



Commission for  
**Communications Regulation**

# **Draft Strategy Statement for Electronic Communications 2014 - 2016**

**Document:** ComReg 14/33

**Date:** 17/04/2014

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# 1 ComReg's strategy sets out how we will pursue our goals

- 1 ComReg is the regulator of Ireland's communications sector. We regulate markets for electronic communications services and networks, we manage the radio spectrum and we also regulate postal services.
- 2 This strategy statement deals with our role as regulator of the markets for electronic communications services and networks. This statement also addresses the impact of spectrum management on those markets. Our detailed strategy for spectrum management, and a strategy for postal services regulation, are set out in separate statements.
- 3 We are required by law to publish a strategy statement every two years. We use the statement for two main purposes:
  - To give consumers, market participants and other stakeholders and interested parties guidance about the future regulatory priorities and approach;
  - To give ComReg management a tool that we can use to help us allocate our scarce resources in a way that has the greatest impact on our organisational goals.
- 4 This strategy statement does not pre-judge any future decisions by ComReg nor does it in any way bind or limit ComReg from exercising its full discretion in making any future decisions, in accordance with the applicable law and based upon what ComReg considers to be the relevant facts.
- 5 For the purposes of this strategy, we have identified four high-level goals:
  - Protect and empower consumers;
  - Promote sustainable competition;
  - Facilitate innovation, investment and the internal market;
  - Be an effective and agile organisation.
- 6 In this strategy statement, we first assess the extent to which our four high-level goals are being achieved, and the trends that could affect this over the next few years. Then, for each of the high-level goals, we:
  - Identify strategic priorities for ComReg, so that they can best be delivered over the coming two years;
  - Describe how we plan to address these strategic priorities.

- 7 ComReg's detailed planned actions (Annual Action Plan) to be carried out to achieve the final strategy will be published annually for 2014-2015 and for 2015-2016.

# 2 Strategy at a Glance



## Strategy at a Glance

### COMREG'S MISSION

Through effective and relevant regulation, to facilitate the development of a competitive communications sector in Ireland that attracts investment, encourages innovation and empowers consumers to choose and use communications services with confidence.

### COMREG'S VALUES

- Integrity
- Impartiality
- Effectiveness
- Excellence
- Transparency

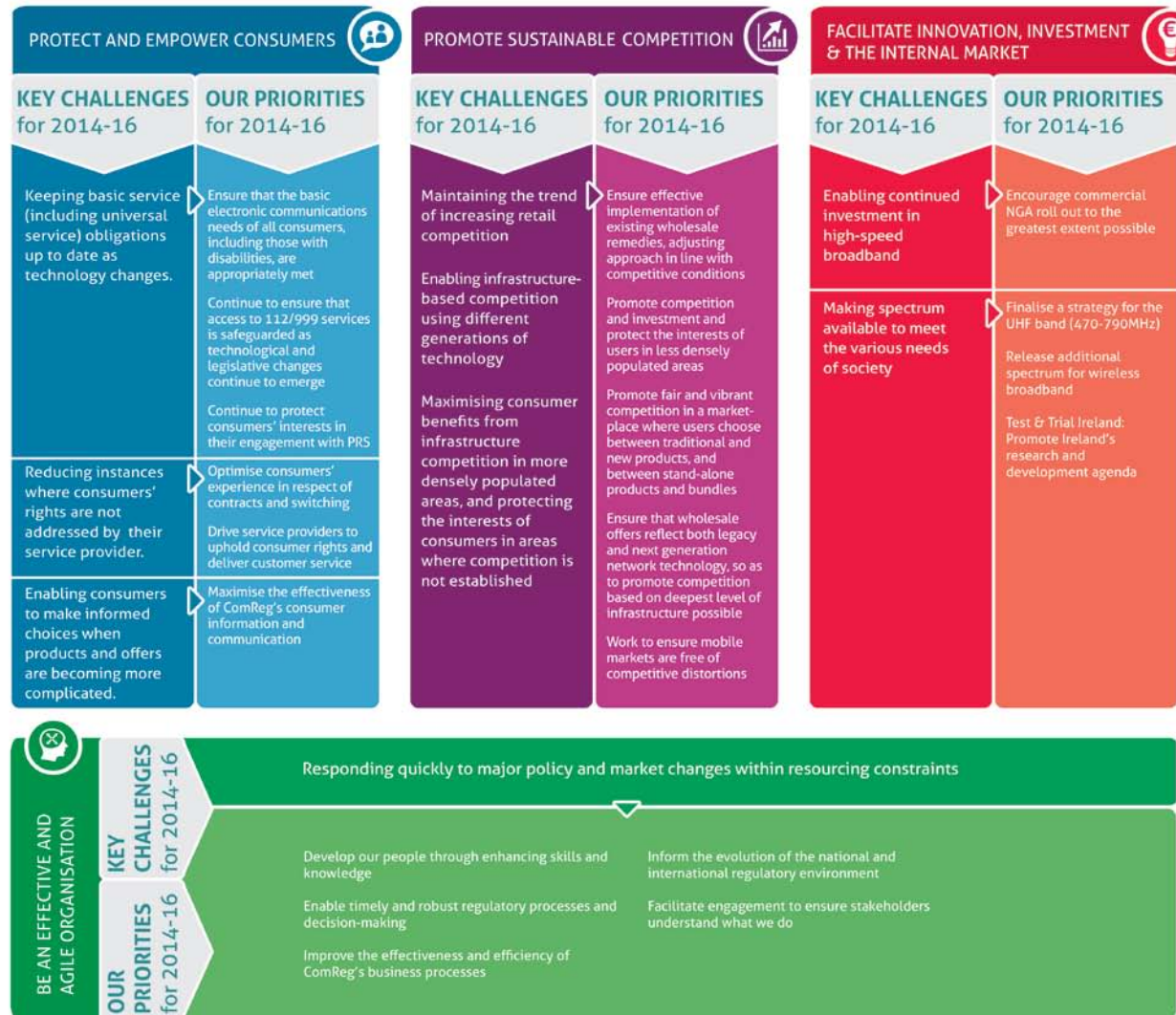


Figure 1: Strategy at a Glance Diagram

### **3 ComReg's strategic priorities reflect the current and future environment**

- 8 In this chapter we assess the extent to which ComReg's goals are currently being met. We also assess how the changing environment creates opportunities for improved delivery of our goals, while potentially creating threats to the interests of consumers, the promotion of competition and to continued investment and innovation.
- 9 Based on this assessment, we derive strategic priorities for the coming two years.
- 10 In summary, we find that:
- Electronic communications markets are delivering greater benefits than previously for many consumers;
  - The environment within which ComReg regulates is changing;
  - The sector trends create challenges that our strategy must seek to address.

#### **3.1 Electronic communications markets are delivering greater benefits for many consumers**

- 11 This section contains an assessment of the extent to which ComReg's goals are currently being met. It examines whether electronic communications markets in Ireland serve the interests of consumers, function competitively and are characterised by innovation and investment. It also contains an assessment of the extent to which ComReg is achieving its goal of being an agile and effective organisation.
- 12 In carrying out this assessment, we have looked primarily at trends within the Irish market, and how electronic communications markets in Ireland compare with other sectors.
- 13 Our overall conclusion is that markets are working reasonably well for many consumers. Availability and take-up of advanced services are growing, choice is increasing, prices are falling, and investment in high-speed Internet access networks and in 4G mobile networks is accelerating.
- 14 However, the market is delivering at a slower rate for consumers in less densely populated areas – especially in increasing the availability of higher-speed data services – both fixed and mobile.



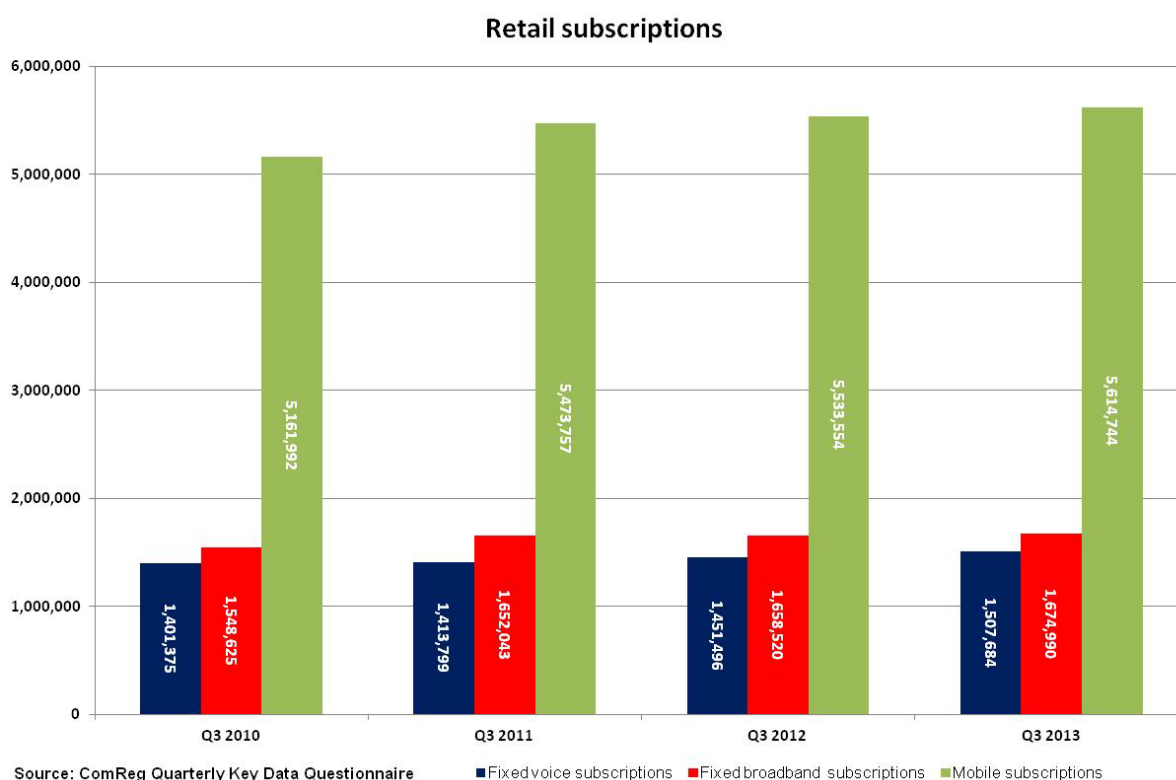
- 15 The other area for concern which we have identified is the growth in consumer complaints, which indicates that some service providers may be failing to address the expectations of their customers and may be failing to uphold the rights of consumers under law.

### The interests of many consumers are well served by the market

- 16 In assessing how well the interests of consumers are being served, we have looked at the availability and take-up of advanced services, the prices charged, and the quality of customer service.

### Despite a weak economy, take-up of services has continued to grow

- 17 While weak economic growth has continued to impact purchasing decisions of Irish consumers and businesses, the year-on-year take-up of communications products and services has grown, reflecting the importance of these services to consumers (see Figure 2). According to Eurostat, around 67% of Irish households now have some form of broadband, compared to 58% in 2010.



**Figure 2: Increasing retail subscriptions 2010 - 2013**

### ***Advanced services are available in many parts of Ireland***

- 18 UPC has upgraded its cable footprint with DOCSIS 3.0 technology, enabling it to offer broadband speeds in excess of 100Mbps to over 40% of households in Ireland. Eircom launched its retail VDSL offer, termed eFibre, in May 2013, with 650,000 homes passed at the end of December 2013 - which corresponds to 38%<sup>1</sup> of all households. ComReg notes that at the moment these services are predominantly available in urban areas.
- 19 In general Large Exchange Areas are in more densely populated areas and ComReg uses LEA data as a reasonable proxy to illustrate the urban/rural coverage issue. For a full definition of LEA please see ComReg 13/14<sup>2</sup>. Table 1 shows figures for premises in Ireland covered by current and next generation access.

<b>Access Type</b>	<b>LEA</b>	<b>Outside LEA</b>
<b>Next generation<sup>3</sup></b>	58.7%	1.3%
<b>Current generation<sup>4</sup></b>	97.1%	84.2%

**Table 1: Current and next generation access coverage inside and outside LEA**

### ***Prices for electronic communications are falling, unlike retail prices generally***

- 20 In the 12 months to January 2014, the price of an average communications basket fell by 4.0%, compared with a decrease of 0.1% for the prices of all consumer goods and services. Figure 3 shows communications price inflation relative to total price inflation for all consumer goods and services.

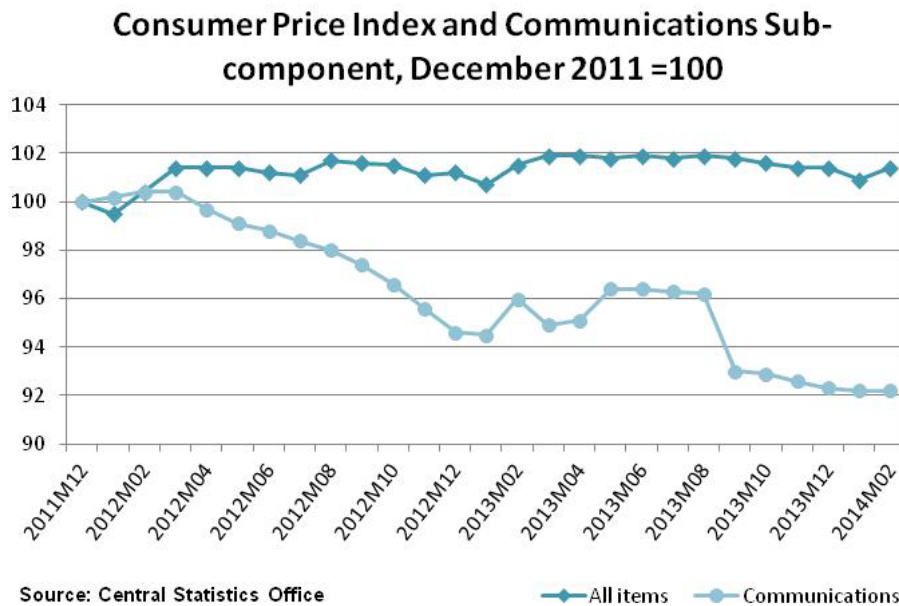
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<sup>1</sup> Based on an estimated household number of 1,699,100 from the CSO QNHS survey.

