



Commission for  
**Communications Regulation**

# **Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users**

Response to Consultation & Decision

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# Content

Section .....	Page
1 Executive Summary.....	4
2 Introduction.....	6
3 Required Measures .....	9
3.1 Accessible Services .....	9
3.1.1 Accessible complaints procedures .....	9
3.1.2 Accessible top-up facility for pre-paid mobile telephone disabled end-users..	13
3.1.3 Accessible Directory Enquiries .....	17
3.1.4 Accessible billing .....	21
3.1.5 Accessible facility to test compatibility of terminal equipment.....	25
3.2 Accessible information.....	27
3.3 Facility for Disabled Subscribers to register requirements.....	30
3.4 Other Measures.....	33
3.5 Timing of implementation and review of measures .....	35
3.6 Regulatory Impact Assessment.....	36
3.7 Draft Decision Instrument .....	37
4 Background to the Measures.....	39
Obligations in law .....	39
Definition of Key Terminology.....	42
5 Regulatory Impact Assessment ("RIA") .....	44
5.1 Role of the RIA.....	44
5.2 Assessment of the regulatory approach.....	45
5.3 Policy Issue and Objectives .....	46
5.4 Assessment of the regulatory options .....	47
Accessible Complaints Procedures .....	47
Accessible Top-Up Facility for Pre-Paid Mobile Telephone End-Users.....	50
Accessible Directory Enquiries .....	52
Accessible Billing.....	55
Accessible Facility to Test Compatibility of Terminal Equipment and or an appropriate returns policy.....	58
Accessible Information .....	62
Facility for Disabled Subscribers to Register Requirements.....	65

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice  
for Disabled End-Users

**Annex**

<b>Section</b>	<b>Page</b>
Annex: 1 Decision Instrument.....	67
Annex: 2 Legal Basis.....	74
Annex: 3 Universal Service Requirements .....	85
Annex: 4 ComReg Disability Forum.....	87
Annex: 5 BEREC Report .....	90
Annex: 6 Accessible Billing.....	93

# 1 Executive Summary

- 1 Article 23a of the Universal Services Directive (“USD”)<sup>1</sup> is a specific provision in respect of measures to ensure equal access and choice for disabled end users,
- 2 Article 23a of the USD was transposed into Irish law by Regulation 17 of the Regulations<sup>2</sup> which provides that the Commission for Communications Regulation (“ComReg”) may, where appropriate, specify requirements to be complied with by undertakings<sup>3</sup> in order to ensure equivalence in access and choice for disabled end-users, and it states that ComReg shall encourage the availability of terminal equipment offering the necessary services and functions for disabled end-users.
- 3 ComReg issued a consultation in relation to proposed measures for equivalent access and choice for disabled end-users in June 2013<sup>4</sup>, allowing time for responses, following requests for extensions, until 6 September 2013. In light of that consultation, and having taken into account responses to that consultation, ComReg has decided to place a number of obligations on undertakings in respect of accessible services and accessible information.
- 4 ComReg recognises that some undertakings may require a period of time to make technical adjustments to bring their IT systems and websites into alignment with the new requirements and for that reason ComReg has specified six months for some measures and nine months for other measures for undertakings to fully comply with the new obligations.<sup>5</sup>

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<sup>1</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

<sup>2</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (S.I. No. 337 of 2011).

<sup>3</sup> “Undertakings” for the purposes of this Response to Consultation means “undertakings providing publicly available electronic communications services”

<sup>4</sup> Electronic Communications:- Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users – Consultation, ComReg document 13/58

<sup>5</sup> See the Decision Instrument for details of the compliance periods for the individual measures

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 5 ComReg notes that a number of respondents, particularly those from disability representative organisations provided details regarding their views on the current Text Relay Service which is a universal service obligation(USO) provided by Eircom as the Universal Service Provider (USP). It is noted that ComReg's consultation and this Response to Consultation and Decision does not deal with specific measures in respect of Text Relay Services. However, the information provided by the respondents will be taken into consideration when ComReg considers measures and consults in respect of Text Relay services
- 6 It has also been noted that the matter of Irish Sign Language was raised in particular responses. This matter has not been discussed in detail to date by the Forum on Electronic Communications Services for People with Disabilities ("the Forum") and therefore neither the consultation nor this response to Consultation and Decision addresses this. On foot of the submissions received, ComReg will discuss this matter further with the Forum.
- 7 ComReg will continue to monitor the measures that this Decision and will seek to identify any issues and possible new measures through its Forum.

## 2 Introduction

- 8 Regulation 17 of the Regulations provides that ComReg may, where appropriate, specify requirements to be complied with by undertakings in order to ensure equivalence in access and choice for disabled end-users and that ComReg shall encourage the availability of terminal equipment offering the necessary services and functions for disabled end-users.
- 9 The Census of Population 2011 found that 13.0%<sup>6</sup> of the population reported having a disability in April 2011. There are 11 types of disability that are categorised and discussed in the link in footnote 6 below.
- 10 ComReg has decided upon the measures in respect of accessible information and services to seek to ensure equivalence in access and choice for disabled end-users at this time.
- 11 ComReg's views as set out herein, and as set out in its consultation, are based largely on matters raised and discussed at the Forum which is comprised of nominated representatives ("Disability Representatives") from the Disability Stakeholders Group ("DSG") and nominated representatives from undertakings as well as the National Disability Authority ("NDA"). In addition, ComReg has taken into account a report published by the Body of European Regulators for Electronic Communications ("BEREC") in February 2011<sup>7</sup> which provides assistance to national regulatory authorities ("NRAs") in their implementation of the provision relating to equivalence of access and choice for disabled end-users.
- 12 The BEREC Report referenced the EC communication on e-Accessibility 2005 COM (2005)425 which states that -
- 'the Commission has the ambitious objective of achieving an "Information Society for All", promoting an inclusive digital society that provides opportunities for all and minimises the risk of social exclusion.'*

[...]

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<sup>6</sup> CSO Census of Population, 2011 – profile 8 - examining in more detail the definitive results of Census 2011 to include disability:  
[http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile\\_8\\_communtary.pdf](http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile_8_communtary.pdf)

<sup>7</sup> "Electronic communications services: Ensuring equivalence in access and choice for disabled end-users" BoR (10) 47 Rev1 - [BEREC REPORT](#)

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*‘Additionally, within that communication, the EC highlighted the need for improving access to Information and Communication Technologies (ICTs) for people with disabilities and reserved the option to consider additional measures including new legislation if deemed necessary.’<sup>8</sup>*

The BEREC Report further states that -

*‘According to the EC communication regarding e-Accessibility COM (2005)425, published in 2005, people with disabilities represented 15% of the European population. Additionally, the European Disability Federation (EDF) states that “disabled people suffer from isolation compared to non disabled people”. Therefore, BEREC considers that the provision of access to and choice of electronic communication services for consumers with disabilities is becoming increasingly important to ensure that all consumers can benefit from new communications services and fully participate in the Information Society.’<sup>9</sup>*

13 ComReg consulted on its proposed measures in document 13/58. – ComReg received 13 responses to its consultation. The respondents (“the Respondents”) are set out below.

- Age Action
- Deaf Hear
- Disability Federation of Ireland (“DFI”)
- Eircom Group (“Eircom”)
- Hutchison 3G Ireland Limited (“H3GI”)
- Irish Hard of Hearing Association (“IHHA”)
- Jones and O’Brien
- National Council for Blind Ireland (“NCBI”)
- National Disability Authority (“NDA”)
- Sign Language Interpretation Service (“SLIS”)
- Telefónica Ireland (“O2”)
- UPC Communications Ireland Limited (“UPC”)
- Vodafone

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<sup>8</sup> Page 10 of the BEREC REPORT

<sup>9</sup> Page 5 of the BEREC REPORT

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 14 ComReg fully considered the responses to the consultation in reaching its final views and Decision as set out below. The responses are also published at this time<sup>10</sup>. ComReg has also revised and finalised the Regulatory Impact Assessment (“RIA”) based on the responses it received and the final RIA is set out in Section 6 of this document.
- 15 ComReg’s final decision is located in Annex 1 of this document.

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<sup>10</sup> ComReg 14/52s



## 3 Required Measures

- 16 Consultation 13/58 proposed a number of measures which related to accessible services and accessible information. ComReg's proposals, the views of respondents and ComReg's position in respect of each of these are summarised below.

### 3.1 Accessible Services

- 17 In Consultation 13/58, ComReg proposed that undertakings make the services listed below available to disabled end-users;
- Accessible complaints procedures
  - Accessible top-up facility for pre-paid mobile telephone end-users with hearing impairments
  - Accessible Directory Enquiries
  - Accessible Billing
  - Accessible facility to test compatibility of terminal equipment
  - Register of disabled end-users requirements

#### 3.1.1 Accessible complaints procedures

- 18 In addition to the current obligations on undertakings in relation to their code of practice dealing with complaints from end-users<sup>11</sup>, ComReg proposed that undertakings should be required to provide disabled end-users with the following:
- Accessible means to lodge and pursue a complaint and/or make an enquiry about the complaint; and
  - Staff that are trained to appropriately deal with the requirements of disabled end-users.

- 19 ComReg posed the following question in its consultation.

Q. 1 Do you agree with the ComReg proposed approach as set out in section 4.2.1 mandating the provision by every Undertaking of an accessible means for disabled end-users to lodge a complaint and/or make an enquiry and the implementation of disability awareness training for staff? Please provide reasons to support your view.

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<sup>11</sup> See Annex 1 for text of Regulation 27 of the Regulations

### Views of Respondents

- 20 In general, the respondents were supportive of both elements of this proposal by ComReg.
- 21 Age Action, IHHA, NCBI and DFI, agreed in principle with ComReg's approach to Accessible complaints procedures. These respondents requested a re-wording of the first clause to ensure that it provides that enquirers can make more than a singular enquiry.
- 22 The IHHA in particular noted that it considers that the measure should emphasise the "quality and usability" of the proposed service.
- 23 Vodafone, O2, Eircom and Vodafone agreed with ComReg's approach to undertakings being obliged to provide disabled end-users with an accessible means to lodge a complaint and/or make an enquiry.
- 24 Eircom and H3GI, disagree with ComReg's specific solution. Eircom advised of its reluctance to have "SMS" mandated as a method of lodging a complaint. H3GI also disagreed with the proposal that "SMS" should be mandated as complaint method. Eircom considered that the "requirement should be technology neutral and should refer to an electronic medium that offers an equivalent means of access to customer care".
- 25 Some operators such as H3GI and Meteor objected to the mandating of this measure, noting that existing methods of lodging a complaint should suffice and that the use of particular methods such as SMS may not be suitable.
- 26 H3GI noted that disabled end-users "can lodge a complaint using the same methods as non-disabled customers".
- 27 SLIS noted the lack of provision for sign language interpretation.
- 28 All of the Disability Group representative respondents agreed that undertakings should ensure that "Staff are trained to appropriately deal with the requirements of disabled end-users" The Disability Group representative respondents also provided further suggestions and comment.
- 29 Age Action suggested that as well as extending training to all customer facing staff, that the training programme should be extended to include "age-awareness training".
- 30 IHHA noted that it considered that the measure "should not be confined to staff handling complaints but should include all staff dealing with Customers".

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 31 NCBI suggested that disability awareness training should not be restricted to only staff dealing with the complaints process; it could be extended to all customer-facing staff including those producing and distributing customer information.
- 32 SLIS also supported the measure to ensure “Staff that are trained to appropriately deal with the requirements of disabled end-users”, however, it cites lack of awareness and training of operators in relation to the current Text Relay/Mini-com service.

