a key stakeholder, we would make the point that the impact on An Post has not been taken into account in the RIA. ComReg's functions and objections stretch across the communications sector and it is charged with the requirement to

'promote the availability of the postal sector'⁷

An Post, as the designated Universal Service Provider for postal services will be directly impacted by this decision. ComReg must also be mindful of its obligations in the postal sector.

We would also draw attention to Data Protection Law, to the extent that the RIA does not consider the impact of the proposals in the Consultation on the rights of consumers to ensure that their data/information is used for specified purposes by data controllers. Where such data/ information is to be used for other purposes, as is proposed in several of the access verification processes in the Consultation, consumer consent must be requested, provided and recorded by the mobile service provider who is also the data controller of such information

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

We submit the following market research:

- Ipsos MRBI (on behalf of An Post) carries out quarterly household diary surveys which have found (most recently Wave May/July 2010)
 - 81% of households agree that receiving important documents by mail helps to organise their household 93% keep paper bills as a visual reminder
 - 82% agree that confidential information is more secure by post than online
 - 75% of Irish consumers consider receiving mail as a pleasure
 - 72% actually put time aside to read the mail
 - 70% like the routine of receiving mail

This shows that consumers are still very much engaged with physical media and specifically take time to read through their mail. We also asked consumers about their channel preference for receiving their bank statements and the over-whelming majority of Irish Consumers still prefer to receive bank statements by post than via email or online. Given that they have also told us that paper versions help them organise their household this is not surprising.

- Millward Brown Lansdowne (on behalf of An Post) also presented this research from July – September 2010
 - Only 28% of advertising emails are considered relevant (this is far below the relevancy reported for Direct Mail: Addressed DM 72% and Unaddressed DM 42%).

⁷ Section 10 of the Communications Regulation (Postal Services) Act No 21 of 2002

- ComReg's recently published 'Postal Services Residential Survey 2010' (December 2010) (ComReg document 10/107b) which at Q.49 provides research on the likelihood of consumers switching transaction mail on line. This shows that 77% of households are very/quite unlikely to move such mail over the next twelve months. In fact the percentage stating that they very unlikely to move to such a format has increased from 52% in 2009 to 68% in 2010.
- A recent UK Study shows the importance attached to a paper bill:

'switching off paper statements can have the same negative effect on customer satisfaction as removing UK call centres or local branches. Four in ten people agree that paper statements are as important to them as UK call centres and 73 per cent would feel inconvenienced and annoyed if they were taken away' (full link below).

http://www.news.royalmailgroup.com/article.asp?id=2765&brand=royal_mail

/ends
December 2011

3 Eircom Group

eircom Group

Response on behalf of eircom Group to ComReg Consultation:

**Proposed consumer protection measures in respect of consumer bills and
billing mediums and proposed amendments to General Authorisation**



19 December 2011

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The comments submitted to this consultation are those of Meteor Mobile Communications Ltd. (MMC) and eircom Ltd collectively referred to as eircom Group.

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EXECUTIVE SUMMARY

eircom Group welcomes the opportunity to respond to this consultation and hopes that many of the points raised in this consultation response encourage ComReg to amend some of the measures proposed for the General Authorisation/ Mobile licences/ Universal Service Obligations.

eircom Group fundamentally disagrees with ComReg's proposal that a fully itemised paper bill should be the default consumer bill and should be issued free of charge. ComReg is not entitled to require full itemisation under the Universal Service Regulations and the Authorisation Regulation and in any event, the full itemisation of bills is not a necessary, justified and proportionate means to ensure that the needs of consumers are met. Full itemisation should be required only on request and free of charge only where the bill is delivered electronically. Insofar as paper bills are concerned, the fee charged to consumers for full itemisation should be left to the discretion of service providers and be part of the factors distinguishing providers from each other in a competitive setting.

In terms of the medium used for bills, eircom Group is of the view that it is not appropriate for ComReg to set a default medium. Operators should be entitled to offer to their customers what they consider to be the most appropriate medium, provided that:

- Where the default setting is electronic billing, a number of conditions are met, namely: consumers should be able to receive a copy of their (non fully itemised) bill free of charge in the paper format if they cannot access an alternative billing medium proposed by their Operator; and
- A customer should not be migrated to an alternative billing medium unless the service provider has reasonably established (using the outlined criteria set out in this consultation) that the customer can access the medium proposed.

Many service providers are moving towards electronic billing as this will offer many benefits and convenience to customers. These include saving time, ease of access to and analysis of billing information and reductions in paper usage. In addition customers will ultimately benefit from cost savings that this delivers to the service providers.

Service providers and customers are adopting and following a "green agenda" and electronic billing contributes to this in the reduction of paper usage. Imposing on operators that by default they use fully-itemised bills on paper would run counter to the „green agenda' as it would inevitably lead to the use of far greater volumes of paper by all service providers. The effect on the environment and the cost on operators in terms of paper, printing or postage are significant and are not addressed in ComReg's regulatory impact statement.

In relation to the proposals for users with disabilities, eircom Group recommends that the pre-registration and other related matters be explored further in ComReg's proposed consultation on ensuring equivalence in access and choice for disabled users.

It is eircom Group's view that any amendments to the General Authorisation should, if implemented, be effective no earlier than six months from the date of the decision as some operators may need to make technical changes to their systems.

Responses to Consultation Questions

3.1 Itemised Billing

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

eircom Group disagrees with ComReg's key proposal that a fully itemised paper bill should be the default bill. The practice for many years has been to provide fixed line customers with a minimum level of itemisation. This is working extremely well and enjoys the support of our customers and ComReg does not provide any valid reason why the current practice is insufficient to protect the interests of consumers. In particular, it is simply not correct, as ComReg contends, that "*an itemised bill may be the only means available to receive information, such as consumer account numbers, references, the payment due date, number of minutes used, features such as top ups, and other information.*" Most of this information is also a feature of a non itemised bill and cannot be used to argue that full itemisation is necessary.

It is relevant to note that for fixed services eircom asks consumers at the time of contracting whether they wish to receive an itemised bill. To date less than one quarter of eircom's fixed line customers have requested a full itemised bill although it is available free of charge. In other words, approximately 75% of eircom's customers when given the choice do not wish to have full itemisation.

It is eircom Group's view that a paper bill should provide a minimum level of itemisation, as required of the Universal Service Provider under Regulation 9 of the Universal Service Regulations. In this regard, eircom Group would support a proposal to require all providers to issue bills including a basic level of itemisation, as Regulation 24 of the Universal Service Regulations entitle ComReg to do, and a fully itemised bill, on request and at a service charge to be decided by the operator concerned. The basic level of itemisation should be that outlined in Document No ODTR 01/53, which adequately allows consumers to verify and control their charges and expenditure.

eircom Group in this regard does not accept that ComReg may lawfully require by way of amendment to the General Authorisation or otherwise operators to offer customers more than a basic level of itemisation, as provided for Regulation 24. Neither Regulation 9 nor Regulation 24 in conjunction with Part 1(a) of Schedule 1 require anything other than the minimum level of itemisation. This is in particular clear from the fact that Schedule 1 explicitly allows providers to provide full itemisation on payment of a charge. ComReg's proposal for a default fully itemised bill cannot be reconciled with the express wording of the Regulations.

Even if it were lawfully possible for ComReg to require full itemisation of all operators, which it is not, eircom Group does not believe that there is any consumer requirement for such a measure. The value of bill itemisation is diminishing as price plans are evolving towards virtually unlimited usage for core services such as national calls and texts.

eircom Group also notes that the full itemisation of paper bills will inevitably lead to a far greater use of paper. eircom Group currently uses approximately 700 tons of

paper annually for paper bills. The full itemised bill as a default setting will increase the paper usage significantly with inevitable negative consequences for the environment and jeopardise the “green agenda” pursued by service providers and customers. If eircom Group were to apply full itemisation to all bills this would be very costly in relation to postage, paper and printing costs which would infuriate the majority of customers that have not requested this. The average fixed eircom bill is currently 2.5 pages compared to an average itemised mobile bill being 11 pages. A requirement for full itemisation could drive a fourfold increase in the volume of paper used for billing fixed customers where the objective should be a general reduction in the volume of paper.

Insofar as full itemisation is concerned, “Green agenda” considerations obviously do not apply to electronic billing. The electronic medium may also deliver enhanced analysis that allows customers to filter the detail and focus on particular aspects. For example with certain electronic media, customers can filter the itemisation of calls that avail of inclusive fee usage in order to focus on itemised charges. However, it is not clear to eircom that in addition to the legal concerns set out above, that this is sufficient justification to *impose* full itemisation in the context of electronic bills. If 75% of customers of eircom prefer non-itemised bills, they should be able to receive them whether electronically or in paper.

Consideration could be given however to require the provision of fully itemised electronic bills *free of charge* while whether to charge or not for a fully itemised paper bill should be at the election of the operator. In any event, the provision of full itemisation free of charge should be left to be a means to compete with operators. The mobile market shows that even in the absence of regulation, free itemised bills may be offered to customers.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer’s itemised bill? Please provide reasons to support your view.

In the light of the express wording of the Universal Service Regulations, it is not permissible for the designated undertaking to identify calls free of charge to the calling party in itemised bills.

eircom notes further that calls to help lines can be of a sensitive nature and inclusion of any information in relation to time and duration may identify these calls. The current practice provides a valuable safeguard to people in vulnerable situations. The presentation of these numbers could discourage people using specific helpline numbers in vulnerable situations.

For the reasons discussed eircom agrees that for all operators, calls which are normally free-of-charge should not appear on the standard or itemised bill.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant) ? Please provide reasons to support your view.

We do not believe that a mandatory requirement of this nature can be justified.

The mobile operators offer various means of verifying charges through interactive voice response (IVR) systems or text based systems that allow customers to check their balance and thereby verify the cost of a particular call in real time. When addressing itemisation, ComReg refers to the itemisation of top-ups. Notwithstanding our objection to mandatory itemisation of prepaid usage, the provision of historical information on Top-ups would go beyond the level of detail provided even for post-paid service. This would be the equivalent of providing an extensive history of payments on a post-pay account. Customers of pre-paid service are issued with receipts that can be retained for future reference. Furthermore eircom group mobile services offer enhanced means of accessing the details of charges through the internet. This allows customers to review their usage details historically on a month by month basis thereby facilitating customers in monitoring and controlling costs which will reflect their top-up history. We consider this a competitive edge to our mobile offerings while demonstrating that the market can deliver such services absent of regulatory intervention.

Regarding the provision of such detail in paper format, we appreciate the need to provide the detail in the case of a legitimate dispute; however ComReg should be cognisant of the fact that the prepaid services model has its foundation in minimising the cost of delivery of service. A key element of this is the absence of billing costs. Mandating the provision of call details in paper format free of charge in particular could seriously distort the prepaid market by undermining this very model on which it depends. Therefore we do not believe that the requirement to provide call details in paper form free of charge can be objectively justified.

3.2 The Billing Medium

eircom Group has highlighted previously that “electronic invoicing” is part of the European Commission’s flagship initiative “A Digital Agenda for Europe”¹. The EU Commission is stating that it wants to see e-invoicing become the predominant method of invoicing by 2020 in Europe and that Member States are well-placed for advocating, developing and facilitating the use of e-invoicing. The EU Commission in its Communication to the European Parliament also notes that the benefits from e-invoicing are also expected to accrue to consumers, in particular with regard to the convenience aspects of e-invoices in comparison with paper invoices. Any new regulations should, therefore, support the EU Commission aims and facilitate the widespread introduction of electronic billing.

In the electronic communications sector, many customers and service providers are moving towards adopting a “green agenda” and electronic billing is an essential aspect of this. Electronic/alternative billing offers many benefits and convenience to customers and should be encouraged. These benefits include saving time, ease of access to and analysis of billing information and reductions in paper usage. (It is also relevant that in any event customers are choosing not to keep printed bills².) In addition customers will ultimately benefit from cost savings that this delivers to the service providers.

eircom Group’s responses to the questions in this section should be read in this context.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

eircom Group agrees that in the context of encouraging electronic/alternative medium billing, customers should be provided with the minimum set of information listed in the ComReg document at section 3.2.1 so that they are in a position to make an informed decision.

Operators should be entitled to promote alternative billing mediums by outlining their benefits. For existing customers, eircom Group also agrees that they should be given adequate notice of when a change to their alternative billing medium would occur.

ComReg proposes that all relevant details in relation to individual operators billing media should be stated in the consumer contract and at the point of sale. We agree that such detail should be available at the point of sale; however we do not agree that it should be included in the consumer contract.

When referring to the consumer contract it is not clear whether ComReg is referring to a specific document, such as the service application form through which a bill pay customer enters a contract or the service terms and conditions (Ts&Cs) which are associated with the application form and presented on-line. In either case it would not be practical to include such detailed information. We strive to ensure that the general

¹ “Reaping the benefits of electronic invoicing for Europe”, COM (2010) 712 – Communication from EU Commission to the European Parliament.

² „50 things killed by technology’ Irish Independent 12 December 2011.

Ts&Cs are accessible for consumers and this is achieved in part through the avoidance of clutter while ensuring as much as possible that the Ts&Cs are generally relevant. For example pricing information which is also quite detailed is not presented in the Ts&Cs due to the level of detail involved and the fact that an individual consumer will only be concerned with one price plan. Similarly where multiple billing options are available the options and associated detail would be better placed on the operator's web site. We already dedicate a section of our web sites to provide detailed information on billing.

If, as ComReg appears to suggest, customers should be provided with a minimum set of information so that they are in a position to make an informed decision as to their preferred choice of billing at the time they contract with an operator, then it is difficult to understand the reasons why a paper bill should be the default billing medium as Draft Condition 18.7.2 appears to require. Bills should be in the medium agreed at the time of contracting subject only to the requirement that adequate information is provided to the customer concerned.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view.

eircom Group agrees with proposals which protect consumers while at the same time permit operators to be more proactive in moving away from paper based bills. It is appropriate that service providers pursue alternative billing media for their customers as there are many advantages for customers – convenience, saving time, paper reduction and ease of use – and also cost saving benefits for the service providers that in a competitive market will ultimately be passed onto consumers. eircom Group continues to be of the view that obtaining consent by way of an “opt-out” mechanism³ when introducing electronic billing or billing on an alternative medium is entirely appropriate and eircom Group refers in this regard to its previous comments.

eircom nonetheless welcomes and recognises that ComReg's proposals represent significant progress. eircom accordingly agrees that the criteria outlined by ComReg in the consultation paper represent adequate default rules to use for the purpose of establishing on a reasonable basis that customers can access and use the alternative billing medium. For the avoidance of doubt, these criteria include the following:

- a) the customer has given consent or
- b) internet access is part of the service being offered or
- c) the customer has used the online service provided by the operator previously or
- d) the customer has given the service provider their personal email address for the purpose of providing the bill.

It is essential that a customer can access their bill whether by paper/alternative billing medium as the bill contains important information that is needed in the switching

³ See eircom Ltd. Response to ComReg Consultation 10/96.

process between operators e.g. consumer references and their account number which is the customer's unique identifier in interacting with their service provider. Itemised and non itemised bills should contain the consumer references. If a customer cannot access the alternative billing medium proposed by the Operator, eircom agrees that they should continue to receive a paper bill.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

As outlined in question 5 above eircom Group views customers' access to their bill as a very important aspect of a customer service. eircom Group agrees that if a consumer no longer has internet or email access or that their billing medium requires online access that they should on request to their service provider be able to revert to a paper bill free of charge in line with their customer agreement. In this event the paper based bill should provide the minimum level of itemisation unless the customer specifically requests otherwise.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

eircom Group would see an alert as an important requirement of an alternative billing medium. Customers may not be aware that their bill is available and then fall into arrears unintentionally. This could lead to customer disconnections and customer dissatisfaction. eircom Group would support alerting customers by email, SMS message or some other appropriate means.

For Data Protection and privacy reasons eircom Group does not agree that this alert should contain 'the amount of the bill' or the 'due date'. The alert should simply state only that the bill is now available and should not provide any further information (for example the account number, the amount of the bill and the date that payment is due should not be mentioned in the alert).

ComReg states that Service providers will be informed of the non-delivery of the alert e-mail sent to the customer to inform them of the availability of their bill and that Operators should in these cases contact the customer to obtain a valid e-mail address or to send a paper bill. It is eircom Group's view that consumers have responsibilities to keep their information (e.g. postal and e:mail addresses) up to date.

3.3 Consumers with Disabilities

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

eircom Group, as stated earlier, regards access to the bill as an important element to providing service to the customer. With respect to users with disabilities, eircom Ltd has considerable experience as the provider with the Universal Service Obligation for many years and provides the eircom fixed line bill in Braille for customers who require it. eircom Group will work with disabled users and their representatives to ensure that eircom Group continues to meet their needs with the available billing mediums.

eircom Group bills are currently available on-line in Portable Document Format (PDF) and accessible to users using PDF reader software. The PDF reader software is made available free of charge on many web pages in order to facilitate screen readers.

eircom Group provides support through its customer service agents in relation to bill enquiries. If a consumer has difficulty in reading the bill, they can contact the customer service departments where an agent can talk through the customer's bill. With our voice response services, customers can also get an account summary detailing the amount outstanding and their recent payments 24 hours.

In relation to the proposals concerning the billing mediums for users with disabilities, eircom Group recommends that these be explored further in ComReg's proposed consultation on ensuring equivalence in access and choice for disabled users.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

ComReg makes reference to the BEREC report and ComReg's intention to consult later in respect to Regulation 17 of the Universal Service Regulations⁴. eircom Group would suggest that pre-registration and other related matters as stated above be explored further within that consultation. At times it may be appropriate for a customer with disabilities to register in order to receive a required billing medium but this is not necessarily a requirement for eircom Ltd at this present time. If a customer requests a Braille bill eircom Ltd records this on the system and the bill is provided.

⁴ S.I. No. 337 of 2011 European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011.

4. Conditions proposed to be attached to the General Authorisation

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

As outlined in the preceding questions, eircom Group does not agree with all of the conditions that ComReg proposes to attach to the General Authorisation. eircom Group is of the view that the proposed conditions should be amended as follows, for the reasons explained in response to the previous questions:

DEFINITIONS

eircom Group's response to Question 1 sets out in detail the reasons why it is not appropriate or lawful to require all operators to provide fully itemised bills free-of-charge. eircom does not disagree with the proposal that there are conditions imposed on all operators concerning billing, however, these should not exceed the scope of what is provided for by the Universal Service Regulations. The easiest way to reflect these comments is to have a new definition for a standard level of itemisation (Standard bill) and a definition for a fully itemised bill (Fully Itemised Bill) by amending the definitions as follows:

***"standard bill"** means a bill for Authorised Services which allows consumers to verify and control their charges for using Authorised Services and which allows consumers to adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills by setting out the following items:*

- details of recurring charges (for example monthly subscription charges, line rental, package price);
- summary of amounts due for communications, where relevant, including out-of-package communications
- Consumer References.

The definition of a **fully itemised bill** should be as follows:

***"fully itemised bill"** means an Itemised Bill which includes additional (to the standard bill) items, including in particular but without limitation details in respect of each communications transaction (such as for example voice calls, SMS, MMS, data sessions (which may involve multiple records covering a period of up to one day), PRS) including the following:*

- date of transaction
- start time of transaction
- number called, if relevant
- duration of the transaction, if relevant
- the price of the transaction, including "0" if no charge applies
- details of any further charge arising."

In respect of fully itemised bills, data sessions can be difficult to define. If the definition is too granular it could result in excessive billing records which could add significantly to the size of a fully itemised bill. This would result in bills being less user friendly while adding unnecessarily to costs. eircom Group recently experienced this very issue with its mobile bills and resolved it by grouping data records. We therefore recommend that the definition of fully itemised bills should be sufficiently broad to allow for such grouping and we propose that the definition should permit the grouping of records for a period of up to one day.

eircom Group's proposal to modify the definition of the "Itemised Bill" into two, addresses eircom Group's concerns in relation to the full itemisation requirement and the minimum level of itemisation (standard).