<sup>2</sup> [ComReg document 13/14](#) - Price Regulation of Bundled Offers, Further specification of certain price control obligations in Market 1 and Market 4

<sup>3</sup> Based on VDSL and DOCSIS 3 cable coverage.

<sup>4</sup> Based on DSL coverage.

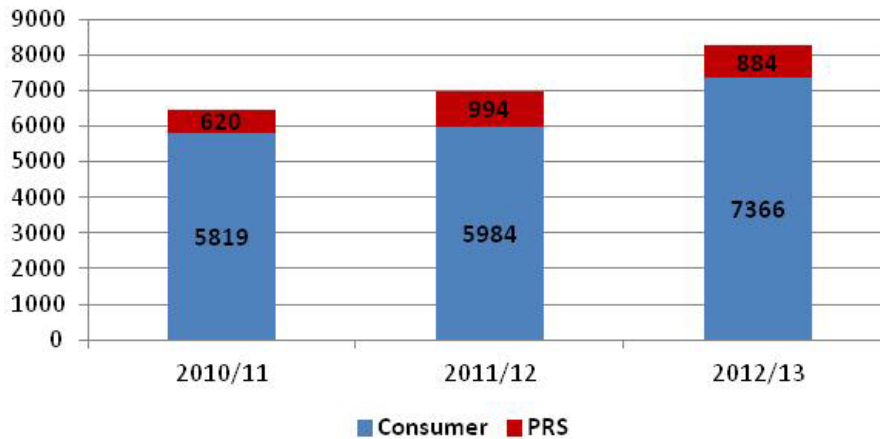


**Figure 3: Communications prices decreasing more than overall consumer prices**

### ***Customer complaints are rising***

- 21 ComReg aims to empower consumers to take direct action regarding poor service provision, unsatisfactory quality, or other issues. ComReg accepts consumer complaints only when the consumer is dissatisfied with its operator's response. In 2013, ComReg recorded a marked increase in the number of consumer complaints received, an indication that the performance of some service providers in addressing the needs and rights of their customers is deteriorating (see Figure 4).
- 22 On the other hand, complaints about Premium Rate Service providers have started to fall as shown in Figure 5. This may reflect greater compliance by providers with the PRS code of practice that was introduced in 2012. But PRS contacts to ComReg remain at a high level.

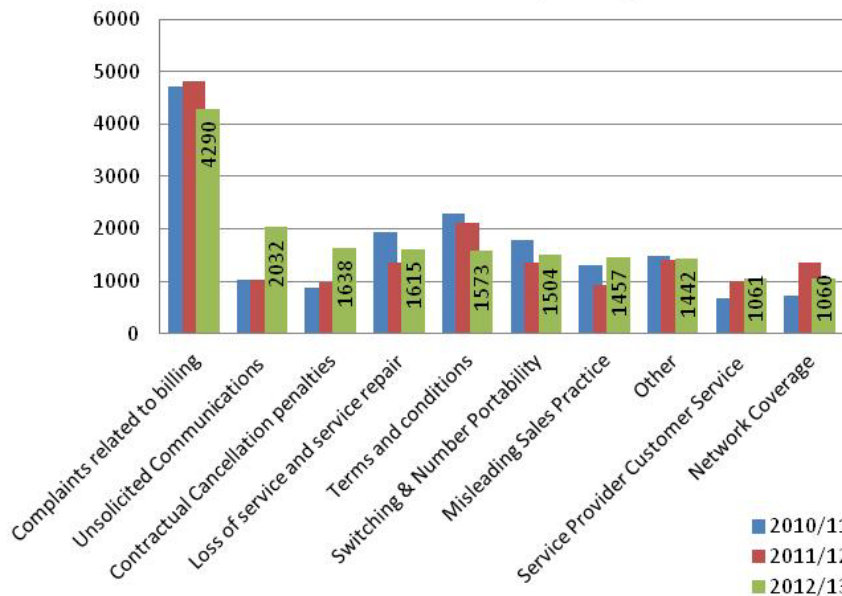
### Complaints



**Figure 4: High number of consumer complaints recently**

23 The widely varied nature of the complaints is outlined in Figure 5. The categories showing the largest increases were unsolicited communications and cancellation penalties, while complaints in respect of billing, sales, switching and number portability and terms and conditions continue to feature as the most common complaints.

### Consumer Issues Yearly Comparison



**Figure 5: Types of consumer complaints (excluding PRS complaints)**

## Competition in retail markets is becoming more intense

- 24 It would appear that the challenging macro-economic environment has led consumers to become more price conscious, which in turn has resulted in a decline in industry revenues though there has, at the same time, been moderate growth in the volume of demand. It appears that operators have reacted to this decline in revenue by cutting costs, for example by entering into network sharing agreements.
- 25 This environment has not discouraged new entry at the retail level, in either fixed or mobile markets. There has been increased usage of wholesale products by resellers, and retail markets for electronic communications have become less concentrated as a result.

## Weak economic growth has led to a decline in communications sector revenue

- 26 Economic growth in Ireland remained weak in 2013 with GNP levels 5.1% higher at constant market prices (in Q3 2013) than in the corresponding period two years ago, but 4.2% lower than in the corresponding period of 2008.
- 27 Retail revenues accruing from the communications sector have continued their downward trend; with a 2.0% decline in total communications retail revenues in the year to Q3 2013 (see Figure 6). Weak economic growth as well as decreasing communications prices were the main factors that caused this negative impact on operator revenue.

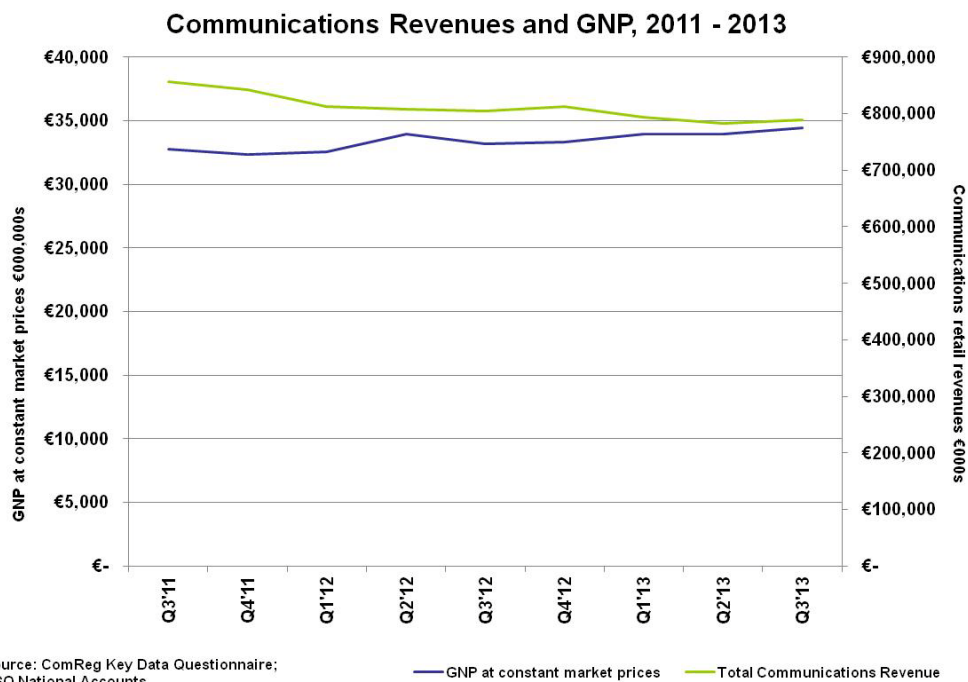
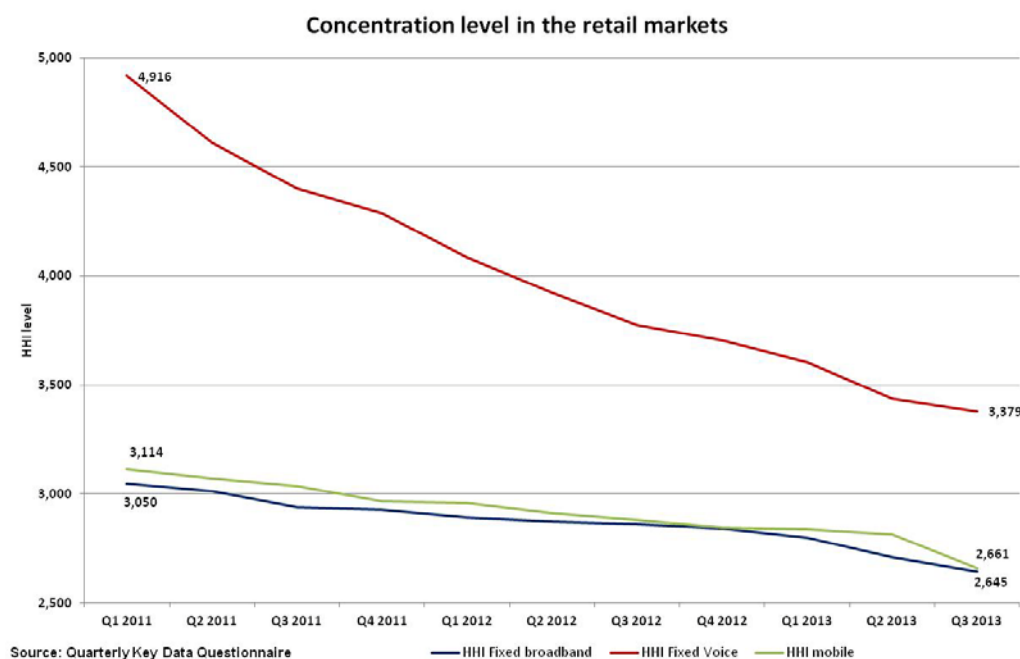


Figure 6: GNP and declining Communications Revenue 2011 – 2013

### ***Competition in retail markets is increasing***

28 Notwithstanding the challenging operating environment, we have witnessed the entry of Sky to Ireland's fixed electronic communications market and aggressive marketing by new and existing players in both fixed and mobile markets. The standard measure of market concentration – the Herfindahl-Hirschmann Index<sup>5</sup> – has shown steady decline in all retail markets (see Figure 7). The downward trend in market concentration is encouraging, and the HHI values for Q3 2013 compare well with other sectors – 2075 for groceries<sup>6</sup>, 4075 for electricity and 4150 for gas<sup>7</sup>.



**Figure 7: Decreasing retail market concentrations 2011 - 2013**

29 However competition is less widespread at the wholesale level. For instance, there are currently 43% of households that are served by only one wholesale broadband access infrastructure.

<sup>5</sup> HHI is a commonly accepted measure of market concentration. It is calculated by squaring the percentage market share of each firm and then summing the resulting numbers. The HHI number can range from close to zero to 10,000 (10,000 being a monopoly with 100% market share).

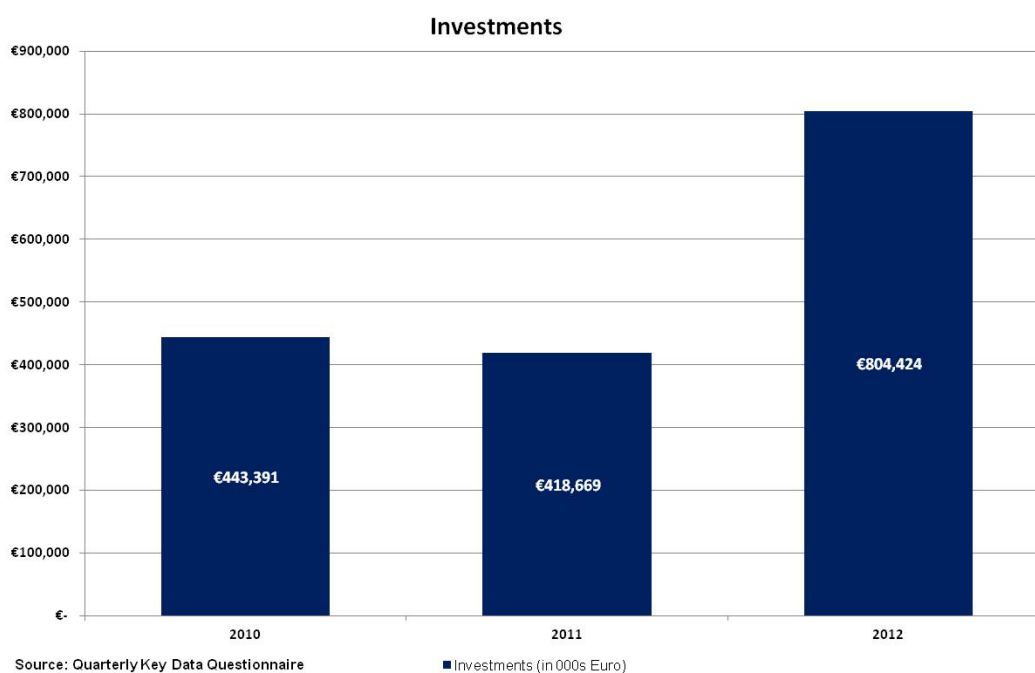
<sup>6</sup> HHI was constructed based on information on market shares available at <http://businessetc.thejournal.ie/kantar-supervalu-superquinn-rebranding-market-share-1369263-Mar2014/>

<sup>7</sup> HHI was constructed based on information on market shares available at <http://www.cer.ie/docs/000646/CER14043%20Q3%202013%20Retail%20Market%20Report.pdf>

## Innovation and investment are increasing, but investment is focused on more densely-populated areas

### *Investment in next generation networks gathers pace*

- 30 Telecom sector investment in 2012 almost doubled<sup>8</sup> compared to the previous year, reflecting the ongoing roll-out of next generation fixed and mobile networks (see Figure 8).
- 31 On the mobile side, ComReg's Multi-Band Spectrum Auction<sup>9</sup> awarded spectrum rights in 800MHz, 900MHz and 1800MHz in 2012 and mobile operators are now using these spectrum rights of use to improve the quality of existing 3G networks as well as rolling out LTE (Long Term Evolution) networks. Two operators commercially launched LTE Services in the second half of 2013 while a third operator launched LTE services in January 2014.