### **ComReg’s Views**

- 33 ComReg considers that an accessible means to lodge a complaint(s) and/or make (an) enquiry about such complaints is vital. However, ComReg does not wish to restrict undertakings to particular technologies.
- 34 ComReg understands that undertakings have existing complaint systems and processes. However, it can be seen from both the preliminary contribution by Disability Group Representatives via the Forum and their response to the consultation that end-users with disabilities have expressed a concern that in some cases these methods are not sufficient to allow some disabled end-users to access them.
- 35 Some Disability Representative Group respondents have requested that the methods of lodging complaints should be broadened out beyond the scope of consultation 13/58. At this time, it is not appropriate to mandate undertakings in this respect as they were not considered in consultation 13/58.
- 36 In response to HG31’s statement that disabled end-users “can lodge a complaint using the same methods as non-disabled customers”, ComReg’s view is that in some cases the methods provided are not accessible for some end-users and alternatives may not be equivalent, therefore undertakings must put mechanisms in place that facilitate the needs of all disabled end users. For example, a person who is hard of hearing will not be able to have a voice phone call with their service provider, while they may be able to access email, but if this is not an equivalent service because, for example, the response times are slower, then the measure is not satisfied. Another example is that of a deaf user who has a mobile phone service with a text based package without online access/data access. In this case both a voice complaints service and an email complaints service will not allow that consumer equivalent access the complaints service.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 37 ComReg also notes that the proposed measures did not contemplate that Irish Sign Language (ISL) be addressed at this stage. In response to consultation 13/58 a number of Disability Group representative respondents requested that measures be included to deal with the use of ISL. Prior to the issuing of the consultation Disability Group Representatives were invited to contribute to the development of the proposed measures which ultimately were consulted upon. The issue of ISL access was not highlighted to this extent, however, the information provided by the Disability Group representative respondents will be considered in future reviews of the measures established in this Decision.
- 38 ComReg recognises that many undertakings provide staff training programmes which address disability awareness and the respondents have noted the necessity for such training. ComReg considers the voluntary participation of the undertakings in disability training represents positive development. The respondents representing end-users with disabilities have all noted that such training is necessary and in some cases have requested that the proposed measure should go further than that suggested in the consultation.
- 39 ComReg also notes that the National Disability Authority has circulated details of its on-line disability equality training (designed for the Public Sector) to the Forum members including undertakings for their feedback and use as relevant.<sup>12</sup>
- 40 ComReg appreciates that respondents, particularly the Disability Representative Respondents took the opportunity, via their submissions, to request that a wider group of the undertakings undertake disability awareness training. The aim of the measure is to ensure that those staff members handling complaints receive disability awareness training and this was the focus of the consultation.

### **ComReg's Position**

- 41 Having considered the views of respondents, ComReg's position is summarised below.
- 42 ComReg considers that both elements of the Accessible complaints procedures proposal to be necessary. ComReg has assessed the contributions from all respondents, and given the nature of the responses, ComReg's decision is to mandate Accessible complaints procedures.

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<sup>12</sup> <http://elearning.nda.ie/>

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 43 In order for disabled end-users to be assured of equivalence of access to complaints procedures, ComReg considers that undertakings should be required to provide an accessible means for disabled end-users to access the undertakings' customer services in order to lodge complaints and/or make enquiries. This could include but would not be limited to: telephone (including via the existing fixed text relay service), SMS and email. It should also be possible to have the ability to nominate a third party to deal with complaint and or enquiries on behalf of the disabled subscribers. This is addressed below in section 3.3
- 44 ComReg has decided that undertakings are required to:
- provide accessible means for disabled end-users to access the undertaking's customer services in order to lodge a complaint, follow the resolution process and/or make enquiries, which may include, telephone (including via the current TRS), SMS, email and any other means of communication which provides the mandated equivalence of access. This should also include the ability to nominate a third party to deal with complaints and/or enquiries.
  - implement disability awareness training to ensure that staff handling complaints are aware of the requirements of disabled end-users and have the requisite skills to appropriately deal with those requirements.
- 45 The specific measures are set out in the Decision Instrument in Annex 1

### **3.1.2 Accessible top-up facility for pre-paid mobile telephone disabled end-users**

- 46 In consultation 13/58 ComReg proposed that disabled (specifically those with hearing impairments) end-users with a pre-paid mobile telephone should be able to choose to top it up by themselves. ComReg proposed that every undertaking providing pre-paid mobile services should be required to provide an SMS top-up facility for pre-paid mobile telephone end-users that allows disabled end-users to:
- Pay with credit card and/or debit card and/or cash without the need to follow voice prompts;
  - Get a receipt (voucher) that lists in clear, easy to understand language the steps required to ensure the top-up credit can be applied successfully;

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- Apply the top-up receipt (voucher) by SMS sent from the disabled end-user's mobile telephone and without assistance from a third party; and
- Receive confirmation of the value of the top-up credit by SMS sent to the disabled end-user's mobile telephone.

47 ComReg posed the following question in its consultation.

Q. 2 Do you agree with the ComReg proposed approach as set out in section 4.2.2 regarding the provision by every Undertaking providing pre-paid mobile services of a SMS top-up facility for disabled end-users of pre-paid mobile services that includes accessible payment methods, top-up receipts (vouchers) outlining steps required to apply the credit and confirmation of the top-up? Please provide reasons to support your view.

### Views of Respondents

- 48 Eircom and H3GI, both disagreed with the mandating of this measure as each considers the currently available processes of topping up a prepaid account,(similar to that of other undertakings) has been available to all customers for a number of years. Eircom consider this process as “following the principle of universal design”. H3GI noted that an additional SMS facility would be disproportionate. Eircom considers the costs involved in providing the additional SMS facility to be cost prohibitive.
- 49 Both Vodafone and O2 agree with ComReg's proposal for an SMS top-up facility for pre-paid mobile telephone end-users that allows disabled end-users to pay with credit card and/or debit card and/or cash without the need to follow voice prompts, and have already implemented a number of the processes related to the proposal. Both undertakings have indicated a willingness to progress with the measure in its entirety if given the opportunity to scope out the requirements and a reasonable timeframe.
- 50 Eircom agreed that top-up instructions for SMS top-ups should be provided on top-up vouchers, however the content and format of top-up vouchers is not directly within the control of the undertakings. Undertakings may deal with a number of intermediaries; as such any changes in respect of the content of the receipts would have to be built into the agreements between undertakings and intermediaries. Changes would also have to be implemented on the Electronic Point of Sale (EPOS) systems of the retailers.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 51 H3GI believes that the top-up methods currently made available by it are accessible. With regard to 'some disabled end-users not having access to a debit and/or credit card' H3GI advised that its end-users can top up using their handset. In relation to providing an SMS ability to top up using the voucher details, this would "require IT development in order to build the infrastructure required".
- 52 H3GI considers that if operators provide alternative means for topping up which allows the user to top up without the need of third party assistance, this would negate ComReg's mandating of an additional SMS ability.
- 53 The disability representative respondents broadly agreed with ComReg's proposed approach to the proposed measures. Age Action and Deaf Hear in particular cited incidents of end-users having to ask third-parties to assist them in topping up their phones with credit they have purchased.
- 54 Age Action advised that in some instances that a voice activated top-up facility may be preferential for those with other issues, this facility would be in addition to the ComReg proposed measure.
- 55 DFI and NCBI agreed with ComReg's proposed measure.
- 56 IHHA also agreed with the approach to this measure, and noted that in the case of receiving a "confirmation of the top-up", that some operators already provide this service.

### **ComReg's views**

- 57 ComReg is of the view that it is important that end-users are able to top up their own phones without the assistance of a third party, how precisely this is achieved is secondary matter for the undertaking. SMS is currently available on all handsets, including Smartphones, and in the immediate future the availability of an appropriate SMS facility is important. However, an undertaking may, if it wishes, develop an alternative method which affords the end-user with a disability the ability to top up their phone independently of a third party, as long as the proposed measure is met.
- 58 ComReg notes that disability representative group respondents suggested amendments to the measure which go beyond the scope of the consultation including for those with manual dexterity issues. The information provided will be retained and may be used in preparation for any future consultation in this area.



## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 59 ComReg notes H3GI's statement that its end-users can top up using their handset but this simply means that they must have some sort of credit facility available to allow a top up to be deducted. This does not appear to address the need to be able to pay by cash.
- 60 Despite assertions to the contrary from some respondents, it could be the case that an end-user with a disability wishing to top-up his/her mobile phone with a cash voucher, may not be able to complete the top-up process independently should he/she be unable to follow "voice-prompts". This is the very situation that the proposed measures seeks to remedy.
- 61 ComReg is of the view that the receipt of a confirmation of a top-up amount and credit balance should be available to the end-user without the need to follow voice prompts. A number of undertakings have already established such a service and the disability representative respondents all support the approach.
- 62 ComReg considers that the proposed measure and its different elements continue to be appropriate given the stated detriments discussed above. The fact that in some cases the undertakings are currently providing services which closely match the services described in the proposed measure supports the appropriateness of ComReg's Decision.

### **ComReg's Position**

- 63 Having considered the views of respondents, ComReg's position is summarised below.
- 64 In order to ensure equivalence for deaf or those with hearing impairments end-users in topping-up credit on their prepay mobile telephones; there should be no need for another person to intervene or assist the disabled end-user. An online top-up facility alone is not sufficient as ComReg understands that a substantial number of disabled end-users may not have access to the internet and/or credit or debit cards and, further, other end-users are not required to access the internet to top-up their pre-paid mobile phones.
- 65 However, in considering the views of respondents, ComReg has decided to be less specific in the requirement, so that the precise solution can be developed and implemented by the undertaking as long as the objective of the measure is achieved.
- 66 Thus, in order to ensure equivalence, ComReg is of the view that every undertaking providing pre-paid mobile services is required to provide a top-up facility (which may include by SMS), for end-users that are deaf or for those with hearing impairments using pre-paid mobile services to:



## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- Top up using independently using cash;
- Have no requirement to follow voice prompts to apply the top-up;
- If a receipt (voucher) is used it must list in clear, easy to understand language the steps required to ensure the top-up credit can be applied successfully and allow the end-user to apply the top-up receipt (voucher) by SMS (or equivalent method); and
- Receive confirmation of the value of the top-up without the requirement to follow voice prompts;

The specific measures are set out in the Decision Instrument in Annex 1.

### 3.1.3 Accessible Directory Enquiries

67 In Consultation 13/58 ComReg proposed that every undertaking should be required to provide for subscribers who are unable to use the phone book because of a vision impairment and/or have difficulty reading the phone book, special Directory Enquiry arrangements to allow the use of an over the phone directory service free of charge, once certification of that disability is provided by a registered medical practitioner or by an appropriate agent. ComReg posed two questions in this regard.

68 Firstly, ComReg's consultation posed the following question.

Q3. Do you agree with the ComReg proposed approach as set out in section 4.2.3, (of consultation 13/58), regarding the provision by every Undertaking of access to free directory enquiry service for subscribers that have a vision impairment and .or have difficulty in reading the phone book, subject to subscribers meeting the required certification of disability by a registered medical practitioner or by an appropriate agent? Please provide reasons to support your view.

### Views of Respondents

69 All respondent undertakings agreed that every undertaking should provide access to free directory enquiry service for subscribers that have vision impairment and or have difficulty in reading the phone book, subject to subscribers meeting the required certification of disability by a registered medical practitioner or by an appropriate agent. H3GI suggested that the only authenticator of the required certificate should be a General Practitioner.

70 O2 noted that it already provides access to Special Directory Enquiries. Vodafone also agreed with ComReg's position.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 71 Eircom urged ComReg, in light of the growth of internet access, to keep this obligation under review. UPC also agreed with this approach.
- 72 The disability representative respondents, in general, agreed with ComReg's approach, but for the most part, consider that ComReg's proposal should go further.
- 73 Age Action suggested that the measure should cater for those with dexterity issues. It also noted that the shared directory enquires service should be available for those with particular registered difficulties, also Age Action noted that there should be access to an 'SMS' based directory service for people with hearing difficulties or for those who are profoundly deaf.
- 74 SLIS noted that the measure did go as far as to address the needs of those who depend on ISL<sup>13</sup> for their communication needs.
- 75 IHHA also considers that the measure does not go far enough, particularly for those who may be profoundly hard of hearing. The IHHA agrees that the facility to register an end-users' need to access this type of service is extremely important.
- 76 NDA also supports the measure, but notes that the provision of accessible web search facilities would also be of great use to many end-users with disabilities.
- 77 NCBI agrees with this proposal, but considers that the measure needs further development. The proposal should include the ability to receive numbers free via SMS and free onward connection. NCBI considers that the current 196<sup>14</sup> registration process should prevail as it works well; however, it suggests that the registration form needs to be more accessible and should be hosted by ComReg. NCBI also suggest that ComReg should also consider the development of a mobile-phone application for this process and that all information relating to this measure should be made available in Braille, audio and clear print.
- 78 DeafHear welcomed the proposed measure, but notes that the measure is designed only for those with vision/reading difficulty. DeafHear notes that ISL users have difficulty reading English and suggest that a modern Text Relay Service would facilitate the Deaf and Hard of Hearing when contacting Directory Enquiries services.