GENERAL PRINCIPLES

The General Principles summarise the requirements set out in the Conditions and it is not clear what value they bring. Indeed they may only serve to confuse and they should accordingly be deleted. If not, then the following amendments should be made.

2. *An Authorised Person who provides Authorised Services to consumers must provide them with Itemised Standard Bills in paper medium free of charge in the medium of the Authorised Person's choice provided that where this is an alternative billing medium, unless the Authorised Person is reasonably assured that the consumer has actual access to, and can use (where necessary, by the provision of adequate information and instructions to the consumer) an alternative the proposed billing medium.*

CONDITION 18.7.2

Consistent with eircom Group's position expressed in the responses to consultation question and the amendments above, Condition 18.7.2 should be amended as follows:

Itemised Bills or non-itemised bills issued to Consumers in accordance with Condition 18.7.1 shall be in ~~paper~~ the medium agreed at the time of contract, unless the Authorised Person has, at least one month in advance of using an alternative billing medium, verified that the consumer can access and use an alternative billing medium, and the Authorised Person has informed the consumer of any change to their billing medium.

For the purposes of this, the Authorised Person is deemed to have access to the alternative billing medium where:

- a) the customer has given consent or*
- b) internet access is part of the service being offered or*
- c) the customer has used the online service provided by the operator previously or*
- d) the customer has given the service provider their personal email address for the purpose of providing the bill.*

CONDITION 18.7.3

Consistent with eircom's position expressed in the responses to consultation question and the amendments above, Condition 18.7.23 should be amended as follows:

Every Authorised Person who provides Authorised Services to consumers on a post-paid basis shall offer the option of receiving a non-Fully Itemised invoices or bills for such services at reasonable tariffs or at no charge, free-of-charge to each consumer.

CONDITION 18.7.4

Further to the response to question 4 we proposed the following amendments to this condition:

Every Authorised Person who provides Authorised Services to consumers on a post-paid basis shall make available to provide each customer with details in respect of their billing options, including ~~Itemised-Standard Billing~~, non-Fully Itemised billing, and billing mediums, ~~when~~ before the consumer enters into a contract with the Authorised Person.

CONDITION 18.7.6

Consistent with the amendment to 18.7.1 we propose the following amendment:

~~*Itemised-Standard Bills and non-Itemised Bills issued in accordance with Condition 18.7.1 shall be provided in paper medium, free-of-charge, if the consumer has, since the receipt of their last bill, informed the Authorised Person who is their service provider that they cannot access their bill or use the alternative billing medium. the consumer cannot use an online bill, or does not have internet access for an online bill, or does not have a valid personal e-mail address in the case of a bill sent electronically by e-mail.*~~

CONDITION 18.7.7

As outlined in this consultation response, eircom Group recommends that proposals in relation to consumers with disabilities be explored further in ComReg's proposed consultation on ensuring equivalence in access and choice for disabled users and no changes be inserted into the general authorisation at this time.

~~*Itemised bills or non-itemised bills issued in accordance with Conditions 18.7.1, to a consumer with disabilities, shall be provided free-of-charge in a medium properly accessible Braille to that consumer (including Braille) if requested by that consumer.*~~

CONDITION 18.7.9

As outlined in our response to question 9, eircom Group does not agree that the alert should contain „the amount of the bill' or the „due date' and that it should only state that the bill is available and should not provide any further information (for example the account number, the amount of the bill and the date that payment is due) to

ensure details of customer accounts remain private. We therefore propose the following amendment to the proposed condition:

An Authorised Person providing an online ~~itemised standard~~ bill or ~~non-fully itemised~~ bill, shall adequately notify the consumer, using a means separate to the online service, that the bill is available online., ~~the amount due and the due date.~~

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

Any amendments to the General Authorisation if implemented should be effective at a minimum six months from the date of the decision as some operators may have to make technical changes to their systems to cater for some requests.

5. Proposed amendments to current licence schedules for mobile services and obligations on the Universal Service Provider(s) (“the USP(s)”)

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

ComReg is proposing the removal of itemised billing from Schedule 7 (3) however this is a historical requirement therefore we question the relevance of its removal.

5.2 Proposed amendments to universal service provider’s obligations.

15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view

eircom Group as outlined above does not agree with ComReg on the introduction of full itemised billing as the default setting for the paper bill nor do we agree that this requirement should be free of charge. ComReg proposes to change section 2.11 of the Universal Service obligations in accordance with Regulation 9 of the Universal Service Regulations but this is not what is stated in Regulation 9(2) of SI No 337 2011 (Schedule 1, Part A)., it states “*The Regulator may, subject to the requirements of relevant legislation on the protection of personal data and privacy, lay down the basic level of itemised bills which are to be provided by undertakings to subscribers free of charge.*”

eircom Group suggests that ComReg mandate a basic level of itemised billing free of charge by all undertakings as what is currently set out in ODTR Decision No D09/01 and this should be inserted into the General Authorisation.

eircom welcomes the introduction of Braille billing for all operators as is proposed in this consultation but as mentioned above would question the revocation of the ODTR Decision No D09/01

6. Regulatory Impact Assessment (“RIA”)

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

eircom Group does not believe that ComReg’s view of full itemisation in the paper format as proposed in this consultation is proportionate or justified.

ComReg has quoted full itemisation as the default setting on paper bills with the requirement that this be free of charge. This is not a requirement of the Regulations. Instead there should be a basic level of itemised billing free of charge. eircom Group understands that ComReg is trying to protect Consumers and the minimum level of itemisation will achieve this. eircom Group currently offers full itemisation to customers when they sign up for service but to date only a quarter of our customers have availed of this service.

ComReg in their assessment states “these measures should not require any significant changes to billing systems, or any unreasonable costs to be incurred”. eircom Group disagrees as full itemisation of paper bills will inevitably lead to a far greater use of paper. eircom Group currently uses 700 tons of paper annually for paper bills. The full itemised bill as a default setting will increase the paper usage significantly which incurs costs on printing, paper and postage for all operators. There will also be an inevitable negative consequence for the environment.

Many service providers are moving towards electronic billing as this will offer many benefits and convenience to customers. These include saving time, ease of access to and analysis of billing information and reductions in paper usage. In addition customers will ultimately benefit from cost savings that this delivers to the service providers. Many service providers and customers are now adopting and following a “green agenda” and electronic billing contributes to this in the reduction of paper usage but if ComReg introduces a requirement setting a full itemisation paper bill as the default billing setting unless a customer opts out this would have the opposite effect to the ‘green agenda’.

It is eircom Group’s view that the requirements for a fully itemised paper bill as a default are extreme as many consumers are considering the green agenda. Operators may see an increase in paper consumption of 50% if customers can receive an itemised bill currently without charge on request

It is clear that ComReg should reconsider the implications of the proposals on service providers, the environment and the needs of consumers in regard to full itemisation.

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

No further comments.

END

4 Fianna Fáil

Fianna Fáil Submission to Comreg

**Proposed Consumer Protection Measures in Respect of
Consumer Bills and Billing Mediums and Proposed Amendments
to General Authorisation**



Summary

Fianna Fáil welcomes the opportunity to make submissions in response to ComReg consultation 11/78.

Communications services, whether they be provided via landlines, mobile phones or the internet, have never been more integral to our way of life. We believe that access to these services is a basic necessity, not a luxury, and as such service providers should be expected to carefully manage all aspects of their pricing policies. In a time of pressure on many households we must do everything we can to help people manage their expenditure, avoid the unnecessary stress of "bill shock" and maximise their ability to get the best value for money.

Consultation & Consent

We note with concern the decision by some mobile telephone service operators to unilaterally move customers from a paper based bill to an e-bill and we welcome ComReg's enforcement actions in this regard. We do not oppose the movement towards a default e-billing standard, but we insist that any changes to billing formats are based on the twin principles of consultation and consent.

E-billing is more efficient. Just as importantly it gives operators, particularly smaller new entrants to a competitive market, an opportunity to make significant savings on the overheads associated with printing and delivering paper bills. This in turn leads to more competition and to lower prices for consumers.

Just as e-billing makes use of smart, innovative technology we believe the movement from a paper billing standard to an e-billing standard should be smart and innovative. Our submission highlights the importance of consultation with consumers and actively

pursuing their consent, but they also highlight the importance of setting context sensitive and smart defaults.

We note with regret that ComReg has moved away from proposing to regulate default settings, as first proposed in preliminary consultation 10/96, and believe that ComReg should examine again the advantages of regulating the default setting for billing.

Bill Shock

Finally, Fianna Fáil has increasingly been made aware of the phenomenon of "bill shock" and the huge anxiety and stress it can cause consumers. Any movement to an e-billing standard should go hand in hand with a commitment to providing other innovative ways for consumers to manage their bills.

We believe that consumers should be able to create automatic notifications when their bill exceeds a set amount in a defined period. Consumers should also be able to set a limit after which no further charges will be made to their account. It should be mandatory for a consumer to set these limits, but they should be able to be set at any limit to ensure consumers can effectively opt out of their operation.

Questions

Q1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

Fianna Fáil believes in empowering consumers to take control of their finances. The supply of timely, clear and concise bills allows consumers to monitor their spending, plan their outgoings and query erroneous charges. An itemised bill is the minimum that a consumer should be provided in this regard.

The majority of post-paid electronic communications services are sold as packages that include usage up to pre-defined limits for a fixed fee and charges per use thereafter. For a consumer to get the best value for money from a billing system such as this they need to be able to assess how much of the pre-defined limits they are using, or by how much they are exceeding them. Fianna Fáil believes that a summary of usage should be provided in each bill that makes reference to the package used both that month and over the life of the contract. For example:

	Monthly Usage	Percent of plan used
Calls	346 Minutes	69%
Texts	648	130%

Data	150 MB	75%
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This kind of data, if presented in a clear and coherent manner will allow consumers to assess whether they are getting the best deal from their post-paid electronic communications service.

The provision of average information over the course of the bill will also aid consumers in comparing plans on offer and keeping track of their usage patterns. This will ensure that they have the best available information available to them when it comes to switching plans.

Q3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant)? Please provide reasons to support your view.

Fianna Fáil recognises that pre-paid electronic communications services allow consumers to monitor their spending and limit the impact of potential “bill shock” from unexpected charges. We agree that consumers should be able to access details of their charges for the current period, and for the previous 12 month period, free of charge, on request, in paper format or electronically. We also believe that the consumers’ usage should be broken down as detailed in response to question 1, both for the current period and as an average of the previous 12 months. This will help consumers to compare the price plans on offer from competing service providers and will stimulate competition between providers.

Q5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

Fianna Fáil recognises that alternative billing mediums offer many potential benefits to the consumer and to the environment. However, we believe that the use of alternative billing mediums must be consumer focused and intelligently implemented. The enforced migration of customers to paper-less billing and without regard to the ability of the consumer to access their bill is a retrograde step and is entirely unacceptable. Our comments therefore draw a distinction between the treatment of new customers to a service and the treatment of existing customers.

New Customers

As the providers of electronic communications services have themselves appreciated, the default setting of any consumer-focused product has a powerful influence on usage scenarios. In effect the default guides consumers to certain behaviors and acts as a “road bump” to discourage, but not prevent, the use of a setting other than a default. With this in mind we believe that the default setting required of a service provider should be set intelligently and by reference to indicators of a consumer’s ability to access alternative billing methods. This calls for a nuanced approach to different usage scenarios, the development of which will need the co-operation of the industry.

To take a simplified example of a consumer signing up to a post-paid internet service provider plan. The following types of user might be identified:

- A consumer switching from a competitor to a new plan
- A consumer upgrading or degrading a plan

- A consumer who has not had an internet service provider before at that address

In the first two instances we believe the default should be set to a paper-less billing method, with the appropriate notifications of new bills. The consumer should also be offered the option to receive a paper bill free of charge. In the third instance we believe the default should be that a paper bill is provided free of charge, but that the consumer is also offered the option to receive a paper-less bill. This is because there is a higher chance that the consumer may be a first time internet user and therefore may not yet be in a position to receive their bill electronically.

Existing Customers

The migration of existing customers to a new method of billing carries with it a risk of consumer confusion and the creation of barriers to access of important information. We believe that consumers should only be migrated to a new method of billing when they have confirmed that they are able to receive the bill in the new medium in which it is to be sent.

Whilst we recognise that this will potentially lower initial adoption rates we believe it is essential that no consumer be left behind. We propose that if a bill is to be emailed to a consumer the consumer should be required to respond to an email confirming that they accept that their bill will then be sent in that medium.

Where a bill will be provided on a website the consumer must access the website and submit a form confirming they accept that the bill will be provided via the website in future. Moving every customer to an alternative billing method by default, without confirmation that they can receive their new bill poses too much of a risk.

Q6. Do you agree or disagree with the ways proposed of ensuring and being assured

**that consumers can access and use an alternative billing medium including e-bills?
Please provide reasons to support your view.**

We believe that the ways proposed of ensuring consumers can access an alternative billing medium provide a good foundation for setting the default method of providing a bill. However, as noted in the answer to question five, we believe that there should be an onus on the service provider to ensure that the consumer can access their bill.

We propose that where a bill is not accessed for several consecutive months the service provider must seek a confirmation from the consumer that they can access their bill; if no confirmation is received the bill should revert to being sent by post. A consumer may opt out of this provision the first time an effort it made to contact them.

Q9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

As referred to above, Fianna Fáil is concerned with the growing prevalence of bill shock - discovering only when the bill arrives how much your communications service usage has been costing you. We agree that where bills are not sent directly to the consumer that the consumer may not be aware that the bill is available. As the move to electronic billing shifts the onus on to consumers to actively access and monitor their bills, the electronic communications service providers should be required, as a quid pro quo, to provide the following notification services:

- Automatic text alert when consumer's bill total has reached their monthly price plan level or when the bill has run over an amount agreed with the customer in advance

- Automatic text message to alert customer as to the total cost of the bill and informing him/her that the electronic bill with full details is now in his/her e-mail inbox or available to view online.

Unless some form of alert sent to the customer, particularly in a situation where the consumer is not using a direct debit to post-pay the bill, the bill could also quite easily slip into arrears, without adverse consequences for the consumer.

These proposals, taken in conjunction with the requirement to set notification and limits referred to in the introduction above, would go a long way to protecting consumers. The systems to implement the proposal are already largely in place as they replicate the functionality required by EU regulation of roaming charges.

Q 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

The advent of electronic communications services has provided those in our communities with disabilities a chance to access and engage with the world in ways previously denied to them. For these consumers the importance of the electronic communications services cannot be overstated – they are a critical, vital, and fundamental part of their lives.

Unfortunately those with disabilities may often find that their incomes and their needs place increased pressure on their household budgets. Electronic communications service providers should be required to ensure that consumers with disabilities have timely access to a billing medium that suits their needs and that it be available on a no-charge basis.

5 Hutchison 3G Ireland Limited



H3GI response to Proposed Consumer Protection Measures in respect of Consumer Bills and
Billing Mediums and proposed amendments to General Authorisation
Doc No: 11/78



H3GI is a leading provider of mobile communications services in Ireland and the leading provider of mobile broadband in Ireland. H3GI has in excess of 195,000 mobile broadband subscribers. H3GI forms part of the 3 Group, a group of companies with a presence in the UK, Sweden, Denmark, Austria and Italy and the international telecoms division of Hutchison Whampoa Limited. H3GI launched in 2005 and is Ireland's fastest growing mobile network. H3GI's network is the only network in Ireland purpose built for 3G.

H3GI welcomes the opportunity to provide input into ComReg's consultation regarding consumer protection measures and billing mediums. H3GI's current 3G licence provides that we provide customers with bills in their preferred medium. H3GI believes that as long as customers are provided with their bills in their preferred medium, then there is no justification to amend the General Authorisation ('GA') or in particular H3GI's licensing conditions as proposed in ComReg's consultation.

ComReg within its consultation outlined that the reason it is undertaking this consultation is because of the *'varying approaches and the overriding need to protect consumers fundamental right to receive a bill in a medium appropriate to their circumstances'*. As outlined above H3GI already provides consumers with their choice of billing medium and therefore requests that ComReg not amend H3GI's licence condition. If ComReg seeks uniformity, then ComReg should amend only the licences in the market that have specific licence conditions that require them to issue paper bills as their standard billing medium. ComReg should enable these licence holders to provide customers with bills in their preferred medium i.e. ebilling or paper billing. H3GI believes this would standardise operator's billing requirements and subsequently ensure all consumers receive their bill in their preferred medium i.e. appropriate to their circumstances and ultimately fulfil ComReg's objective of the consultation.

As H3GI's licence condition provides that the consumer receives their bill in their preferred billing medium, this enables H3GI to provide tailored tariff plans with ebilling or paper bills as the default medium from the onset. H3GI, if requested provides alternative billing mediums if the default is not suitable, free of charge. If ComReg amended the other operators licence conditions as proposed above, H3GI believes this would meet ComReg's, industries and the consumer's objective and requirements.

H3GI believes that ComReg should not prescribe any one billing medium in the GA nor specify a preference for one billing medium over another in operator's licences. By ComReg making paper billing the default medium, this runs against the objectives of the Government for a 'Knowledge Economy'. Operators must have freedom to manage their billing systems and mediums to maximise customer service and efficiencies. Restricting operators abilities, will only result in barriers to innovation, increased costs to operators which in turn will be passed onto consumers. Additionally, the EU Commission wants to see e-invoicing become the predominant method of invoicing by 2020 in Europe¹. Any new regulations should therefore support the EU Commission aims and facilitate the widespread introduction of electronic billing.

¹ A Digital Agenda for Europe – reaping the benefits of electronic invoicing for Europe, COM (2010) – Communications from EU Commission to the European Parliament.



Three.ie

The billing mediums available to H3GI customers are paper, electronic via email and via My3 (My3² is a H3GI tool which is available to all customers who register for My3, which enables them to access their balance and usage details via the handset or via the internet). 55% of H3GI's subscriber's base has chosen ebilling as their preferred billing medium. Electronic billing via handset or online provides significant benefits in terms of efficiency, convenience and cost reduction which are passed to consumers via discounted tariff plans. H3GI's customer base interacts with H3GI via My3, online and via social media sites. These innovative communication tools provide enhanced customer experiences and enables customers to receive immediate attention from H3GI. ComReg must not introduce inflexible rules that would prevent the growth of these types of innovative services which benefit consumers.

As ComReg is aware, the mobile industry is a competitive one, one in which H3GI strives to differentiate itself with market leading tariff plans. Part of the process in devising such innovative market leading tariff plans is giving value for money. Where costs have been reduced, operators can offer more to its customers in terms of additional services and value e.g. discounts. As H3GI's 3G licence does not restrict it to a paper-bill default, H3GI offers some tariff plans on the basis that the default billing medium is ebilling. If a customer chooses one of these tariff plans, the customer has made an informed choice as to which tariff plan they wish to avail of and which billing medium they want. However, it is worth noting that, although the default billing medium is ebilling, customers can at any stage move to paper billing if that is their preferred billing medium. Service providers have commercial interest in ensuring customers receive and pay for their bills on time and therefore it would be counter intuitive for any operator to make it difficult for customers to receive their bills, hence the customers' preference prevails.

