Emergency Call Answering Services

Call Handling Fee Review

Submissions to Consultation

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Content

Section

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Response to ComReg Consultation and Draft Determination 15/113

Emergency Call Answering Services
Call Handling Fee review
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Executive Summary

eir welcomes the opportunity to contribute to ComReg's consultation on its review of the Emergency Call Answering Service (ECAS) Call Handling Fee (CHF) for 2016-2017[1].

As a first comment, we note that ComReg's analysis appears to be far less rigorous than in previous years, and the number of areas being consulted upon is also reduced. For instance, last year a specific question was raised about the composition of the cost stack, whereas this year there is no reference whatever to the cost stack. Another question last year sought views on a wage rate rise which ComReg proposed to sanction. This year, a further rise is being proposed by ComReg, but unlike last year, ComReg does not disclose the magnitude of this proposed rise, nor does ComReg pose a specific question in relation to it. The lack of transparency is dealt with more fully below, but it is concerning that these annual ComReg ECAS reviews seem to be getting progressively less thorough and transparent with each passing year.

While acknowledging that ComReg's proposal to maintain the current CHF of €3.82 per call for 2016/17 at least stems the tide of ongoing annual increases, we are extremely disappointed to note that ComReg has not, in the face of a substantially depreciated asset base and a CPI that is flat or decreasing, proposed a significant reduction to the CHF for the coming year.

We further note that our position is consistent with the position expressed last year by the DCENR, when they gave Industry an explicit indication that the CHF could reduce by about €0.50 per call[2]. Instead ComReg proceeded to increase the CHF by €0.74.

We note that in the 6 years since BT took over the ECAS in September 2010, the CHF has increased on average by 11% per annum, or by more than 71% cumulatively, while the CHF has increased by almost 150%.[3] since it was first set by ComReg in 2007 Such staggering levels of increase have imposed a huge cost burden across the Industry, at a time when the focus of all operators is rightly on increased operational efficiency and cost containment. The increases have been even more incomprehensible when set against the backdrop of the overall CPI increasing on average by less than 0.5% per annum over the same period, while the Communications sub-component of CPI actually decreased by almost 7% cumulatively over the same period[4].

We also note that the office of the C&AG (Comptroller and Auditor General) last year issued very informative (and in places critical) report[5,] following a review BT's ECAS operation. We referred to this report in our response to 14/109 last year, However,

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[1] ComReg Document 15/113 – "*Emergency Call Answering Services - Call Handling Fee review 2016-2017*"

[2] Ref. mail from Aidan Ryan of DCENR to David Humphreys of eir on 7th April 2014 – "…*Given that the capital allowances have been written down at this stage and that the expenditure for the following 2 years will be mainly opex costs it is estimated that the CHF could fall by approx. 50 cent*…"

[3] €1.55 to €3.82

[4] Ref ComReg's quarterly reports 12/134, 14/94 and 15/102 (Fig. 1.4.1 in each case)

[5] http://www.audgen.gov.ie/documents/annualreports/2013/report/en/Chap08.pdf

ComReg has not addressed any of the issues raised by the C&AG, and the points remain just as relevant and valid today.

The ECAS is a monopoly established by the State. Consequently we consider that ComReg has a duty to ensure it is operated in an efficient manner. As against that, it is clear that the ECAS operator continues to treat the ECAS service as a cash cow, and seeks to extract the maximum tariff from all Industry players. We are disappointed that ComReg has not critically and comprehensively examined all of the costs being sought by the ECAS operator in their evaluation of the CHF.

These points are expanded upon further in the remainder of this response.

Background

The ECAS is a public service providing access to Emergency Services to the general public in Ireland, funded through the CHF. The CHF constitutes a significant cost to telecommunications providers and ultimately their customers. Therefore ComReg must ensure, in the best interests of the public and our customers, that all costs on which the CHF is based are incurred efficiently by the ECAS operator. The matter of efficiency is addressed in more detail below.

Up until July 2007 eircom provided the ECAS service to operators <u>free of charge</u>. It then began to receive a CHF of **€1.55** per call. This charge was set by ComReg, and was based on the reasonable cost and rate of return at that time to deliver the service. The service has not changed appreciably since that time.