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<sup>13</sup> Irish Sign Language

<sup>14</sup> This process is used by Eircom for customers to register to access its free directory enquiry service which is accessed by dialling 196.

### ComReg's views

- 79 ComReg notes that all respondents are supportive of this measure. However, ComReg also notes that respondents have suggested potential additions and enhancements to the proposed measure. The measures consulted upon arose as a result of discussions at the Forum, where measures such as the inclusion of ISL, or the development of a mobile-phone application for directory enquires were not discussed and therefore, for the purposes of this Decision are not in the scope.
- 80 ComReg is of the view that every undertaking should be required to provide for subscribers who are unable to use the phone book (while the printed directory is a USO) because of a vision impairment and/or have difficulty reading the phone book, special Directory Enquiry arrangements to allow the use of a directory enquiry service free of charge, once certification of disability is provided by a registered medical practitioner or by an appropriate agent.
- 81 ComReg is also of the view that a free and accessible directory enquiry service provided by Undertakings need not be provided using Eircom's '196 special directory enquiry service' and, therefore, undertakings are free to implement alternative solutions if they so wish<sup>15</sup>.
- 82 ComReg does not agree that free onward connection is appropriate because of cost reasons; however, ComReg is of the view that there is merit in considering further facilities for those using a free DQ service from a mobile phone, including text back of the number.
- 83 ComReg does not agree that it is appropriate or workable for it to host any registration process for this measure and is more efficient for this to be carried out by the service providers themselves.
- 84 ComReg does not agree that the provision of a subscriber directory in Braille or large print is a workable or cost effective alternative and it is of the view that the free voice directory enquiry service is currently the best accessible alternative for those with vision impairments particularly if public websites including online DQ services are not accessible.

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<sup>15</sup> Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 85 A Smartphone application (app) to provide DQ information to users may be worth considering; however it may exclude those without smart phones. This matter is being addressed in ComReg's consultation on subscriber directories.<sup>16</sup>
- 86 ComReg will consider further developing this measure in line with any developments in respect of the current universal service printed directory and text relay service obligations.
- 87 In addition, ComReg posed the following question in respect of Directory Enquiry Services.

**Q4.** Respondents are also asked to provide views on whether a cap (specified monetary allowance or specified number of request for Directory Enquiries free of charge per billing period) should be incorporated with the Accessible Directory Enquiries proposed measure (Q3) and, if so, what the appropriate allowance or number of requests should be. Please provide reasons to support your view.

### Views of Respondents

- 88 All respondent Undertakings with the exception of H3GI and UPC were of the view that a cap should not be incorporated with the Accessible Directory Enquiries proposed measure.
- 89 H3GI believes that as with any service there should be a cap to deter abuse of the service. H3GI believes the cap should be based on usage i.e. number of requests. Furthermore, within the terms of the service H3GI proposed that a prepay customer must have topped up in order to avail of the service and it was of the view that the same should apply to bill pay customers, whose accounts must be up to date.
- 90 UPC claimed that a cap should be incorporated within the proposed Accessible Directory Enquiries measure in order to provide a safety net for operators against misuse of this service. UPC stated that this cap could be set as a percentage rate to total calls made by disabled consumers and that the cap should be set sufficiently high so as not to interfere with any legitimate use by disabled consumers.
- 91 In general the disability representative group respondents did not object to the idea of incorporating a cap on the usage of Accessible Directory Enquiries as proposed in the measure noted in question.

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<sup>16</sup> ComReg Document 14/20

### **ComReg's Views**

- 92 ComReg notes that Meteor, Vodafone and 02 were of the view that a cap on usage would not be appropriate while UPC and H3GI were not of this view, and had concerns that free access to the directory enquires service could be abused.
- 93 ComReg disagrees with H3GI's suggestion that its end-users with a disability must have "topped up" their accounts or that the payment status of bill pay customers is a determining factor in order to access the free directory enquiry service.
- 94 ComReg remains of the view, taking into account the tenor of the response question 4, that it would not be appropriate to incorporate a cap or restriction on the use of such a directory enquiry service by disabled subscribers at this time. However, in light of some of views expressed, ComReg considers that the provision of the service should be monitored by the undertakings, and if any abuse becomes apparent, a cap on accessing the service may be considered by ComReg in the future.

### **ComReg's Position**

- 95 Having considered the views of respondents, ComReg's position is summarised below.
- 96 Every undertaking must provide access to a free directory enquiry service for subscribers who have vision impairment and/or have difficulty in reading the phone book, subject to subscribers meeting the required certification of disability by a registered medical practitioner or by an appropriate agent.
- 97 It is not appropriate to set a cap (specified monetary allowance or specified number of request for Directory Enquiries free of charge per billing period) as part of the Accessible Directory Enquiries proposed measure. However, undertakings should inform ComReg of any issues arising in respect of usage.
- 98 The specific measures are set out in the Decision Instrument in Annex 1.

#### **3.1.4 Accessible billing**

- 99 In Consultation 13/58 ComReg proposed that the consumer protection conditions in respect of consumer bills and billing mediums attached to the General Authorisation as summarised in Annex 6 of this document should apply to disabled subscribers.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 100 ComReg also proposed that the requirements imposed on undertakings in respect of consumers by the conditions in respect of consumer bills and billing mediums attached to the General Authorisation should also be imposed on undertakings, pursuant to Regulation 17 of the Regulations, in respect of disabled subscribers who are not otherwise consumers within the meaning of the term as defined in Regulation 2 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.<sup>17</sup>
- 101 In addition to the above-mentioned requirements, ComReg also proposed that any and all bills (including transaction detail requests) issued to a disabled subscriber by an undertaking should be provided free of charge in a medium properly accessible to that disabled subscriber (including Braille), if requested.
- 102 Also, ComReg proposed that disabled subscribers may wish to register their alternative billing medium requirement with the undertaking that is their service provider in order to ensure that the undertaking that is their service provider can best meet their billing needs. The proposed measure regarding a facility for disabled subscribers to register requirements, as set out at section 4.4 of this response to consultation document, is relevant in this regard, in particular, where a Braille bill is requested<sup>18</sup>.
- 103 With regard to the suggested proposals, ComReg posed the following question.

**Q5.** Do you agree with ComReg's proposed approach as set out in section 4.2.4 regarding accessible billing? Please provide reasons to support your view.

### Views of Respondents

- 104 In general respondents were supportive of the approach to this measure.

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<sup>17</sup> Regulation 24 and Schedule 1 Part A of the Regulations and Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (SI No.336 of 2011) are also relevant in this regard and are further detailed in Annex 2 of this response to consultation document.

<sup>18</sup> Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 105 Eircom considered that the greater focus should be placed on end-user need. Eircom consider that when an end-user requests an alternative to their current bill (for example their current on-line bill), this presents the opportunity to offer the various alternatives to the end-user. For example, an end-user might be provided with advice and assistance on using large print display and screen readers. If this does not meet their needs, standard paper billing might be offered, failing which large print bills might be offered and ultimately if Braille is the only format that meets the customer's needs this would be provided. Nonetheless, Eircom stated that it appreciates that if an end-user makes an unprompted request for a Braille bill, it is likely that this is the only medium through which they can access their bill.
- 106 NCBI suggest that consumer protection conditions in respect of consumer bills and billing mediums attached to the General Authorisation should apply to all subscribers with disabilities. The requirements already imposed (D08/13) on undertakings in respect of consumer bills and billing mediums should also be imposed in respect of subscribers with disabilities who are not otherwise consumers.

### **ComReg's view**

- 107 ComReg is of the view that the consumer protection conditions in respect of consumer bills and billing mediums attached to the General Authorisation as summarised in Annex 6 of this document should apply to all subscribers with disabilities.
- 108 ComReg's view that the requirements imposed on undertakings in respect of consumers by the conditions (in respect of consumer bills and billing mediums) attached to the General Authorisation should also be imposed on undertakings, pursuant to Regulation 17 of the Regulations, in respect of disabled subscribers. Additionally, ComReg is of the view that any and all bills (including transaction detail requests) issued to a disabled subscriber by an undertaking should be provided free of charge in a medium properly accessible to that disabled subscriber (including Braille), if requested.
- 109 ComReg is of the view that undertakings should provide a facility for disabled subscribers to register their alternative billing medium requirement with the undertaking that is their service provider in order to ensure that their service provider can best meet their billing needs.



### ComReg's Position

- 110 Having considered the views of respondents, ComReg's position is summarised below.
- 111 ComReg has decided that the consumer protection conditions in respect of consumer bills and billing mediums attached to the General Authorisation as summarised in Annex 6 of this document should apply to all disabled subscribers.
- 112 ComReg has decided that the requirements imposed on undertakings attached to the General Authorisation should also be imposed on undertakings, pursuant to Regulation 17 of the Regulations, in respect of disabled subscribers who are not otherwise consumers within the meaning of the term as defined in Regulation 2 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.<sup>19</sup>
- 113 In addition to the above, ComReg has also decided that any and all bills (including transaction detail requests) issued to a disabled subscriber by an undertaking should be provided free of charge in a medium properly accessible to that disabled subscriber (including Braille), if requested.
- 114 Also, ComReg has decided that a facility for disabled subscribers to register requirements, as set out at section 4.4 of this Response to Consultation and Decision, is relevant in this regard, in particular, where a Braille bill is requested<sup>20</sup>.
- 115 The specific access measures are set out in the Decision Instrument in Annex 1.

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<sup>19</sup> Regulation 24 and Schedule 1 Part A of the Regulations and Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (SI No.336 of 2011) are also relevant in this regard and are further detailed in Annex 2 of this response to consultation document.

<sup>20</sup> Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.



### 3.1.5 Accessible facility to test compatibility of terminal equipment

116 In consultation 13/58 ComReg was of the preliminary view that every undertaking selling terminal equipment should be required to make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant, to test terminal equipment at the Undertaking's retail shops in advance of purchasing the terminal equipment, and to ensure that the testing facility is supported by on-site staff who are trained in the use of terminal equipment and are equipped to address any queries raised by disabled end-users in advance of purchase.

117 ComReg posed the following question in its consultation:

**Q6.** Do you agree with ComReg's proposed approach as set out in section 4.2.5 that every undertaking selling terminal equipment should be required to make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant, to test terminal equipment at the Undertaking's retail shops, in advance of purchasing the terminal equipment, and that the testing facility should be supported by on-site staff that are easily accessible and trained in the use of terminal equipment and are adequately equipped to address any queries raised by disabled end-users in advance of purchase? Please provide reasons to support your view.

#### Views of Respondents

118 Respondents were divided in their response to this proposed measure.

119 IHHA, DeafHear and NDA, support this measure; each noted certain issues that disadvantage end-users with disabilities as a result of the lack of information available in respect of the details regarding the compatibility of handsets for end-users with disabilities.

120 In general, undertakings objected strongly to the proposed measure.

121 H3GI disagreed with ComReg's proposed approach which requires that undertakings make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant in advance of purchasing the terminal equipment. It claims that undertakings should not be required to make available a specific area for disabled end-users who use a hearing aid or have a cochlear implant, to test terminal equipment.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 122 H3GI is of the view that disabled end-users can utilise the space already available. Furthermore, H3GI believes that equal access does not mean that all handsets should be made available for testing purposes. Currently, there are test/demonstration handsets which all users can test prior to purchasing. Test or demonstration handsets must be paid for and it would be excessive to require that all handsets be available for testing. It could be costly to have a full range of live demonstration units in all stores. Additionally within the current economic climate crime specifically theft and fraud has increased significantly and subsequently it is not practical to have devices so freely displayed that customers can make test calls on them or steal them.
- 123 Vodafone believes that the most appropriate way to deal with this issue is to require Service Providers to amend their returns policies to meet the needs of end-users who require cochlear implants/hearing aids; requests that this suggestion is assessed in the final RIA; and considers that it is likely that the final RIA would conclude that Vodafone's suggestion would be the most appropriate and proportionate means to address the issue raised.