In relation to prepaid consumers and ComReg's proposed measure i.e. *'their service provider must provide them, free of charge, with an adequate facility to verify their charges, if they so request'*, as outlined above H3GI's prepaid customers are already provided with an adequate facility, free of charge to verify their charges via My3. In relation to providing prepaid customers with bills, H3GI does not agree that prepaid customers should receive free-of charge on request a bill or a call history in paper or electronic format. As ComReg has outlined in its consultation, *'because of the nature of this payment process, consumers can generally monitor and more easily control their expenditure'*. H3GI would like to point out that pre-paid customers choose to have a pre-paid account so that they are not tied to a contract or receive monthly bills or have to register their details. If operators are required to provide prepaid bills, then operators should be permitted to levy a charge for the additional service. In the Financial industry i.e. banks are permitted to charge for transaction history records therefore the Telecoms industry should not be restricted as proposed. H3GI disagrees with ComReg's proposal that prepaid customers should have the same benefits as postpaid customers.

With regard to prepaid customers accessing current and historic records, H3GI's prepaid customers currently have the ability to access details of their charges from the current period via My3, and upon request will be provided with a copy of their call records for the previous 7 days, free of charge. Any request for call records beyond 7 days would require IT and Network

² <https://my3.three.ie/mylogin/login?service=https%3A%2F%2Fmy3.three.ie%2Fmyaccount%2Findex.jsp>.



Three.ie

assistance and as a result the customer is charged for the additional costs incurred. Where such costs arise, it should be within an operator's right to charge for this service and ComReg needs to be mindful of this. ComReg has not provided any justification as to why operators should provide prepaid customers with bills and therefore ComReg needs to explain why it is proposing any changes, and on what basis.

Additionally ComReg have made a reference to 'reasonable timeframe' and 'historic basis' without specifying the applicable timeframes. H3GI believes that where possible operators should be able to meet customers' requests for historic data and have the freedom to apply a charge if appropriate. In a competitive marketplace, operators must have the freedom to apply a proportionate charge if necessary. Furthermore operators systems differ regarding the retention of call records for the different type of user categories i.e. prepaid or postpaid. If operators are going to be required to retain and provide prepay usage on a historic basis beyond what is currently available, then this would require significant IT development and investment and resources. ComReg would need to consider these before implementing such measures which H3GI believes there is no need or requirement for.

In relation to providing bill alerts to customers, H3GI believes the alert should be provided using an appropriate medium e.g. SMS and email. The alert should advise only that the bill is available. It should not provide any further bill or account information which is considered private.

With regard to providing a minimum set of information in respect of alternative billing mediums offered, H3GI agrees that operators should provide customers with the necessary information in order to assist them in making a decision as to their billing preference. At point of sale, H3GI ensures that customers are given clear information on each of the billing mediums on offer. These are also displayed on our website at three.ie, are outlined on the back of the bill and customers can, at any stage, change the manner in which their bill is delivered. This preference can be registered in a number of ways i.e. phone, email, letter and online.

From a company perspective, eBilling is a convenient, secure and environmentally friendly way of delivering a customer bill. It also introduces the potential for cost efficiencies thus enabling a business to pass savings either directly (e.g. discounts) or indirectly onto customers (e.g. investing further in the development of products and services). An additional advantage of electronic bills is that customers can print or save their bills for future reference.

From a user perspective, it is a free service whereby customers can review their bills online and pay bills without incurring additional charges (postage, cheque costs, and cash handling costs). Customers are individually notified when the bill is uploaded to their 'My3' account.

H3GI accepts that operator's have a requirement to issue bills however, ComReg's focus should be on ensuring that bills are accessible to consumers rather than specifying particular billing mediums in the GA and licence conditions. H3GI's current licence condition regarding billing should be applied across the industry, it empowers consumers to receive bills in their preferred medium, it enables providers to provide tariff plans with default paper or electronic billing and the consumer decides whether they wish to receive paper or electronic billing. Whichever billing medium the customer decides upon should be free of charge. This is in line with H3GI's current licence and therefore H3GI's licence conditions should not be amended.

H3GI response to ComReg
Consultation Doc No. 11/78



Finally, H3GI expects ComReg to compensate operators for any material changes to the conditions of entry to the mobile communications sector in Ireland. H3GI bid and acquired its licence on certain terms and conditions. Any attempt to change these terms and conditions, particularly, in the area of customer care, without compensating operators would be disproportionate and contrary to its statutory functions and obligations.

Appendix 1 – Consultation responses

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

H3GI agree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of charge, unless the consumer has requested not to receive an itemised bill. H3GI's current licence obligation provides that it provide its customers with bills in their preferred medium.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customers' itemised bill? Please provide reasons to support your view.

H3GI agree that calls which are normally free of charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customers' itemised bill. Customers' privacy should be maintained.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant) ? Please provide reasons to support your view.

H3GI agree that pre-paid customers should be able to access details of their charges from the current period. H3GI pre-paid customers already have this ability via their handset using My3. My3 provides pre-paid and postpaid customers with the ability to manage their accounts 24/7. My3 enables postpaid customers to monitor the units they have consumed and/or have left within their bundle, while it enables a pre-paid customer to monitor their current spend. H3GI prepaid customers can upon request receive a copy of their usage for the previous 7 days, free of charge. If a prepaid customer requests call history for anything beyond the 7 days, this is treated as a personal information requests and the customer will be charged. H3GI does not agree that prepaid customers should receive free-of charge on request a call history in paper format or electronically. H3GI would like to point out that pre-paid customers choose to have a pre-paid account so that they are not tied to a contract or receive monthly bills. If operators are required to provide prepaid bills, then operators should be permitted to levy a charge for the additional service.

ComReg outlined within Section 3 'Proposed Measures' of the consultation that *'with respect to prepaid consumers, their service provider must provide them, free of charge, with an adequate facility to verify their charges, if they so request.* This question goes beyond the proposed measure and evidences a lack of transparency in the consultation. H3GI would question the justification for such an amendment.



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Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

H3GI agrees that it is appropriate that service providers provide a minimum set of information regarding any alternative billing mediums offered.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

H3GI disagrees that paper billing should be the default billing medium. The choice of billing mediums has to remain at the discretion of the operator. If the billing medium provided is not suitable, then a customer can amend the billing medium.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including ebills? Please provide reasons to support your view.

As per H3GI's licence condition, H3GI provides bills in the customers preferred medium. A customer can at any stage change their preferred billing medium, free of charge.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Yes. A customer can at any stage change their preferred billing medium, free of charge.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Yes. A customer can at any stage change their preferred billing medium, free of charge.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

H3GI believes that whether a customer receives a paper or electronic bill, the bill is sent directly to the customer i.e. paper bills are sent to a geographic address, while an electronic bill is sent directly to a customers' mailbox. Notwithstanding this, H3GI issues an SMS and email to its customers to notify that their bill is available.



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Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

Yes. However consumers with a disability should advise the service provider at the point of sale that they have a disability and advise of their requirements. It's at this point the service provider should outline what billing mediums are available and if these are not suitable then the consumer should exercise their right to choose an alternative provider. In effect the consumer is 'shopping around' for the service provider who meets their requirements.

Customers with a disability also can add an 'Authorised Contact' to their account so that they deal with their account on their behalf.

Overall ComReg should not impose any new conditions prior to the completion of its Disability Consultation in Q1 2012.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

H3GI agrees that customers with a disability need to register their alternative billing medium order to ensure that their service provider can best meet their billing needs.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

H3GI agrees overall with ComReg's intent with the conditions, but disagrees with the wording in the general principles, in particular point (2) in that it states that *'the itemised bill must be provided in paper medium'*, H3GI believes that if the text were amended to *'itemised bills were provided in the customers preferred medium'*, then this would meet ComReg's and the consumers objective i.e. customers receive their bills in their preferred medium, free of charge.

Additionally, in relation to point (4) H3GI believes that operators should be entitled to list the billing options available by the service provider. In a competitive market operators can differentiate themselves by offering additional alternative billing options. If a customer who is registered as disabled and requests a Braille bill for example, the operator should be permitted to advise that they do not have Braille as an option but that they will provide an alternative means to access their bill. It is ultimately up to the customer to choose an operator which provides that format of billing.

Condition 18.7.1 (5)

As outlined throughout H3GI's response, H3GI's customers are provided, free of charge with an adequate facility to verify their charges.

Condition 18.7.2, 18.7.6

H3GI response to ComReg
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Three.ie

As outlined above, H3GI does not agree that the GA should prescribe paper billing as the default. The text 'Paper medium' should be replaced by 'preferred medium'.

Condition 18.7.7

In relation to the explicit reference to operators providing Braille billing, H3GI believes that this is a significantly disproportionate obligation to be put on operators across the board regardless of size or subscriber base where some operators would have no registered disabled users. Making this an obligation is unreasonable. ComReg has failed to take into account the costs that may be involved in implementing a Braille solution. ComReg have advised that they will be carrying out a consultation regarding equal access and services for disabled users in Q1 2012, therefore H3GI requests that this condition, and in particular the reference to Braille should be removed. Once the equal access consultation is complete, ComReg should be in a better position to make an informed decision regarding conditions.

Condition 18.7.8

H3GI agrees that where it can comply with any of (i) to (iv) in condition 18.7.8 this will be sufficient to show that an Authorised Person has verified that the consumer can access and use an alternative billing medium.

Condition 18.7.9

H3GI agrees that where a customer receives an online itemised or non-itemised bill they shall be notified that the bill is available online. H3GI disagrees that the amount owed should be presented in the notification message.

Condition 18.7.10

As outlined throughout, H3GI's prepaid customers already have access to their transaction history i.e. up to 7 days which includes usage and applicable charges. H3GI believes this is a reasonable timeframe to provide information on a free of charge basis. However ComReg has failed to outline what is regarded as a 'reasonable timeframe'. Any timeframe beyond 7 days is treated as an Information Request as it requires a significant level of work from IT, Billing and the Networks team and therefore a charge would be applied to the customer. Therefore the reference to 'free of charge' should be removed.

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

H3GI disagrees that the proposed amendments to the GA should be effective within two months from the date a decision is issued. A number of the proposed conditions may require systems changes which can take some time to implement. Generally a 'Change Request' would take a minimum of 6months to implement. H3GI has already planned its system changes for next year and therefore anything above and beyond what has already been planned and budgeted for will be extremely difficult to implement within a two month timeframe. H3GI believes that the effective date for the proposed amendments should be at a minimum 6 months from the date of ComReg's decision notice. This will give operators a realistic lead in time to make any changes that may be required.



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Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

H3GI believe the current text within H3GI's licence obligation meets ComReg's objective of ensuring consumer protection in relation to billing mediums. Ultimately customers receive their bills in their preferred medium. If a registered person with special requirements advises the service provider of their requirements, service providers can then advise of the alternative billing mediums available. H3GI's customers at any stage can change their billing preference, free of charge.

Licence Obligation(s)	Customers will receive bills in their preferred medium (softcopy by email or hardcopy by post)
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Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

H3GI disagrees with the proposed amendments as applicable to the Universal Service Provider ('USP'). H3GI believes the requirement for the USP to provide Braille billing for users with restricted vision should be maintained. The USP is the only provider where users with particular needs know that their needs will be met.

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

H3GI believes that where the proposed conditions introduce measures which cause disproportionate burden, operators must be free to recoup any costs incurred. This is a principle that is well recognised under data protection law where parties subject to a data access request are free to impose a charge for such requests since there is a recognition that complying with these can give rise to certain costs for the particular commercial entity.

ComReg needs to carry out a more detailed assessment of the costs that may be involved in respect of this particular section in the RIA as it is simply not correct to say no additional costs would apply with respect to a number of the measures proposed (e.g. requirement to provide Braille bills to customers and provide prepaid bills).

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

6 Irish Printing Federation

Irish Printing Federation

Response to Consultation Document 11/78

Re: Consumer billing mechanisms

Date: 16th December 2011

The Irish Printing Federation is the representative body for firms operating in the print and packaging sector in Ireland. Part of our mission is to promote the use of print and to counter unwarranted ill-founded environmentally based criticisms of printing and printed matter.

The consultation document makes references to the environmental benefits of e-billing both in the Executive Summary and in the Introduction, stating that ComReg “recognises the cost benefits and environmental benefits of electronic billing”. This is consistent with the advertising message used by some operators in their promotion of e-billing.

What evidence exists to support this environmental contention? What legitimate and comprehensive analysis underpins the acceptance of an environmental benefit to e-billing?

Whilst the efficiency of electronic communication is clear, and initiatives to reduce waste are to be encouraged, our organisation is concerned that incorrect and damaging impressions are being given if organisations such as ComReg promote initiatives as ‘green’, by purporting to aid sustainability at the expense of the print and paper industry.

It is increasingly clear that electronic communication and in particular the energy requirements of the increasing worldwide network of servers which are necessary to store all the information needed for immediate access, has a significant and increasing carbon footprint. Electronic document storage and communication must be recognised as delivering efficiency but not sustainability. In the UK it has been suggested that PC's and servers may consume up to 50% of the country's energy requirements in the next 10 years.

Telecommunication operators (and ComReg by default based on your assumptions) state that paperless Billing is ‘*environmentally friendly*’, but do you know the cost of requiring your customers to keep PC's on to receive this information? It is estimated that over 60% of home PC's are left on permanently and that, in order to distribute information, 2% of the Ireland's current energy requirement is demanded by data centres today. A significant number of recipients of e-information also print at home; with a higher environmental unit cost than a centrally produced and mailed document.

Paper is a renewable and recyclable product that, if responsibly produced and consumed, is an environmentally sustainable media. We would be grateful if ComReg would insist that operators remove references to the environment when promoting e-information. We will also be raising this matter with the Advertising Standards Authority. We would also request that ComReg refrain from “accepting” the environmental benefits of e-billing absent evidence which considers the entire life-cycle of an e-bill.

In considering the issue of e-billing, we are sure you do not wish to damage the Print and Paper industry, and jeopardise the livelihood of the many thousands of people employed therein, with misleading statements.

Yours Sincerely,

Lorcán Ó hÓbáin

President

Irish Printing Federation

7 Magnet Networks Limited

Introduction

Magnet Networks believe that ComReg are acting outside their legislative remit. ComReg do not have the authority to amend the General Authorisation outside the categories specified in Part A of SI 335/2011. Thus, Magnet Networks do not believe this is a legitimate consultation rather a fishing expedition by ComReg. This Consultation seems to be trying to scare industry by proposing to place unjustifiable and onerous obligations on industry. Magnet Networks will utilise all powers within its remit to prevent any of these obligations being placed in the General Authorisation. Without prejudice to this view, Magnet Networks has answered the questions asked below.

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view

Magnet Networks does not agree that all providers of post paid electronic communication services should provide consumers with an itemised bill free of charge. In all other industries customers are either charged for a paper bill/invoice/statement e.g. banking sector, or alternatively the customer is incentivised to move to on line billing by obtaining a reduction in their monthly rental versus those who remain on a paper bill e.g. energy companies.

Thus Magnet Networks feel a charge for an itemised bill that is required to be posted should have a fee attached. An itemised bill sent electronically or managed through an on line portal should of course be free.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions , which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

Magnet Networks agrees that freephone numbers should not appear on itemised bills namely due to the person ringing the free phone number may be suffering some form of abuse from the bill payer and thus, having these numbers on the bill may precipitate further abuse e.g. a child contacting childline, or a household member contacting the rape crisis centre. Alternatively, the caller may not want to know the bill payer that they rang that service seeking advice e.g. crisis pregnancy etc.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant) ? Please provide reasons to support your view.

Though Magnet Networks does not provide pre paid service, Magnet Networks feels placing an obligation on a provider to provide a paper format of itemised call history when they do not have a contract with the customer is onerous. Magnet Networks believe placing the onus on the operator to provide a paper version can not be justified.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

Magnet Networks overall agree that the minimum set of information listed by ComReg is provided to the customer at the time of them agreeing to sign up to the service. However, this information does not need to be given at the TPV stage but will be housed in a frequently asked questions section within the company website.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

A customer signing up to an itemised bill service has the legal capacity to do so, thus their consent is sufficient assurance to the provider that the customer has the adequate means to access the billing method contracted to. It is not within a providers remit to constantly check that the customer has broadband or the ability to access broadband. A customer may not themselves have fixed broadband but may access it at work, through smartphones or 3G devices or at their family or friends premises. Though, ComReg must remember it is not in a providers' interest to get a bounced mail from a customer. If a provider does receive such a mail they will immediately contact the customer to get a valid email address.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including ebills? Please provide reasons to support your view.

Over Magnet Networks disagrees with the proposed ways of ensuring that customer can access and use an alternative billing medium. Once a customer's consents to particular billing mechanism the provider should not have an onerous obligation placed on them to consistently check that their customers are receiving their bills. Bill management is an obligation that the customer has themselves and it if they are unable to access their bills they should contact their provider. At that stage the matter will be resolved whether this means giving a new password or otherwise.

Placing an obligation on the provider to ensure their website and more particular their e-bill can be read by screen readers is onerous. Each screen reader is software based on it is the customer who uses a screen reader to ensure their reader has the right software to read modern and commonly used coding. Such an obligation being placed on the operator is nonsensical as the operator would have to contact each customer who uses a screen reader, which may be seen as an excessive collection of data by the data protection commissioner. Any web developer is not generally concerned about how the user views such a website. Apple has decided not to utilise flash which alienates several popular website being displayed on Apple devices. Similarly Magnet Networks is creating is e-billing platform for the majority and onerous and untenable obligations should not be placed on us to satisfy potentially none of our customers.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Again, if someone informs us they no longer want to utilise on line billing and wishes to revert to paper billing, Magnet Networks will facilitate this. Magnet Networks reserves the right to charge for paper bills. However, it is not up to Magnet Networks or any service provider to ensure their customers at all times has access to the internet. If there is a valid email address then it is up to the customer to manage their bills.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Magnet Networks assumes this question is different from that asked in Question 7, that the consumer in this instance still has their email and/or internet access. Thus, Magnet Networks feels that the on line billing access in not onerous or difficult and thus, a consumer simply saying they cannot use it does not merit them switching back to a paper version. Thus, once the criteria are met by the operator and the consumer has consented to online billing, they should not be entitled to revert under the excuse they can't use it. If they felt they could not use it, in this paperless era, they should never have signed up to the service. Magnet Networks feel that ComReg are trying to erode basic rights of a company to manage their business as they so wish, by enforcing facile obligations.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

Again, what Comreg is purposing that the operator in some way has to manage the customer's life. Magnet Networks believes that a customer is well aware of the services the he or she is using and is well able to remind themselves that a bill is due to be paid. Sending bill reminder emails and/or SMS may in fact be a nuisance and annoyance to the customer who specifically chose utilising an on line portal to stop message clogging up their inbox or SMS mailbox.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

Magnet Networks agrees that a customer with a disability should be provided with a medium that they can access free of charge once there is not an undue burden on an operator to amend or implement costly systems for a very small number of customers. Imposing such an obligation equally across providers places an undue burden on small operators and an indirect discrimination on people with disabilities as small providers will not create contracts with such customers.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

Magnet Networks agree that a customer with a disability should be required to register their requirements for an alternative billing medium. However, if their service provider is unable to meet their billing request then the provider should be allowed terminate the contract without any penalty to the customer unless the customer is happy to receive their invoice in the mediums already being distributed by the provider. For example, it would be costly and onerous to place an obligation on Magnet Networks to provide a Braille invoice to a customer when there may be only one such customer and/or the cost of providing such service is greater than an incremental cost.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

“18.7 Itemised Billing, Non-Itemised Billing and Billing Mediums

In Conditions 18.7.1 – 18.7.10, the following definitions shall apply:

“alternative billing medium” means a bill in any medium other than paper;

“itemised bill” means a bill for Authorised Services, which allows consumers to verify and control their charges for using Authorised Services and which allows consumers to adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills. Without prejudice to the generality of the foregoing, an itemised bill shall contain the following items which include, but are not limited to:

- *Details of recurring charges (such as monthly subscription, line rental, package price).*
- *Details in respect of each communications transaction (such as voice call, SMS, MMS, data session, PRS etc) including the following:*
- *Date of transaction.*
- *Start time of transaction.*
- *Number called, if relevant.*
- *Duration of the transaction, if relevant.*
- *The price of the transaction, including “0” if no charge applies.*
- *Details of any further charge arising.*
- *Consumer References.*
- ***“relevant billing medium features”*** means all details relevant for the consumer in respect of the alternative billing medium, including but not limited to the following:
- *If the alternative billing medium (including procedures for registering and signing-in to the system) is compatible with assistive technologies and standard computer adaptations.*

- *How to access the alternative billing medium.*
- *How to use the alternative billing medium.*
- *How to print and store the alternative billing medium*

“valid personal e-mail address” means an e-mail address which is attributable to the individual who is the account holder/account name in respect of Authorised Services, and which when an e-mail is sent to it and does not return an unsuccessful delivery message;

General principle applicable to Conditions 18.7.1 – 18.7.10

Without prejudice to Conditions 18.7.1 – 18.7.10, the following general principles below shall be complied with:

1. *An Authorised Person, who provides Authorised Services to consumers, must provide those consumers with an itemised bill, free-of-charge.*
2. *An Authorised Person, who provides Authorised Services to consumers, must provide them with itemised bills in paper medium, free-of-charge, unless the Authorised Person is reasonably assured that the consumer has actual access to, and can use (where necessary, by the provision of adequate information and instructions to the consumer) an alternative billing medium.*
3. *In any event, if a consumer informs their service provider that they cannot access or use the alternative billing medium, the service provider, being the Authorised Person, must provide the consumer with an itemised paper bill, free-of-charge.*
4. *The Authorised Person shall provide consumers with disabilities, an itemised bill, free-of-charge, in a billing medium that they can access, if they so request.*
5. *With respect to consumers of pre-paid Authorised Services, their service provider must provide them, free-of-charge, with an adequate facility to verify their charges, if they so request.*
6. *Calls that are normally free-of-charge, including calls to free-phone numbers are not to be itemised on the consumer's bill.*
7. *The Authorised Person shall alert their customers whose bill is provided online, that the bill is available.*

Condition 18.7.1

Every Authorised Person who provides Authorised Services to consumers on a post-paid basis, shall issue itemised invoices or bills for such services free-of-charge to each consumer, a reasonable period in advance of each payment due date.