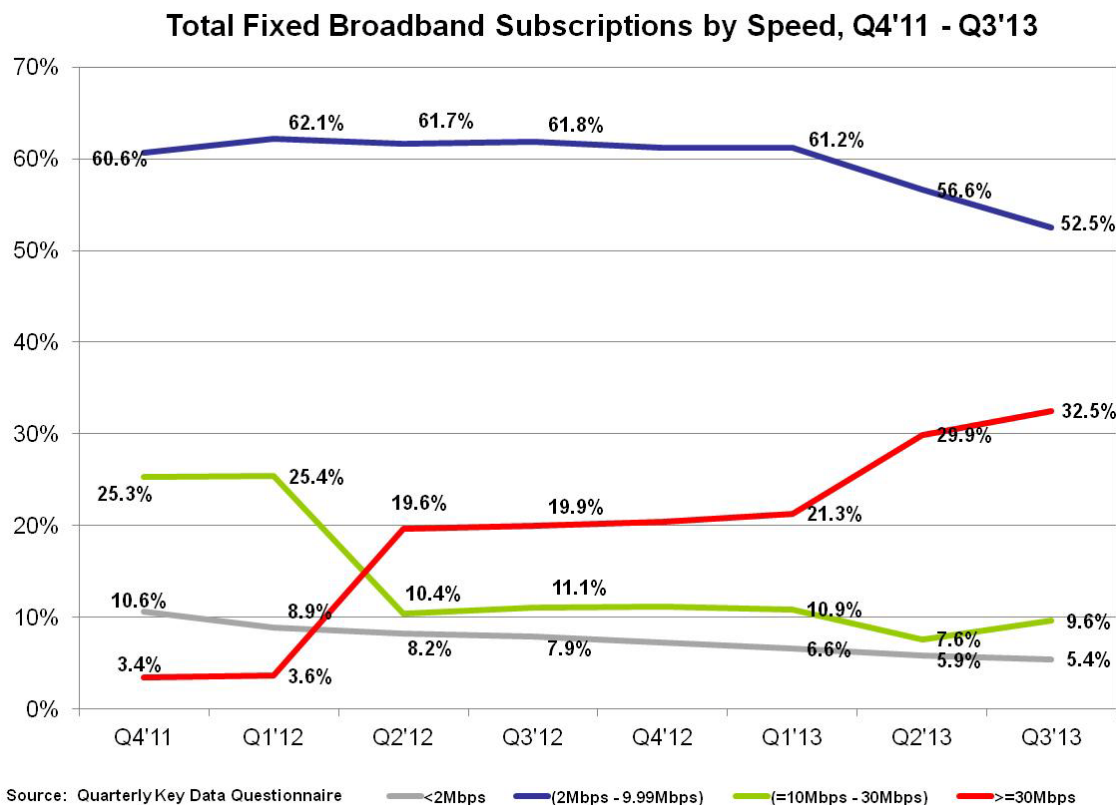
**Figure 8: Increasing telecoms investments 2010 - 2012**

- 32 Significant upgrades have also taken place in fixed networks in Ireland. By the end of 2013 over 90% of UPC's network, which passes almost 750,000 households, was provided using DOCSIS 3.0 technology, enabling it to offer broadband speeds in excess of 100Mbps. Eircom launched its retail VDSL offer ('eFibre') in May 2013, with 650,000 homes passed at the end of December 2013. A number of retail broadband service providers also offer VDSL-FTTC based fixed broadband access using Eircom's wholesale network.

<sup>8</sup> This increase includes the upfront spectrum access fees that the mobile operators paid to ComReg.

<sup>9</sup> [ComReg's Multi-Band Spectrum Award](#)

33 In 2013 ComReg’s NGA decisions<sup>10</sup> created the framework, based on fair competition, transparency and certainty, to drive accelerated investment by operators in next generation broadband. The roll-out of next generation networks over 2012-2013 resulted in a significant increase in broadband speeds offered, with over 40% of broadband subscribers in Ireland now accessing speeds in excess of 10 Mbps (see Figure 9).



**Figure 9: Fixed Broadband Subscriptions between Q4 2011 and Q3 2013.**

***Growth in data usage drives the need for next generation broadband***

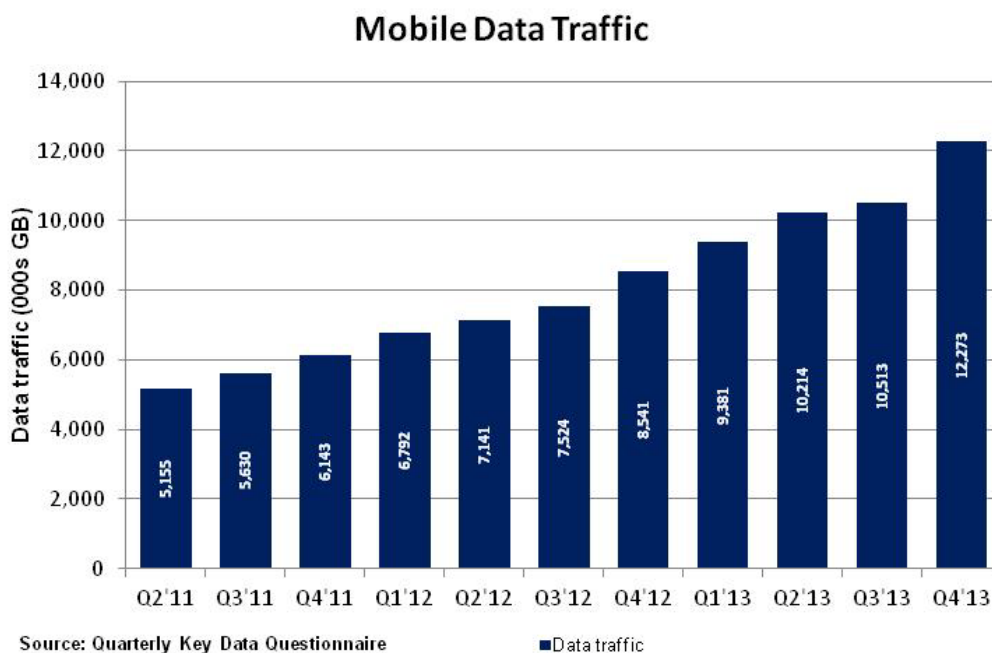
34 Changes in consumer preferences, combined with the increasing proliferation of Over-The-Top (OTT) video services delivered over a range of platforms indicate that data demand continues to be the key driver for next generation fixed and mobile broadband.

35 To keep pace with consumer demand for mobile data, new technological solutions based on radio spectrum are continually being developed worldwide. In Ireland, the use of radio spectrum for communications continues to grow. This is most obviously manifested in the growth in usage of cellular networks (See Figure 10).

<sup>10</sup> [ComReg 13/11 \(Decision D03/13\) - Next Generation Access \('NGA'\): Remedies for Next Generation Access Markets](#)



- 36 It is also reflected in the number of active spectrum licenses issued, which had exceeded 16,000 by January 2014.



**Figure 10: Growth in use of mobile data**

## ComReg has to deliver its mandate within resource limitations

- 37 ComReg is one of the smallest National Regulatory Authorities for the communications sector in Europe. It is jointly the smallest NRA amongst member states of comparable population (between 2.5 million and 10 million). (Precise like-for-like comparisons are impossible because different NRAs have different mandates. However ComReg's mandate, which includes electronic communications services, premium rate services, spectrum management and postal regulation, is fairly typical.)
- 38 Since 2010, ComReg's headcount has reduced by almost 20%. ComReg remains subject to the public sector recruitment moratorium.
- 39 Notwithstanding resource constraints, ComReg has delivered many significant achievements that have created suitable conditions for substantial improvements in the operation of electronic communications markets, for the benefit of consumers. These include:
- Decisions on wholesale regulation of NGA and on bundle pricing, that have facilitated Eircom's investment in high-speed Internet access;
  - Successful auctioning of spectrum that has enabled mobile operators to commence rolling out 4G services;

- Continued wholesale regulation of current generation services, enabling the emergence of new entrants such as Sky, along with the continued development of fixed-line competitors such as Vodafone;
- Improvements to the regulatory regime for consumers of Electronic Communications and Premium Rate Services and the upholding of consumer rights through ComReg consumer care and compliance and enforcement;
- Introduced regulation of terrestrial broadcast transmission services.

40 However ComReg has had to prioritise its work programme in the light of the resources available. This has meant that some work items cannot be undertaken as quickly as some stakeholders would wish. For instance, we have had to prioritise some market analyses over others. In addition our short-term plans are often affected by unforeseen events, which require resource to be taken from planned activities and this means we often have to reschedule planned work.

## **3.2 The environment within which ComReg regulates is changing**

41 The electronic communications sector is changing rapidly. Drivers of change include developments in technology, user behaviour, government and EU policy and the macroeconomic environment. Changes to the sector create opportunities for improved delivery of ComReg's high-level goals; but they also create threats that could result in harm to consumer welfare, competition, investment or innovation.

42 In this section, we assess the sector trends and the challenges they pose for ComReg in sustaining and improving the delivery of our high-level goals.

43 The main trends we see are:

- Continued growth in use of IP-based services, with consumers increasingly demanding higher-speed data services – both fixed and mobile;
- Consumers increasingly purchasing bundles of products, rather than traditional stand-alone products;
- An expected increase in commercial investment in next generation access networks and 4G, focused mainly in urban and suburban urban areas with likely investment in down to the level of relatively small towns;
- A longer-term narrowing of the gap between rural and urban areas, due to the Government's National Broadband Plan;

- One or more market entry or exit could significantly alter competitive conditions.

### **IP-based services will drive increased demand for higher-speed services**

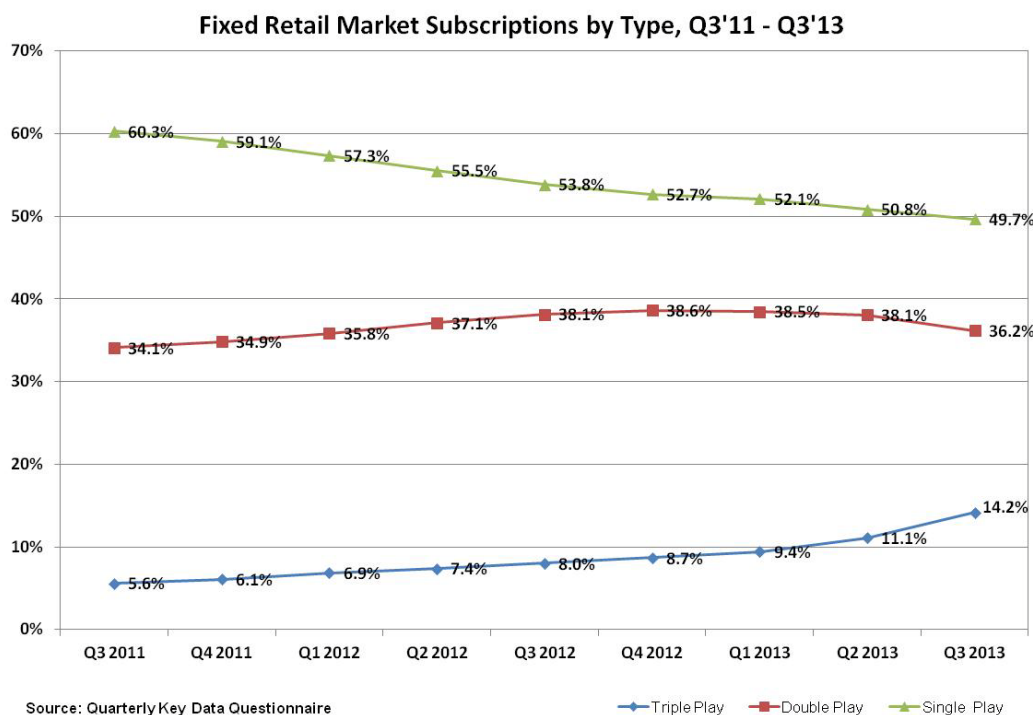
- 44 Over the past year, there has been substantial growth in average busy-hour data usage by broadband users. This seems to reflect greater use of streaming video for on-demand and catch-up services.
- 45 The capabilities of mobile devices are growing and consumers are using them in different ways. Smartphone adoption increased by 11.0% to around 2.6 million in the year to Q3 2013. This growing penetration, coupled with consumer demand for low cost voice and data services, is also driving usage of over-the-top (OTT) services (e.g. Skype, WhatsApp) in Ireland. Further evidence may be inferred from the declining SMS/MMS volumes and increasing mobile data consumption in recent years. Moreover, Analysys Mason, amongst others, suggest that IP-based messaging will be the prevailing messaging method in the years ahead<sup>11</sup>.