### **ComReg's view**

- 124 ComReg is supportive of Vodafone's proposal.
- 125 ComReg is of the view that an appropriate, proportionate and direct means of addressing the problem identified in question 6, would be to require undertakings to adjust their policy on returns of terminal equipment in respect of end-users with hearing aids or cochlear implants so as to make it easy and convenient for these end-users to return equipment that does not meet their specific requirements. This returns policy for end-users with hearing aids and cochlear implants would not lead to an unreasonable cost for undertakings.

### **ComReg's Position**

- 126 Having considered the views of respondents' ComReg's position is detailed below.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

127 ComReg is of the view that undertakings selling terminal equipment may make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant, subject to subscribers meeting the required certification of disability by a registered medical practitioner or by an appropriate agent, to test terminal equipment at the Undertaking's retail shops, in advance of purchasing the terminal equipment. Alternatively, undertakings selling terminal equipment for disabled end-users, specifically for those end-users using a hearing aid or who have a cochlear implant, must adjust their policy on returns of terminal equipment in respect of end-users with hearing aids or cochlear implants so as to make it easy and convenient for these end-users to return equipment that does not meet their specific requirements.

128 The specific measures are set out in the Decision Instrument in Annex 1.

### 3.2 Accessible information

129 ComReg proposed that every undertaking should be required to ensure information regarding its products and services, (including all information provided to the majority of end-users), is accessible for disabled end-users. This information should include the following:

130 Website information available to all end-users to meets the requirements of the Web Accessibility Initiative<sup>21</sup> to facilitate disabled end-users. This should include:

- “One-click” access from the home page of every Undertaking's website to the Disability Section of the Undertaking's website that contains comprehensive information, including information as specified by ComReg from time to time.
- Information in respect of contracts (in accordance with Regulation 14 of the Regulations) including notifications of modifications.
- Information in respect to complaints handling including the Undertaking's code of practice (in accordance with Regulation 27 of the Regulations).

131 ComReg posed the following question:

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<sup>21</sup> The World Wide Web Consortium (W3C) is an international community that develop open standards to ensure the long-term growth of the Web. The Web Accessibility Initiative (WAI) standard developed by W3C is available from the following link: <http://www.w3.org/TR/WCAG20/>. The NDA's Excellence through Accessibility – ICT Guidelines and Criteria, Guideline 14 Web Accessibility, refers to this standard.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

**Q7.** Do you agree with the proposed approach outlined in section 4.3 regarding the provision of accessible information in respect to, but not limited to, products and services and accessibility of information channels? Please provide reasons to support your view.

### Views of Respondents

- 132 Vodafone, 02, Eircom and UPC did not object to ComReg's approach.
- 133 H3GI noted that "it agrees in principle but does not agree that ComReg should prescribe the accessible means that must be available, in particular, that Service Provider's websites should be accessible to the same level as public bodies including government". H3GI noted throughout its response that it does not have any disabled subscribers, and, as such to require undertakings to provide a code of practice in a number of accessible formats is unreasonable.
- 134 Age Action considered that accessible information must meet the needs of end-users and that this should go beyond web based accessibility.
- 135 IHHA supported the measure, but would prefer all information and all services provided to all end- users to be included.
- 136 SLIS noted that no consideration has been given to having key information available in ISL.
- 137 NDA cautioned that a separate Disability Section on websites can cause duplication of work for the provider and often it is less up to date. NDA recommends making the undertakings' (main) websites accessible.
- 138 DeafHear agreed with this proposal but stated that ISL users need to be considered.

### ComReg's views

- 139 ComReg notes that in general, the proposed measures received support from most of the respondents. ComReg also noted that some respondents commented that the measure does not go far enough.
- 140 In preparing its consultation 13/58 ComReg sought the input of the participants of the Forum, and certain issues and proposals, such as the use of ISL, which were not discussed in detail at Disability Forum were not consulted on. However, these additional issues and proposals may be considered for the purpose of future consultations.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

141 ComReg is of the view that every undertaking should be required to ensure that information regarding its products and services, including all information provided to the majority of end-users, are accessible and up to date for disabled end-users<sup>22</sup>.

### ComReg's position

142 ComReg's position, having considered respondents' views, is summarised below.

143 For the purposes of ensuring that such information regarding its products and services is made accessible to disabled end-users every undertaking is required to ensure the following:

144 The Web Accessibility Initiative as developed by the World Wide Web Consortium (W3C), is met to facilitate disabled end-users accessing the undertaking's website for at least the following information:-

- "One-click" access from the home page of the undertaking's website to the Disability Section of that website;
- the Disability Section of the undertaking's website which contains comprehensive and up to date information in relation to the products and services it provides which are of particular interest and relevance to people with disabilities; and
- the Disability Section of the undertaking's website contains details of and access to websites that contain information of relevance to disabled end-users that ComReg may specify from time to time.
- Contractual information in accordance with Regulation 14 of the Regulations, including any notification in respect to any modification to contractual conditions, as required by Regulation 14(4) of the Regulations, is accessible for disabled end-users.
- Information in respect of the Undertaking's complaints handling procedures, including the Undertaking's Code of Practice, as required by Regulation 27 of the Regulations, is accessible, easy to read and understandable and, in particular, accessible in a number of formats, to include but not limited to Braille, Audio, Regular print, Large print, Easy to read, and Online versions of each format (on the disability section of the Undertaking's website) and all of these formats must be printable.

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<sup>22</sup> Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

145 The Decision is set out in Annex 1.

### 3.3 Facility for Disabled Subscribers to register requirements

146 ComReg proposed that every undertaking should be required to establish and maintain a facility to enable disabled subscribers to register their requirements and allow the undertaking to record details to facilitate the regular provision of relevant and appropriate information and/or products and services to disabled subscribers. The facility to register must, at a minimum, have the ability to record, subject to the disabled subscriber's consent, the following:

- Name, address, contact details (to include phone or email and/or third party nominated contact);
- Preferred means of communication;
- Preferences in respect to bundles (for example broadband or text only);
- Details of any special terminal equipment required; and
- Details of any alternative billing medium requirement

147 ComReg posed the following question in its consultation.

**Q8** Do you agree that every undertaking should set up and maintain a facility (to record as a minimum details set out in section 4.4 above) to enable disabled subscribers to register their requirements allowing undertakings to record details, to facilitate the regular provision of relevant and appropriate information and/or products and services to disabled subscribers and for this information to be provided to a nominated third party contact if appropriate and necessary? Please provide reasons to support your view.

#### Views of Respondents

148 The support for this proposal from the undertakings who responded is mixed. Although agreeing with the purpose of the proposal, the detail of the proposal as set out in consultation 13/58 was questioned.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 149 Eircom noted that it did not consider that sufficient demand exists for the facility amongst disabled end-users. Eircom also had concerns regarding the potential costs involved in gathering the data and also consider channels already exist for capturing this information. Eircom also questioned the need for capturing information regarding: bundles, bills etc, given the competitive and innovative nature of the industry.
- 150 H3GI does not agree with the need for the proposed measure. H3GI questioned ComReg's analysis of what kind of information is already collated by undertakings. H3GI considers that undertakings should be able to use the systems they already have in place to gather and collate information so that all the information is in one place. H3GI objects to a requirement to build a new system when one already exists.
- 151 Vodafone and O2 agreed with the proposed measure as long as it is compliant with the data protection legislation.
- 152 UPC agrees with the proposed measure, UPC already operates such a facility. UPC questions why this facility would be used for the purpose of regularly informing disabled subscribers regarding products and services designed for their requirements stating that a functional disabled section of the website should do this.
- 153 Age Action considers it important to gather information regarding the customers' preferred method of communication. Age Action noted the importance of recording the contact details of a nominated third party.
- 154 IHHA agree with proposal, and go on to advise that consideration to be given to who should hold the register; IHHA suggest the NDA or Department of Health with access to specific information be given to communications companies.
- 155 DeafHear supports the proposed measure but caveat that it should be clear that it is a voluntary registration process and care is taken to use the information appropriately.
- 156 NDA considers that in imposing this measure that ComReg and Undertakings must be cognisant of the Assisted Decision-Making (Capacity) Bill 2013.
- 157 NCBI agrees with the proposal, but advises that the undertakings should collect and record the following details for all subscribers when they first sign up for the service:
- Name;
  - Contact details;

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- Third party nominated contact name and contact details (if appropriate);
- Preferred means of communication;
- Preferred billing medium;
- Functional requirements of terminal equipment.

158 DFI consider that information gathered for disabled end-users should be collected in same way as for other mainstream end-users to include opt-ins, opt-outs and preferences. The information obtained can be embedded in the mainstream register and DFI questioned the need for a 'specialist' register.

### **ComReg's view**

159 ComReg notes that several respondents agreed with the principle and objective of the proposal but did not agree with the proposed implementation.

160 ComReg formulated the proposed measure in part based on discussions at the Forum where it established that detriment is experienced by disabled subscribers in particular where they wish to have a particular communication need recorded by their service provider or where they wish to provide their consent for a third party to act on their behalf in relation to their account.

161 ComReg notes that undertakings currently, as a matter of course, gather information from their end-users for numerous purposes such as; confirmation of identity, billing etc. Undertakings also gather end-user information, with the consent of the end-user, for the purpose of marketing both general and tailored product and service offerings to end-users who have "opted-in" to receive such information.

162 ComReg in considering this measure is cognisant of the Assisted Decision-Making (Capacity) Bill 2013 which does not affect ComReg's measure.

163 ComReg also noted that a number of disability representative respondents suggested that the type of information to be gathered as proposed by the measure could be incorporated into an undertaking's standard method of gathering data regarding its end-users.

164 ComReg is of the view that a facility for undertakings to record disabled end-users' preferences would afford disabled end-users an improved consumer experience and would also ensure that undertakings fulfil their obligations to disabled end-users.



## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 165 ComReg is also of the view that a costly or new mechanism need not be developed by undertakings in order to fulfil the obligations of this proposed measure. Undertakings as part of their everyday business collect and maintain details of their end-user's details and preferences in relation to packages, billing and contact methods etc. ComReg is of the view that undertakings' existing mechanisms may be used, once compliant with the proposed requirements and relevant data privacy requirements.
- 166 In considering the timeframe allowed to implement this measure, ComReg is of the view that while the measure is not costly or difficult to implement it may require time to allow it to incorporate any necessary changes in a scheduled software update. ComReg is of the view that nine months is an appropriate timeframe for implementation.

### **ComReg's Position**

- 167 ComReg is of the view that undertakings must, subject to the disabled subscriber's consent, gather and record the following:
- Name;
  - Contact details;
  - Third party nominated contact name and contact details (if appropriate);
  - Preferred means of communication;
  - Preferred billing medium;
  - Functional requirements of terminal equipment.

### **3.4 Other Measures**

- 168 In consultation 13/58 ComReg stated that it would welcome respondents' views and/or proposals in relation to any additional requirements or measures that may be considered proportionate and justified and within the scope of Regulation 17 of the Regulations. ComReg went on to state where proposed measures are received, they will be assessed against Regulation 17 on the basis of the approach set out in Annex 4 of the consultation document and may form the basis of a supplementary consultation, if appropriate.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

**Q 9** Are there other requirements not identified by this response to consultation document which, in your opinion, fall within the scope of Regulation 17 that ComReg should consider? Please provide reasons to support your view

### Views of Respondents

- 169 ComReg noted the Text Relay Service (TRS) was the main subject of responses.
- 170 Respondents Alvean Jones and Jane O'Brien, included the detail of their interaction with a Text Relay Operator. The detail provided refers to their view that there is a requirement for the Text Relay service to be updated and the need for the use of video relay services.
- 171 NDA recommended the conducting of a feasibility study in relation to all undertakings providing a TRS that is compatible with mobile technology.
- 172 SLIS noted that the consultation did not elaborate on how ComReg proposed to include deaf people in any future review of measures or how this can be achieved through medium of ISL.
- 173 DFI noted that TRS needs to be modernised for those who use it. Also where services are advertised as accessible and later transpire not to be, the subscriber should have the right to withdraw from any contractual obligations.
- 174 IHHA suggested that disabled end-users should be able to withdraw from a contract if necessary information is not made accessible.
- 175 NCBI raised the issue that consumers should have the right to withdraw from a contract and receive damages if it transpires that the service or product is inaccessible.
- 176 H3GI noted that competition should drive change rather than relying on regulatory measures of market intervention.