Condition 18.7.2

Itemised bills or non itemised bills issued in accordance with Condition 18.7.1 shall be in paper medium, unless the Authorised Person has, at least one month in advance of using an alternative billing medium, verified that the consumer can access and use an alternative billing medium, and the Authorised Person has informed the consumer of any change to their billing medium.

Condition 18.7.3

Every Authorised Person who provides Authorised Services to consumers on a post-paid basis shall offer the option of a non-itemised invoices or bills for such services free-of charge to each consumer.

Condition 18.7.4

Every Authorised Person who provides Authorised Services to consumers on a post-paid basis, shall provide each customer with details in respect of their billing options, including itemised billing, non-itemised billing, and billing mediums, when the consumer enters into a contract with the Authorised Person.

Condition 18.7.5

Calls which are normally free-of-charge to all calling consumers, including calls to helplines, free-phone numbers, calls to emergency services, and calls to harmonised numbers for harmonised services of social value, are not to be identified in the calling consumer's itemised bill.

Condition 18.7.6

Itemised bills and non-itemised bills issued in accordance with Condition 18.7.1 shall be provided in paper medium, free-of-charge, if the consumer has, since the receipt of their last bill, informed the Authorised Person who is their service provider that the consumer cannot use an online bill, or does not have internet access for an online bill, or does not have a valid personal e-mail address in the case of a bill sent electronically by e-mail.

Condition 18.7.7

Itemised bills or non-itemised bills issued in accordance with Conditions 18.7.1, to a consumer with disabilities, shall be provided free-of-charge in a medium properly accessible to that consumer (including Braille) if requested by that consumer.

Condition 18.7.8

For the purpose of Condition 18.7.2, the Authorised Person has verified that consumer can access and use an alternative billing medium if:

- i. The Authorised Person has provided the consumer with details of the relevant billing medium features and subsequently, the consumer has agreed to receive an alternative itemised or non-itemised billing medium and the Authorised Person has recorded that agreement, either by audio, written or, electronic means; or*
- ii. In the case of an itemised bill or non-itemised bill sent electronically to the consumer (including by e-mail) the consumer has provided a valid personal e-mail address to the Authorised Person specified by the Authorised Person for this purpose; or*
- iii. In the case of an online itemised bill or non-itemised bill, the Authorised Person is currently providing Authorised Services to that consumer that includes broadband, and the Authorised Person has provided the consumer with full details of the relevant features of the online itemised or non itemised bill; or*
- iv. In the case of an online itemised bill or non-itemised bill, the Authorised Person has provided the consumer with full details of the relevant features of the online bill, and subsequently, the consumer has accessed at least two online bills provided by the Authorised Person for that service in the preceding four months.*

Condition 18.7.9

An Authorised Person providing an online itemised bill or non-itemised bill, shall adequately notify the consumer, using a means separate to the online service, that the bill is available online, the amount due and the due date.

Condition 18.7.10

An Authorised Person who provides Authorised Services to consumers on a pre-paid basis, shall give the consumer access to their transaction history including usage and charges (within a reasonable timeframe) free-of-charge, on request.

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

Magnet Networks categorically disagree with this whole consultation. Under SI 335/2011 Part A amending the general authorisation outside the categories in Part A of this Statutory Instrument is above and beyond the legislative remit of ComReg. Thus, Magnet Networks believes that ComReg does not have the legislative powers to amend the General Authorisation as outlined above.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

Not applicable as Magnet Networks does not have a mobile licence.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

Magnet Networks is not the universal service provider. However, if ComReg does not have the legislative remit to amend the General Authorisation for fixed operators, Magnet Networks would presume that ComReg does have the legislative remit to make these obligations applicable to the universal service provider.

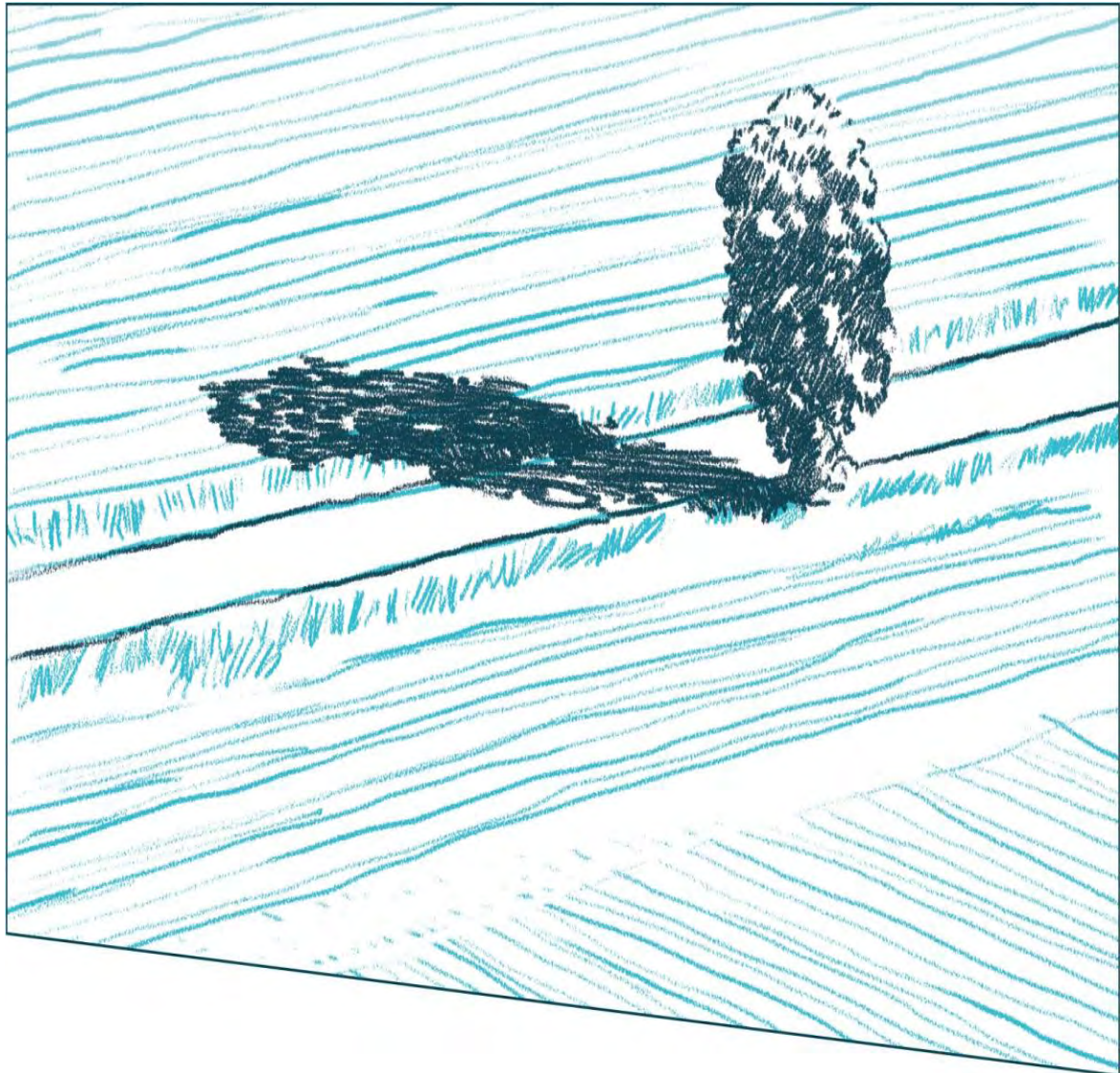
Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

Magnet Networks do not believe that these conditions are proportionate or justified. Such onerous conditions are interfering in the rights that both a business and a consumer has in agreeing to a contract. Also, ComReg has failed to provide reasons for the potential introductions of such disproportionate and onerous conditions.

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

Magnet Networks believe that ComReg is proposing amendments to the General Authorisation which they do not have the statutory power to do. Magnet Networks will utilise all recourse available to it in assuring that these proposals do not form part of Magnet Networks General Authorisation.

8 Telefonica Ireland



Consumer Bills and Billing Mediums
Comments on Document 11/78
19th December 2011

Telefonica

1. Introduction

This is the response of Telefonica Ireland (O2) to ComReg's consultation on billing mediums, as proposed in document 11/78. ComReg has already undertaken a preliminary consultation on this subject in 2010, to which O2 responded. We find that the response provided at that time remains substantially correct, so we will not repeat the points already made in this document, but will merely update them. O2 is of the view that ComReg has undertaken this consultation as a result of the introduction of new billing methods by some operators (including O2), and because ComReg was in disagreement with certain aspects of these new billing methods. It is O2's view that this has conditioned ComReg's whole approach to the subject and that this is a useful time to "step back" and carry out a broad review of the issues. O2 welcomes the opportunity to comment on ComReg's proposals, and on the documents submitted to ComReg's preliminary consultation by other interest groups. O2 welcomes and supports some of ComReg's proposals; however, for some, we believe that ComReg's starting position was wrong, and that this has led to proposals that are inappropriate. This is examined below in the General Comments section, and in response to the specific questions raised by ComReg.

2. General Comments

As ComReg is aware, O2 undertook an initiative to introduce electronic billing to a substantial portion of its post-pay consumer base in 2010. This initiative was received extremely positively by our customers and we regard that it was a considerable success. When we consider our experience of that process against ComReg's proposals as outlined in document 11/78, we find that while we agree with and support a number of the proposals, ComReg's overall approach is incorrect and this has led to some misconceived proposals that we oppose. In particular, we find that ComReg has incorrectly assumed that the majority of consumers require to receive a detailed paper bill in the mail every month and that there should be some regulatory requirement on operators in this regard. This is not correct, and is not supported by the Regulatory Framework. Some of the proposals are unnecessarily restrictive and would have the effect to stifle innovation in the market by limiting service providers' ability to develop new products.

Without prejudice to the general view that no regulatory intervention is justified in this case, O2 welcomes ComReg's clarification that the proposals apply to consumers only, and agree with the definition. We also support the proposal to delete specific references to billing in the Wireless Telegraphy licences. Where any obligations of this kind are to be imposed on service providers, then the only means to ensure that they are and non-discriminatory is by inclusion in the General Authorisation (GA). However overall we find that ComReg is wrong to propose substantial regulatory intervention as outlined. This intervention has not been justified by ComReg or by the responses to the preliminary consultation, and is not supported by the Regulatory Framework.

ComReg's preliminary consultation was useful as it allowed a broad range of different interests and opinions to be aired. We note that there has been substantial misunderstanding of the concepts in general, possibly caused by a small number of uninformed press articles. Some of the comments were a little surprising; for example we note that Age Action specifically referred to O2's introduction of electronic billing and its impact on the over 65s. This is strange, as O2 specifically

excluded all customers who were over 65 from the process. We note that An Post made substantial comment around the use of mail by consumers, which of course is irrelevant to the imposition of obligations on electronic communications service providers. The response asserts that the absence of a paper bill delivered in the mail each month would cause difficulty for consumers in making bill payments, however O2's real experience has been the opposite.

One of the more interesting submissions received was from the Disability Consultative Group. We find that this document highlighted a fundamental weakness in ComReg's approach to the whole consultation topic – it is wrong to simply assume that a paper bill delivered by mail each month is the preferred “default” position. Again, O2's experience almost 18 months after its consumer e-billing initiative commenced is that this is a mistaken assumption, and we believe ComReg is a little “out of touch” with consumer opinion. ComReg need to be careful to avoid imposing obligations and costs that would prevent service providers from developing new solutions that would be more useful to consumers; for example, O2 has now developed its “My Account” application to operate on both the iOS and Android platforms. These kind of innovations benefit both service providers and consumers, but the incentive for service providers to continue to invest in these developments would be removed if they were forced to maintain paper bills where they are unwanted by consumers. ComReg continues to assume that a PC with broadband access is required for consumers to view electronic bills, however this ignores the prevalence of mobile ‘phones that can access on-line information either directly or by using the above mentioned applications.

O2 was particularly surprised at ComReg's proposal to introduce obligations relating to pre-pay customers. ComReg must be aware that prepay products were specifically introduced for the purpose of giving consumers advance control of their spending. The products have been successful precisely for that reason, and now account for 64% of the total mobile base in Ireland. There has been no evidence whatsoever to show that any problem exists which would require regulatory intervention in this case. O2 already provides (and has for several years provided) a facility to its customers whereby recent call records can be provided (in paper if necessary), however we are extremely concerned at the implications of any regulatory obligation in this regard. Any modification to existing processes and systems would require substantial investment, which is impossible to quantify until the exact requirement is known. Non-discrimination would require that this obligation applies to all services including pre-pay calling cards and VoIP services. It is not clear that ComReg has considered the implications of this obligation for all services affected.

Having considered the proposals and in light of both the previous responses received by ComReg and O2's own experience of electronic billing, we have formed the view that ComReg could issue a guideline to best practice in billing, however regulatory requirements either in the General Authorisation or otherwise should be kept to a minimum.

3. Response to Questions

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

While O2 provides itemised bills free of charge to its post-pay customers, there are a number of aspects to ComReg's proposal that require clarification. The requirements for itemised billing are contained in Schedule 1 of the Universal Services Regulations¹, and in Regulation 7 of the Data Protection Regulations². The USO regulations provide that ComReg may specify the level of itemisation required for customers to verify charges, and the Data Protection Regulations provide that a customer can opt not to receive a detailed bill. While current bills may provide information required for switching between providers, this is not covered under the billing requirements in the Regulations and it would be incorrect to require billing information to be provided in a particular format for this purpose alone.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to helplines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

Again, by way of clarification, O2 is satisfied that calls which are always free of charge (as opposed to normally free of charge) should be omitted from detailed bills. This would include calls to 1800 and 116 numbers in addition to 999/112, as required in the Regulations. O2 is happy to continue this practice, however we believe the the agencies who provide helpline facilities are better placed to provide an opinion as to whether this is a good idea or not.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant) ? Please provide reasons to support your view.

O2 would caution ComReg against taking any intervention in relation to pre-pay services. As stated previously, the very reason for the existence of pre-pay products is that they give consumers the ability to control their spending. These products have proven extremely successful over the past 10 years and now account for 64% of all mobile subscriptions or 2.8million subscriptions. O2 is not aware of any ongoing issues relating to pre-pay mobile subscriptions, none has emerged in the preliminary consultation, and ComReg has not provided any evidence of an issue that needs to be resolved.

¹ EUROPEAN COMMUNITIES (ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES) (UNIVERSAL SERVICE AND USERS' RIGHTS) REGULATIONS 2011, SI 337 of 2011

² EUROPEAN COMMUNITIES (ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES) (PRIVACY AND ELECTRONIC COMMUNICATIONS) REGULATIONS 2011, SI 336 of 2011

Any requirement to provide billing information to pre-pay customers would of necessity apply to pre-pay calling cards and VoIP in order to comply with non-discrimination obligations. If ComReg was to specify any new regulatory requirements regarding provision of billing information for pre-pay customers they could have significant cost, system, and process implications for mobile service providers. It is not possible for O2 to quantify those costs at this point, until ComReg's proposals are clear.

Prior to the introduction of any new measures relating to pre-pay billing information it would be necessary for ComReg to carry out a cost-benefit analysis to show that they are desirable and objectively justified. ComReg has not done this yet.

O2 already has processes in place for pre-pay customers to obtain billing information, and is satisfied that this is more than adequate to meet customer requirements.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

O2 believes that ComReg's overall approach to this question indicates a view that is out of touch with consumers. It is wrong and excessively restrictive to begin from the premise that all consumers should have a paper bill by default. This has been borne out by O2's experience of consumer e-billing, which has been extremely positive. On the other hand ComReg has not provided evidence to substantiate its view. ComReg also mistakenly takes the view that consumers must have access to a PC in order to be able to view electronic bills, however this ignores the growth in use of Smartphones and phone applications that can access the required information. This approach has caused ComReg to take an overly restrictive view of customers' requirements for billing information which could limit innovation in this area.

In the first place, ComReg has been overly restrictive in relation to the assumption that paper should be used as the default billing medium, and then proceeds to build further restrictions on this basis. For example, the proposal around verification is excessively restrictive and unjustified, as would any proposal that service providers should be involved in ongoing verification that bills have been received by customers. This does not, and should not apply to paper or any other billing delivery method.

ComReg should issue a guideline, rather than specifying regulatory obligations in this regard.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

As stated above, ComReg's proposal is excessively restrictive. Service providers must be given the freedom to innovate. O2 has found that the introduction of electronic billing has been extremely successful, and well received by our customers.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including ebills? Please provide reasons to support your view.