We have referred above to the massive increases in the CHF which ComReg has sanctioned since 2007. This level of increase has been excessive, and there is an onus on ComReg to start reversing this trend. The CHF must be brought more into line with the level of efficient cost that the ECAS operator should incur in providing the service at this time, bearing in mind the appropriate staffing levels to efficiently handle the current volumes of calls, as well as the fact that all of the capital expenditure has at this stage been essentially depreciated and consequently cannot now be used to support the current high level of the CHF.

There are a number of over-arching themes that eir wishes to highlight at this point.

1. Lack of a Proper Level of Transparency

There is a major problem for all stakeholders in attempting to respond to this consultation document, in that it is impossible to respond comprehensively and informatively to a consultation document where virtually all of the pertinent data has been redacted by ComReg. This complete absence of transparency, denies all stakeholders their rightful opportunity, as part of the consultation process, to critically examine the inputs and calculations adopted by ComReg to arrive at the proposal to maintain the current level of the CHF.

As a case in point, on page 17 of the document there are three tables (#7. #8 and #9), containing a total of 30 individual figures, with each and every one of the 30 figures redacted by ComReg.

An even clearer example can be seen in ¶ 47 on page 16, where ComReg redacts the new proposed hourly CSR rate, in spite of the fact that the corresponding figure last year (of €29.34 per hour) was published then[6], and this value is even quoted in ¶ 47 of 15/113. Clearly ComReg has taken a conscious decision to increase the level of redaction this year over and above what pertained last year. Why this change?

We do not believe that such a level of redaction is necessary or desirable. Instead ComReg should facilitate the consultation process and aid transparency by making the required level of relevant data visible to stakeholders, while also, of course, safeguarding all data that is genuinely commercially sensitive.

2. ComReg should encourage greater efficiency, rather than penalising it.

The series of increases in the CHF since 2010 has been overseen and approved by ComReg, with apparently little critical review of the costs being incurred to provide the service, or of the efficiency of the overall ECAS operation.

eir is concerned at the apparent leniency which ComReg appears to show in the review of the CHF. The addition by the ECAS operator of a third Public Safety Answering Point (PSAP) in Eastpoint is a case in point. BT originally bid for the business (dimensioned to cater for 4.8M calls per annum[7]), based on two PSAPs at Navan and Ballyshannon. This was obviously deemed adequate by them, but would have been, if anything, over-dimensioned by the time BT actually took on the operation of the service, since call volumes even then had fallen to 3.2M. Against this backdrop, it is difficult to understand how ComReg sanctioned the addition by the ECAS operator of a third PSAP in Eastpoint, and deemed this additional cost to be "reasonable" in the context of setting the CHF.

In the same vein, the drop in ECAS call volumes due to increased efficiencies should be welcomed by ComReg. However, ComReg's total acceptance of a fixed cost base for the ECAS operator clearly serves to discourage efficiency, to the detriment of the Industry, and ultimately consumers. ComReg needs to address this significant flaw in the construct of the current regulatory arrangement, whereby any efforts by telecoms operators to improve efficiency through the elimination of invalid emergency calls inevitably lead to increases in the CHF. In essence, eir and other telecomms operators are now being penalised by ComReg for improving the efficiency of emergency call handling procedures.

In addition, BT, as one of the major operators in Ireland, offering a full range of telecommunications services, would be able to leverage off its undoubted economies of scale and scope in delivering its ECAS service. These could certainly improve the overall efficiency of the process, if implemented. However, as BT is being fully remunerated for all costs incurred (efficient or not), it has no incentive to pursue these economies of scale and scope, and ComReg makes no mention of these in its review.

3. Costs should not be Regarded as Fixed in the Face of Plummeting Call Volumes.

ComReg attempts to justify the maintenance of the high CHF by assuming a cost base that is essentially fixed (even in the face of plummeting call volumes)[8], and that

[6] Ref. ComReg document 14/109 ¶ 64
[7] Ref. ComReg document 15/113 ¶ 12
[8] e.g. Ref. – 15/113 ¶ 8 – "…*These costs are relatively stable year on year* …", ¶ 9 "…" …*The cost base … of the ECAS has remained relatively stable*….", etc.

this cost base is being recovered exclusively from ECAS calls, so that a fall in call volumes would automatically translate to an increase in the CHF. As mentioned above, this approach by ComReg simply discourages and penalises the drive towards greater efficiency – something which ComReg ought to be promoting and fostering.