### ComReg's view

- 177 ComReg notes the submissions from respondents regarding TRS. While these submissions are out of scope of this Decision, ComReg thanks the respondents and notes that it will use these submissions for future consideration.
- 178 ComReg also notes the comments of respondents regarding contractual arrangements. This relates to compliance by undertakings with their obligations. ComReg will monitor compliance and take appropriate action in accordance with the Universal Service Regulations.

### 3.5 Timing of implementation and review of measures

179 In consultation 13/58 ComReg proposed the following considerations in respect of the timeframe allowed for undertakings to implement the proposed measures:

- Where necessary and appropriate, interim measures will be put in place to allow sufficient time for feasible solutions to be tested and deployed;
- Measures may be phased-in over a specific time period; and
- A review of measures imposed may be undertaken by the Forum at agreed timeframes. Factors which may be reviewed include the take up of measures by disabled end-users, how user friendly the measures are once rolled out, and the need for end-user surveys to identify usage of new measures and issues which may arise in that regard.

180 ComReg posed the following question:

Q10 Do you have any views with regard to timeframes for each of the specific measures? Please provide evidence and reasons to support your view.

#### Views of Respondents

181 A majority of the respondents suggest a timeframe of between 6 and 12 months for the implementation of any changes arising from the Decision on the measures consulted upon.

#### ComReg's view

182 ComReg is of the view that some of the measures arising from the Decision may be easier and quicker to implement than others, and as such ComReg considers that all the proposed measures should be implemented within the timeframes below following this Decision: Accessible Complaints Procedures (6 Months);

- Accessible Top –Up for Mobile (9 Months);
- Accessible Directory Enquiries (6 Months);
- Facility for testing of terminal equipment (6 Months);
- Accessible Information (9 Months);
- Register of Requirements (9 Months).

### 3.6 Regulatory Impact Assessment

- 183 In consultation 13/58 ComReg sought interested parties' views on other factors (if any) that ComReg should consider in completing its RIA.

Q11 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and offer views on other factors (if any, such as costs to be borne) that ComReg should consider in completing its RIA.

#### Views of Respondents

- 184 H3GI questioned ComReg's statement that the benefits outweigh potential costs when it has not analysed the costs associated with the proposed changes in relation to the Accessible Top Up Facility proposal. H3GI also questions ComReg's draft RIA in relation to Accessible Directory Enquiries, Accessible Billing; Accessible Information; Accessible Facility to test compatibility of Terminal Equipment and Facility for Disabled Subscribers to register requirements.
- 185 Eircom considered that ComReg had not qualified what it meant by minimal costs and it assumes benefits without providing evidence that existing products and services fail to deliver similar benefits that would meet the equivalence test.
- 186 Vodafone raised concerns in relation to question 6, however Vodafone proposed an adjustment to undertaking's returns policies to facilitate terminal equipment non-compatibility issues. Otherwise Vodafone considers the other measures to be reasonable so long as undertakings are granted 12 months from issue of the ComReg Final Decision to integrate the measures in to their businesses. UPC has concerns that ComReg's proposals in relation to mandated disability training, accessible billing proposals, and testing facility at retail shops could be disproportionate and unjustified.
- 187 O2 noted that where demand for a service is low, it may be disproportionate to roll out the service in question. O2 requests ComReg to list a minimum set of requirements for the implementation of the measures.

### **ComReg's view**

- 188 ComReg has considered undertakings' comments with regard to the mandating of terminal testing equipment in retail stores and has made the obligation less onerous by allowing undertakings to adjust their returns policy as set out above.
- 189 With regard to the matters of Accessible Directory Enquiries, Accessible Information; and accessible top-up facility - in each case many undertakings have already implemented the proposed measures on a voluntary basis.
- 190 With regard to the matters of Accessible Directory Enquiries, Accessible top-ups and Accessible Information, in each case many undertakings have already implemented the proposed measures on a voluntary basis and ComReg therefore is of the view that it is reasonable to require other undertakings that have not already done so to now implement them.
- 191 With regard to matters of Accessible Billing, these measures are already in place as result of ComReg Decision D08/13<sup>23</sup> for the majority of disabled subscribers and this Decision is extending these protections to subscribers who may have businesses.
- 192 In respect of the Accessible Complaints Procedures, ComReg notes that the back-end processes are already in place and that the requirement relates to additional channels of communications which may be required by certain disabled subscribers.
- 193 In respect of the Facility for Disabled Subscribers to register requirements, ComReg is of the view that undertakings have already processes and systems in place to capture and use details regarding their subscribers and ComReg is of the view that the changes required to capture the additional details are minimal and can be scheduled as part of other software updates.
- 194 As such, ComReg considers the impact and overhead caused by such measures to be reasonable and proportionate.

## **3.7 Draft Decision Instrument**

- 195 The draft Decision Instrument was contained in Annex 6 of consultation 13/58, and question 12 of consultation 13/58 asked for comments in relation to the draft Decision Instrument.

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<sup>23</sup> ComReg Document 13/52 Consumer Bills and Billing Mediums:D 08/13

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

Q12 Do you have any comments on the substance or the drafting of the draft Decision Instrument? If necessary, please provide a marked up version of the draft Decision Instrument, indicating what changes you believe are appropriate and why.

### **Views of Respondents**

196 In accordance with the proposals that each respondent suggested and as discussed in the relevant sections above, Eircom and H3GI suggested changes to the Decision Instrument.

### **ComReg's view**

197 ComReg notes that the changes to the proposed measures suggested by the respondents are consistent with the responses they provided.

198 ComReg considers the changes to the measures as suggested by Eircom and H3GI are not appropriate at this time for the reasons already discussed in the appropriate section of this document. ComReg has however incorporated into the Decision Instrument a number of changes to reflect suggestions in respect of individual measures put forward by operators, which ComReg considers should be acceptable to all stakeholders.

## 4 Background to the Measures

199 This section presents, by way of background, matters that have influenced this response to Decision Instrument document and the measures proposed herein including legal obligations and inputs from the Forum and BEREC. This section also briefly sets out related matters that are being addressed by ComReg separately and thus fall outside the scope of this response to consultation.

### Obligations in law

200 With the introduction of the Regulations in July 2011 a number of new obligations in respect of disabled end-users were imposed on Undertakings and a number of new provisions in respect of ComReg's related powers were introduced.

201 Regulation 17 of the Regulations provides:

*17.(1) The Regulator may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services in order to ensure that disabled end-users-*

*(a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users, and*

*(b) benefit from the choice of undertakings and services available to the majority of end-users.*

*(2) The Regulator shall encourage the availability of terminal equipment offering the necessary services and functions in order to be able to adopt and implement specific arrangements for the requirements of disabled end-users.*

202 Section 10 of the Communications Regulation Act, 2002 sets out the functions of ComReg.

203 Section 12 of the Communications Regulation Act, 2002 sets out the objectives of ComReg, including as follows:

*12.(1) The objectives of the Commission in exercising its functions shall be as follows—*

*(a) in relation to the provision of electronic communications networks, electronic communications services and associated facilities—*

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(i) to promote competition,*

*(ii) to contribute to the development of the internal market,  
and*

*(iii) to promote the interests of users within the Community,*

*[...]*

*12.(2) In relation to the objectives referred to in subsection (1)(a), the Commission shall take all reasonable measures which are aimed at achieving those objectives, including—*

*(a) in so far as the promotion of competition is concerned—*

*(i) ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality,*

*[...]*

204 ComReg is also mindful of section 12(3) of the Communications Regulation Act, 2002 which provides:

*12.(3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.*

205 Regulation 16 of the Framework Regulations provides furthermore, in addition to the objectives of ComReg, that ComReg is amongst other things, required in so far as the promotion of competition is concerned, to ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality. Insofar as promotion of the interests of users within the European Union is concerned, ComReg is required to address the needs of specific social groups, in particular, elderly users and users with special social needs, and to promote the ability of end-users to access and distribute information or use applications and services of their choice.

206 Regulation 6 of the Regulations obliges ComReg to impose obligations on designated undertakings<sup>24</sup> for disabled end-users as follows:

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<sup>24</sup> A designated undertaking is an undertaking that has been designated as a Universal Service Provider in accordance with Regulation 7 of the Regulations.



## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*6.(1) (a) Unless requirements have been specified under Regulations 14 to 25 which achieve the equivalent effect, the Regulator shall, with the consent of the Minister, specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can enjoy access to and affordability of the services identified in Regulations 3(2) and 4, equivalent to the level enjoyed by other end-users.*

*[...]*

*6.(2) The Regulator may specify terms and conditions to be complied with by designated undertakings for the purpose of ensuring that disabled end-users can take advantage of the choice of undertakings and service providers available to the majority of end-users.*

*[...]*

207 In accordance with Regulation 7 of the Regulations, Eircom Ltd. (“Eircom”) is designated as the Universal Service Provider (“USP”) until 30 June 2014<sup>25</sup> for the purpose of complying with the specific obligations for disabled end-users as provided for by Regulation 6 of the Regulations. Annex 2 of this response to consultation document provides full details of the Universal Service Obligations in this regard.

208 Prior to the introduction of Regulation 17 of the Regulations in 2011, protections for disabled end-users were largely confined to requirements established by universal service obligations. The Regulations now provide the opportunity for all undertakings to ensure equivalence in access and choice for disabled end-users in their provision of electronic communications services.

209 ComReg is of the view that the measures proposed in this response to consultation document should be binding upon every undertaking excluding the designated USP only in so far as any obligation or aspect of same is currently imposed on the designated USP in accordance with the universal service designation<sup>26</sup>.

210 A more detailed legal basis for this response to consultation can be viewed in Annex 2 of this response to consultation document.

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<sup>25</sup> ComReg 12/71  
<sup>26</sup> ComReg 12/71

## Definition of Key Terminology

- 211 Disability: For the purposes of this decision, “disability”, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment<sup>27</sup>;
- 212 “End-User” means a user not providing public communications networks or publicly available electronic communications services in accordance with the definition at section 2(1) of the Framework Regulations.
- 213 ‘Equivalence’, for the purposes of this response to consultation this response to consultation, is defined in accordance with recital 12 of Directive 2009/36/EC which provides:
- 214 “Equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means.”
- 215 “Functional equivalence” is also discussed in the BEREC Report<sup>28</sup> which provides:

*“BEREC proposes that “equivalent” in this context means that equivalent access to and choice of electronic communications services should be achieved for end-users with disabilities, albeit that this might be achieved in different ways for end-users with disabilities in comparison with other end-users.*

*BEREC additionally notes recital 12 the 2009 Directive which states that: “Equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means”.*

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<sup>27</sup> This definition is provided for in the [Disability Act 2005](#), section 2(1).

<sup>28</sup> [BEREC Report](#)

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*The 2009 USD refers to services for disabled consumers that are equivalent to those enjoyed by other end-users. The objective is functional equivalence, but in practice there are reasons why 100% equivalence is not always possible. For example, there may be technical constraints that prevent a particular service from being possible, or the cost of achieving 100% equivalence could be disproportionate to the benefits arising from providing it.”<sup>29</sup>*

216 “Subscriber” means any natural person or legal entity who or which is party to a contract with a provider of publicly available electronic communications services for the supply of such services in accordance with the definition at section 2(1) of the Framework Regulations.

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<sup>29</sup> BEREC Report, pages 30-31

## 5 Regulatory Impact Assessment ("RIA")

### 5.1 Role of the RIA

217 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate.

218 The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders. ComReg's approach to RIA is set out in the Guidelines published in August 2007.<sup>30</sup> In conducting the RIA, ComReg takes account of the RIA Guidelines<sup>31</sup> issued by the Department of An Taoiseach in June 2009 and adopted under the Government's *Better Regulation* programme.

219 Section 13(1) of the Communications Regulation Act 2002, as amended, requires ComReg to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings ComReg must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government's Better Regulation programme. In conducting the RIA, ComReg also has regard to the fact that regulation by way of issuing decisions, for example imposing obligations or specifying requirements, can be quite different to regulation that arises by the enactment of primary or secondary legislation.