See above, we do not agree that this verification should be specified by ComReg.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

See above, we do not agree that this verification should be specified by ComReg.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

In general, O2 agrees with this, however there are some nuances that need to be considered. ComReg will be aware that O2 permits post-pay customers to readily switch between paper and electronic billing without charge. There may be cases where products are developed specifically on the basis that they do not include a paper bill, and are sold to customers on that basis, for example some products are sold on-line only, and use on-line interaction as the primary means of communication with customers. It would not be possible to provide this type of product on the basis proposed by ComReg – that a customer could avail of reduced pricing enabled by the product features, but also opt to obtain the features associated with more costly products. ComReg's proposal would stifle innovation in the more price sensitive segment of the market.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

Yes, we agree that customers should be sent an alert; however we would question ComReg's apparent assumption that sending a paper bill in the mail is any more reliable than using electronic means. There should be no regulatory obligation in this regard.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

Yes, O2 agrees with this proposal.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

Yes, O2 agrees that registration may be necessary.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

O2 disagrees with a number of the proposals, including the general proposal to specify conditions relating to billing in the GA – ComReg should issue a guideline only. Specifically, O2 believes:

- ComReg should not specify paper as the default billing medium
- The proposed amendment is excessively specific and restrictive
- The requirement for a valid personal e-mail address should be removed
- ComReg proposes the following general principle: “2. An Authorised Person, who provides authorised Services to consumers, must provide them with itemised bills in paper medium, free-of-charge, unless the Authorised Person is reasonably assured that the consumer has actual access to, and can use (where necessary, by the provision of adequate information and instructions to the consumer) an alternative billing medium”. This principle would seem to require by default that all prepay customers should receive a paper bill.
- ComReg also proposes “3. In any event, if a consumer informs their service provider that they cannot access or use the alternative billing medium, the service provider, being the Authorised Person, must provide the consumer with an itemised paper bill, free-of-charge.” This requirement should not apply to products that are designed to be paperless only
- Condition 18.7.2 should be deleted
- Condition 18.7.5 should be amended to specify the call types (1800, 112, 999, 116) as it currently implies a requirement so suppress calls other than free calls on customer bills
- Condition 18.7.6 should be deleted
- Condition 18.7.8 should be deleted

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

If ComReg was to implement the change as proposed above, this could require considerable changes to billing and customer support systems. Two months would not be sufficient to implement those changes, a minimum of six is more realistic.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

O2 agrees with ComReg's proposal. These conditions are discriminatory as they only apply to some service providers.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

O2 does not agree with the proposed amendment on the basis that the General Authorisation should not be amended to provide billing obligations at all.

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

O2 does not believe ComReg has properly undertaken a Regulatory Impact Assessment (RIA) of its proposals. ComReg has not properly separated matters relating to itemisation and delivery medium, which is relevant when considering ComReg's functions under the Regulations. ComReg has also mixed up consumer switching with billing, which is a distinct subject. We note that ComReg has not provided evidence that justifies the proposed intervention, nor does the RIA assess the costs and benefits of the options. We also note that ComReg has failed to consider whether a guideline document would achieve the required outcome without amendment to the General Authorisation.

In relation to Option 1, ComReg seems to assume that by not introducing new obligations in the GA somehow this will lead to a new situation whereby consumers will be disadvantaged; however no evidence of this has been presented. ComReg states that the proposals are "generally in accordance with current practice" in which case it would seem that the amendment is not justified.

O2 does not believe considerations around switching are relevant to the RIA on billing itemisation and delivery. No evidence has been presented to show that there is any impediment to switching that would be resolved by ComReg's proposals. In fact, for mobile prepaid customers, switching already functions smoothly and quickly without the use of bills. The introduction of switching as a consideration seems inexplicable in this case.

In paragraph 6.3.3, ComReg states that "*The majority of post paid consumers are still receiving a paper bill from their service provider and the majority of consumers find this method convenient and transparent.*" No evidence has been provided to support this opinion, and in fact the converse is the case for O2's post-pay consumers – most are in receipt of electronic bills and find it to be convenient and transparent. We note ComReg's statement that some service providers are contemplating changing to electronic billing "without getting consent from their customers". We would refer ComReg to our previous response on this matter, and remind ComReg that O2 correctly obtained customer consent during its implementation of e-billing.

We note that no quantitative analysis of costs or benefits has been undertaken, though it should have been. ComReg has completely ignored the cost/benefit that will accrue through innovation in the area of billing, and the impact of the proposed Option 1 on innovation.

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

9 The Consumers' Association of Ireland

Submission by the Consumers' Association of Ireland

Consultation:

Proposed consumer protection measures in respect
of consumer bills and billing mediums and proposed
amendments to General Authorisation

Document No: 11/78

Date: 28 October 2011

Reference: Submission re ComReg 11/78

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

The CAI would agree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge. It is our view that a communications provider should provide the maximum level of billing information to consumers (i.e. itemised paper bills) as a matter of course, and that consumers can then 'opt out' of this as they wish – whether this is to receive non-itemised bills, electronic billing or both. We would add that upon a customer's request to reverse their decision to not require a printed bill or itemised bill that they should be immediately entitled to re-instatement of the paper/itemised version - without penalty.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions 14, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

The CAI agrees that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer's itemised bill. We agree with the opinion, that due to the potential sensitive nature of some free-phone numbers, that free-phone numbers should not be displayed on a consumer's bill.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant)? Please provide reasons to support your view.

The CAI agrees that for pre-paid communications services, a consumer should be able to access details of their charges from the current period and call history free-of-charge, on request, in paper format, or electronically (as relevant). We concur with the reasons outlined in the consultation that this is important as consumers may wish to query amounts pre-paid, and also due to the high volume of pre-paid mobile subscriptions in Ireland. This information should clearly outline the date and exact time of the pre-payment to allow consumers to reconcile payments with those recorded by the communications services provider.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

The CAI agrees that it is appropriate that services providers provide a minimum set of information regarding any alternative billing medium offered to consumers. We believe that disclosing such information is in keeping with best practices in relation to alternative billing mediums, where all relevant information is given to consumers. We concur that this information is adequately set out in list 3.2.1

Q.5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

The CAI agrees that it is that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill, which as previously stated, the CAI believes should remain a basic consumer right.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view.

The CAI agrees with the ways proposed and being assured that consumers can access and use an alternative billing medium including e-bills as set out in the consultation document. The CAI would also suggest that the communications services provider may also confirm with the consumer directly that they are able to access alternative billing methods by way of a courtesy call to customers.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

The CAI agrees that as a matter of course, paper billing should always be available to consumers, free-of-charge. The CAI believes that this should remain a basic consumer

right in respect to billing by communications providers, and indeed, all utility providers. There is one criterion which may affect this and that is where a consumer has opted for a discounted bill the terms of which require paperless transactions. If this is the case then standard contractual documentation should be changed to reflect this and stipulate that when such a decision is made by the consumer the account will automatically revert to a paper billing with the application of the percentage discount offered at the time of contracting to future bills. There can be no additional fees or percentage added beyond that of the original discount. This is essential to allow the existing contract continue and without any other form of penalty.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

As previously indicated, the CAI believes that paper billing should remain a basic consumer right, and therefore agrees.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

The CAI agrees that where a consumer receives electronic billing they should receive an alert indicating that their bill is available. Furthermore, the CAI believes that where possible, electronic bills should be sent directly to consumers, rather than consumers logging onto their account on the communications providers website. While we believe that consumers should have this functionality (logging onto the communications providers website to view bills) we believe that, where a consumer accepts electronic billing that these bills should be emailed to them directly. We consider it a basic entitlement to have any bill delivered to their address as stipulated by the consumer.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

The CAI considers that all consumers, including those with a disability (e.g. a visual or hearing impairment), must be provided with a billing medium they can access free of charge. The CAI believes that further consultation with bodies involved in representing the disabled should also occur in relation to specific matters regarding billing and disabled consumers.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

The CAI agrees that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs. The CAI believes that a communications services provider may ask a consumer if they have any special needs in relation to their billing (such as audio bills or bills in Braille) outside standard

billing practices and standards. As previously stated, the CAI believes that consultation with bodies involved in representing the disabled will be essential in relation to specific matters regarding the billing requirements of disabled consumers, and the standards that should be met in this area.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

The CAI agrees with the text of the conditions proposed to be attached to the GA. The CAI believes additional text may be required to adequately reflect our belief, as outlined in the answer to Question 9, that consumers who elect for electronic billing should have such bills emailed to them directly, as well as having functionality to view them on communications providers' websites.

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

The CAI agrees that the proposed amendment to the GA should be effective two months from the date a decision is issued, except in the case of billing in relation to consumer who may have special requirements and/or may be disabled. In this case, as previously stated, the CAI believes further consultation with bodies involved in representing the disabled will be necessary in relation to specific matters regarding billing and disabled consumers, and the standards that should be met in this area.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

The CAI agrees with the proposed amendments to the current licence conditions for mobile services as outlined in the consultation document.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

The CAI agrees with the proposed amendments as applicable to the universal service provider as outlined in the consultation document.

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

The CAI believes that the factors considered by ComReg in relation to completing its RIA, as outlined in the consultation document, are proportionate and justified.

With regard to proportionality and justification it will, in our opinion, be essential that the charges applied by service providers for copies of bills missed, lost, not received, undelivered or necessitated in legally acceptable form by service providers as proof of residence etc. must be fair and reasonable for affordability. We would require that they be provided at cost and without application of either a margin of profit or a standardized administration fee.

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16th December 2011

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The Consumers' Association of Ireland, founded in 1966, is a wholly independent, non-profit, non-government organisation registered with charitable status. CHY No. 8559.

10 The Money Advice and Budgeting Service



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Commission for Communications Regulation

Consultation On

*“Proposed consumer protection measures
in respect of
consumer bills and billing mediums”*

ComReg11/78

November 2011

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1. Introduction

The Money Advice and Budgeting Service (MABS) was established in 1992 to help people on a low income to cope with debts and take control of their own finances. It is a free, confidential and independent service. It currently comprises 53 MABS Services, located in over 60 offices nationwide. MABS is funded and supported by the Citizens Information Board.

MABS National Development Limited (MABSndI) was established in 2004 to further develop the MABS Service in Ireland. It provides training and technical support to MABS staff nationally. MABSndI also assists the MABS service in providing educational and informational supports as well as assisting in highlighting policy issues that arise in the course of the money advice work on behalf of clients. MABSndI has responsibility for the ongoing development of the MABS website www.mabs.ie and for providing the MABS national helpline service.

While MABS acknowledge the economic benefit of electronic communication we are concerned that many of our clients do not have secure and private access to email. Even where clients may have such access it may be an expenditure item that is cut from a family's budget when they experience a loss of income. While we recognise that free internet access is available from certain locations, including libraries, consumers may not feel comfortable or secure viewing or printing bills for their records in such public locations. We are therefore strongly of the view that consumers need to be able to exercise choice in this regard and should not be subjected to additional charges because they do not have safe, secure or private access to email.

1. MABS Submission

Please find below the MABS response to the questions posed in your consultation document:

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

A.1. We agree that itemised billing should be provided to consumers so that the consumer can continue to verify and control the charges incurred and adequately monitor their usage and expenditure, and thereby exercise a reasonable degree of control over their bills.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

A.2. We concur with the view that all service providers should ensure that calls to free-phone numbers are not included on itemised bills because of potentially sensitive nature of some free-phone numbers.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant) ? Please provide reasons to support your view

A.3. We agree that the customers of providers of pre-paid electronic communications should be able to access details of charges incurred, free of charge, so that they too can adequately monitor their usage and expenditure, and thereby exercise a reasonable degree of control. It is as important, if not more so, for pre-paid customers to be presented with a clear record of their expenditure in this regard.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

A.4. We would share ComReg 's concern that some consumers may not be able to actually access their bills because they do not have a personal computer (PC) or internet access or because an online system is too difficult for them to use. We agree that service providers should have the responsibility to provide detailed information to assist consumers in making informed decisions regarding their chosen billing medium outlining the different methods available for the consumer to make a free choice.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view

A.5. While it may be appropriate for a provider to provide alternative billing mediums it is up to the consumer to make the decision as to the billing medium most suitable for them whether they can or not access the providers preferred billing medium.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including ebills? Please provide reasons to support your view.

A.6. We agree with the ways proposed of ensuring and being assured that consumers can access an alternative billing medium including ebills. We are of the view however that paper billing should accompany any alternative billing medium for at least one year after which the customer should be given the choice as to their preferred method. This will give the customer

ample time to judge how user friendly and appropriate to their needs the alternative method is for them.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

A.7. We agree that billing must revert to paper billing free-of charge. Furthermore we would contend that providers should be electronically able to decipher if an e-bill has been received/opened and take appropriate action by issuing a paper bill.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view

A.8. It can occur for all kinds of reasons that a customer may permanently or periodically not be able to use or access to their online bill. Placing the onus on the customer is not always appropriate so where an online bill is overdue a paper bill should be issued within an appropriate time- frame.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

A.9. People can go for a considerable time without using their computer or going online. Their computer may malfunction and a customer may not have the financial resources to replace or repair it. We therefore are of the view that when an online bill has not been responded to within a specific time-frame a paper bill should be issued free-of-charge.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

A.10. We agree that a consumer with a disability should be provided with a suitable and chosen billing medium that they can access free-of-charge.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

A. 11. We are of the view that such a register would be beneficial to consumers with disabilities

11 The National Disability Authority

Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation. Document number 11/78

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

Agree. The National Disability Authority supports the principle that allows consumers exercise choice regarding whether they wish to receive a free-of-charge itemised bill or not.

The National Disability Authority would add that an explicit agreement must be reached with consumers with disabilities, or vulnerable consumers, that have requested not to receive an itemised bill. That agreement should be able to be independently verified, if so required. Such procedures would reduce the risks associated with bad practice of "implicit consent" because a consumer has not responded, etc.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

Agree. The National Disability Authority believes this is particularly important for vulnerable persons who have sought help. This situation could apply to any consumer with a disability; it is particularly relevant to those consumers who are considered vulnerable due to mental health impairment, an intellectual disability or a learning disability.

It is possible that the person(s) to whom the bill is addressed is running the household and that the person(s) in question might have an unreasonable hold/influence over the consumer in question.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant)? Please provide reasons to support your view.

Agree. Consumers with disabilities are among the poorer members of society. Four out of ten people with disabilities experienced increased deprivation between 2009 and 2010 according to a European Union survey conducted in Ireland.

The results of the Survey on Income and Living Conditions 2010¹ show that people with disabilities experienced by far the highest level of deprivation in 2010 compared with other household types such as the retired, the unemployed or students. Their deprivation rate was 42%.

It follows that there is an increased likelihood that consumers with disabilities are more likely to be pre-paid customers because they have to budget their call costs more closely.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

Agree. The National Disability Authority welcomes the fact that ComReg has taken on board elements of its response to Question 1 of ComReg's Preliminary Consultation 10/96 on Electronic, and other, itemised Bill Formats from January 2011.

¹ <http://www.cso.ie/en/media/csoie/newsevents/documents/silcprelim2010.pdf>, Central Statistics Office

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

Agree. It is important not to assume that a customer with a disability can automatically access the alternative billing medium that is being used. In the first instance fewer people with disabilities can afford a computer and an internet connection. When a connection is in place the necessary hardware and software required to access the e-bill can be expensive, or may not be able to support the format that is being used.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view.

Agree. It is critical that the responsibility for access is placed with the service provider and not solely with the consumer and that the whole process is made accessible in line with best international practice.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Agree. In this instance the consumer must be able to communicate with their service provider in manner that is accessible to them.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Agree. In this instance the consumer must be able to communicate with their service provider in manner that is accessible to them.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

Agree. Alerts are particularly helpful for some people who may have difficulties remembering, etc. Consideration needs to be given to the accessibility of the alert system and ensuring that audio and text alternatives are considered.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

Agree. It is important that consumers with disabilities should have equal access and choice to maximise the accessibility of whatever billing mediums are provided.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

Agree. Registration helps build a relationship between the customer and the service provider. It would be important for a service provider to know how many customers would require alternative billing methods. It also helps safeguard any free services that are available to customers with disabilities from being misused by other consumers.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view. .

Agree. They largely reflect the issues raised in the earlier part of the consultation paper.

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

Agree. Service providers should be given a certain period of time to adjust their policies and practices – if required – and to inform their customers of same.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

Agree. The proposed amendments will eliminate duplication and strengthen the consumer protection measures listed in the consultation paper.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

Agree. The proposed amendments will eliminate duplication and strengthen the consumer protection measures listed in the consultation paper.

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

The proposed conditions are reasonable in that they will have cost advantages for the service providers while, at the same time, providing minimum standards and level of certainty to the billing process for all customers.

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

The National Disability Authority would also emphasise that if a billing process has been designed in line with Universal Design accessibility principles then this will significantly reduce the need for alternative formats of Bills for those who may need to avail of them.

Applying Universal Design principles reduces discrimination exposure and will enable a wider number of customers to participate in the market. Universal Design prioritises the customer's ability to understand and use the information and services provided which in turn will reduce downstream costs required to support customers who require assistance to understand or use the service provided.

It should be the primary goal of every customer service department to meet the needs of as many existing and potential customers as possible. By doing so you will increase your market reach. Not only will your service become available to a higher number of potential customers, but also to a wider range of potential customers as well.

Universal Design provides a way to achieve this goal. It promotes designs that are accessible to, usable by and understandable by as many customers as possible.

The more flexible a service is, and the more options it provides to customers, the higher the probability of that service meeting the diverse needs of as wide a customer base as possible.

A high quality flexible approach to customer service will lead to customer satisfaction. A satisfied customer will tell other people about the service, increasing awareness and potentially creating new custom.

Universal Design should be considered throughout the entire customer experience from when the customer first reads or hears about a service provider right through to when they are a full paying customer.

An organisation that positively contributes to society by incorporating a Universal Design approach is likely to receive a reputation for having a high level of corporate social responsibility.

It should reduce the requirement for costly and wasteful retrofitting and to create a sustainable service that meets the needs of all people who wish to use it.

12UPC Communications Ireland Limited

UPC response to ComReg consultation:
**Proposed consumer protection measures in respect of consumer bills and
billing mediums and proposed amendments to General Authorisation
(ComReg Document 11/78)**

Executive Summary

UPC Communications Ireland Limited (UPC) welcomes the opportunity to provide input into the above mentioned consultation. As a leading communications provider that issues over four million bills annually to its 531,000 unique subscribers, the issues raised in this consultation are of direct relevance to the company's business activities.¹

A summary of UPC's main comments are as follows:

- E-billing is a relatively new billing medium and one that did not exist when the General Authorisation ("GA") was originally introduced in 2003 further to the transposition of the EU regulatory framework for the telecommunications sector. Had the GA been overly prescriptive in the mediums that had to be offered it would have limited the emergence of innovative solutions like e-billing. ComReg has undertaken this review in pursuance of a "fundamental policy goal" that of the promotion of users' interests. This goal is however only one of three fundamental policy objectives as ComReg also has the promotion of competition and encouragement of innovation amongst its core objectives. ComReg needs to be mindful of these latter two policy goals in any final decision it takes with respect to the promotion of users interests. Any proposal to specify a particular bill medium (e.g. paper bills) in the GA risks holding both ComReg and the industry sector captive to regulatory fortune. UPC does not understand the persistent emphasis by ComReg throughout the consultation document on paper bills. The principle of service and technology neutrality will be a familiar regulatory concept to ComReg and one that should also be applied to ComReg's proposals on consumer bills. As such the Regulator should not prescribe any one billing medium in the GA which will be applicable for many years to come.
- The focus of any resulting decisions that follow this consultation should be to ensure that charges on a consumer are transparent, easily understood and accessible to the account holder. As long as a customer has been informed of the billing medium(s) offered; has selected the billing medium(s) as a condition of service, there is no justification to amend the GA.
- An operator's ability to apportion costs in accordance with expenditure incurred in delivering a service cannot be undermined. An operator has to have the commercial freedom to determine a preferred billing medium. If it is more expensive for an operator to provide bills in alternative medium, it has to have the right to charge accordingly. If operators are prevented in their licence terms from charging for more costly billing mediums, they will have to ensure these costs are covered elsewhere. This risks an operator having to apply these costs across its full customer base rather than assigning these costs to the relevant customer segments.
- An operator has to retain the commercial freedom to charge for copy bills. ComReg should not underestimate the administrative and manpower costs to businesses in issuing copy bills. Regular and repeat demands by customers for copy bills, particularly in instances where a customer may already themselves have access to copy bills via other mediums (e.g. online)

¹ 531,000 unique subscribers equates to the number of households that periodically receive a bill from UPC. A household may be a single, dual or triple play subscriber. One bill is issued regardless of the number of services taken.



can result in significant costs for an operator. The ability to charge for copy bills has to remain at the discretion of the individual operator.