### **Consumers will increasingly purchase bundles of products**

- 46 Consumer preference for buying multiple communications services from a single provider has intensified in the last two years, with bundles accounting for more than 50% of all fixed subscriptions in Q3 2013. Demand for triple-play products has increased, contrasting with a decrease in single-play and double-play product adoption (see Figure 11). Several operators now offer triple play packages, and the first quadruple-play package was launched by Eircom in October 2013. We expect this trend to continue.

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<sup>11</sup> [Analysys Mason OTT Communication Services Worldwide: Forecasts 2013 – 2018](#)



**Figure 11: Increasing adoption of triple-play products in Ireland 2011 - 2013**

- 47 The increase in bundling poses a challenge for ComReg. Different competitive conditions exist in each of the markets for the individual services that comprise these bundles – such as fixed voice, mobile, Internet and TV. ComReg’s challenge is thus to ensure fair and vibrant competition in a marketplace where bundles and stand-alone products must compete side-by-side.
- 48 ComReg published a decision on the price regulation of bundles in February 2013<sup>12</sup>. ComReg’s intervention, with regard to bundles, is to facilitate the development of effective competition and to militate against the risk of the SMP operator leveraging its dominance from one market into another.

### **We expect increased commercial investment in next generation access networks and 4G, focused mainly in urban areas**

- 49 The current programme of investment in next generation access networks is set to continue. Eircom has announced that it intends to extend coverage of its next generation access network from 650,000 premises at the end of Q4 2013 to 1.4 million by 2016<sup>13</sup>.

<sup>12</sup> [ComReg 13/14 - Price Regulation of Bundled Offers Further specification of certain price control obligations in Market 1 and Market 4](#)

<sup>13</sup> [Eircom Wholesale News “NGA Fibre Rollout extended to 1.4 million premises”](#)

- 50 The Liberalised Use licences issued following ComReg's multi-band spectrum auction in 2012 require the licensees to provide coverage of 70% of the population by end January 2016.

### **The Government's National Broadband Plan should narrow the gap between rural and urban areas**

- 51 The Government's 2012 National Broadband Plan (NBP)<sup>14</sup> aims to deliver broadband download speeds of 70Mbps to 50% of the population by 2015, with a minimum of 40Mbps generally available and 30Mbps available in harder to reach rural areas.
- 52 The detail of how the NBP is to be implemented has not yet been announced. ComReg will closely monitor the development and implementation of the NBP as it is likely to have implications as to how ComReg pursues its high-level goals.

### **Market entry or exit could significantly alter competitive conditions**

- 53 ESB has announced its desire to enter the local access market by building an FTTH network in Ireland using the existing electricity distribution network.
- 54 In October 2013, the European Commission was notified of the proposed acquisition of Telefónica Ireland Limited by Hutchison 3G UK Holdings Limited<sup>15</sup>. The merger review is the responsibility of the European Commission, with a decision expected before summer 2014.

## **3.3 Sector trends create challenges for ComReg**

- 55 Where ComReg's high-level goals for the electronic communications sector are currently being adequately met, the challenge is to sustain this performance in the light of sector trends. Where our high-level goals are not being served, the challenge is to find opportunities for improvement. This section sets out the key challenges – both threats and opportunities - that our strategy is designed to address.

### **Protect and empower consumers**

- 56 The key challenges to our high-level goal of protecting and empowering consumers are:

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<sup>14</sup> [DCENR report "A National Broadband Plan for Ireland"](#)

<sup>15</sup> [European Commission Press Release](#) 6 November 2013

- Keeping basic service (including universal service) obligations up to date as technology changes;
- Reducing instances where consumers' rights are not addressed by their service provider;
- Enabling consumers to make informed choices when products and offers are becoming more complicated.

57 ComReg imposes and enforces a range of basic service obligations on authorised operators. For instance, operators must provide access to emergency services and must make provisions for users with disabilities. At present, these obligations seem broadly appropriate. But as technology changes, the nature of these obligations may also need to change. For example, technology may become available that enables better information to be made available to the emergency services when a call is made to 999 or 112. ***A key challenge for ComReg, therefore, is keeping basic service (including universal service) obligations up to date as technology changes.***

58 ComReg's complaints statistics indicate a growing number of incidents where consumers have found it necessary to complain to ComReg in order for their complaints to be addressed. This is not a desirable trend. ***A key challenge for ComReg, therefore, is reducing instances where consumers' rights are not addressed by their service provider.***

59 There is an increasing trend for consumers to buy bundles of products that include more sophisticated elements, such as high-speed broadband, mobile data, voice and TV provided over IP platforms and so forth. There are a range of attributes of these services, such as speed, coverage, and fair usage policies. Different consumers will value these attributes in different ways. They may find it difficult to assess what attributes a particular offer has, and what difference it will make given their own patterns of usage. Markets operate best – and consumers' interests are served best – if consumers have adequate information and the ability to assess it. ***A key challenge for ComReg, therefore, is enabling consumers to make informed choices when products and offers are becoming more complicated.***

### **Promote sustainable competition**

60 The key challenges to our high-level goal of promoting sustainable competition are:

- Maintaining the trend of increasing retail competition;
- Enabling infrastructure-based competition using different generations of technology;

- Maximising consumer benefits from infrastructure competition in more densely populated areas, and protecting the interests of consumers in areas where competition is not established.

61 There is a trend of increasing competition in retail markets. However, there are some threats to this. For example, ComReg has found the existence of significant market power in a number of wholesale markets and has identified that this could lead to a restriction of competition in downstream retail markets. ComReg has imposed remedies to mitigate these risks. As changes in technology and consumer behaviour change the nature of the downstream retail markets, this could have an impact on the effectiveness of existing wholesale regulation. Another threat to retail competition comes from potential marketplace consolidation. ***A key challenge for ComReg, therefore, is maintaining the trend of increasing retail competition in the light of these trends.***

62 Infrastructure-based competition has been growing but is still more limited than at the retail level. The transition from one generation of technology to another creates opportunities for additional infrastructure investment, but it could also threaten competition that is based on the current generation of technology. ComReg wishes to enable infrastructure-based competition, but also takes a technology-neutral stance. ***A key challenge for ComReg, therefore, is enabling infrastructure-based competition using different generations of technology.***

63 There is more intense competition in densely-populated areas than in rural areas. This is particularly the case at deeper levels of infrastructure investment. ComReg wishes to promote competition in all parts of the market, but recognises that some consumers will not benefit from as great a degree of competition – and their interests may need additional protection. ***A key challenge for ComReg, therefore, is maximising consumer benefits from infrastructure competition in more densely populated areas, and protecting the interests of consumers in areas where competition is not established.***

### **Facilitate innovation, investment and the internal market**

64 The key challenges to our high-level goal of facilitating innovation, investment and the internal market are:

- Enabling continued investment in high-speed broadband;
- Making spectrum available to meet the various needs of society.

65 Demand for fixed and wireless broadband is growing, along with the speeds required to support the applications that businesses and consumers are using. Commercial investment in high-speed networks has accelerated and ComReg's goals will be served if this continues. ***A key challenge for ComReg, therefore, is enabling continued investment in high-speed broadband.***

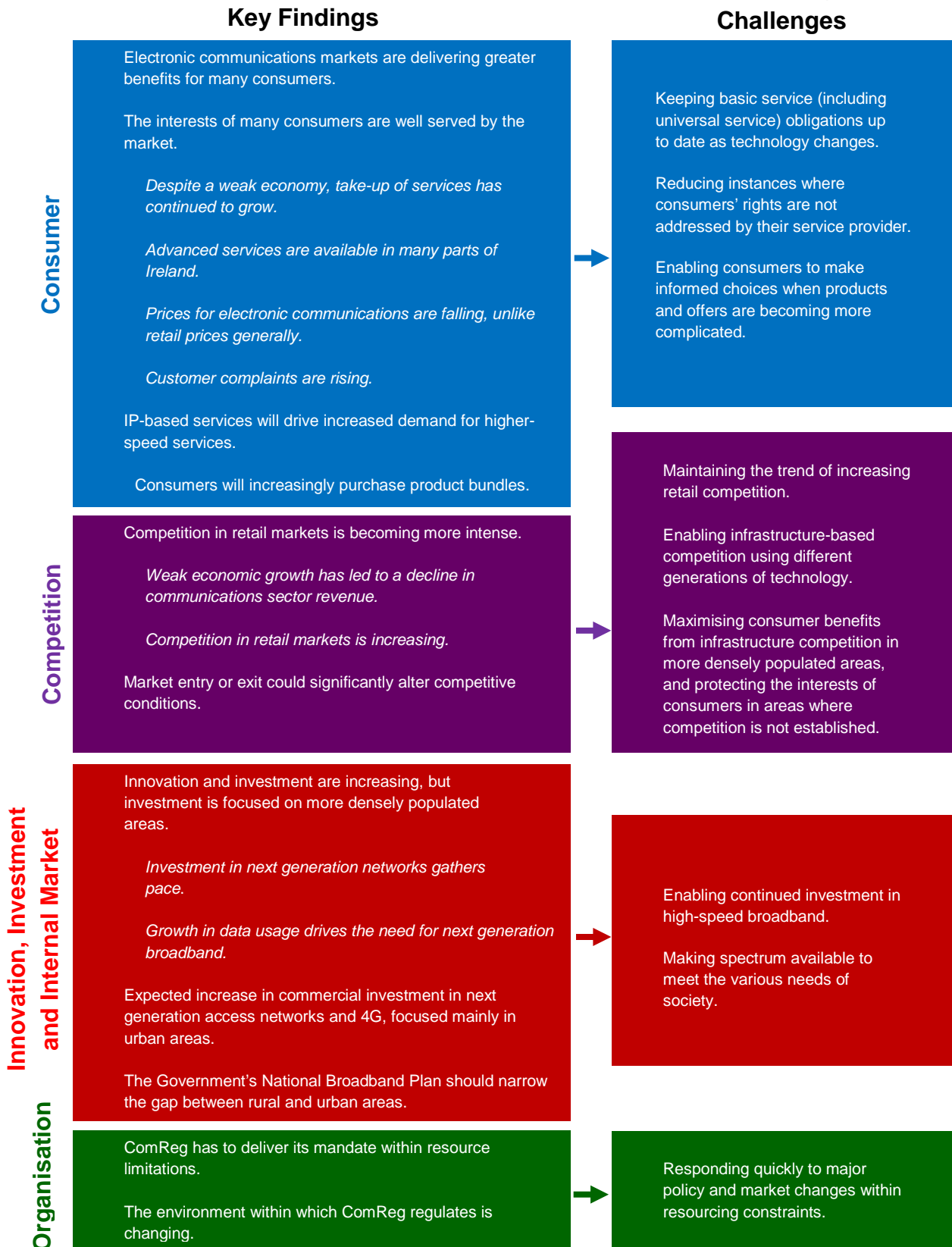
- 66 Similarly demand for mobile data is growing, along with the speeds required for this. Investment in the next generation of mobile services is underway. There are also many other potential uses for radio spectrum that need to be met. ***A key challenge for ComReg, therefore, is making spectrum available to meet the various needs of society.***

### **Be an Effective and Agile organisation**

- 67 The electronic communications sector is continuously changing and ComReg needs to be well informed and positioned to deal with market and policy developments in a timely and effective manner. ***A key challenge for ComReg, therefore, is responding quickly to major policy and market changes within resourcing constraints.***



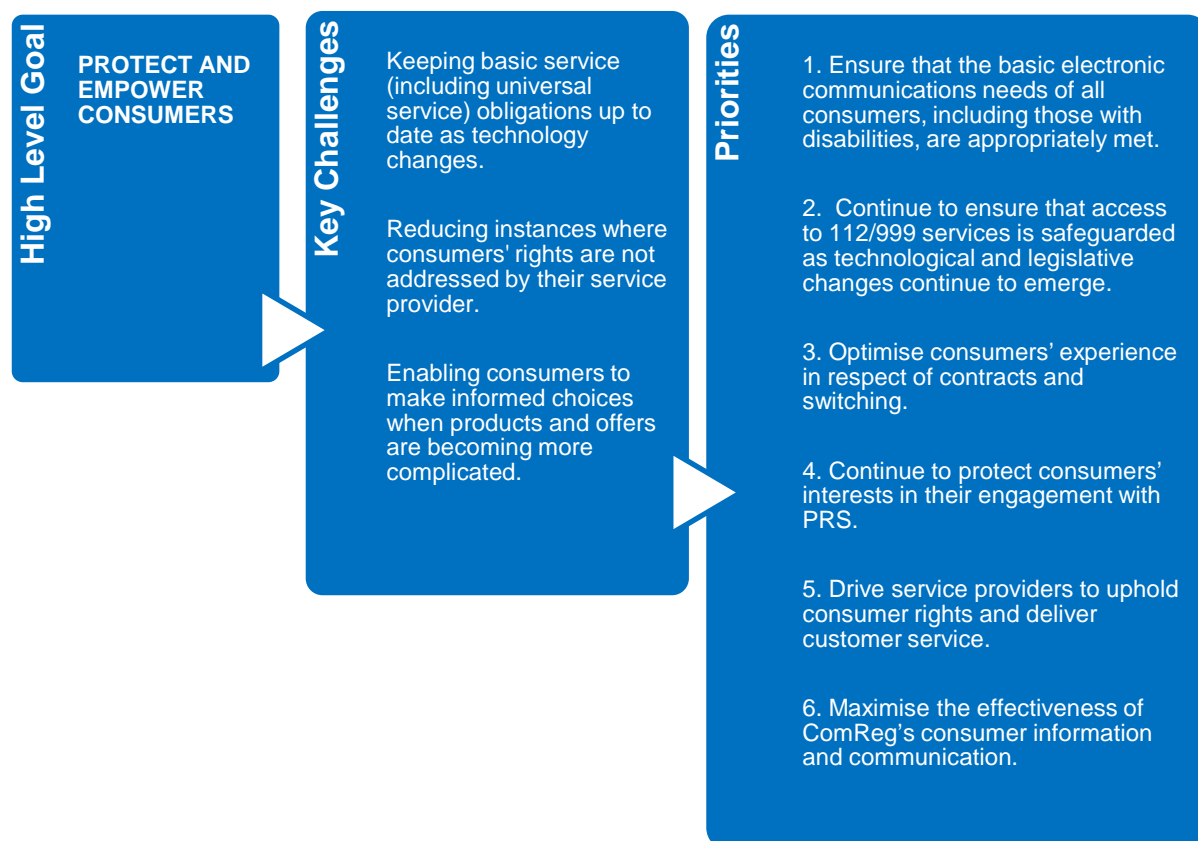
68 Figure 12 presents ComReg’s key findings with regard to the current trends in the electronic communications sector in Ireland and the related challenges that arise.