220 In conducting RIA, ComReg takes into account the six principles of Better Regulation. These are:

1. Necessity.
2. Effectiveness.
3. Proportionality.
4. Transparency.
5. Accountability.
6. Consistency.

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<sup>30</sup> ComReg Document 07/56 & 07/56a

<sup>31</sup> [RIA Guidelines](#) (Department of the Taoiseach – Revised RIA GUIDELINES – How to conduct a Regulatory Impact Analysis – June 2009)

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 221 To ensure that a RIA is proportionate and does not become overly burdensome, a common sense approach will be taken towards a RIA. As decisions are likely to vary in terms of their impact, if after initial investigation a decision appears to have relatively low impact, then ComReg would expect to carry out a less exhaustive RIA in respect of those decisions.
- 222 In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate, or, in exceptional cases, where robust, detailed and independently verifiable data is available. This approach will be adopted when necessary.
- 223 ComReg is of the view that the benefits to be achieved by the measures proposed in this response to response to consultation document outweigh any potential costs and, as such, considers that the measures proposed are proportionate and justified given the need to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users. Throughout this response to consultation document, ComReg has set out the reasons why it considers that there is a need for the measures proposed.

## 5.2 Assessment of the regulatory approach

- 224 An approach for NRAs to ensure equivalence in access and choice for disabled end-users was published by BEREC. ComReg has decided to adopt as a template BEREC's proposed approach<sup>32</sup> in its implementation of Regulation 17 of the Regulations. The steps taken by ComReg in this regard are set out in Annex 5 of this response to consultation document.
- 225 ComReg, in taking the view of the respondents to consultation document 13/58 into account has modified a number of the original proposed measures set out in that consultation. ComReg is of the view that the regulatory impact of the original and the modified measures is minimal.

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<sup>32</sup> [BEREC Report](#), pages 68-73

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

226 ComReg has taken the view that it should mandate measures to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users pursuant to Regulation 17 of the Regulations which provide a statutory basis for specifying requirements to be complied with by Undertakings. Regulation 31 of the Regulations provides for civil enforcement in circumstances where an undertaking fails to comply with an obligation, term or condition, requirement, specification or direction under the Regulations. ComReg has also had regard to sections 10 and 12 of the Communications Regulation Act, 2002 and Regulation 16 of the Framework Regulations.

227 ComReg regards this implementation approach as an appropriate means of achieving the aims of Regulation 17 of the Regulations.

### 5.3 Policy Issue and Objectives

228 Although advances in technology in recent years, such as the increased availability of broadband and mobile data services, email and SMS messaging, have improved disabled end-users' ability to communicate, the ability to use these services and to make and receive telephone calls remains important.

229 ComReg considers it essential that disabled end-users do not face any barriers when accessing electronic communications services. The barriers that disabled end-users face and the importance of access to telephone services are recognised in the USD<sup>33</sup>.

230 ComReg's objective is to ensure that equivalence in access to electronic communications services and choice of undertakings and services is attained for disabled end-users.

231 Under the Regulations, the USP is obliged to offer certain services to disabled end-users. However pursuant to Regulation 17 of the Regulations, all undertakings may be required to comply with specific requirements in order to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

232 ComReg must first establish whether or not there is equivalence and secondly identify any factors that need to be addressed. In its Report, BEREC proposed "that "equivalent" in this context means that equivalent access to and choice of electronic communications services should be achieved for end-users with disabilities, albeit that this might be achieved in different ways for end-users with disabilities in comparison with other end-users".<sup>34</sup>

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<sup>33</sup> Universal Service Directive

<sup>34</sup> BEREC Report, pages 30-31

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- 233 The measures proposed in consultation 13/58 for ensuring equivalence in access and choice, have been discussed with the Forum to ensure that they are necessary, robust and have a high likelihood of achieving the goals required.
- 234 ComReg now sets out each proposed measure in turn and outlines the relevant costs and benefits of same for industry, competition, and disabled end-users.
- 235 Cognisant of the responses in respect of the timing of implementation of the measures, ComReg has decided, in order to allow for the impact of implementing the measures, to allow a staggered approach to implementation. The proposed timeline is contained within the tabular analysis of each of the measures below and also within the Decision Instrument at Annex 1 of this document.
- 236 ComReg is of the view that the benefits to be achieved by the measures proposed in this response to consultation document outweigh any potential costs and, as such, considers that the measures proposed are proportionate and justified given the need to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

## 5.4 Assessment of the regulatory options

### Accessible Complaints Procedures

- 237 ComReg was of the view that there are two options:
- **Option 1:** Status quo remains; disabled end-users may continue to experience difficulties logging, progressing and resolving complaints/queries.
  - **Option 2:** ComReg requires all undertakings to ensure that accessible complaints procedures are in place for disabled end-users.
- 238 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. Undertakings that do not currently provide accessible complaints procedures for disabled end-users would be unlikely to voluntarily introduce initiatives to do so.
- 239 By implementing Option 2, disabled end-users would be able to log, progress and resolve their complaints/queries with Undertakings in a manner equivalent to that of the majority of end-users. They would therefore be empowered by the introduction of this requirement and would not have to rely on third parties to log and progress complaints/queries on their behalf.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on Disabled end-users	Impact on Industry	Impact on Competition
<b>Option 1</b>	Disabled end-users may continue to experience difficulties (compared with other end-users) making, progressing and resolving complaints/queries and the objective of equivalence in access and choice may not be achieved.	Some Undertakings may roll out disability awareness training for their staff, others may not.	From discussions at the Forum, and the response to consultation 13/58 it appears that some Undertakings may implement measures voluntarily while others do not. There may be a negative impact on competition as disabled end-users experience difficulties complaining but are unlikely to switch Undertaking.
		Undertakings that do not currently provide this equivalence measure are unlikely to in the future.	
<b>Option 2</b>	Equivalent experience for disabled end-users when making enquiries and progressing complaints.	<p>Many of the undertakings stated that they already provide access to a accessible complaints procedures Industry may continue to use existing complaints procedures however this measure may require new communications mediums so that Disabled end-users can access the procedures.</p> <p>This measure may marginally increase the number of complaints/queries initially, however, this should be viewed as positive and learning exercise and provide an opportunity for Undertakings to provide an enhanced service to disabled end-users.</p>	All Undertakings have the same obligations in respect of disabled end-users ensuring that there is no negative impact on competition. Disabled end-users can be assured of equivalent treatment, enhancing competition by facilitating choice and switching by disabled end-users.



Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on Disabled end-users	Impact on Industry	Impact on Competition
	Increased confidence to lodge queries and complaints.	<p>Undertakings indicated that customer service staff receive training which encompasses the need of end-users with disabilities.</p> <p>Additionally The NDA has made <i>Disability Training Programmes</i> available to all Undertakings via their website. In addition the programme details have been discussed at the Forum</p> <p>Minimal additional costs and modification to the current complaints handling process may be needed. Training plan will need to be agreed and rolled out for all customer service agents</p>	
	Disabled end-users are no longer dependent on 3 <sup>rd</sup> parties to log and progress complaints/queries on their behalf	Service provision should not require any substantial additional costs.	
		Demand for services could potentially increase.	
		Undertakings will have 6 months from the date of publication of this document in order to comply with this measure	

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

241 ComReg considers that the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes that this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

### **Accessible Top-Up Facility for Pre-Paid Mobile Telephone End-Users**

242 ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; some disabled end-users are unable to top-up their mobile telephones without the assistance of a third party.
- **Option 2:** ComReg requires all Undertakings providing pre-paid mobile services to ensure that disabled end-users can top-up their pre-paid mobile telephones using an accessible top-up facility which may include SMS, without the need to seek assistance from a third party.

243 ComReg is of the view that the status quo (Option 1) does not achieve the objective of equivalence for disabled end-users. Disabled end-users, in particular those with hearing difficulties, cannot top-up their mobile telephones without assistance and it is unlikely that this situation will change unless ComReg mandates initiatives to allow disabled end-users do so.

244 By implementing Option 2, disabled end-users would be able to top-up without the need to seek assistance from a third party. They would therefore be empowered by the introduction of such a measure.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	<b>Impact on disabled end-users</b>	<b>Impact on Industry</b>	<b>Impact on Competition</b>
<b>Option 1</b>	End-users who have hearing difficulties cannot top-up their mobile telephones without assistance if they are with certain mobile service providers.	Undertakings may or may not decide to implement services which allow disabled end-users to top-up their mobile telephone credit without assistance.	Disabled end-users do not have a choice of Undertakings similar to that of the majority of end-users.
<b>Option 2</b>	Independence for those with hearing difficulties to apply credit on mobile telephone without requiring assistance, similar to other end-users.	Two of the respondent Undertakings advised that they already offer voucher top-up service which do not require voice prompts, additionally two other Undertakings advised that they provide this service once the end-users SIM has been registered. Minor adjustments would be required in respect of the cash/voucher top-up process to make it totally accessible for disabled end-users.	Increased competition as disabled end-users can choose from a greater selection of Undertakings.
	Increased choice of Undertakings.	Minimal technical set-up costs or costs due to implementing proposed principles, particularly ensuring ability for disabled end-users to top-up using the cash/voucher process.	
		Undertakings will have 9 months from the date of publication of this document in order to comply with this measure	

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

248 ComReg is of the view that the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users. ComReg does not believe that all Undertakings will introduce this measure on a voluntary basis absent regulatory obligations.

### **Accessible Directory Enquiries**

249 ComReg was of the initial view that there are two options:

- Option 1: Status quo remains; the USP must provide an accessible Directory Enquiries (“DQ”) service free of charge for disabled end-users but ComReg does not mandate this measure for other Undertakings.
- Option 2: ComReg requires all Undertakings to provide access to a free and accessible DQ service for subscribers who are unable to use the phone book because of vision impairment and/or have difficulty reading the phone book, once confirmation of disability is certified by a registered medical practitioner or by an appropriate agent.

250 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. ComReg’s experience through its Forum is that many Undertakings have implemented a free DQ service for disabled subscribers but some Undertakings do not currently provide access to a free DQ service for disabled subscribers and are unlikely to introduce initiatives to do so unless required.

251 By implementing Option 2, disabled subscribers will be able to access phone numbers in a manner equivalent to that of the majority of end-users. They would therefore be empowered by access to the DQ service and would not have to rely on third parties’ assistance.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
<b>Option 1</b>	Risk of disabled subscribers not receiving free access to numbers as available to other end-users. Not all Undertakings offer a free DQ service for disabled subscribers.	The USP is obliged to provide a free DQ service, some other Undertakings continue to offer this service on a voluntary basis, and others do not.	Disabled subscribers likely to remain with USP and other Undertakings who offer the free DQ service, therefore competition is limited.
		Undertakings that do not currently provide access to a free DQ service will not be obliged to.	
<b>Option 2</b>	Disabled end-users will have freedom to choose from a range of Undertakings as each will be required to provide an accessible DQ service.	Access to the DQ service will not be charged to the disabled subscriber subject to a potential cap. Undertakings may choose to provide a service where their own agents provide assistance with getting a number or may purchase a wholesale service from another Undertaking. This service is currently offered voluntarily by all of the respondent Undertakings.  ComReg will remove this obligation as a universal service obligation when imposed on all Undertakings <sup>35</sup> .	Disabled end-users can choose from an enlarged group of Undertakings which may lead to more intense competition.

<sup>35</sup> Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
	Risk of disabled subscribers not receiving a free DQ service is no longer an issue	Minimal set-up costs. Any costs are proportionate to the number of accounts held for disabled subscribers. Upper limit may be set in relation to the number of free enquires allowed or allowance towards enquiries given free of charge. ComReg will consider reviewing the issue of applying a CAP in light of any reports by undertakings of abuse of the free access to the DQ services to ComReg.	
	Disabled subscribers with a vision impairment are no longer dependent on 3 <sup>rd</sup> parties for assistance when getting numbers.	Undertakings will have 6 months from the date of publication of this document in order to comply with this measure	

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

252 ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled subscribers can enjoy access and choice equivalent to that of the majority of end-users.

### Accessible Billing

253 ComReg was of the initial view that there are two options:

- Option 1: Status quo remains; the USP is the only Undertaking currently mandated to provide Braille billing free of charge for end-users with restricted vision. Other Undertakings are not mandated in this regard.
- Option 2: ComReg requires all Undertakings to ensure disabled subscribers can receive an accessible itemised or non-itemised bill (including transaction detail requests), free-of-charge on request.

254 ComReg is of the view that the status quo (Option 1) does not achieve the objective of equivalence for disabled subscribers. Disabled subscribers must be able to view their bill in an accessible format similar to other end-users.