- As ComReg will be well aware proportionality is a well defined legal principle and to the extent that any conditions proposed do not satisfy the legal principle of proportionality then ComReg has no choice but to refrain from imposing them.
- Finally and with regard the proposed Regulatory Impact Assessment (RIA), UPC calls on ComReg to undertake a thorough review of costs that would be incurred if ECS providers were required to undertake the range of measures set out in this consultation document. When complete ComReg should publish the findings of the RIA and its subsequent assessment and final determination and issue these for consultation to interested parties. ComReg should not issue a final decision on this issue until such time as it has undertaken these steps.

A more detailed overview of UPC's business operations and the bill mediums offered by the company as well as feedback on the particular questions in ComReg Document 11/78 are set out in Sections 1, 2, 3 and 4 of this response.

Section 1: General Overview

ComReg's stated objective

ComReg has issued this consultation further to a concern it has that the "needs of all consumers in respect of itemised bills and bill mediums may not be properly met in the future" and to ensure that the "fundamental policy objective of promoting the interests of users" is upheld².

UPC would note however the promotion of users' interests is only one of three fundamental policy objectives that fall within ComReg's remit, the other two being the promotion of competition and importantly, the promotion of innovation. It is important therefore that while the current consultation focuses on just one of its policy objectives any resulting decisions must not be taken to the detriment of its other policy objectives. In particular and given the considerable emphasis on ebilling in ComReg Document 11/78, it is imperative that ComReg does not, in its desire to protect users' interests, introduce mandatory measures that may be overtaken in the very near term by innovative billing measures yet to be conceived. Indeed, ebilling itself is a relatively new concept and one that has only been recently deployed in any meaningful manner. Neither the industry nor ComReg could have foreseen this service when it first transposed the provisions of the (GA). As has been recently demonstrated, the current obligations on mobile operators to issue paper bills (as a term of their licence) looks now outdated given the offer of broadband services by the sector and overwhelming adoption of ebilling by mobile subscribers.

Over-emphasis on paper bills

UPC accepts ComReg's desire to ensure consumers can continue to receive bills via a medium that is accessible to them. Notwithstanding this, UPC does not understand ComReg's pre-occupation with paper bills nor does it agree with the over-emphasis of this billing medium throughout ComReg Document 11/78 and ComReg's intended proposals in relation to the same.

Firstly, UPC does not agree that ComReg should specify a preference for any one billing medium over any other. As long as a customer can receive a bill and has agreed to receive it in that manner, there is no role for regulatory intervention. Secondly, UPC would take issue with ComReg prescribing

² Com/Reg document 11/78, Pages 4-5



that operators should have to provide (paper) bills free of charge. The imposition of a condition such as this suggests that some kind of market failure has occurred. Regulation 16 (2)(f) of the Framework Regulations³ provides that ComReg may only impose ex ante regulation obligations where there is no effective and sustainable competition. Please refer to the section below entitled “*The industry sector*”, where it is clear that there is vigorous competition in the markets in which UPC operates and where operators will choose consumer initiatives including billing initiatives in order to differentiate themselves from the competition. ComReg has no need to intervene and impose ex-ante measures in a market that is clearly competitive and where no market failure has been identified.

While UPC does not currently, nor has any immediate plans to charge for paper bills, it would not agree to amendments to the GA that would prevent operators from charging for any particular billing medium in the future. The proposal to prohibit operators from charging for (paper) bills goes beyond ComReg’s regulatory remit and encroaches on an operator’s right to apportion costs in accordance with the service offered. Thirdly, UPC would strongly attest that the choice of billing medium offered by an operator has to remain within the operator’s gift. If a service provider decides to restrict the number of billing mechanisms available or indeed promote one billing medium over another it must have the commercial freedom to do this. As previously stated, the focus of ComReg should be on ensuring the accessibility of customer bills.

The industry sector

As Regulator for electronic communications providers ComReg will be acutely aware of the competitive landscape of this industry sector. It will therefore have a keen understanding of the intense rivalry that exists between service providers in competition for consumers in relatively mature fixed and mobile telephony markets and separately, in the more of nascent high speed broadband market. It will also be familiar with the high switching patterns by Irish consumers. ComReg should therefore not underestimate the commercial imperatives that drive operators to acquire and retain their customers. It follows therefore and as acknowledged by ComReg itself, it is in an operator’s interest to ensure its commercial practices are transparent, consumer friendly and suitable to its respective customer segments. The main motivating factor for any commercial entity is to offer a service and to take all steps necessary to ensure timely payment for the same. This can only be achieved if bills are accessible to customers.

Section 2: The Regulatory Framework

Operators intending to provide an electronic communications network (ECN) and electronic communications services (ECS) are required to notify ComReg of their intention to provide a ECN and/or ECS and must comply with conditions set out in a GA.⁴ As ComReg will be well aware, UPC is able to offer a range of services on foot of this GA over its cable network.⁵ ECS include broadband and phone services but do not include TV services since these are audiovisual services and as such fall under a different regulatory framework than that is envisaged for ECS services. It is for this reason the focus of this response is in relation to UPC’s cable network since this is the only network owned and operated by UPC under a GA.⁶

2.1 ComReg’s regulatory remit

ComReg is aware that any changes to an undertaking’s GA can only be made in an objectively justified and proportionate manner. Furthermore under the Communications (Regulation) Act 2002 as amended ComReg has an obligation to ensure that measures taken by it are proportionate. The

³ Regulations 16 (2)(f) European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011

⁴ Regulation 4(4) European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011

⁵ Given the area of focus is on networks offering electronic communications services, this paper covers broadband and telephony services offered over UPC’s cable networks.

⁶ UPC also operates a national MMDS network over which it offers a TV only service. UPC offers MMDS services further to a spectrum licence from ComReg.



principle of proportionality is a well defined legal test, which requires that measures implemented must be appropriate to attaining the objective pursued and must not go beyond what is necessary to achieve them. UPC would therefore respectfully submit that before any conditions can be attached to the GA ComReg needs to ensure that the proposed conditions can be objectively justified and are proportionate.

- **Proportionality**

The principle of proportionality is well established under EU and Competition Law.⁷ The principle of proportionality requires each decision or measure to be based on a fair assessment and balancing of interests, as well as on a reasonable choice of means. The principle of proportionality is clearly formulated in the third paragraph of article 5 of the Treaty establishing the European Community.⁸ Based on Article 5 EC and the interpretation by the European Court of Justice (ECJ), an action must comply with the following requirements:

- a) **Test of effectiveness**

The measure or decision must constitute an effective means to realise the aims pursued by the measure or decision. Therefore the measure taken must be appropriate to the desired outcome.

- b) **Test of necessity and subsidiarity**

Further, the measure or decision must be necessary to achieve the relevant aims, which means in particular that no alternative and less intrusive measures are available. Therefore the measure must be necessary to reach the desired aim. The requirements of necessity and subsidiarity constitute the core of the ECJ's proportionality review. They are mentioned in almost all cases in which the principle of proportionality is applied⁹.

- c) **Test of proportionality in the strict sense**

Finally, even if it is clear that a certain act or measure is an effective and necessary means an act, decision or measure can still be disproportionate if no reasonable or fair balance is struck between the aims pursued and the interest's harmed. Therefore the measure may not be excessively burdensome on the individual in relation to the objective that is intended to be reached.

ComReg must also keep in mind that the question of proportionality can only arise where the behaviour can be objectively justified in the first place.¹⁰ The imposition of a significant number of new legally binding conditions in the GA without proper consideration of the costs involved in implementing them suggests that the principle of proportionality was not properly considered by ComReg when drafting this consultation paper and needs to be considered in full by ComReg before it issues and Decision Notice in respect of the matters raised in this consultation.

2.2 Regulatory Impact Assessment (RIA)

The principle of proportionality applies to the entire RIA process. The RIA guidelines issued by the Department of the Taoiseach state that the problems that a party is seeking to address must be clearly set out and the objectives of the RIA need to be explicitly stated¹¹, International guidance also stresses that objectives should be specific, measurable, accepted, realistic and time-dependent. There are no clear objectives set out in the RIA issued by ComReg in ComReg Document 11/78. This needs to be examined in more detail by ComReg.¹²

In respect of some of the proposed conditions UPC believes that ComReg has failed to (i) clearly identify and analyse the specific problems that it is seeking to address (ii) clearly identify the objectives that it is seeking to address; (iii) no proper consideration of costs involved in complying with some of the proposed conditions has been carried out and (iv) ComReg needs to clearly set out

⁷ Maher, Competition Law, (Dublin: Round Hall Sweet & Maxwell 1999) p. 158

⁸ Any action by the Community shall not go beyond what is necessary to achieve the objective of this Treaty

⁹ Schwarze J (2006), European Administrative Law, Revised 1st Ed. (London: Sweet & Maxwell 2006) p857

¹⁰ See generally, de Burca, "The Principle of Proportionality and its Application in E.C. Law" (1993) 13 Y.E.L. 105

¹¹ <http://www.betterregulation.ie/eng/Revised> RIA Guidelines June 2009 page 12

¹² Consultation 11/78 Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation
Page 2



when they intend to publish results of the RIA. UPC has responded in more detail on this particular point in UPC's response to question 16.

2.2 The EU Regulatory Policy

In its consultation Document 11/ 78, ComReg referenced the recent European Commission Communication "Reaping the benefits of electronic invoicing for Europe" (COM (2010)712 final). In this the European Commission (EC) sets out its desire "to see e-invoicing become the predominant method of invoicing by 2020 in Europe"¹³ and sets out its priorities to ensure its widespread deployment by that date.

While the primary focus in the Communication is on the business sector the EC also references the benefits e-invoicing are expected to bring to consumers. In this Communication, the EC states that efforts need to be undertaken to ensure that consumers with limited or no access to the internet should always be allowed to ask for a paper invoice. It is of note therefore that the emphasis is on ensuring paper bills are possible, but the EC does not say these have to be made available free of charge. UPC would assert therefore that ComReg's proposals requiring operators to provide paper bills free of charge goes beyond current thinking at the European Commission.

Section 3 UPC's business activities

Since 2006, UPC has invested approximately €450 million in its cable networks so that the company is now in a position to offer dual and triple play services to subscribers that fall within the upgraded footprint. As at September 30, 2011, the company had 241,400 and 143,800 subscribers respectively for its broadband and phone services. In all UPC has 531,000 subscribers – i.e. the number of households in Ireland that take one, two or three UPC services. It is important to note that customers are issued a single bill regardless of the number of services they take. It follows therefore that while UPC uses a standardised format for its bills, the contents and length of bills can vary considerably depending on the chosen product portfolio.

UPC generates over 4 million bills on a yearly basis and has a range of bill cycles (monthly and bi-monthly bills). The average bill length can be as short as two pages or as long as ten pages. The nature of the cable network upgrade is such that where the network is capable of offering telephony services it has been also broadband enabled. This therefore means that all UPC telephony subscribers have access to at least one internet platform (UPC's) and the company is therefore in the relatively unique position amongst ECS providers in knowing that its subscriber base is able to access their bills online (if they so wish). This represents a penetration rate of 99% which is much higher than the ComReg estimates in the e-billing consultation document. Indeed the statistic provided in the e-billing consultation document (the only one in five consumers have a PC), would appear at odds with the various statistics outlined in ComReg's most recent quarterly report which had indicated that there are over 1.68m active internet subscriptions in Ireland and 54.3% homes in Ireland have a broadband connection. Based on these statistics, it would appear to UPC that broadband penetration rates and the ability for Irish consumers to access internet facilities might be higher than what has been set out in the consultation document.¹⁴

Billing mediums on offer by UPC

UPC ensures that customers are given complete information on each of the billing mediums on offer. UPC customers can, at any stage, change the manner in which their bill is delivered. This preference can be registered in a number of ways (phone/email/ letter/online).

¹³ <http://www.betterregulation.ie/eng/RevisedRiaguidelinesJune2009> Page 12

¹⁴ <http://www.comreg.ie/fileupload/publications/ComReg1198a.pdf>



UPC does not and will not move customers to any billing medium without the customer's consent. Normal commercial practice ensures the emphasis is on providing a service and getting paid for the delivery of that service. It is therefore in a company's best commercial interest to ensure customers receive their bills, and settle these within the agreed timeframe. From a business standpoint, it would be counter-intuitive for any operator to make it difficult for customers to receive and pay their bills.

Electronic Billing

All UPC customers are provided with a 'MyUPC' online account (accessible via the www.upc.ie website) through which the company provides an electronic PDF of every bill for the previous twelve months. An ebill contains the same information as would normally be displayed on a paper bill equivalent. The UPC ebilling service is therefore available to the full customer base regardless of whether subscribers access this facility or not.

UPC commenced the offer of its ebilling service in 2009. Since that time, the company has directly corresponded with over 230,721 subscribers, informing them of the availability of the ebilling facility at a substantial cost to the business. That an overwhelming majority (93%) of that base has opted to receive their bills in this manner is testament to the strong level of support for this particular medium. Customers that receive their bills via ebilling are notified via sms (text message) that the latest bill has been delivered to their online 'My UPC' account. The text message also indicates the payment due date or direct debit date and the amount due.

From a company perspective, ebilling is a convenient, secure and environmentally friendly way of delivering a customer bill. It also introduces the potential for cost efficiencies thus enabling a business to pass savings either directly (e.g. discounts) or indirectly onto customers (e.g. investing further in the development of products and services). Further, ebilling cuts out postal delivery time delaying the time the customer receives the ebill meaning the customer can access the ebill on the same day. With 99% of residential customers in a recent ComReg survey, stating that cost was the most important factor in selecting their internet provider, UPC need to remain competitive on cost thereby use of ebilling helps the company to achieve this.¹⁵ Also in this survey, 66% of residential customers were found to use online banking which may be an indicator that customers can access bills and pay through online banking.¹⁶

From a user perspective, it is a free service whereby customers can review their bills online and pay bills without incurring additional charges (postage, cheque costs, and cash handling costs). Customers are individually notified when the bill is uploaded to their 'MyUPC' account and they benefit from the full payment period (usually fourteen days) by which they have to pay their bill (as opposed to receiving the bill by post a number of days after issue). Indeed the fact that UPC's cable footprint is limited to the urban centres means the majority of UPC customers can access their bill at a time and place of their choosing whether it is at home, at work or on the go.

UPC is constantly exploring new ways in which to facilitate ease of access and payment of customer bills. In this regard, the company is currently investigating the potential to deliver bills to other mobile devices and hopes to be in a position to deploy new mediums in the near future.

Paper Bills

At present, UPC currently offers paper bills, free of charge, to its subscriber base. While the company has no immediate plans to change this practice, it would have serious concerns if ComReg were to amend the provisions in the GA to prohibit operators from charging consumers for costs incurred in the offer of paper bills or indeed, any one particular bill medium.

¹⁵ http://www.comreg.ie/publications/ict_usage_among_residential_consumers.583.103988.p.html

¹⁶ http://www.comreg.ie/publications/ict_usage_among_residential_consumers.583.103988.p.html



Similarly UPC has serious misgivings on the over-emphasis by ComReg on paper bills and that the Regulator would seemingly view this as the default billing medium. Given the current rate of adoption of e-billing among UPC consumers it would appear that paper bills are no longer the preferred medium of choice for mobile subscribers. UPC would therefore question why ComReg would prescribe this medium as the default billing format in Regulations that will be legally binding on operators. It is UPC's estimation that paper bills will become the preference of the minority if not a redundant billing medium in the not too distant future. UPC accepts that operators have a requirement to issue bills however as set out throughout this paper, ComReg's focus should be on ensuring bills are accessible to consumers rather than specifying particular billing mediums in the GA.

Copy bills

At present, UPC reserves the possibility to charge for copy bills in particular circumstances. Examples include instances where a customer requests copy bills for a number of preceding months and such requests incur costs to the business (manpower, volume of paper produced, postage). Where such costs arise, it should be within an operator's right to charge for this service and ComReg needs to be mindful of this.

Disabled / special needs

UPC is cognisant of the recently transposed Regulation 17 of the Universal Service Regulations that provides that consumers with disabilities should have equal access to and equal choice of electronic communications services and that ComReg intends to issue a separate consultation on this issue in early 2012. The outcome of that consultation is likely to touch on a range of issues related to the provision of ECS services for disabled or vulnerable users.

ComReg designated eircom as universal service provider from June 2009 – June 2012. This designation imposed particular requirements on eircom on a number of issues including an obligation to provide telephony services at a fixed location; the provision of Directory services and payphones and finally, measures to support disabled users. Given this designation eircom is entitled to apply for funding to compensate for any unfair burden incurred in meeting these requirements. In May 2011, ComReg determined that in the event its finds an unfair burden does exist, the compensation would be sourced from the industry. ComReg is currently consulting on this issue. It is expected to issue a further consultation in December 2011 and a third consultation on the size of any eventual fund in early 2012. While the focus of these consultations will be primarily on the provision of a universal service, it is reasonable to expect there will be discussions on determinations made in respect of the costs associated with the provision of particular services to disabled users.

It would appear therefore that there are several concurrent and future consultations that will result in obligations for both the universal service provider and separately the industry for particular customer segments. It would seem somewhat pre-mature and dis-jointed if this consultation were to address billing in isolation when a consultation in the immediate future will comprehensively address industry requirements arising from transposition of Regulation 17. UPC would therefore recommend that this matter is included in the forthcoming consultation and ComReg is also mindful of parallel discussions that will occur in the context of financing the universal service provider.

Furthermore while obligations may arise on foot of these consultations on the universal service provider and separately on industry for particular market segments, Regulation 8(1) of the Authorisation Regulations¹⁷ and in particular Part A of the Schedule to those Regulations makes it clear that any change to the GA (the purpose of which is to include measures for disabled end-users) is limited to designated undertakings under Regulation 7 of the Universal Service Regulations, ComReg is therefore precluded (in the case of industry as a whole) from inserting as proposed billing obligations for customers with disabilities into the GA.

¹⁷ European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011



Notwithstanding the above, UPC can confirm it undertakes all reasonable efforts to address the needs of specific social groups, in particular those that are profoundly deaf, hard of hearing or speech impaired. To this end, UPC has a dedicated online form for those with special needs where they can raise particular billing or technical queries they may have. UPC aims to respond to these queries within 48 hours.

Section 4: UPC Ireland feedback on specific questions in ComReg Document 11/78)

Q. 1. Do you agree or disagree that all providers of post-paid electronic communication services should provide consumers with an itemised bill free of charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

As set out in Sections 1, 2 and 3 a large percentage of UPC's customer base takes two or even three services. It is important to note (though of limited relevance to this particular question) UPC's broadband service is a pre-paid service whereas telephony is a post paid service

At present, itemised bills are provided to customers free of charge, however UPC would not support the introduction of any measure that may prohibit ECS providers from charging for this service in the future.

Q. 2. Do you agree or disagree that calls which are normally free of charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

UPC would caution against any proposals or changes to the GA that would require immediate compliance with updates to the National Numbering Conventions. ComReg will need to be mindful that operators will need appropriate timelines to update their systems to include any changes required by updates to the Conventions.

Q.3 Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free of charge, on request, in paper format or electronically (as relevant)? Please provide reasons to support your view.

As referenced in the response to question 1, UPC's broadband service is a pre-paid service while UPC's telephony product is a post paid service; as such this question only has relevance for the UPC broadband service.

As set out in Section 3, UPC currently provides customers with bills free of charge but would have serious objections to the introduction of any proposals that might prevent an operator in the future from recovering costs incurred in instances where it was legally required to provide bills in a particular manner and one that was not the choice or preferred billing medium of the relevant operator.