**Figure 12: ComReg’s Key Findings and Challenges**

## 4 Protect and Empower Consumers

69 ComReg has identified its High-Level Goal, Key Challenges and Priorities for the coming period in the consumer area and these are shown in Figure 13.



**Figure 13: ComReg's High Level Goal, Key Challenges and Priorities in the Consumer area**

### 4.1 Ensure that the basic electronic communications needs of all consumers, including those with disabilities, are appropriately met

70 The Universal Service Obligation (USO), in brief, ensures that basic fixed line telephone services are available to end users at an affordable price.<sup>16</sup>

<sup>16</sup> The scope of the universal service is defined by the Directive 2002/22/EC of the European Parliament, as amended by Directive 2009/136/EC ("the Amending Directive"). The Amending Directive was transposed into Irish Law on 1 July 2011 by the European Communities (Electronic

- 71 On 29 June 2012, Eircom was re-designated as the Universal Service Provider (USP) for a period of two years.<sup>17</sup> Eircom's current term as USP lasts until 30 June 2014. As USP, Eircom must comply with the following obligations.
- Provision of access at a fixed location;
  - Printed subscriber directories;
  - Public pay telephones;
  - Specific measures for users with disabilities;
  - Geographically averaged pricing;
  - Measures for controlling expenditure.
- 72 The USO should ensure that every person in the State, irrespective of location, social standing or income, can access basic telecommunications services, thus bringing benefits to those with low incomes who have difficulty in affording a telephone service, consumers with disabilities who need particular services or facilities, and those in rural locations for whom the cost of gaining access to service might otherwise be unreasonable.
- 73 In light of technological changes and market developments ComReg will ensure that the services provided as part of the USO appropriately align with consumers' changing needs. To achieve this, ComReg has already begun to consult on the elements of the USO so as to assist it with developing its policy for universal service for 2014-2016 and beyond.
- 74 ComReg will continue its work on Universal Service Funding including the assessment of applications for funding it receives from the USP and the establishment of the principles for a universal service fund sharing mechanism as required.

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Communications Networks and Services) (Universal Service and User's Rights) Regulations 2011 – S.I. No.337 of 2011, ("the Regulations").

<sup>17</sup> ComReg 12/71 (D07/12) - The provision of telephony services under Universal Service Obligations, Response to Consultation, Decision and Decision Instrument

- 75 ComReg's Forum on Electronic Communications Services for People with Disabilities ("The Disability Forum") was established in furtherance of ComReg's statutory objectives in particular to promote competition and to promote the interests of users. Chaired by ComReg, the composition of the Disability Forum includes representatives of the disability sector in Ireland including the National Disability Authority (NDA); People with Disabilities in Ireland (PWDI); the Disability Federation of Ireland (DFI); the Not for Profit Business Association; the Irish Mental Health Coalition, and the Federation of Voluntary Bodies, Representatives of the electronic communications sector, both fixed and mobile service providers, and the Department of Communications, Energy and Natural Resources (DCENR).
- 76 The Disability Forum has progressed a number of initiatives on a voluntary basis since its inception. ComReg has also consulted on measures for all undertakings to ensure equivalence in access and choice for people with disabilities and its Decision on this is to be issued shortly.
- 77 ComReg will, through the Disability Forum, regularly monitor issues arising in respect of equivalence of access and choice for people with disabilities so as to ascertain what future measures may be required and it will consult on this as relevant.
- 78 Finally, ComReg is mindful of the existing obligations under universal service including the provision of Text Relay Service and it intends to review this aspect as the next item under this work stream so as to ensure that the requirements of disabled end-users are appropriately met.

## **4.2 Continue to ensure that access to 112/999 services is safeguarded as technological and legislative changes continue to emerge**

- 79 Pursuant to the Communications Act, ComReg has two principal responsibilities in relation to the Emergency Call Answering Service (ECAS). These are (i) carrying out an annual review of the Call Answering Fee (CHF) which is the cost borne by service suppliers whenever a subscriber makes a call to the ECAS; and (ii) monitoring the quality of the service provided by the ECAS supplier (currently BT Ireland). In addition, the Universal Service Regulations contain provisions intended to ensure access to the ECAS for all citizens; and requiring ComReg, in consultation with the Minister, to promote awareness of the European emergency call number '112' and lay down criteria related to caller location information provided by service suppliers.

- 80 In addition, ComReg in accordance with Section 10 of the Act must ensure compliance by service providers with their obligations and as such issues with respect to access to emergency services are of the highest priority.
- 81 ComReg must ensure access to 112/999 regardless of whatever technological changes take place. Citizens must be able to contact the emergency services via electronic communications speedily.
- 82 Technical developments have created the potential for delivering significantly improved precision and detail of information to the Emergency Services from callers to 112/999. In particular, the possibility exists for automatically derived location information to be significantly enhanced.
- 83 This potential, coupled with a greater understanding of the importance of timely arrival at emergency events, is driving an EU-wide desire to access enhanced location information of citizens. ComReg, in consultation with the DCENR, is empowered to require the implementation of such enhanced location information.
- 84 Unlike 999, the emergency access code 112 operates in all European countries as well as being free of charge. Because of its pan-European nature, it is important that change in this area is implemented using a harmonised approach and so a number of European initiatives have commenced under the auspices of CEPT/ECC, BEREC and the European Commission. Enhanced location information is already available in the United States, while a number of EU countries are implementing or contemplating the implementation of such improvements. The challenge for ComReg and its stakeholders is to combine maximum efficiency and timely introduction in Ireland of this enhanced information with conformity to international standards.
- 85 ComReg will engage with all relevant stakeholders, including Government and state bodies, interested NGOs, the Emergency Services, undertakings, citizens and their representatives. ComReg and other stakeholders must be certain that any enhanced information being delivered is up to standard, while undertakings should have clarity about the regulatory requirements that apply.
- 86 The desired outcome is that accurate caller location information which meets appropriate standards is provided to ECAS on all calls by all providers, thereby maximising citizen well being. However, such information must be reliable and accurate, in line with relevant technical capabilities and international standards, that take due account of the applicable economic circumstances.

### 4.3 Optimise consumers' experience in respect of contracts and switching

- 87 Monitoring and analysis of issues raised with ComReg's Consumer Line indicate that the current switching experience of consumers is not at the expected level. Through these consumer experiences, ComReg has observed instances of arduous termination procedures being demanded along with associated high charges; contracts being renewed automatically; breaks occurring in service during switching; and other unforeseen and unexpected difficulties. Through consumer queries and complaints, ComReg has identified that consumers are not always fully aware of their rights in this area, in some cases due to unclear contracts or non-transparent terms in contracts, and in some cases relevant consumer rights are not being adequately observed by service providers. ComReg notes that the top five categories of issues raised with it include disputed charges, contract cancellation penalties, disputed contract terms and conditions, switching and number portability.
- 88 Mindful of the intent of the Citizens' Rights Directive (2009)<sup>18</sup> and of the consumer benefits that should arise from effective competition, ComReg will seek to ensure that ECS providers comply with their obligations in this area. More specifically, ComReg will endeavour to ensure that inter-operator porting and switching processes are as user friendly as possible and do not discourage competition.
- 89 ComReg will seek to ensure that obligations and requirements in respect of consumers' rights, contained in the Universal Service Regulations (2011)<sup>19</sup>, are properly complied with by undertakings. In particular, the Universal Service Regulations require undertakings to provide transparent contracts and to ensure consumers are not disincentivised from exercising their right to switch provider, when they judge that it is in their interest to switch.
- 90 ComReg's enforcement powers in relation to consumer contracts will be strengthened when the Consumer Rights Directive<sup>20</sup>, as transposed by S.I. 484 of 2013 takes effect in June 2014<sup>21</sup>. It will be ComReg's intention to use the powers provided for by the new regulations to improve consumers' experience of contracts and switching. In addition to ensuring improved switching, based on appropriate enforcement and policy development, ComReg will drive improved accessibility and transparency of end-user contracts.

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<sup>18</sup> [Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009](#)

<sup>19</sup> [S.I. No. 337/2011 - European Communities \(Electronic Communications Networks and Services\) \(Universal Service and Users' Rights\) Regulations 2011.](#)

<sup>20</sup> [Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011](#)

<sup>21</sup> [S.I. No. 484/2013 - European Union \(Consumer Information, Cancellation and Other Rights\) Regulations 2013](#)

- 91 ComReg will also continue to facilitate consumers' ability to compare prices and other service features of available offers (usage restrictions, contract terms etc.) while assisting consumers to obtain all necessary information regarding broadband speeds. ComReg will continue to enhance its own services in support of this.
- 92 ComReg will continue to ensure that inter-operator porting and switching processes are as user friendly as possible and do not discourage competition. ComReg plans to engage with industry in order to facilitate discussion on the future development of porting services in the context of the likely emergence of new and innovative services.
- 93 ComReg's intention is to ensure that consumers are provided, as standard, with optimally transparent and accessible contracts that maximise consumer welfare across all ECS providers and which are supported by switching terms, processes and behaviours that enable consumers to switch easily when they wish to do so.
- 94 ComReg will continue its initiatives to ensure that service providers continue to provide transparent information regarding the services which they offer, in order that consumers are fully informed of any legitimate limitations placed by service providers on their services ("net neutrality"). In addition, ComReg will continue to progress its consumer information initiative in respect of broadband speeds.

#### **4.4 Continue to protect consumers' interests in their engagement with PRS**

- 95 Premium Rate Services (PRS) are, typically, goods and services that a consumer can buy with the cost charged to its fixed line or mobile telephone account, whether pre-paid or bill-paid. At present most PRS are provided via premium rate telephone numbers (starting with the prefix 15XX) and shortcodes (in the form 5XXXX) but technological developments have now led to some PRS being charged to consumer mobile phone accounts without recourse to premium rate shortcodes. PRS usually offer information and entertainment services, some examples of which are digital content such as games and videos that run on mobile handsets, television quiz services, chat-line services, customised ringtones, sports alerts, weather alerts, television voting and competitions.
- 96 In July 2010 the government introduced the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act, ('the 2010 Act'), which placed the regulation of PRS on a statutory footing. Under the 2010 Act, ComReg was charged with regulating the PRS sector and introducing a new statutory Code of Practice ('Code') as soon as practicable.

97 At the time the 2010 Act commenced the overwhelming majority of complaints about PRS were from consumers who denied they had signed up to subscription PRS<sup>22</sup> for which they were being charged. As a result, and at the conclusion of a lengthy consultative process, ComReg introduced a new Code in July 2012, which requires end users of PRS to reconfirm their intention to subscribe to any PRS for which a recurring charge applies; this requirement is referred to as a “double opt-in”.

98 The PRS sector currently faces a number of changes and challenges, as follows:

- Persistently high levels of consumer contacts;
- The enactment of new consumer-related legislation;
- Technological developments and the proliferation of smartphones, which provide increased opportunities for end users to engage, sometimes unknowingly, with PRS; and
- Evolution in the nature of PRS.

99 It is clear from ComReg’s consumer statistics<sup>23</sup> that the number of consumers raising PRS-related issues has not significantly reduced since the introduction of the new Code. Considering the relatively limited size of the PRS market compared to the wider telecoms market, this number of complaints, circa 10%, remains disproportionately high and raises serious questions about the level of access to, and the quality of customer care provided by PRS undertakings. Currently the PRS that are raising consumer issues are predominantly those involving a relatively high once-off cost. As these are not subscription PRS, the “double opt-in” requirements introduced by ComReg, in the Code, do not apply.

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<sup>22</sup> A subscription PRS is one in which a recurring cost applies, where consumers are, typically, charged on a weekly basis until they take steps to terminate the contract.

<sup>23</sup> Consumer statistics are published on a quarterly basis on ComReg’s consumer-related website [www.askcomreg.ie](http://www.askcomreg.ie) and are available [here](#)



100 In 2011 the EU Commission introduced the Consumer Rights Directive<sup>24</sup>. This Directive, which was transposed into Irish law in December 2013<sup>25</sup>, will come into force in June 2014. It introduces new requirements governing distance contracts, aimed at protecting consumers whose service contracts have been negotiated away from business premises. ComReg has been given enforcement powers under the new Regulations. Many of the provisions have relevance for the PRS industry and ComReg will endeavour to ensure that the additional consumer protections provided under the new Regulations are afforded to PRS consumers, in particular with respect to the current issues that are being raised by consumers, as noted above.