255 By implementing Option 2, disabled subscribers would be able to receive their bill (including transaction detail requests) in a properly accessible medium, regardless of the Undertaking they choose. Once disabled subscribers can access their bill (including transaction detail requests) they will have the ability to verify charges, and will also have access to the information necessary, which is contained on the bill (including transaction detail requests), to allow them to switch Undertakings should they so wish.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
<b>Option 1</b>	Varying degrees of bill accessibility for disabled subscribers depending on the Undertaking that is their chosen service provider.	Undertakings may issue bills in an accessible format, though some may not.	Disabled subscribers likely to remain with Undertakings who offer bills in a medium which they can access therefore restricting them from moving to other Undertakings.
	Some bills presented on-line which may not be accessible to disabled subscribers.	USP continues to provide Braille bills for end-users with restricted vision free-of-charge.	
	Undertakings, other than the USP, may charge for accessible bills (including transaction detail requests)		
<b>Option 2</b>	Disabled subscribers will be able to access their bills (including transaction detail requests)	Costs may arise in ensuring that a properly accessible billing medium is provided free-of-charge, in particular where Braille bills are requested. However, it is important for Undertakings that all subscribers can access their bill so that they can verify the charges and pay the amount due. This requirement already exists under the General Authorisation. The measure merely extends the right to an accessible Bill to a disabled end-user who may also be a business.	Equivalent choice for disabled subscribers will enhance competition.
	Disabled subscribers will be able to verify the charges on their bill (including transaction detail requests)	ComReg will remove the obligation to provide Braille bills on request free of charge for end-users with restricted vision as a universal service obligation on the USP when the obligation is imposed on all Undertakings <sup>36</sup> .	

<sup>36</sup> Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.



**Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users**

	<b>Impact on disabled end-users</b>	<b>Impact on Industry</b>	<b>Impact on Competition</b>
	This will enable disabled subscribers to avail of a selection of Undertakings in the knowledge that they will be able to access their bill (including transaction detail requests).	Undertakings will have 6 months from the date of publication of this document in order to comply with this measure	

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

259 ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, (see table above) and believes this option is proportionate and justified and ensures disabled subscribers can enjoy access and choice equivalent to that of the majority of end-users.

### **Accessible Facility to Test Compatibility of Terminal Equipment and or an appropriate returns policy**

260 ComReg was of the initial view that there are two options:

- **Option 1:** ComReg does not intervene, and the status quo remains.
- **Option 2:** ComReg requires all Undertakings selling terminal equipment to offer an accessible facility for compatibility testing of terminal equipment to disabled end-users who use a hearing aid or have a cochlear implant, with trained staff on-site, thus giving disabled end-users equivalence in terms of their ability to choose terminal equipment that best suits their needs.

261 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. There is a clear risk that disabled end-users would purchase terminal equipment which is not suitable for their requirements and as is the case to-date, they may not be allowed to return such equipment once it has been tried (used).

262 ComReg received a number of objections to this proposed measure from Undertakings. The main objection centered on the potential costs associated with stocking and preparing stores with suitable up-to-date equipment. Other issues such as staffing, insurance, and potential for theft have also been taken into consideration. As such ComReg has included a supplementary measure to address the problem identified which is discussed below:

263 ComReg is mindful of the fact that the purpose of this option is to ensure that appropriate terminal equipment is available to disabled end-users in order that electronic communications services are accessible.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

264 ComReg is now allowing an alternative measure that is an appropriate, proportionate and direct means of addressing the problem identified in question 6. This is to require Undertakings to adjust their policy on returns of terminal equipment in respect of end-users with hearing aids or cochlear implants so as to make it easy and convenient for these end-users to return terminals that do not meet their specific requirements. This returns policy for end-users with hearing aids and cochlear implants would not lead to an unreasonable cost for Undertakings. For the protection of the Undertakings and to provide clarity to Disabled end-users, the policy should only be available where a certification of disability has been provided by a registered medical practitioner or by an appropriate agent.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
<b>Option 1</b>	Disabled end-users may purchase terminal equipment which is not suitable for their needs.	Without regulatory intervention by ComReg, there is a risk that Undertakings will not offer disabled end-users facilities that allow them determine if the terminal equipment is suitable for their needs.	
	Due to Undertakings' returns policies disabled end-users may not be able to return terminal equipment that they have tried and does not meet their needs.		
	Disabled end-users may incur additional costs to purchase replacement terminal equipment.		
<b>Option 2</b>	Disabled end-users will have confidence in knowing that they can return incompatible terminal equipment they purchase which is not fit for purpose and compatible with their cochlear implant or hearing aid. This provision of this certification should minimise any ambiguity for the end-user.	There may be some minimal additional costs to providing an adjusted returns policy. However, absent such a policy Undertakings selling terminal equipment, in particular as part of a package, will not be assured the terminal equipment will work for their disabled end-users. Undertakings will be protected from potential abuse of this policy as certification of the hearing aid/cochlear implant will be provided.	Increased competition in the market as disabled end-users can exercise choice when purchasing electronic communications services which are often bundled with terminal equipment (handsets).

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
	Staff of Undertakings must be able to advise disabled end-users accordingly and may need to be trained to assist and advise.	There may be additional staff training costs. However, staff are regularly trained in respect of new handsets on the market and associated features and therefore this should be minimal, if any.	
		Undertakings will have 6 months from the date of publication of this document in order to comply with this measure	

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

265 ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

### Accessible Information

266 ComReg was of the initial view that there are two options:

- **Option 1:** Status quo remains; disabled end-users experience difficulties accessing information.
- **Option 2:** ComReg requires all Undertakings to provide accessible information regarding their products and services through for example the “One-Click Initiative”

267 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. There is a clear risk that Undertakings who do not currently provide accessible information to disabled end-users would not voluntarily introduce initiatives to do so.

By implementing Option 2, disabled end-users would be able to access information available to the majority of end-users. They would therefore be better able to make informed decisions about Undertakings, such as which Undertakings would best suit their needs.

268 ComReg also considers that Undertakings may require more time to implement this measure as each Undertaking will have to follow its implementation programme; as such ComReg concluded that a nine month implementation period will be applied.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
<b>Option 1</b>	Disabled end-users would continue to experience detriment due to an information gap.	Continue with current approach, some Undertakings providing better and more accessible information to disabled end-users than other Undertakings (for example, the one-click initiative is implemented by some Undertakings).	Negative impact on competition as disabled end-users experience difficulties accessing information and are unlikely to switch Undertaking.
		There is a risk that certain Undertakings will not offer accessible information to disabled end-users and will put their subscribers with disabilities at a disadvantage.	
<b>Option 2</b>	Informs and empowers disabled end-users to make correct choices with confidence.	Most of the Respondent undertakings have already voluntarily complied with the 2009 “One Click initiative” as such it is expected that the development impact should be minimal.	Disabled end-users can locate and access relevant information regarding services which may enhance competition.
	Enables disabled end-users to access information in a manner equivalent to the majority of end-users.	This may reduce the level of complaints and queries to Undertakings as disabled end-users will be able to access information themselves and be adequately informed.	
	Enables disabled end-users to choose and switch Undertakings more easily.	Initial costs in ensuring the information is accessible, together with ensuring the web page is accessible also. These are not expected to be significant.	

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
		Undertakings will have 9 months from the date of publication of this document in order to comply with this measure	



## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

270 ComReg therefore considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

### Facility for Disabled Subscribers to Register Requirements

271 ComReg was of the initial view that there are two options:

- **Option 1:** Status quo remains; no requirement to establish and maintain a facility to register disabled end-users' requirements.
- **Option 2:** ComReg requires all Undertakings to put processes in place to facilitate disabled subscribers to register specific communications requirements.

272 ComReg is of the view that maintaining the status quo (Option 1) does not fully achieve the objective of equivalence for disabled end-users. Establishing a facility for disabled subscribers to register requirements, where such consent is obtained from the disabled subscriber, would allow disabled subscribers to inform the Undertaking that is their service provider of specific requirements. It would also enable Undertakings to determine those disabled subscribers which would be entitled to free DQ calls, for example.

273 ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, (see table below) and believes this option is proportionate and justified and ensures disabled subscribers, with their consent, can enjoy access and choice equivalent to that of the majority of end-users. Additionally ComReg notes that undertakings may use suitably enhanced existing systems in order to comply with this measure.

274 ComReg is also of the view that Undertakings should be able to integrate such systems changes or developments into existing system maintenance programs, as such a 9 month period has been provided in which undertakings must be compliant with this measure.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
<b>Option 1</b>	Unable to register specific end-user requirements with the Undertaking that is their service provider.	Difficulty determining which subscribers are entitled to free DQ service.	Potential difficulties in switching Undertakings
<b>Option 2</b>	Ability to register specific end-user requirements with the Undertaking that is their service provider.	Ability to determine which subscribers are entitled to free DQ service.	
	No need to inform customer service representatives each time contact is made of subscriber requirements.	May be minor costs in setting up or amending current systems. Net gain should outstrip costs as a registry of disabled subscribers' requirements can potentially be used to market or target disabled subscribers with specific needs.	
	Ability to nominate alternative contact should disabled subscribers wish to do so	Ability to determine subscribers' accessible billing medium requirements.	
		Undertakings will have 9 months from the date of publication of this document in order to comply with this measure	

# Annex: 1 Decision Instrument

## Decision Instrument

### 1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

This Direction and Decision Instrument (“Decision Instrument”), made by ComReg, relates to ensuring equivalence in access and choice for disabled end-users in the Irish electronic communications market and is made:

- i. Having regard to ComReg’s functions and objectives set out in sections 10 and 12 of the Communications Regulations Acts 2002 to 2011 and ComReg’s further objectives set out in Regulation 16 of the Framework Regulations;
- ii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 17 of the Universal Service Regulations;
- iii. Having, where appropriate, pursuant to section 13 of the Communications Regulation Acts 2002 to 2011 complied with the policy directions made by the Minister for Communications, Marine and Natural Resources<sup>37</sup>
- iv. Having taken account of the representations of interested parties submitted in response to ComReg Document No. 13/58;
- v. Having regard to the analysis and reasoning set out in ComReg Document No 14/52.

The provisions of the response to consultation and final decisions document entitled ComReg Document No. 14/52 shall, where appropriate, be construed together with this Decision Instrument.

### 2. DEFINITIONS

In this Decision Instrument, unless the context otherwise suggests:

“**Agency**” means an advocacy group.

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<sup>37</sup> Policy Directions made by Dermot Ahern TD, then Minister for Communications, Marine and Natural Resources, dated 21 February 2003 and 26 March 2004.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

“**ComReg**” means the Commission for Communications Regulation, established under section 6 of the Communications Regulation Act, 2002 (as amended).

“**Disabled**” means having a “disability”, which in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment in accordance with the definition at section 2(1) of the Disability Act 2005.

“**End-User**” means a user not providing public communications networks or publicly available electronic communications services in accordance with the definition at section 2(1) of the Framework Regulations.

“**Equivalence**” means functional equivalence, in accordance with recital 12 of Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 which provides that “[e]quivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means”.

“**Framework Regulations**” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011) as may be amended from time to time.

“**Subscriber**” means any natural person or legal entity who or which is party to a contract with a provider of publicly available electronic communications services for the supply of such services in accordance with the definition at section 2(1) of the Framework Regulations.

“**Undertaking**” means an undertaking providing publicly available electronic communications services.

“**Universal Service designation**” means ComReg Decision No. D07/12, ComReg 12/71, “The provision of telephony services under Universal Service Obligations”, dated 29 June 2012.

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

“**Universal Service Regulations**” means the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 as may be amended from time to time.

Other terms used in this Decision Instrument shall have the same meaning as when they are used in the Universal Service Regulations, unless the context otherwise admits or requires.

### **3. SCOPE AND APPLICATION**

This Decision Instrument applies to all Undertakings

This Decision Instrument is binding upon every Undertaking as above excluding the designated Universal Service Provider only in so far as any obligation or aspect of same is already imposed on the designated Universal Service Provider in accordance with the Universal Service designation<sup>38</sup>.

This Decision Instrument specifies requirements to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users.

### **4. MEASURES TO ENSURE EQUIVALENCE IN ACCESS AND CHOICE FOR DISABLED END-USERS**

#### **4.1 Accessible Services**

##### **4.1.1 Accessible Complaints Procedures**

In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking shall:

- provide an accessible means for disabled end-users to access the Undertaking’s customer services in order to lodge a complaint and/or make an enquiry, which may include by way of telephone, SMS, letter, and email, and to include the ability to nominate a third party to deal with complaints and/or enquiries on behalf of the disabled subscriber.
- implement disability awareness training to ensure that staff handling complaints are aware of the requirements of disabled end-users and have the requisite skills to appropriately deal with those requirements.