The volumes of ECAS calls have dropped by well over 60% since 2008 (when this process was initiated by ComReg and the service tendered for by BT)[9]. Against this background, it is incumbent on ComReg go behind the costs and categorise them into their fixed and variable elements. By their nature, variable costs will reduce as call volumes reduce, while a large element of the fixed costs is likely to be capital in nature and will at this stage have been essentially completely written off. There is no basis for ComReg to maintain the CHF at such a high level, to the detriment of all contributing operators, and ultimately to the detriment of consumers, instead of insisting that the benefits of a completely depreciated asset base and substantially reduced call volumes be passed on to Industry (and indirectly to consumers) by way of a reduction in the CHF at this time.

To be clear, there will undoubtedly be scope for the ECAS operator to downscale considerably in the face of call volume reductions of over 60%. For example, from an OPEX perspective, we note the increased CSR churn rate ComReg refers to[10]. This churn provides the ideal opportunity for the ECAS operator to down-size with no attendant cost, and no doubt BT takes that opportunity, and will only replace departing CSRs where call volumes and work load justify their replacement. Yet in ComReg's analysis this does not appear to translate into downward pressure on the CHF, as it should do.

4. Regulatory Impact Assessment (RIA)

eir is disappointed at ComReg's decision not to carry out a RIA yet again this year on the basis that ComReg is required to carry out a review of the CHF. ComReg's mandate to review the CHF is not in question. The matter at hand is the level at which the CHF is set – in this case the failure of ComReg to mandate a reduction to the current high CHF in the face of falling call volumes, a fully depreciated asset base and a CPI that is flat or decreasing.

It is demonstrably untrue for ComReg to say[11] (ref. ¶ 85) that "*ComReg is not imposing a regulatory obligation upon any stakeholder*". While it is true that the Act imposes the obligation to pay the CHF, the level of charge is set by ComReg, so the upcoming ComReg Decision will obviously oblige operators to pay that level of CHF. By any reasonable yardstick, this is a regulatory obligation which ComReg is imposing.

It is also pertinent to note that there are various options open to ComReg (in particular, to maintain the CHF at its current rate, or reduce it by a smaller or larger amount). And all of these issues involve a degree of discretion on the part of ComReg.

[9] Ref. - 15/113 ¶ 12 – 4.8M to 1.8M
[10] Ref. - 15/113 ¶ 46
[11] Ref. – 15/113 ¶ 85)

It is not acceptable that ComReg should simply maintain the current CHF, with the consequential impact on operators, and ultimately consumers, without carrying out a proper impact assessment of the various possible options, thereby denying stakeholders the opportunity to fully partake in a meaningful consultation process on the costs and benefits of these decisions.

eir believes that the continuing failure to carry out a RIA undermines the validity of ComReg's determinations in respect of the CHF.

5. Sinking Fund

The CA makes provision for a sinking fund into which the ECAS operator must pay €250,000 per annum, funded from the CHF. The consultation provides no indication of the current state of the sinking fund.

Furthermore, eir calls on ComReg and/or DCENR to reveal the fate of any balance that remains on the sinking fund at the end of the CA. Any such funds should be distributed back to Industry, as otherwise the surplus would constitute an additional tax on telecoms customers. This would be entirely unacceptable given that the funding of ECAS by operators gives rise to an effective communications service tax as the ECAS is a service that is of general benefit to society and equivalent ECAS in other jurisdictions are typically funded by the exchequer.

6. Hourly Rate

We note in ¶ 47 that ComReg has agreed to an increased hourly rate for CSR's. Although ComReg redacts the new rate, we do not believe that any increase can be objectively justified, when set in the context of effectively stable labour rates in the market, and on the back of a 5% labour rate increase which ComReg agreed to only last year.

On the contrary, we believe that the high churn rate of CSRs referred to by ComReg[12] is more likely to afford the employer the opportunity to put downward pressure on wage rates, as well as review staffing levels on an ongoing basis, and reduce appropriately in the face of plummeting call volumes.