101 The proliferation of smartphones and tablets means that consumers now have the ability to browse the Internet on their mobile devices and so PRS that were previously promoted and accessible solely through a desktop/laptop computer are now in much wider use. PRS providers also now have the ability to “push” advertisements for their services directly to consumer’s mobile devices through the use of free banner/pop-up ads that appear in games and “apps” that consumers have previously downloaded.

102 Technological developments and evolution in the PRS industry also allows consumers to charge the costs of goods and services, such as “apps”, to their phone account rather than against a credit/debit card. These developments mean that PRS regulation spans elements of consumer law, which is under the remit of the National Consumer Agency (NCA), and potentially falls under financial regulation as well as telecoms regulation. This means ComReg must engage with other regulatory bodies both within and outside the State in order to ensure maximum protection for the interests of PRS end users.

103 In view of the many challenges outlined above, ComReg will keep the scope of PRS regulation constantly under review.

104 To address the ongoing and emerging issues in the PRS market, ComReg will therefore:

- Continue to monitor the number and nature of consumer complaints and, where appropriate, enforce obligations on PRS providers in order to raise compliance levels within the industry;
- Consult on and publish a new Code of Practice to address the evolving nature and scope of PRS;

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<sup>24</sup> [Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011](#)

<sup>25</sup> [S.I. No. 484/2013 - European Union \(Consumer Information, Cancellation and Other Rights\) Regulations 2013](#)

- Establish formal arrangements with the NCA and liaise with other regulatory bodies within and outside the State to ensure the interests of PRS end users remain protected;
- Progress its work on the PRS Levy.

## **4.5 Drive service providers to uphold consumer rights and deliver customer service**

105 ComReg shall continue to ensure that service providers uphold the rights of their customers and deliver acceptable levels of customer service, having regard to ComReg's overall objective to promote the interests of users and such other statutory provisions as may apply, in particular circumstances.

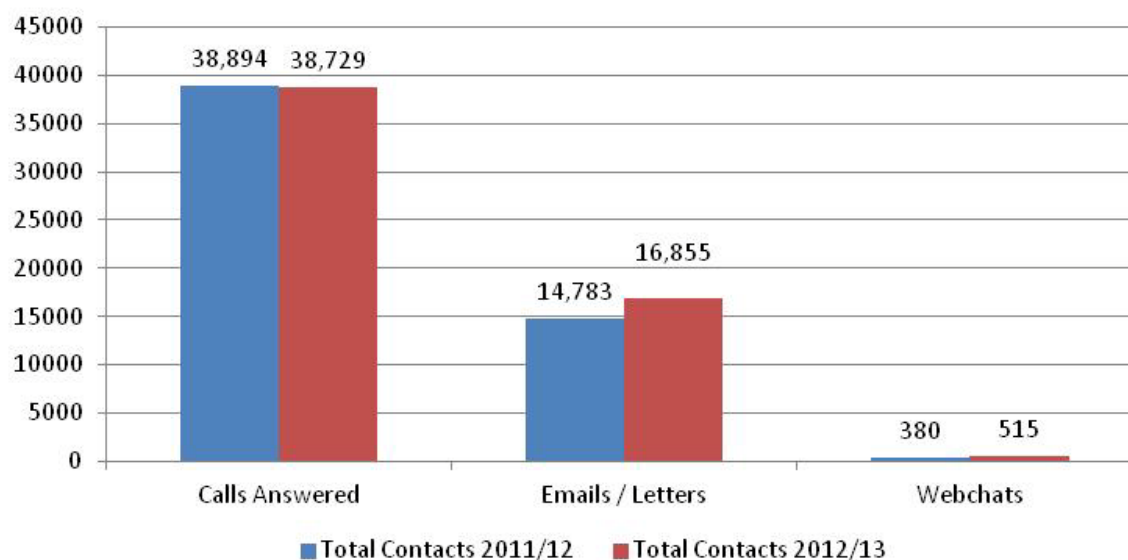
106 ECS providers are required under Regulation 27 (Dispute Resolution) of the Universal Service Regulations<sup>26</sup> to have in place a customer code of practice for handling complaints. If a complaint is not dealt with in a timely fashion or if the consumer is not satisfied with the outcome of that complaint, the consumer may contact ComReg, which can, where appropriate, raise the complaint with the service provider concerned.

107 Complaints provide a useful source of information on consumer issues that arise in both the PRS and ECS industries. ComReg seeks to encourage improved customer service and a better overall consumer experience in the electronic communications sector.

108 The number of consumer contacts to ComReg's consumer care team for the year 2012/2013 (total number 56,099) increased by 3.78% compared with the same period in 2011/2012 (total number 54,057), see Figure 14.

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<sup>26</sup> [S.I. No. 337 of 2011 European Communities \(Electronic Communications Network and Services\) \(Universal Service and Users' Rights\) Regulations 2011](#)



**Figure 14: Consumer contacts to ComReg's customer care team**

109 Consumer statistics confirm this trend, indicating an increase of 24% in consumer complaints raised with service providers for the year 2012/2013 compared with the previous year 2011/2012. ComReg notes that in some cases service providers do not appear to be dealing with customer complaints in an effective or efficient manner and, as a result, it becomes necessary for ComReg to intervene. ComReg considers that in a properly functioning system, its involvement should only be necessary when complaints relate to more complex issues. Furthermore, in cases where ComReg has involved itself, it has been observed that certain service providers have not responded within the 10-day resolution timeframe for handling ComReg complaints.

110 In view of these trends, a key challenge for ComReg during this next strategy period will be to ensure that service providers address their consumers' complaints more effectively in the first instance. ComReg will review this area with a view to establishing new procedures and rules that service providers will be expected to adhere to when dealing with consumer complaints. ComReg will also consider the value of publishing complaint related statistics.

111 ComReg will continue to handle and resolve complaints it receives from customers of service providers in an effective and efficient manner and it will monitor compliance by service providers with their customer related obligations, in particular with respect to contracts, switching, billing, roaming and issues arising in respect of the opt-out register for direct marketing.

### Assuring Network Integrity

- 112 Regulations 23 and 24 of the Framework Regulations<sup>27</sup> place obligations on Operators to manage the integrity and security of their networks and services. ComReg's recent Response to Consultation (Document 14/02)<sup>28</sup> describes the actions that ComReg expects Operators to take in order to ensure compliance with those obligations.
- 113 To date, our activity has been limited to requiring operators to report incidents to ComReg. However, ComReg is examining whether its future strategy should be to place an additional focus on requiring operators to take appropriate measures that ensure the integrity of their networks and services in line with Document 14/02.

## 4.6 Maximise the effectiveness of ComReg's consumer information and communication

- 114 ComReg seeks to empower consumers by providing up to date information, for example in relation to their rights and entitlements, current hot topics/issues and ComReg's role and function. In order to do this effectively ComReg provides assistance and information to consumers who contact us through a variety of different channels - consumers can contact ComReg by telephone, e mail, on-line complaints form, webchat, SMS or by post.
- 115 ComReg also provides information to consumers through its consumer guides and websites.
- [www.askcomreg.ie](http://www.askcomreg.ie) provides general information to consumers on electronic communications services and network providers and associated consumer rights.
  - [www.callcosts.ie](http://www.callcosts.ie) allows consumers to compare information in respect of electronic communications services offers available not just in terms of price but also in respect of other aspects including customer service hours, termination charges etc.
  - [www.phonesmart.ie](http://www.phonesmart.ie) provides information for consumers and industry in respect of Premium Rate Services.
- 116 ComReg intends to undertake a full review of these websites in order to ensure that the information that is available to consumers is up to date and easily accessible.

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<sup>27</sup> [S.I. No. 333/2011 - European Communities \(Electronic Communications Networks and Services\) \(Framework\) Regulations 2011](#)

<sup>28</sup> [ComReg 14/02 - Reporting & Guidance on Incident Reporting & Minimum Security Standards.](#)

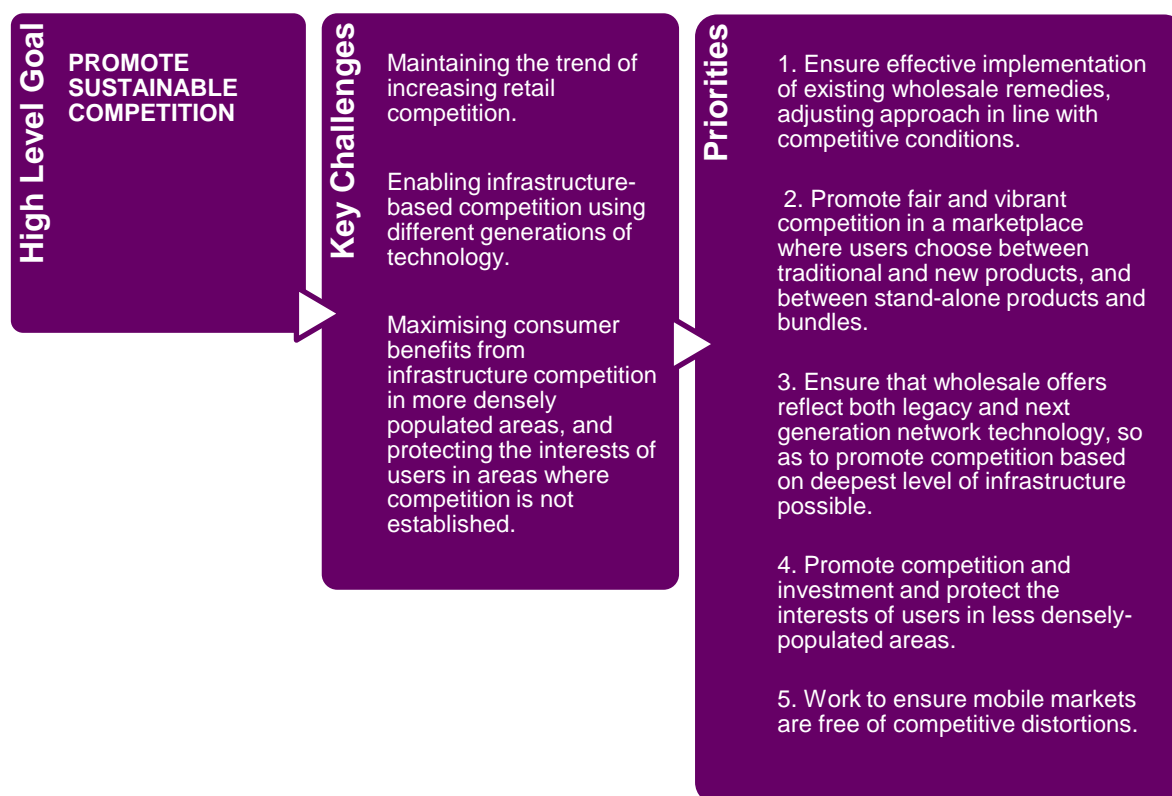
117 In this respect, ComReg aims to assist consumers in getting the information they need, when they need it.

118 In addition, ComReg aims to ensure that consumers can use its consumer website to interact with ComReg in respect of complaints it may have with its service provider.

119 ComReg will also review its other information channels including its consumer guides and outreach programme to ensure that they are appropriately meeting the needs of consumers and supporting ComReg to provide information to consumers in the most effective ways.

## 5 Promote Sustainable Competition

120ComReg has identified its High-Level Goal, Key Challenges and Priorities for the coming period in the competition area and these are shown in Figure 15.



**Figure 15: ComReg's High Level Goal, Key Challenges and Priorities in the Competition area.**

### 5.1 Ensure effective implementation of existing wholesale remedies, adjusting approach in line with competitive conditions

121In 2013, ComReg has made a number of decisions related to Eircom's plan to roll out a next generation access network. These decisions relate to wholesale access to the NGA network, and to the pricing of bundles, many of which include high-speed Internet access.

122 These decisions reflected a relatively high degree of uncertainty about the rate of take-up of NGA services and about the likely pattern of usage. For instance, the pricing of wholesale NGA products has been regulated through margin squeeze tests rather than using a cost model, in part because of the difficulty of determining the most efficient way of allocating costs to different services and time periods.

123 During 2014/15, we will commence a market analysis of the markets for Wholesale Physical Network Infrastructure Access and for Wholesale Broadband Access (or the corresponding markets under any new European Commission Recommendation on markets subject to ex ante regulation). This will give an opportunity to review changes to the competitive environment and the appropriateness of continuing or amending the existing remedies. During the review, we will assess whether there is sufficient evidence to form a judgment on the extent to which the current remedies have been effective in enabling competitors to enter the market for NGA services, and in enabling competitors to build their own networks where it is economically efficient for them to do so.

124 In the meantime, ComReg will focus on ensuring that the implementation of the existing remedies is effective, and takes account of changing market conditions. For example, ComReg will need to ensure that:

- There is efficient and effective access to a range of fit-for-purpose wholesale products – including passive products where mandated;
- Wholesale access and product development are provided on a fair, reasonable, transparent and non-discriminatory basis;
- Pricing of wholesale products and bundles remains compliant with the various margin squeeze tests, in the light of actual experience of take-up rates and usage patterns.

125 ComReg will continue to facilitate industry forums so that Eircom and its competitors can resolve issues relating to the implementation of wholesale products. ComReg will also closely monitor compliance with existing obligations, and will take action as appropriate in cases of non-compliance.

126 Apart from the NGA remedies, ComReg has made findings of significant market power and imposed remedies in a number of other markets. We will monitor implementation of these remedies and conduct further work, especially on costing and pricing, as needed. We will also complete market analyses currently underway and commence new market analyses as required by law.

## **5.2 Promote fair and vibrant competition in a marketplace where users choose between traditional and new products, and between stand-alone products and bundles**

127 It is ComReg's aim to promote fair and vibrant competition in the marketplace, facilitating choice by users who may wish to choose between traditional and new products, and/or between stand-alone products and bundles.