UPC does not agree that amendments to the GA should restrict an operator from choosing a preferred bill medium. In addition, UPC would argue that as long as an operator informs its subscribers of this preferred medium and is transparent in any costs associated with that medium an operator should be free commercially to pursue these options.

Finally, UPC would have concerns over the passing reference to a "reasonable timeframe" and "current period". Given UPC subscribers can receive their bills monthly and bimonthly, the notion of a "reasonable timeframe" and the relevant "period" for the respective bill may vary quite considerably from one customer segment to another. UPC would therefore seek clarification from ComReg on these particular references. Where customers seek copies of bills previously issued to them, an



operator has to have the commercial freedom to charge for any costs incurred in the provision of such copies. UPC would note that to restrict an operator's ability to charge the individual customers for such costs would be disproportionate and would not be in the spirit of EU regulatory policy and Irish government policy.

Q.4 Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

Please refer to information provided in Section 3 which supplements the specific feedback provided below.

☐ How to access the ebill facility (procedures for registering, signing-in to the system, passwords, etc);

A link to registering for ebilling is available at www.UPC.ie. To register for ebilling, the customer can click on 'ebilling registration' in their [MyUPC](#) account and enter their mobile phone number which will allow UPC to automatically send a free text message when the new bill is ready to view.

☐ The precise electronic means (online, via e-mail, etc) offered by the service provider;

Online billing.

☐ Whether the electronic means is available while in receipt of a paper bill;
Yes.

☐ Whether previous bills are available on request (paper or electronically);

Yes, last 12 months bills.

☐ The systems/software/facilities that are required to access the electronic bill;

The ebill is available in Pdf format. Customers can download for free the Adobe Reader from our website.

☐ The security features available to ensure that there is no unauthorised access to details of calling users and called customers;

When a customer registers for 'MyUPC' they must provide their UPC account number and surname as it appears on their UPC account as part of the registration process. A registration email is then issued to them using the email address that they provided as part of the registration steps which contains a link which they must then use to complete their registration. During the registration process the customer is asked to create a username and password and also to select a security question and answer which could be used in the future if the customer had forgotten their account details.

If at a future point the customer cannot access their 'MyUPC' account they can go through a number of steps including answering the secret question and have an activation code sent to them at the email address that they provided initially. Also, if a customer enters their username or password incorrectly more than 3 times, they will be asked to answer a captcha to ensure that no phishing is being carried out.

☐ Whether or not the electronic bill facility is accessible for consumers with disabilities using screen-reader software;

We believe we are in compliance.



□ How to “download” or store the e-bill on the individual’s personal computer.

The Pdf format can be stored to the customer’s computer.

□ How to print the ebill;

Customers can easily print their online bill.

□ The length of time any online system stores the e-bill; and

Customers can access their previous 12 months bills via their ‘MyUPC’ account.

□ Details of the payment methods available.

UPC has detailed the wide range of payment options available on the UPC website.

ComReg proposes that all relevant details in relation to individual operators billing mediums should be stated in the consumer contract and at point of sale.

ComReg should be aware that customers may or may not state their preference at point of sale and may indeed change their preferences subsequent to their request at point of sale. As previously stated, UPC always sends out a paper bill to a new customer and only after this might the customer decide to opt-in to ebilling.

ComReg proposes that any consent given by the customer to receive an alternative billing medium must be properly recorded by the service provider, either by audio, written or, electronic means.

UPC would question the relevance of this question but can confirm that customers are advised that the company records all calls for monitoring and verification purposes and this information is stored by UPC for 180 days. UPC believes this practice is more than adequate to capture all relevant customer preferences including billing format and would view issuance of bills in the period between the recording and the purging of the information in the system as confirmation from the customer that they are in agreement with that billing format.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

UPC currently offers a number of billing mediums to its customer base. The choice and offer of billing mediums has to remain at the discretion of the operator. Please refer to section 1 entitled “over-emphasis on paper bills” and section 3 section entitled “paper bills”.

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view.

UPC undertakes all reasonable efforts to ensure its customers can receive bills in a manner that is accessible and most convenient for them.

Customers can inform UPC at any time of their preference to return to paper bills. UPC is fully aware that people’s circumstances change. UPC supplies the consumer with a paper bill where the ebilling customer is unable to access their bill. If the consumer has internet access but is not able to use the internet then UPC will, on request, provide the consumer with a paper bill, free of charge.



Notwithstanding the above, UPC believes the choice of the billing medium should remain a decision between the billing party and the individual customer. While UPC respects customer preferences and undertakes all endeavours to meet these preferences, UPC would not agree to operators being legally mandated to have to offer particular billing mediums under the terms of the GA.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

No, UPC does not agree that the GA should be amended to specify a particular bill medium and/or to require this is provided free of charge.

Please see the responses to Section 1 and Question 3.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Please see the responses to Section 1, Questions 6 and 7 above.

With respect to ComReg's commentary in instances where the paying customer is different to the account holder, UPC confirms it issues an alert to notify the paying customer of bill delivery for e-billing. With respect to paper bills, customers receive the bill at their home address.

UPC business processes are such that a reminder text message is sent to the customer after the bill due date. Further contact by text and phone then takes place. As such, UPC undertakes all efforts to ensure the paying customer receives and is aware of the bill from the date of issue.

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

UPC always sends the bill to the customer. Alerts are sent for all e-bills.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

UPC is always exploring new ways to develop the new support functions for its full customer base including those that may have a disability.

ComReg however need to be mindful of costs that can be incurred in the provision of these alternative mediums. UPC would submit that the choice of the billing has to remain at the operator's discretion as some billing solutions for customers with disabilities may result in costs that are prohibitive for an operator.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

Please see response to Question 10 above.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.



Condition 18.7.1

“Every Authorised Person who provides Authorised Services to consumers on a post paid basis, shall issue itemised invoices or bills for such services free of charge to each consumer, a reasonable period in advance of each payment due date.”

UPC in principle does not have a difficulty with Condition 18.7.1 subject to operators being free to choose the billing medium by which itemised bills are provided. UPC already meets this criteria.

Condition 18.7.2

“Itemised bills or non itemised bills issued in accordance with Condition 18.7.1 shall be in a paper medium, unless the Authorised Person has, at least one month in advance of using an alternative billing medium, verified that the consumer can access and use an alternative billing medium, and the Authorised Person has informed the consumer of any changes to their billing mechanism.”

UPC does not agree with the insertion of this condition into the GA. UPC as previously mentioned in section 1 of this response fails to understand ComReg’s pre-occupation with paper bills. The imposition of what is in effect the imposition of ex-ante regulation on operators can only occur where there is no effective or sustainable competition in the market. As mentioned at section 1 of this response in the section entitled “*The industry sector*” this is clearly not the case.

Furthermore legal obligations regarding non itemised bills are already provided for at Regulation 7(1) of the Privacy Regulations¹⁸. Regulation 8(4) of the Authorisation Regulations makes it clear that ComReg cannot “*attach as a condition to the General Authorisation any specific obligations that it may impose on an undertaking nor any conditions which are applicable to undertakings by virtue of other law.*” UPC believes that as legal provisions regarding itemisation are already provided for under the Privacy Regulations, ComReg is precluded from inserting similar provisions into the GA.

Condition 18.7.3

“Every Authorised Person who provides Authorised Services to consumers on a post-paid basis shall offer the option of a non-itemised invoices or bills for such services free of charge to each consumer.”

Again UPC believes that ComReg is precluded from inserting this condition into the GA by virtue of Regulation 8(4) of the Authorisation Regulations.

Condition 18.7.4

“Every Authorised Person who provides Authorised Services to consumers on a post-paid basis, shall provide each customer with details in respect of their billing options, including itemised billing, non-itemised billing, and billing mediums, when the consumer enters into a contract with the Authorised Person.”

UPC does not believe it is necessary to insert this condition into the GA, given that operator’s will make every effort to ensure that customers get their bills in a medium that is suitable to the customer to ensure that they get paid for the service they provide.

Condition 18.7.5

“Calls which are normally free-of-charge to all calling consumers, including calls to help-lines, free-phone numbers, calls to emergency services, and calls to harmonised numbers for

¹⁸ European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011



harmonised services of social value, are not to be identified in the calling consumer's itemised bill."

UPC does not agree that it is necessary to insert this provision in the GA, as ComReg issued a Decision Notice (Decision Notice 09/ 01) where operators are directed to comply with these obligations. The insertion of the same provision into the GA does not make sense unless Decision Notice 09/01 is being revoked. Furthermore as previously mentioned in UPC's response to question 2, Regulation 8(1) of the Framework Regulations suggests that it would not be appropriate to insert an obligation into the GA where this has already been dealt with elsewhere.

Condition 18.7.6

"Itemised bills and non-itemised bills issued in accordance with Condition 18.7.1 shall be provided in paper medium, free-of charge, if the consumer has, since the receipt of their last bill, informed the Authorised Person who is their service provider that the consumer cannot use an online bill, or does not have internet access for an online bill, or does not have a valid personal e-mail address in the case of a bill sent electronically by email."

Please see UPC's response to question 7. UPC does not see any need to make this a condition in the GA. While we will try and accommodate customers (please see our response to question 6) we do not believe this should become a condition in the GA.

Condition 18.7.7

"Itemised bills or non-itemised bills issued in accordance with Conditions 18.7.1, to a consumer with disabilities shall be provided free of charge in a medium properly accessible to that consumer (including Braille) if requested."

UPC does not agree with the insertion of this provision into the GA. As previously mentioned at section 3 of this response in the section entitled "Disabled/ special needs" it appears that there are several concurrent and future consultations that will result in obligations for both the universal service provider and separately the industry in respect of access and choice for consumers with disabilities.

It therefore seems pre-mature and disjointed if this consultation were to address billing in isolation when a consultation in the immediate future will comprehensively address industry requirements arising from transposition of Regulation 17. Furthermore UPC believes that ComReg's power with regard to changes to the GA are limited to those covered by Regulation 6. Even where ComReg did have the power to insert Condition 18.7.7 into the GA any such condition would have to be proportionate. As mentioned in UPC's responses to questions 10 and 11. UPC offers customers with disabilities various methods to access their bills. The insertion of the words "properly accessible" and "including Braille" if requested, impose what would be a disproportionate obligation on operator's undertakings to put in place a range of medium for individual customers with disabilities regardless of whether or not this represents an onerous and disproportionate cost on the undertaking.

ComReg does not in UPC's view have a legal basis for the insertion of this condition into the GA. Whilst ComReg does have powers to insert consumer protection conditions into the GA¹⁹ any attachment of conditions must be non discriminatory, proportionate and transparent.

In summary therefore ComReg does not have a legal remit to insert Condition 18.7.7 into the GA and even if it did Condition 18.7.7 as currently drafted is not proportionate. It fails to take into account the costs that may be involved in implementing for example a Braille solution, or a solution which qualifies as being "properly accessible". It is interesting to note that while consultations are currently taking place with regard to a universal service fund the requirement to provide Braille is being removed as an obligation on the designated undertaking for the purposes of Regulation 7 of the Universal Service Regulations. This in UPC's view does not make sense when the intention is that this costly solution should be imposed on industry as a whole – where industry is expected to make



such a solution available to customers free of charge and the universal service provider will have no obligation to provide a Braille solution.

UPC would also point out that the words “properly accessible” can be very widely defined and in reality suggests that operators will be required to comply with a wide range of requests which may require software development and are likely to involve significant costs on undertakings. UPC also fails to understand why a condition dealing with disabilities is being inserted into the GA when a working group is looking at the provision of services to people with disabilities and has yet to report.

Notwithstanding the above, UPC is always exploring new ways to develop the new support functions for its full customer base including those that may have a disability.

Condition 18.7.8

For the purpose of Condition 18.7.2, the Authorised Person has verified that consumer can access and use an alternative billing medium if:

i. The Authorised Person has provided the consumer with details of the relevant billing medium features and subsequently, the consumer has agreed to receive an alternative itemised or non-itemised billing medium and the Authorised Person has recorded that agreement, either by audio, written or, electronic means; or

ii. In the case of an itemised bill or non-itemised bill sent electronically to the consumer (including by e-mail) the consumer has provided a valid personal e-mail address to the Authorised Person specified by the Authorised Person for this purpose; or

iii. In the case of an online itemised bill or non-itemised bill, the Authorised Person is currently providing Authorised Services to that consumer that includes broadband, and the Authorised Person has provided the consumer with full details of the relevant features of the online itemised or non itemised bill; or

iv. In the case of an online itemised bill or non-itemised bill, the Authorised Person has provided the consumer with full details of the relevant features of the online bill, and subsequently, the consumer has accessed at least two online bills provided by the Authorised Person for that service in the preceding four months.

UPC agrees that where it can comply with any of (i) to (iv) in condition 18.7.8 this will be sufficient to show that an Authorised Person has verified that the consumer can access and use an alternative billing medium.

Condition 18.7.9

“An Authorised Person providing an online itemised bill or non-itemised bill, shall adequately notify the consumer, using a means separate to the online service, that the bill is available online.”

UPC fails to understand why it is proposed that this condition be inserted into the GA when no analysis of this particular provision is carried out in the RIA. Furthermore if someone has signed up for broadband services and has consented to e-billing, it does not make sense to alert them that their bill is available by another medium unless the customer has asked that this be done.

Condition 18.7.10

“An Authorised Person who provides Authorised Services to consumers on a pre-paid basis, shall give the consumer access to their transaction history including usage and charges (within a reasonable timeframe) free of charge on request.”

UPC assumes that what ComReg is referring to in Condition 18.7.10 is copy bills and therefore the information has at some stage already been provided to the customer. The words in brackets “within a reasonable timeframe” should be defined. The words free of charge should be removed as there will be circumstances where it will not be possible to provide customers with a transaction history free of charge, due to the level of work that may be involved. Again UPC would refer ComReg to the data protection environment where it is well recognised that requests for information from consumers are not cost neutral and parties subject to an access request are free to impose charge.



Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

The insertion of conditions into the GA makes them legally binding on undertakings. The effect of this is that non compliance can result in significant penalties being imposed on the undertaking in breach. Given the severity of penalties that can be imposed under the GA Regulations a timeframe of two months for the conditions to come into effect is not acceptable.

Some of the proposed conditions may require systems/software changes which can take some time/months to implement. UPC has already planned its system changes for 2012 and therefore anything above and beyond what has already been planned and budgeted for will be impossible to implement within a two month timeframe and if forced, would require UPC to derail current innovation projects.

UPC believes that the effective date for the proposed amendments should be at a minimum 6 months from the date of ComReg's decision notice. This will give operators a realistic lead in time to make any changes that may be required.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

UPC would not agree with any terms that would be overly prescriptive and may have the potential to have the licences hostage to regulatory capture.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

Please see UPC's response at question 12 to Condition 18.7.7. As previously mentioned the requirement to provide Braille is being removed as an obligation on the designated undertaking for the purposes of Regulation 7 of the Universal Service Regulations. UPC would therefore fail to understand why ComReg would impose this on the industry as a whole when ComReg does not deem the provision of such a service as falling within scope of universal service provider.

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

There are three separate sections to ComReg's RIA. Please see UPC's comments in respect of each of these set out below.

(i) Provision of an itemised or non itemised bill free of charge to post paid customers as required (paper or electronic).

UPC agrees with ComReg's assessment as set out in this section of the RIA.

(ii) Calls which are normally free of charge to all calling consumers should not be itemised on the consumer's bill.

UPC agrees with ComReg's assessment as set out in this section of the RIA.

(iii) Bills issued to a consumer with disabilities shall be in a medium that is accessible to that consumer free of charge if requested.

UPC does not agree that minor costs would be incurred if an operator was required to furnish a customer with a billing medium of their choosing. There may be instances where a customer with disabilities may seek a medium that is not supported by an operator or that incurs disproportionate



costs for the provider. UPC would refer ComReg to the responses provided to Section 1, and Questions 6, 12 and 13 as well as the submissions at Section 2(1).

The legal test that must be complied with makes it clear that an imposed measure may not be excessively burdensome in relation to the objective that is intended to be reached. ComReg therefore needs to amend this section so that it is clear that operators should be free to make available mechanisms for customers with disabilities to access their bills rather than seeking to mandate specific solutions that might be applied. Failure to do so will result in operators potentially having to put in place costly solutions which would be contrary to the principle of proportionality.

(iv) Service providers who provide pre-paid services to consumers shall give their consumer access to their current bill and call history within a reasonable timeframe) (free of charge) on request.

Nowhere in the proposed RIA or in the ComReg consultation document itself is the term “*reasonable timeframe*” defined nor is any effort made by ComReg to consider costs that may be associated with this particular obligation. In principle and subject to the definition of reasonable timeframe being clarified, operators will in general not have a difficulty with providing a customer with details on their call history, once it does not cause an undue burden on the operator.

To the extent that the introduction of such a measure does cause disproportionate burden, operators must be free to recoup any costs incurred. This is a principle that is well recognised under data protection law where parties subject to a data access request are free to impose a charge for such requests since there is a recognition that complying with these can give rise to certain costs for the particular commercial entity.

(v) Service providers who provide bills in a medium not sent directly to the customer (by post or email) to provide an alert to the customer that their bill is available.

UPC disagrees that no foreseeable cost applies. Text messages cost money and a regulatory requirement to have to send an alert will result in increased costs for operators.

Furthermore this would run contrary to requirements set out by the Irish Payment Services Organisation Limited direct debit scheme which provides that direct debit customers are only required to be notified in instances where the amount of their bill has changed (from the previous bill).

Finally, there may be instances where customers have requested that a particular billing medium is not provided directly to the customer, but to a family member. In such cases the operator and the customer have to be free to agree whether or not the customer is notified of the delivery of the latest bill. ComReg needs to carry out a more detailed of the costs that may be involved in respect of this particular section in the RIA as it is simply not correct to say no additional costs would apply with respect to a number of the measures proposed (e.g. requirement to send sms alerts to customers).

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

Please see UPC's response to question 12.



13 Vodafone



Non-confidential response to ComReg 11/78 - Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to the General Authorisation

NON-CONFIDENTIAL

Introduction

Vodafone welcomes this consultation and ComReg's intention to seek the views of stakeholders on the proposed measures relating to the billing of electronic communications services. We note ComReg's intention to fully take account of all responses and hope that this response, and the response previously provided by Vodafone in response to the preliminary ComReg consultation document 10/96, will assist ComReg in making a proportionate, efficient and forward looking set of decisions.

ComReg rightly recognises the benefits of electronic billing and correctly highlights the European Commission's view that customers with limited or no internet access should not be left behind and that they should always have the right to ask for and receive a paper bill. Vodafone supports this position and we believe that the goal of enabling customers to ask for and receive a paper bill can be achieved in a simple and efficient manner. Vodafone (and other providers) have already put procedures in place whereby customers can opt to receive paper bills at any time by simply calling a freephone number to contact our customer care centre, using the paper bill facility on the Vodafone website, or by expressing their preference at the point of sale.

In light of our experience in this area, Vodafone believes that the above measures are sufficient to fully protect consumer welfare in relation to billing medium choice and additional measures are neither desirable nor necessary. In October 2011, Vodafone offered [] of our Pay Monthly mobile customers the choice of either:

1. e-billing and paper bills together (referred to here as Option 1) or;
2. e-billing only (referred to here as Option 2)

To date, [] % of these customers have opted for Option 1. Of those who selected Option 1, []% did so using the freephone number while the remainder used other channels. Vodafone received almost no adverse reaction from our customers to this process. When

Vodafone changed our fixed service offering so that Option 2 (e-billing only) became the default billing option, only [~~8~~] of customers opted back to paper. Vodafone's experience (both in Ireland and abroad) clearly indicates that there is significant inertia in the continued use of paper bills. It is therefore our view that once consumers are given a simple and free means to choose the option of having paper bills in addition to e-billing whenever they wish, ComReg should have no more concerns in this area. Imposing obligations on providers to ensure that customers - who have already expressed a willingness to use e-billing - can actually access and use the service would be overly prescriptive, paternalistic, and would introduce significant complexity into the process which would be neither proportionate nor objectively justified. Government services such as the PAYE Anytime have clear and simple processes for customers to opt for receiving paper or electronic documentation regarding their tax affairs. There is no requirement for the Revenue Commissioners to ascertain whether clients are sufficiently familiar with use of the internet before requesting electronic documentation only.