[12] Ref. - 15/113 ¶ 46

Responses to Consultation Questions

Q. 1. Please outline any programme or initiatives, planned for the short to medium term (1 to 2 years), or any relevant market developments, in particular changes in the handset population profile, which may significantly affect the forecasted volume of emergency calls.

eir does not have any particular programmes or initiatives planned for the short to medium term, which might significantly affect the forecasted volume of emergency calls. Our views on the likely trends in call volumes are outlined in our response to Q.2 below.

Q. 2. Do you agree or disagree with the proposed forecast of the call volume decline rate of 3.5% per annum? Please provide detailed reasoning and calculations for your views.

eir agrees that ComReg's proposed forecast of a call volume decline rate of 3.5% per annum for the year to February 2016 is reasonable, although it's possible that the decline may be somewhat less than that, as the predicted decline in noisy calls of 26%[13] appears high, since it is based upon the extrapolation of a decrease last year from 13.5K calls to 10K calls. The projected 26% decrease next year would bring this figure down to 7.4K, or about 20 per day (less than 1 per county per day on average). This level appears unattainably low.

Q. 3. Are there any other matters which you wish to raise as part of this review? Please provide detailed reasoning and accompanying calculations (where appropriate) for your views.

eir has raised quite a few relevant issues in the earlier sections of this response above, and the answer to this question should be taken to incorporate all of these points.

ComReg must approach this consultation process with an open mind, and give due regard to the views of all respondees. ComReg should assess the detrimental impact being caused to stakeholders by the imposition of excessive charges, and work to reduce the cost burden in this instance by proposing a significant reduction to the CHF. The reasons why such a reduction would be not only justified but imperative are outlined at length in this response.

[13] Ref. 15/113 ¶ 73

Q. 4. Do you agree or disagree with the wording of ComReg's Draft Determination? If not, please state your detailed reasoning

eir does not have any particular issues with the actual wording of the Draft Determination, other than that (as we have outlined in this response document, and for the reasons outlined) we believe that ComReg should be proposing a significant reduction to the current level of the maximum CHF.

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24th November 2015

Mr. Colman McEvoy
ComReg
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Dear Colman

ComReg Document 15/113
Emergency Call Handling Fee 2016-2017

I refer to the above document in which ComReg describes its review of the call handling fee for the Emergency Call Answering Service in the period from 2016-2017. ComReg invited comments in general on the review and the proposed fee, and in addition there are some specific questions posed. The following is Three's response.

General Comments

It is difficult to provide meaningful comment on most aspects of the calculation that has been carried out by ComReg, as the relevant information has been redacted in the consultation document. Notwithstanding this, Three generally agrees with the approach taken, and that the proposed call handling fee should be €3.82 per call. We note that the 4.5% increase in the call-centre hourly rate is significantly above the inflation of the CPI, but we don't disagree with it being applied at this time.

The contribution to the Sinking Fund is an important component of the overall fee, however there is no transparency of the current value of this fund. The current accumulated value of the fund should be published.

Response to Specific Questions

Q. 1 Please outline any programme or initiatives, planned for the short to medium term (1 to 2 years), or any relevant market developments, in particular changes in the handset population profile, which may significantly affect the forecasted volume of emergency calls.

We do not foresee any significant changes in the short term. Handsets will continue to churn, and this will slowly reduce the proportion of "button 'phones" over time but most churn is now smartphone to smartphone, so there will be only a limited impact on the volume of unintended calls to ECAS. The introduction of E-call could have a significant impact on the volume of calls originated on mobile networks in future. This is an issue that should be examined by ComReg; however we do not anticipate that this will have a significant impact within the timeframe of the current price review.

Q. 2 Do you agree or disagree with the proposed forecast of the call volume decline rate of 3.5% per annum? Please provide detailed reasoning and calculations for your views. Q. 3 Are there any other matters which you wish to raise as part of this review? Please provide detailed reasoning and accompanying calculations (where appropriate) for your views.

Yes, we agree with ComReg's analysis.

Q. 4 Do you agree or disagree with the wording of ComReg's Draft Determination? If not, please state your detailed reasoning.

Yes, we agree.

Yours Sincerely

Tom Hickey