128 In discharging ComReg's range of statutory functions, we will pay particular regard to:

- Ensuring that cost allocations between services based on legacy and next-generation infrastructure do not inappropriately favour either generation of services;
- Ensuring that providers of data services are transparent about any restrictions they place on the use of IP-based services such as VoIP or IPTV;
- Ensuring that bundled services are not used to foreclose the possibility of retail or wholesale competition, or to create unreasonable barriers to consumers switching providers.

129 ComReg is conscious that there are geographical areas where Eircom faces network-based competition. It is of benefit to consumers that Eircom's flexibility to compete is not unnecessarily constrained. Our strategy will be to permit pricing flexibility, contingent on there being evidence that other operators have genuine non-discriminatory access to wholesale services, in the same timescales, under the same conditions and by means of the same processes as Eircom Wholesale provides to Eircom's own retail arm.

130 Furthermore, we will consider the implications of VoIP services on the framework for regulation of wholesale and retail voice services.

## **5.3 Ensure that wholesale offers reflect both legacy and next generation network technology, so as to promote competition based on deepest level of infrastructure possible**

131 In Dublin and some other urban areas, there are two physical fixed-line networks with the capability to deliver fixed voice and broadband services. In most of the rest of Ireland, there is just one physical network. While there is a possibility of market entry by new players, or of substitution by wireless networks, neither of



these is currently a significant factor in the marketplace.

132A monopoly or duopoly in the provision of physical infrastructure does not necessarily mean that there has to be a monopoly or duopoly in the markets for downstream services provided over that physical infrastructure. But to avoid this situation, an appropriate suite of wholesale offers must be made available. These services must be priced, so that they do not foreclose investment by competitors at any level in the marketplace; at the same time, they should not enable the providers of physical infrastructure to extract monopoly rents.

133At a time of transition from the current generation of broadband services to high-speed broadband, ComReg will need to apply regulation consistently to NGA and legacy services thereby ensuring predictability for market players while also facilitating consumer choice.

134Because of different technical characteristics of the NGA network, ComReg will need to ensure that the suite of wholesale products based on NGA permits competitors to use as many or as few of the NGA network elements as is economically-efficient and commercially justifiable.

135As competition in the provision of wholesale services becomes established, there will be a case for limiting regulation to upstream markets which are not yet competitive. However ComReg will generally want to see a compelling case that competition is sustainable and effective before scaling back regulation.

## **5.4 Promote competition and investment and protect the interests of users in less densely-populated areas**

136Consumers in the more densely-populated areas of Ireland are benefiting from investment in high-speed networks by Eircom and by UPC, and by the consequent competition amongst the various retailers using those networks.

137ComReg's regulatory approach in these areas has been to rely on competition to drive network investment and to constrain retail prices. Regulation has been aimed at ensuring that the infrastructure duopoly does not lead to a duopoly in the provision of downstream wholesale and retail services.

138In less densely-populated areas, the cost to serve each customer is higher, and so there is not the same commercial incentive for investment in advanced access networks, or in competing networks.

139ComReg has begun to differentiate the way it discharges its statutory functions in different geographic areas, in recognition of the different competitive conditions. In the less densely-populated areas, ComReg will be particularly mindful of:

- The need to protect retail consumers from being overcharged as a result of the physical infrastructure provider extracting monopoly rents;
- The need to provide incentives for economically-efficient investment in modernising and upgrading rural networks.

140 In parallel with ComReg's discharge of its statutory functions, the Department of Communications, Energy and Natural Resources is planning a State-aided intervention that will result in high speed broadband being provided in areas that would not otherwise be addressed by commercial telecoms operators. This investment is likely to significantly improve broadband provision in more rural parts of the country. ComReg will provide technical and economic advice to the Department in this regard in line with our statutory mandate and European Commission guidelines.

141 Although the detail of the Department's plan has not yet been finalised, it is possible that it will have a significant impact in less densely-populated areas. ComReg will need to take this into account when discharging its functions, in order to maximise consumer benefits, competition, investment and innovation in the areas covered by the NBP.

## **5.5 Work to ensure mobile markets are free of competitive distortions**

142 ComReg published its decisions on fixed and mobile termination rates in 2012. The decision on mobile termination rates was quashed in part, and is now the subject of an appeal to the Supreme Court. In addition the High Court has not yet ruled on the entirety of the appeal. ComReg has built a cost model for mobile termination rates and has published a consultation in April 2014<sup>29</sup>. A decision is expected later in 2014.

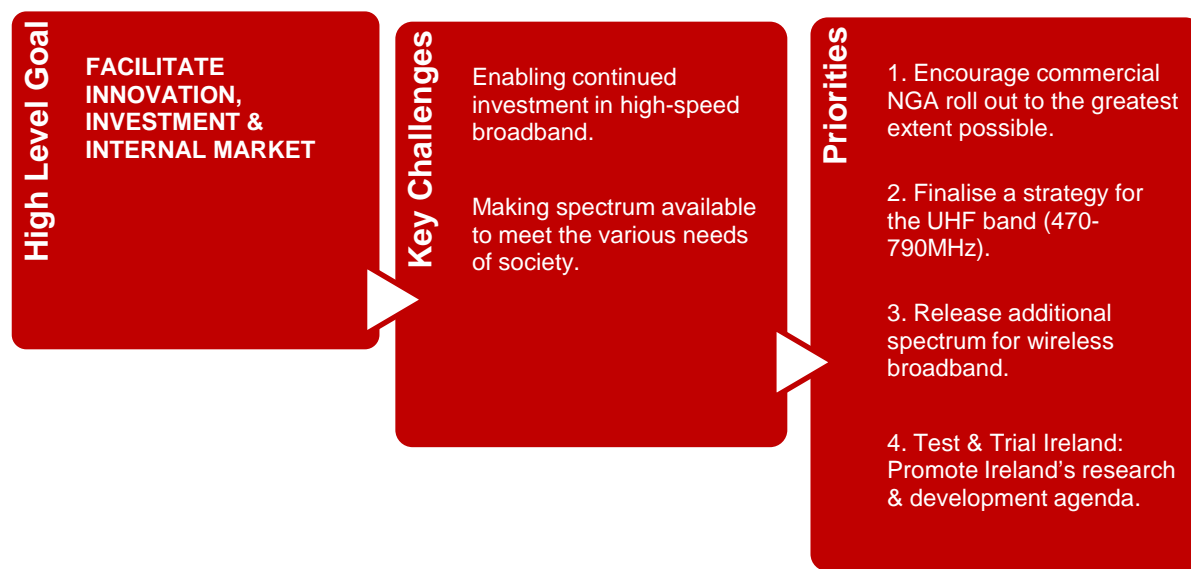
143 With four network operators, Meteor, HG3I, O2 and Vodafone along with a small number of MVNOs operating in Ireland, the mobile market has likely enjoyed greater competition in the period since the last strategy statement. ComReg will monitor market developments and will formulate appropriate responses as deemed necessary.

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<sup>29</sup> [ComReg 14/29 - Mobile Termination Rates: Draft Bottom Up Pure Long Run Incremental Cost Model](#)

## 6 Facilitate Innovation, Investment & the Internal Market

144 ComReg has identified its High-Level Goal, Key Challenges and Priorities for the coming period in the area of innovation, investment and the internal market and these are shown in Figure 16.



**Figure 16: ComReg's High Level Goal, Key Challenges and Priorities in relation to Innovation, Investment and the Internal Market.**

### 6.1 Encourage commercial NGA rollout to the greatest extent possible

145 The NGA and Bundles decisions that ComReg published in 2013<sup>30</sup> have been effective in giving Eircom an incentive to roll out its NGA network. When we conduct the market analysis mentioned in paragraph 123, or when we review the operation of these remedies, we will be mindful of the time needed before there is good evidence about the effectiveness of these remedies. We will also be mindful of the importance of regulatory certainty in encouraging Eircom to complete the roll out of its NGA network where it is commercially justified.

<sup>30</sup> [ComReg 13/11 \(Decision 03/13\) - Next Generation Access \('NGA'\): Remedies for Next Generation Access Markets](#)

146 ComReg will also consider whether it can use its statutory powers to reduce the cost of rolling out NGA networks. When we review the market for wholesale physical network infrastructure, we will be particularly mindful of the harm to consumers and to competition that can result if economic rents are extracted from ownership of legacy physical infrastructure.

147 There are separate legal provisions requiring all providers of electronic communications networks to permit other providers to have access to passive network elements such as ducts and poles. There is also an EU proposal that could result in other infrastructure owners (e.g. electricity, gas, water, and sewage) being obliged to give telecom operators access to their infrastructure under certain circumstances. It is unclear what role ComReg would play in this. We will keep under review the extent to which we can use existing and any new powers to help reduce the cost of deploying high speed electronic communications networks.

## 6.2 Finalise a strategy for the UHF Band (470 – 790 MHz)

148 Traditionally in Ireland, as with other countries in Europe and the rest of the world, the UHF band has been exclusively used by the broadcasting free-to-air service in Ireland, as well as by Programme Making and Special Event (PMSE) type services supporting the broadcasting service. The 2012 International Telecommunication Union (ITU) World Radiocommunication Conference (WRC-12) agreed on an allocation of the 694 -790 MHz to the mobile service (except aeronautical mobile) in ITU Region 1 (of which Europe is in) with immediate effect after WRC-15, alongside broadcasting services. This will be considered by the WRC in 2015, following sharing studies which are being carried out by the (ITU-R) and it represents a significant development for Ireland with regard to wireless broadband, broadcast and other services. Commissioner Kroes established a new advisory group on future use of UHF spectrum for TV & wireless broadband. This advisory group is chaired by Pascal Lamy<sup>31</sup> and will make proposals to EC before July 2014 on how to use the UHF spectrum band most effectively in coming decades<sup>32</sup>.

149 The future use of the UHF band is now a key discussion point at key international fora, such as the EU, European Conference of Postal and Telecommunications Administrations (CEPT) and the ITU. Recently, the Radio Spectrum Committee (RSC) agreed a draft mandate to CEPT to develop harmonised technical conditions for the 694 -790 MHz band ('700 MHz band') in the EU for the provision of wireless broadband and other uses in support of EU spectrum policy objectives (RSCOM12-37).

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<sup>31</sup> Pascal Lamy is honorary President of Notre Europe - Jacques Delors Institute and a former chief of the World Trade Organisation and a former European Commissioner.

<sup>32</sup> [European Commission Press Release 13 January 2014.](#)

150 Necessarily, regulation must also evolve and so, from time-to-time, the rules that allocate spectrum to a certain usage are changed to allow the introduction of additional services. Such progressive developments need to be managed in a balanced fashion as the needs of all users, both existing and potential new users, need to be carefully considered. As outlined in the two paragraphs above, the UHF band has been the subject of a number of recent developments and there are currently significant and extensive preparations and discussions taking place with regard to the future of this key spectrum resource.

151 As a consequence of these developments, ComReg committed to engage nationally and internationally to assess the potential for, and consequences of, reviewing the management and use of the UHF band and participating in fora to inform the development of Ireland's policy in relation to the future use of the UHF band.

152 ComReg has taken the first steps in initiating a debate nationally and brings into focus the timely need for Ireland to consider the important issue of the long term use of the UHF band in Ireland. A preliminary consultation on Management and use of the UHF radio frequency band in Ireland (470 – 790 MHz) has been published by ComReg as document 14/13 in February 2014<sup>33</sup>.

153 ComReg is currently considering all submissions received to its preliminary consultation 14/13. It is ComReg's intention to issue a further consultation paper on the development of a spectrum management strategy for the UHF band for the foreseeable future.

### **6.3 Release additional spectrum for Wireless Broadband**

154 ComReg will initiate a project to consult on the award of spectrum rights of use for radio spectrum suitable for the provision of wireless broadband, both mobile and fixed broadband.

155 The 2.6 GHz band (2500 to 2690 MHz)<sup>34</sup> under consideration with others in this consultation will be key for two reasons. Firstly, following expiry of the Multipoint Microwave Distribution System (MMDS) licences currently operating in the band, 190 MHz will become available there as unassigned spectrum. Secondly, this band is used extensively throughout Europe, broadly as a capacity band for the provision of mobile services and it is an ideal candidate to be released to the market via a competitive award process<sup>35</sup>. In that regard, ComReg stated its intention in 2013 (Document 13/31)<sup>36</sup>, to hold a competitive award process for rights of use to the band.

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<sup>33</sup> [ComReg 14/13 – Management and use of the UHF radio frequency plan in Ireland \(470 – 790 MHz\)](#)

<sup>34</sup> This band is currently licensed in the State for the provision of pay-TV services re-transmitted and distributed using apparatus for Multipoint Microwave Distribution System (MMDS) under S.I. No.

156 ComReg will also explore the potential to release spectrum rights in related bands in conjunction with those in the 2.6 GHz band.

157 A recently released Radio Spectrum Policy Group (RSPG) paper on Wireless Broadband<sup>37</sup> identified a number of bands that are potentially suitable for wireless broadband and that may be harmonised in the near future. Some of these bands (e.g. the 1452-1492 MHz band) are not currently licensed in Ireland, while in other bands existing rights of use are nearing their expiry dates (e.g. the 3400-3800 MHz ('3.5 GHz') band).

158 The following is a non-definitive list of spectrum bands which may be investigated for inclusion in the proposed 2.6 GHz award process:

- 700 MHz
- 2.6 GHz
- 400 MHz WDMDS
- 900 MHz WDMDS
- 1452 – 1492 MHz
- 1900 – 1920 MHz
- 2010 – 2025 MHz
- 3.6 GHz
- 26 GHz National Blocks
- 10.0 GHz
- 2.3 GHz

159 It is envisaged that this spectrum award will further enhance mobile and fixed/mobile broadband communications, as well as contribute to the harmonisation of mobile spectrum allocations throughout Europe. This will benefit consumers through better performance, such as increased download speeds and increases in capacity in otherwise congested areas.