Vodafone has particular concerns regarding ComReg's proposals for prepay customers. We believe that in this respect, ComReg has failed to adequately analyse or consider the potential for very significant cost impacts (both direct and environmental) which will arise from the requirement to provide paper bills (or similar reports) on request. The predominance of prepay customers in the Irish market (63.6% in total but varying from 100% for Tesco to 28% for 3 Ireland¹) means that with even a small % uptake of bills or similar reports will lead to a very significant increase in paper consumption and a requirement for significant ICT investment. On this basis, and on the fact (as acknowledged by ComReg) that there is little demand for the facility, ComReg should withdraw the proposed provision in the amended General Authorisation.

Vodafone does agree with ComReg that the providers should make information available that will assist in the use of e-billing services. However, due to the comprehensive nature of the information proposed by ComReg (there are 12 separate items listed), we do not believe it is practical to provide this at the point of sale in addition to other contractual information. We do support ComReg's proposal that customers who have difficulties accessing e-billing – either ongoing or temporary – should have immediate access to paper bills but this should be at the behest of the customer and should not be the responsibility of the provider. We also believe that customers of both fixed and mobile services will derive great benefit from advance text or email alerts even if they have chosen to receive paper bills.

¹ ComReg Quarterly Report Q3 2011

Vodafone welcomes ComReg's intention to remove obligations in relation to billing from spectrum licences. These conditions were anachronistic and discriminatory and their removal will lead to a more consistent approach to billing services for consumers, irrespective of their provider.

Finally, in Vodafone's response to ComReg 1096, we stated that the imposition on the telecommunications sector by an emanation of the state of a mandatory requirement to use paper based billing is, of necessity, a requirement to purchase services in the postal sector. Given the national nature of the telecommunications market, this is in effect an obligation to purchase services from the Universal Postal Service Provider. ComReg must consider in a transparent manner whether such a mandatory requirement is tantamount to a "state aid", constitutes a cross-sectoral subsidy of the provision of a universal postal service, or is otherwise distortive of competition in the Postal Sector. ComReg should also carry out an analysis of the consumer welfare net benefit/cost arising from any increase in prices (or reductions in prices forgone) that would be caused by the inclusion of additional bill production and postal costs. An analysis would also be required of the consumer welfare net benefit/cost arising from the enforced diminution of the scope for competitive differentiation.

Response to Consultation Questions

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

Vodafone does not agree that the default position should be that all providers of post-paid electronic communications services must provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill.

It is our view is that an itemised bill should only be the default option in circumstances where the post-paid customer is viewing an e-bill. In circumstances where a customer is getting their bill in the post then a short form invoice should suffice unless the customer requests an itemised bill (in which case, providers should be prepared to provide an itemised bill). A balance needs to be struck between the costs involved, the environmental impact, the right to privacy of called subscribers on the bill (which is a fundamental right) and the customer's right to receive the information.

ComReg is not correct to assert that an itemised bill may be the only means by which customers can receive the information to which they are legally entitled. All information which providers are obliged to include and other information which would also be useful (e.g. current position on bundle use, roll-over minutes etc) could be included in a short form manner. ComReg has also failed to take account of the changing nature of customer usage and charging structures which have evolved when proposing this change. For example, free on-net and cross-net calls and in particular free SMS means that the amount of activity undertaken by any particular customer has increased dramatically over time. Typical monthly SMS usage for a Vodafone contract customer ranges from [X] for a low user [X] or a heavy user driven mainly by [X] or [X]. The equivalent monthly voice usage is [X] to [X] for heavy users. Since all of these calls and texts must be itemised individually – even if the majority are zero rated – it nevertheless equates to significant quantities of additional paper if fully itemised bills become mandatory. This would be an extraordinarily retrograde step in light of the additional costs and its effect on sustainability and the environment. This is particularly the case when considered in the context of ComReg's other proposal regarding mandatory paper bills and the provision of billing information for prepay.

In summary, providers should only be mandated to supply the currently mandated level of billing information and should only be obliged to provide fully itemised bills on request. Any other course of action by ComReg should only be contemplated following a thorough cost/benefit analysis examining not only the potential benefits to customer but also the additional cost to industry and the wider society due to the resulting increase in paper consumption.

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

Vodafone agrees with the proposal due to the potential sensitive nature of these calls.

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant) ? Please provide reasons to support your view.

Vodafone has very real concerns that the proposals as currently envisaged by ComReg will quite quickly lead to the requirement for parallel or combined billing systems to service both pay monthly and prepaid billing requirements. Once the obligation is in place to provide free of charge prepay bills (or other billing reports/logs) even if this is only on request, it will simply not be efficient to maintain ad-hoc arrangements to service these requirements. The necessity to expand current billing systems or building new ones will impose very significant costs on the industry (and ultimately customers) for a service for which ComReg itself admits there is very little demand at present. ComReg's proposal has the potential to stimulate demand for paper or similar with unforeseen cost consequences.

In footnote 15, ComReg states that in the approximately 10 months from January 2011 to 20th October there were 2,676 consumer issues in relation to disputed charges on their bills. Since these clearly relate to pay monthly consumers, it is not clear how this supports ComReg's proposals in relation to prepaid customers. It only demonstrates that even when bills are supplied, consumers still feel there are circumstances when billing disputes need to be referred to ComReg. Since ComReg give no numbers for prepay billing disputes referred, it is difficult to assess the extent of the issue that ComReg is trying to address. Unlike pay monthly, prepay customers have a real-time means to ascertain that they are being correctly charged by way of credit balance checks and Vodafone does not have any customer feedback which suggests there is a demand for a change in the current established practice. If prepay customer have a billing query, our customer care representatives have access to the customers call details for a period of six months and can readily assist with queries relating to any charges.

When making this proposal, ComReg takes no account of the potentially large increase in paper consumption which could occur. Should providers be obliged to provide billing or even call log information for pre-paid services, then due to the large proportion of prepay customers in the Irish mobile market there are likely to be significant resource implications for providers and MVNOs (some of whom are prepay only) in implementing such measures. If only a relatively small proportion of prepay customers seek to have paper bills (or a similar report) on a regular basis, which is clearly possible under the proposals, the potential for increased paper consumption and adverse environmental impact is significant. In Vodafone's case, if in each month an average of only [~~8~~] % of prepay customers looked

for a bill or a similar call detail log, Vodafone would be required to produce [~~3~~] extra bills per month or [~~3~~] additional bill sheets. This figure is based on an average pay monthly customer bill size. In reality, prepay bills would likely be larger on average due to the significantly higher SMS and voice usage for prepay when compared to contract consumers as the following table shows;

Monthly Minutes	Prepay	Pay monthly
Low user		
Medium user		
Heavy user		

Monthly SMS	Prepay	Pay monthly
Low user		
Medium user		
Heavy user		

Every SMS is a separate itemised bill event and every 100 events accounts for a single bill page. From the data above, it can be seen that a low prepay user using SMS only would require a bill (or a similar paper log) of 2 pages (double sided and excluding the invoice page). Heavy users would require 4 pages for SMS only. When replicated across the mobile industry (where prepay forms such a large part of the customer base), the potential for additional paper consumption is enormous. ComReg makes no effort to quantify these costs or the costs of the additional billing infrastructure and then to weigh this against the potential consumer benefit. In the absence of such analysis, it is simply not proportionate or reasonable for ComReg to implement this obligation.

Notwithstanding the above, should the provision of prepay bills or logs/history be mandated then providers should be permitted to levy a charge for the service. As ComReg rightly notes, the majority of prepay customers do not require a monthly bill under normal circumstances. The ability to levy charges (if imposed) will allow providers to recover some of the costs incurred but will also limit the number of unnecessary requests which will occur if a quasi-billing service is mandated, which Vodafone believe will be the eventual

outcome should this proposal be mandated. Allowing a charge to be levied would avoid providers having to spread the cost of this facility across all customers, including those who do not require it. We note that many respondents to ComReg 1096, including non-industry bodies such as MABS, support this view.

In addition, should the provision of prepay bills or logs/history be mandated then providers must be granted sufficient time (12 months) to implement the proposed changes.

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

Vodafone agree that this minimum set of information should be provided to customers as part of their contract but it is not practical to suggest that this information also must be given to customers at the point of sale. There are 12 pieces of information that must be given to customers as part of the proposed process and it is not practical to suggest that this information must be given to customers at the point of sale in addition to being supplied within their contract.

While we consider it as being impractical, it is also not clear as to the statutory power that ComReg is seeking to rely on in imposing these conditions. Regulation 8 of the European Communities (Electronic Communications Network and Services (Authorisation) Regulations) 2011 (“the Authorisation Regulations”) states that ComReg can attach specific conditions to a general authorisation only as are listed in Part A of the Schedule. In imposing these conditions ComReg is seeking to rely on Part A, No. 8 of the Schedule and to impose conditions specifically relating to itemised billing. The section from the Universal Service Regulations, on which ComReg seek to rely, states that the Regulator may lay down the basic levels of itemised bills which are provided. The section from the Universal Service Regulations does not grant ComReg the power to specify information which must be given to customers in addition to the itemised bill. Accordingly Vodafone are of the view that these requirements cannot be imposed by ComReg as it is not authorised to do so.

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

Vodafone agrees that it is appropriate that service providers issue alternative billing mediums to their customers but does not agree that the onus should be on service providers to ascertain whether their customers are capable of accessing an e-bill. Customers should be given the option of reverting to a paper bill but it should not be the default position. Vodafone's view is that the measures proposed place a significant burden on service providers and the measures go far beyond the European Commissions stated aim that "consumers with limited or no access to the internet should not be left behind and that consumers should always be allowed to ask for a paper invoice"¹. The measures proposed in the Consultation Document would oblige service providers to assume that customers for whom they do not have an email address or customers to whom they do not provide internet services by default want a paper bill. If customers are happy to subscribe to a tariff and happy to consent to using some manner of e-billing, there should be no further obligations on providers to ascertain their level of expertise in relation to the use of on-net billing services. Any other obligation is disproportionate, unwarranted and paternalistic.

The approach which has been suggested also places fixed broadband providers (and in particular Eircom) at a distinct competitive advantage to other providers as they are in the best position to know whether or not a customer has access to the internet.

We would also again question the statutory power that ComReg is seeking to rely on in imposing these conditions. In imposing these conditions ComReg is seeking to rely on Part A, No. 8 of the Schedule and to impose conditions specifically relating to itemised billing. The section from the Universal Service Regulations, on which you are seeking to rely, states that the Regulator may lay down the basic levels of itemised bills which are provided to customers. The section from the Universal Service Regulations does grant ComReg the power to specify the billing medium. It simply provides that ComReg is entitled to specify the level of detail that is to be contained in bills. Accordingly we are of the view that these requirements cannot be imposed by ComReg as it is not authorised to do so.

¹ See: http://ec.europa.eu/enterprise/sectors/ict/files/com712_en.pdf

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including ebills? Please provide reasons to support your view.

Vodafone reiterate our views which were raised in response to Questions 4 and 5 above which question the authority of ComReg to specify the means by which consent to e-billing is obtained or recorded.

Notwithstanding the fact that ComReg does not appear to have the authority to impose a condition of this nature, our view is as follows in respect of each method proposed by ComReg to ensure that a customer can receive an e-bill:

- (a) Service provider obtains the consent of a new or existing customer to receive the alternative billing medium: It is completely impractical and contrary to the European Commission's flagship initiative *A Digital Agenda for Europe* which gives prominence to achieving a single digital market and calls for removal of the regulatory and technical barriers that prevent mass adoption of e-invoicing. The default method of receiving a bill should be that customers automatically receive an e-bill and only in circumstances where a customer requests otherwise should they be moved to another medium. The European Commission has provided that it is vital to create an environment that enables a maximum number of trading parties to exchange invoices to ensure the mass uptake of e-invoicing. ComReg appears to have had little or no regard to this when imposing these conditions.
- (b) Bills sent electronically by e-mail – Regarding ComReg's concerns around Data Protection, we believe there is no case for ComReg to impose further conditions on service providers who are already fully aware of their obligations in this regard and which they take very seriously. Vodafone would disagree with the proposal that in circumstances where a service provider is informed of non-delivery of the email that the onus should be on the service provider to then send a paper bill. This should only occur where there is no other means for the customer to receive their bill. If customers can log onto a secure website to view their bills then this is an unnecessary burden on service providers and once again runs contrary to the European Commission's aim of reducing paper bills.
- (c) Internet access is a component of the service being provided by the service provider – Given the fact that customers often purchase different services from several different providers it should not be incumbent on the operator to ascertain whether or

not the customer has internet access. Despite over 50% of households having access to broadband (this would not include individuals accessing the internet in work), ComReg are placing an onus on service providers to assume that individuals do not have access to the internet¹. The assumption should in fact be the other way around and customers should be entitled to opt out of that assumption if they see fit.

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Vodafone agrees that this is a consumer friendly policy and as such Vodafone is happy to support such a requirement. However as stated above, the onus should be on the customer to inform the service provider when such a contingency occurs. As currently drafted, the General Authorisation would require the service provider to make these assumptions in certain circumstances which in our view is over-prescriptive, impracticable and unreasonable.

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Vodafone agrees that this is a consumer friendly policy and as such Vodafone is happy to support such a requirement. However as stated above, the onus should be on the customer to inform the service provider when such a contingency occurs. As currently drafted, the General Authorisation would require the service provider to make these assumptions in certain circumstances which in our view is over-prescriptive, impracticable and unreasonable.

¹ http://www.ComReg.ie/_fileupload/publications/ComReg1166.pdf

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

Vodafone agree with this proposal with this proposal. Indeed, we believe that even where a customer is in receipt of a paper bill, an SMS or email alert may still be very useful to customers as it will typically be received some days in advance of the paper bill and will provide useful information to the customer.

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.

Vodafone agrees with this proposal though Comreg has no basis for assuming that there will only be minor costs associated with this obligation. Vodafone believe that the relevant consumers, ComReg and providers should work closely in ensuring the most appropriate mediums are made available.

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.

Vodafone agrees with this proposal and that providers should provide a means by which consumers with a disability may register their particular billing medium requirements.

Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

Vodafone disagrees with a number of the proposed conditions for the reasons outlined above and we are of the view that the legislative provisions identified by ComReg do not permit it to impose the following obligations and accordingly should be deleted:

- (i) General Principles applicable to Conditions 18.7.1 – 18.7.10 – Conditions 2 and 7 should be deleted as ComReg is not entitled to impose conditions of this nature.
- (ii) Condition 18.7.2 should be deleted for the reasons outlined in response to Question 6 above.
- (iii) Condition 18.7.4 should be deleted for the reasons outlined in response to Question 4 above.
- (iv) Condition 18.7.8 should be deleted in its entirety for the reasons outlined in response to Question 6 above.
- (v) Condition 18.7.9 should be deleted.

Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

As outlined above it is our view that it will take considerably more than 2 months to implement a solution under Condition 18.7.10 and accordingly a period of 12 months should be allowed to meet this particular requirement.

Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

Vodafone agrees with this proposal which we believe removes a set of conditions that was outdated and discriminatory against mobile service providers.

Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

Vodafone agrees with the proposed amendment as applicable to the universal service provider.

Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.

Vodafone disagree with ComReg's position that the amendments to the GA proposed by the consultation are justified.

We would disagree that the conditions being proposed largely reflect current practice in particular with regard to prepaid customers. It is simply not the case that minor costs will only be incurred by service providers to implement this proposal.

Vodafone believe the RIA is not fit for purpose and does not warrant the description of an impact assessment. It is notable for the fact that it does not contain a single cost estimate and is completely absent any objective evidence to support ComReg's claims on a number of issues.

Vodafone would make comments on the specific aspects of the RIA in the following table;

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Main measure proposed	Impact on Service Provider	Costs	Impact on Consumer	Vodafone Comment
Provision of an itemised or non-itemised bill free-of charge to post-paid consumers as required, (paper or electronic)	Service providers can now provide alternative bill mediums including electronic bills to certain customers. Service providers must continue to provide paper bills to their customers, in order for their customers to verify the charges and control their bill, unless they have verified that the customer can access and use an alternative bill. All service providers will have the same obligations in respect of billing mediums and itemisation promoting consistency and competition.	Service providers can realise the potential savings of moving certain customers to an electronic bill. Service providers will need to maintain a paper bill for certain customers. The savings associated with the alternative bill medium will exceed any costs associated with maintaining a paper bill for vulnerable consumers.	Consumers that can access and use an alternative bill medium can avail of it from their service provider. Consumers who cannot access the internet or do not have a Personal Computer to access an alternative bill medium will not be charged for the receipt of a paper bill. Assured of minimum standards in relation to billing, consumers can choose between service providers knowing that they will receive a bill in a medium they can access, free-of-charge	ComReg is not correct in trying to balance the savings to providers against the costs of providing paper bills to vulnerable customers only. A paper bill must be provided to any customer who requests it. Furthermore ComReg offers no evidence of the costs and savings involved in the process and is offering an opinion which is simply not supported by any objective proof. This does not meet the requirements of a fit for purpose impact assessment. ComReg has also failed to analyse the potential efficiency and environmental saving for mandating itemised by request only. Short form bills can provide adequate detail to large numbers of customers who do not wish or require full itemised information – particularly when provided on paper.
Calls which are normally free-of-charge to all calling consumers, should not be itemised on the consumer's bill.	Service providers who currently itemise freephone numbers on consumer bills will be required to amend their billing systems.	Most service providers already provide this feature. There may be minor costs for a small number of service providers who currently itemise these numbers on consumers' bills.	All consumers' data privacy will be assured irrespective of the service provider.	Vodafone agrees with the continuation of this practice by all providers.
Bills issued to a consumer with disabilities shall be in a medium that is accessible to that consumer free-of-charge, if requested.	Service providers, on request, will be required to provide an accessible billing medium to consumers with disabilities.	Minor costs to service providers to provide an alternative billing medium on request to their customers with disabilities.	Consumers with disabilities will be able to benefit from the same consumer protection measures in relation to billing as other consumers, insuring equivalence.	Whilst ComReg has no basis for assuming that there will only be minor costs associated with this obligation, Vodafone believe that consumers, ComReg and providers should work closely in ensuring the most appropriate mediums are made available on request.
Service providers who provide pre-paid services to consumers shall give their consumer access to their current bill and call history (within a reasonable timeframe) free-of-charge on request.	Service providers currently provide bill charge details to consumers that wish to query or verify their usage and associated charges.	No foreseeable additional cost.	Pre-paid consumers will continue to be able to monitor and control their charges especially if they are in dispute with their service provider in relation to their bill.	Vodafone believe that ComReg has seriously underestimated the potential costs to providers of meeting this obligation. The most likely outcome is a requirement for enhanced or new billing functionality and a significant increase in paper consumption. The RIA is seriously deficient in this respect.
Service providers who provide bills in a medium not sent directly to the customer (by post or email) to provide an alert to the customer that their bills are available.	This is the current practice of most service providers providing alternative bill mediums not sent directly to their customers. The practice will benefit service providers as it will assist in ensuring their customers have the opportunity to verify their charges and pay their bills on-time.	No foreseeable additional cost.	Consumers who do not receive their bill directly will be alerted that their bill is available, the amount and the due date. This is assist consumers in verifying their charges in a timely manner and paying their bill on time.	Vodafone support this proposal and believe providers should provide alerts regardless of the customers billing medium.

Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.

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