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529/2003 Wireless Telegraphy (Multipoint Microwave Distribution System) Regulations 2003. These 2003 Regulations provided for a potential renewal of the existing MMDS Licences for a period of up to 5 years following their expiry, on 18 April 2014.

<sup>35</sup> ComReg stated its intention, in Document [13/31](#), to hold a competitive award process for rights of use to the band, in particular, "ComReg will undertake a competitive award process for the 2.6 GHz band, so that when the existing MMDS licences expire new rights of use can issue on a service and technology neutral basis (by means of new licences)".

<sup>36</sup> [ComReg 13/31 - Renewal of the MMDS licences in force at 18 April 2014 in the 2.6 GHz band from 19 April 2014 to 18 April 2016.](#)

<sup>37</sup> Radio Spectrum Policy Group document RSPG-521rev1 - RSPG Opinion on strategic challenges facing Europe in addressing the growing spectrum demand for wireless broadband

## 6.4 Test & Trial Ireland: Promote Ireland's Research and Development Agenda

160 Test and Trial Ireland<sup>38</sup>, offered by ComReg, supports wireless research and development. New wireless communication applications are constantly being devised, which need to be tested in real-life. As a small country on the western edge of Europe, Ireland has a relatively high availability of clean radio spectrum due to a relatively low population density. Lower density of spectrum usage and international radio frequency coordination is eased by the fact that Ireland has only one land border (UK). Test and Trial Ireland capitalises on these unique radio spectrum advantages.

161 Applications cost just €200 for a year-long test licence and €500 for a year-long trial licence. Clients typically receive approval to use radio frequencies within 10 days or less. All radio spectrum bands are considered, including spectrum bands that are ideal for mobile communications, encouraging interest in tests of devices that may be deployed in global markets.

162 Test and Trial Ireland is a successful facility, with over 170 clients<sup>39</sup> to date including multi-nationals, small and medium indigenous enterprises (SMEs), and applied researchers. Various Irish knowledge centres have partnered with industry to conduct tests of international stature, including world-first tests in the areas of cognitive radios<sup>40</sup> and mobile communications<sup>41</sup>. Collaborative relationships are also in place with IDA Ireland and Enterprise Ireland (the principle Irish development agencies), Science Foundation Ireland and key representatives stationed in Irish embassies in foreign markets.

163 ComReg intends to refocus its Test and Trial Ireland activities during this strategy period so as to:

- Give effect to continued efficient use of spectrum through testing and trialling using Ireland's available radio spectrum resource;
- Raise Ireland's profile as a test-bed for cutting edge wireless research;

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<sup>38</sup> [Test and Trial Ireland](#)

<sup>39</sup> [Previous Test & Trial Ireland clients](#)

<sup>40</sup> Currently, the national telecommunications research centre in Ireland (CTVR) has a test licence facilitating radio propagation tests between the CTVR (Trinity College Dublin, Dublin 2) and Intel (Leixlip, County Kildare). Previously CTVR held the IEEE Dynamic Spectrum Access and Policy based-access (Dy-SPAN) Conference where the world's first joint trials of cognitive radio were conducted in live environment.

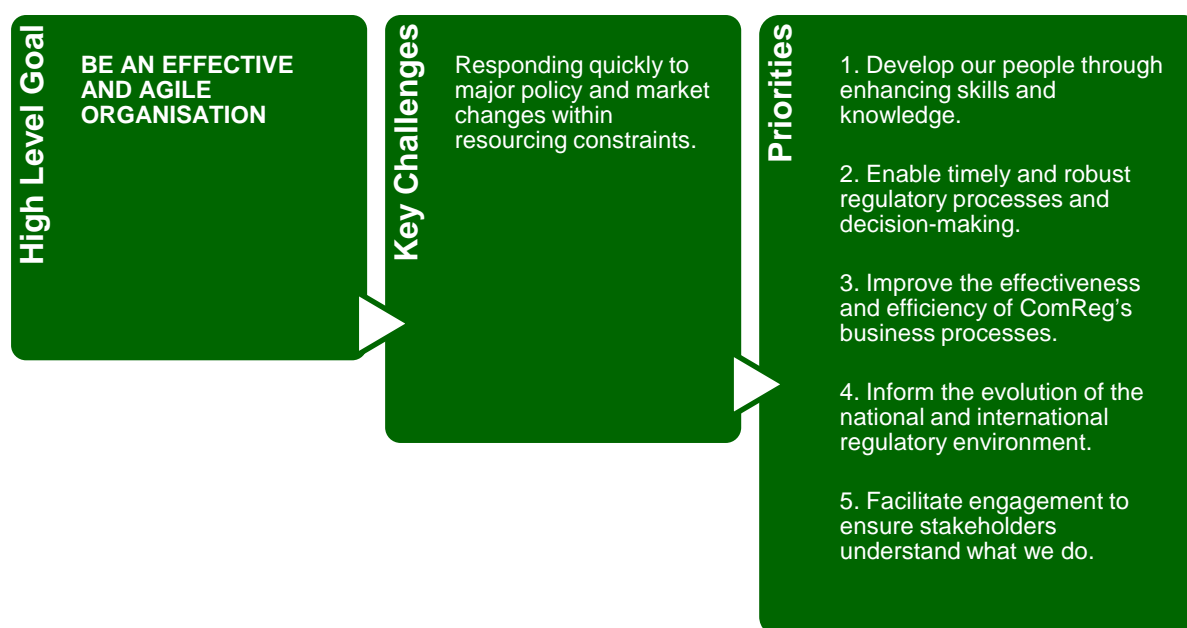
<sup>41</sup> In 2009 Ericsson Ireland conducted a world first live field test of the long term evolution (LTE-TD) technology, which could be used to support high-speed broadband and services such as video-conferencing and high definition television.

- Enhance the ecosystem between wireless opportunities and innovation by companies and applied researchers alike, with appropriate promotional activities.



## 7 Be an Effective and Agile Organisation

164 ComReg has identified its High-Level Goal, Key Challenges and Priorities for the coming period in the organisational area and these are shown in Figure 17.



**Figure 17: ComReg's High Level Goal, Key Challenges and Priorities in the Organisational development area.**

165 ComReg operates in a challenging and rapidly-evolving environment. Our ability to deliver our goals is determined by:

- The number of people we have, and their knowledge and skills;
- Our decision-making processes and our operational processes;
- The appropriateness of our regulatory powers;
- The quality of our engagement with stakeholders.

166 Our strategic priorities for organisational development address these areas.

## **7.1 Develop our people through enhancing skills and knowledge**

167 ComReg employs a specialist professional workforce. Disciplines represented include engineers, economists, lawyers, accountants and public policy specialists. Most of our workforce has joined from private sector organisations, and many rejoin the private sector when they leave. As the economy begins to recover, we face an increasing challenge in retaining our talented employees. However ComReg remains subject to the Employment Control Framework and the public sector recruitment moratorium.

168 In this environment, it is particularly important to continue to enhance the skills of our staff, and to institutionalise our corporate knowledge where possible. Not only will this increase our ability to deliver our strategic goals, it also contributes to staff satisfaction and retention.

169 ComReg has long been an investor in professional development – and has won a number of awards for its training and development programmes. Current initiatives in this field include continuing professional development for lawyers, training in best practice project management techniques, a mentoring programme to develop insights and softer skills that complement knowledge and skills training.

170 Over the coming period, we will continue to enhance the development of our people and the development of competencies and knowledge within ComReg.

## **7.2 Enable timely and robust regulatory processes and decision-making**

171 ComReg's regulatory and decision-making processes are designed so that our decisions are fair and impartial, are based on cogent reasons and sound judgment, and are supported by relevant and robust evidence and analysis. These processes are also designed to be transparent and non-discriminatory. Ultimately, both the process and the decisions must be able to withstand judicial scrutiny.

172 In order to make timely decisions, we need to allocate resources effectively to different decision-making activities. Our planning processes are designed to set realistic timescales that reflect the availability of resources. We are particularly mindful of the need for flexibility to react to unplanned events such as a proposed merger or legal proceedings.

173 Over the coming period, we will continue to develop our decision-making and resource-allocation processes.

### **7.3 Improve the effectiveness and efficiency of ComReg's business processes**

174 In addition to regulatory decision-making, ComReg has a number of other processes which are critical to fulfilling our mandate. These include licensing for different categories of spectrum user, licensing PRS providers, maintaining details of authorised undertakings, numbering plan management, gathering and publishing market data, handling consumer enquiries and complaints, and monitoring compliance of undertakings with their regulatory obligations. In addition, we have organisational processes such as those for HR and finance.

175 The workload under these processes is growing. Each year, we issue more licences, handle more complaints, investigate more cases of spectrum interference and collect and publish a wider range of market data. However, in common with other public sector agencies, ComReg is affected by resource constraints in delivering its mandate.

176 This operational background demands greater productivity and efficiency in addition to improved effectiveness. We will continue with our programme of organisational development initiatives to improve performance within resource constraints. Initiatives already taken and underway include outsourcing of non-core functions, improving IT support for regulatory and internal projects, creating a data warehouse for all market-related data, implementing remote monitoring of the radio spectrum, consolidation of ComReg's various websites and achieving synergy with the Broadcasting Authority of Ireland in relation to back-office functions.

177 We will therefore continue to identify and implement additional opportunities for improvements in efficiency and effectiveness.

### **7.4 Inform the evolution of the national and international regulatory environment**

178 ComReg's ability to deliver its goals is affected by decisions made at both national level and international level. Some of these decisions directly affect our mandate – for example by conferring additional responsibilities or powers on us. Other decisions have an important effect on the context within which we operate – for instance decisions made about international harmonisation of spectrum allocation.

179 At a national level, we work with stakeholders so that we can be more effective in pursuing our goals. For instance, we aim to work with the Law Reform Commission on its review of the enforcement and compliance powers of economic regulators.

180 At the international level, ComReg attends and/or briefs participants at meetings bodies, such as the European Council Working Groups, BEREC, RSPG and CEPT.

## **7.5 Facilitate engagement to ensure stakeholders understand what we do**

181 The first step in ensuring that stakeholders understand our work is engagement. Effective stakeholder engagement is a fundamental part of regulation. It allows ComReg to better understand what our stakeholders expect, it informs our work, improves our regulatory decisions and it provides an opportunity for ComReg to respond appropriately. ComReg continuously strives to engage with all of its stakeholders.

182 ComReg operates in a dynamic and complex environment. Our stakeholders, among others, include consumers of electronic communications services, authorised entities, government departments, other regulators, Oireachtas Committees, large corporations, small and medium enterprises, the EU and various other international bodies. ComReg is committed to engaging with these stakeholders. Such outreach activity builds important support for ComReg's mandate and mission.

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## Annex: 1 Acronyms & Abbreviations

ARPU	Average Revenue Per User
BAI	Broadcasting Authority of Ireland
BEREC	Body of European Regulators for Electronic Communications
ccTLD	country code Top Level Domain
CEN	European Committee for Standardisation
CENELEC	European Committee for Electrotechnical Standardisation
CEPT	European Conference of Postal and Telecommunications Administrations
CERP	European Committee for Postal Regulation
COCOM	Communications Committee (of the EC)
CPD	Continuous Professional Development
DCENR	Department of Communications, Energy and Natural Resources
ECAS	Emergency Call Answering Service
ECN	Electronic Communications Network
ECN	Electronic Communications Service
ERGP	European Regulators Group for postal services
ETSI	European Telecommunications Standards Institute
EU	European Union
FTTH	Fibre to the Home
GATS	General Agreement on Trade in Services
ICT	Information and Communications Technology
IP	Internet Protocol
IPTV	Internet Protocol Television
ITU	International Telecommunications Union
LLU	Local Loop Unbundling
MMDS	Multipoint Microwave Distribution System
MMS	Multimedia Messaging Service
MVNO	Mobile Virtual Network
NCA	National Consumer Agency
NGA	Next Generation Access
NBP	National Broadband Plan
OAO	Other Authorised Operator
OECD	Organisation for Economic Co-operation and Development
OTT	Over The Top
PRS	Premium Rate Services
RSCOM	Radio Spectrum Committee
RSPG	Radio Spectrum Policy Group
SMP	Significant Market Power
SMS	Short Message Service
UHF	Ultra High Frequency
UPU	Universal Postal Union
VDSL	Very-high-bit-rate Digital Subscriber Line
WTO	World Trade Organisation

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## Annex: 3 Overview of ComReg’s Framework

ComReg operates within a broad framework comprising national, European and international bodies, many of whom ComReg liaises and/or cooperates with. This framework is illustrated in Figure 18.



Figure 18: Broad Framework in which ComReg operates



2. Section 10 of the Communications Regulation Acts 2002 – 2011 unless otherwise indicated.

3. A reference to "Electronic Communications" in this document includes a reference to electronic communications services (ECS), electronic communications networks (ECN) and associated facilities (each as defined in the Communications Regulation Acts 2002 – 2011), unless the context otherwise requires.

4. Section 31 of the Communications Regulation (Amendment) Act 2007

5. Section 21 of the Communications Regulation (Amendment) Act 2007

6. Section 12 of the Communications Regulation Acts, 2002 to 2011 and Regulation 16 of Framework Regulations (S.I. No. 333 of 2011).

7. Regulation 16(2) of the Framework Regulations (S.I. No. 333 of 2011)

**Figure 19: Summary of ComReg's Functions, Objectives and Regulatory Principles**