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<sup>38</sup> A separate Decision Instrument will issue by ComReg following consultation under Regulation 6 of the Universal Service Regulations which specifies obligations applicable to the designated Universal Service Provider in relation to measures for disabled end-users.

#### **4.1.2 Accessible Top-Up Facility for Pre-Paid Mobile Telephone End-Users**

In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking providing pre-paid mobile services shall provide a SMS top-up facility for disabled end-users of pre-paid mobile services to:

- I. Top up independently using cash;
- II. Have no requirement to follow voice prompts;
- III. If a receipt (voucher) is used it must list in clear, easy to understand language the steps required to ensure the top-up credit can be applied successfully and allow the end-user to apply the top-up receipt (voucher) by SMS (or equivalent method) sent from the disabled end-user's mobile telephone and without assistance from a third party; and
- IV. Receive confirmation of the value of the top-up credit without the need to follow voice prompts and sent to the disabled end-user's mobile telephone.

#### **4.1.3 Accessible Directory Enquiries**

In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking shall provide for subscribers who are unable to use the phone book because of a vision impairment and/or have difficulty reading the phone book (so long as a printed directory is a Universal Service Obligation), special Directory Enquiry arrangements to allow the use of a directory enquiry service free of charge, once certification of disability is provided by a registered medical practitioner or by an appropriate agent.

#### **4.1.4 Accessible Billing**

In accordance with Regulation 17(1) of the Universal Service Regulations:

- I. The requirements imposed on Undertakings in respect of consumers by the General Authorisation in the ComReg Response to Consultation and Decision, "Consumer Bills and Billing Mediums – Consumer protection amendments to the General Authorisation"<sup>39</sup>, in conditions 18.7.1 – 18.7.12 are hereby imposed on Undertakings in respect of all disabled end-users who are not otherwise consumers, and so not already afforded the protections in accordance with the aforementioned General Authorisation conditions.

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<sup>39</sup> ComReg Document 13/52, ComReg Decision D08/13

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- II. Any and all bills (including transaction detail requests) issued to a disabled subscriber by an Undertaking shall be provided free of charge in a medium properly accessible to that disabled subscriber (including Braille), if requested.

### **4.1.5 Accessible Facility to Test Compatibility of Terminal Equipment or appropriate returns policy**

In accordance with Regulation 17 of the Universal Service Regulations:

- I. Every Undertaking selling terminal equipment shall make available one of the two services below for disabled end-users who use a hearing aid or have a cochlear implant once certification of disability is provided by a registered medical practitioner or by an appropriate agent;
  - i. a testing facility to test terminal equipment at the Undertaking's retail shops, in advance of purchasing the terminal equipment or
  - ii. a returns policy which allows for terminal equipment which has not been tested in advance of purchase to be returned because it does not meet their specific hearing needs.
- II. Every Undertaking selling terminal equipment shall ensure that the testing facility as referred to in paragraph I(i) above is supported by on-site staff that are trained in the use of terminal equipment and are adequately equipped to address any queries raised by disabled end-users in advance of purchase.

### **4.2 Accessible Information**

In accordance with Regulation 17 of the Universal Service Regulations every Undertaking shall ensure that information regarding its products and services, including all information provided to the majority of end-users, is accessible for disabled end-users. For the purposes of ensuring that such information regarding its products and services is made accessible to disabled end-users every Undertaking shall ensure:

- I. The Web Accessibility Initiative<sup>40</sup>, as developed by the World Wide Web Consortium (W3C), is to be met to facilitate disabled end-users such that the Undertaking's website is to include the following which conforms to this standard:

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<sup>40</sup> The World Wide Web Consortium (W3C) is an international community that develop open standards to ensure the long-term growth of the Web. The Web Accessibility Initiative (WAI) standard developed by W3C is available from the following link: <http://www.w3.org/TR/WCAG20/>- The NDA's Excellence through Accessibility – ICT Guidelines and Criteria, Guideline 14 Web Accessibility, refers to this standard.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- i. One-click access from the home page of the Undertaking's website to the Disability Section of that website;
  - ii. the Disability Section of the Undertaking's website contains comprehensive and up to date information in relation to the products and services it provides which are of particular interest and relevance to people with disabilities; and
  - iii. the Disability Section of the Undertaking's website contains details of and access to websites that contain information of relevance to disabled end-users that ComReg may specify from time to time;
- II. Contractual information in accordance with Regulation 14 of the Universal Service Regulations, including notifications in respect to any modification to contractual conditions, as required by Regulation 14(4) of the Universal Service Regulations is accessible and up to date for disabled end-users; and
- III. Information in respect of the Undertaking's complaints handling procedures, including the Undertaking's Code of Practice, as required by Regulation 27 of the Universal Service Regulations, is accessible, easy to read and understandable and, in particular, accessible in a number of formats, to include but not limited to Braille, Audio, Regular print, Large print, Easy to read, and Online versions of each format (on the Disability Section of the Undertaking's website) and all of these formats must be printable.

### **4.3 Facility for Disabled Subscribers to Register Requirements**

- I. In accordance with Regulation 17 of the Universal Service Regulations, every Undertaking shall establish and maintain a facility or enhance and maintain an existing facility to enable disabled subscribers to register their requirements. The facility to enable disabled subscribers to register their requirements must, at a minimum, have the ability to record, subject to the disabled subscriber's consent, the following:
  - i. Name, address, contact details (to include phone or email and/or third party nominated contact);
  - ii. Preferred means of communication;
  - iii. Preferences in respect to bundles (for example broadband or text only);
  - iv. Details of any special terminal equipment required; and
  - v. Details of any alternative billing medium requirement.



## 5. EFFECTIVE DATE AND DURATION

5.1 This Decision and Decision Instrument is effective from the date of publication, and shall remain in full force unless otherwise amended by ComReg.

5.2 Undertakings must comply with these measures as summarised in the table below. Undertakings must confirm that they are in compliance with these measures, no later than 12 months from the effective date.

Measure	Compliance Date
4.1.1 Accessible Complaints Procedures	Six months from the date of publication of this document
4.1.2 Accessible Top-Up Facility for Pre-Paid Mobile Telephone End-Users	Nine months from the date of publication of this document
4.1.3 Accessible Directory Enquiries	Six months from the date of publication of this document
4.1.4 Accessible Billing	Six months from the date of publication of this document
4.1.5 Accessible Facility to Test Compatibility of Terminal Equipment or appropriate returns policy	Six months from the date of publication of this document
4.2 Accessible Information	Nine months from the date of publication of this document
4.3 Facility for Disabled Subscribers to Register Requirements	Nine months from the date of publication of this document

## Annex: 2 Legal Basis

### European Communities (Electronic Communications Network and Services)(Universal Service and Users' Rights) Regulations 2011, "the Regulations"<sup>41</sup>

A 2.1 The Universal Service Directive ("USD") as amended<sup>42</sup> was transposed into national law by the Regulations on 1 July 2011. Specifically, Article 23a of the USD as amended, which provides for ensuring equivalence in access and choice for disabled end-users, was transposed into national law by Regulation 17 of the Regulations.

A 2.2 Recital 12 of the amending USD<sup>43</sup> states that "equivalence in disabled end-users' access to services should be guaranteed to the level available to other end-users. To that end, access should be functionally equivalent such that disabled end-users benefit from the same usability of services as other end-users, but by different means".

A 2.3 The legal basis is set out in the Regulations. Provisions of particular relevance are set out below.

### Mechanism to specify requirements to be complied with by Undertakings

ComReg will specify requirements to be complied with by Undertakings using the following statutory basis:

Issue a Direction to Undertakings by virtue of a Decision to impose obligations post consultation. Regulation 17 of the Regulations provides statutory bases to do so. Regulation 31 of the Regulations provides for civil enforcement.

### Regulation 17 of the Regulations provides:

*17.(1) The Regulator may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services in order to ensure that disabled end-users-*

- (a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users, and*

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<sup>41</sup> SI No 337 of 2011

<sup>42</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009

<sup>43</sup> Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

(b) *benefit from the choice of undertakings and services available to the majority of end-users.*

(2) *The Regulator shall encourage the availability of terminal equipment offering the necessary services and functions in order to be able to adopt and implement specific arrangements for the requirements of disabled end-users.*

A 2.4 Sections 10 and 12 of the Communications Regulation Act, 2002 (as amended) set out the functions and objectives of ComReg, respectively.

A 2.5 Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011<sup>44</sup> provides further objectives for ComReg that, amongst other objectives, requires ComReg, in so far as the promotion of competition is concerned, to ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality. Insofar as promotion of the interests of users within the European Union is concerned, ComReg is required to address the needs of specific social groups, in particular, elderly users and users with special social needs, and to promote the ability of end-users to access and distribute information or use applications and services of their choice.

### **In relation to contracts, Regulation 14 of the Regulations provides as follows:**

#### *“Contracts*

*14. (1) An undertaking that provides to consumers, and other end-users so requesting, connection to a public communications network or publicly available electronic communications services shall do so in accordance with a contract that complies with paragraph (2).*

*(2) A contract referred to in paragraph (1) shall specify in a clear, comprehensive and easily accessible form, at least.*

*(a) the identity and address of the undertaking,*

*(b) the services provided including, in particular-*

*(i) whether or not access to emergency services and caller location information is being provided and any limitations on the provision of emergency services under Regulation 20,*

*(ii) information on any other conditions limiting access to, or use of, services and applications where such conditions are permitted under national law in accordance with European Union Law,*

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<sup>44</sup> SI No 333 of 2011

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(iii) the minimum service quality levels offered, namely, the time for the initial connection and, where appropriate, other quality of service parameters as defined by the Regulator from time to time,*

*(iv) information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link and information on how those procedures could impact on service quality,*

*(v) the types of maintenance service offered and customer support services provided, as well as the means of contacting those services, and*

*(vi) any restrictions imposed by the provider on the use of terminal equipment supplied,*

*(c) where an obligation exists under Regulation 19, the subscriber's options as to whether or not to include his or her personal data in a directory and the data concerned,*

*(d) details of prices and tariffs, the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained, payment methods offered and any differences in costs due to payment method,*

*(e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including-*

*(i) any minimum usage or duration required to benefit from promotional terms,*

*(ii) any charges related to portability of numbers and other identifiers, and*

*(iii) any charges due on termination of the contract including any cost recovery with respect to terminal equipment,*

*(f) any compensation and refund arrangements which apply if contracted service quality levels are not met,*

*(g) the means of initiating procedures for settlement of disputes in accordance with Regulation 27, and*

*(h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.*

*[...]*

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(4) An undertaking referred to in paragraph (1) shall, not less than one month prior to the date of implementation of any modification to the contractual conditions proposed by the undertaking, notify its subscribers to that service of –*

- (a) the proposed modification in the conditions of the contract for that service, and*
- (b) their right to withdraw without penalty from such contract if they do not accept the modification.*

*(5) The Regulator may specify the format of notifications referred to in paragraph (4).*

*[...]*

**In relation to information and quality of service, Regulation 15 of the Regulations provides as follows:**

*“Transparency and publication of information and quality of service*

*15. (1) The Regulator may require undertakings providing public electronic communications networks or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to and use of services provided by them to end-users and consumers.*

*(2) The Regulator may require an undertaking providing public electronic communications networks or publicly available electronic communications services to provide to end-users and consumers, in such form as the Regulator may specify, such of the information set out in Schedule 3 as the Regulator may specify.*

*(3) The information made available under paragraphs (1) and (2) shall be published in a clear, comprehensive and easily accessible form.*

*(4) The Regulator shall encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance, by means of interactive guides or similar techniques.*

*[...]*

*(6) The Regulator may require an undertaking providing public electronic communications networks or publicly available electronic communications services, among other things, to—*

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(a) provide applicable tariff information to subscribers regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, the Regulator may require such information to be provided immediately prior to connecting the call,*

*(b) inform subscribers of any change to access to emergency services or caller location information in the service to which they have subscribed,*

*(c) inform subscribers of any change to conditions limiting access to or use of services and applications where conditions are permitted under national law in accordance with European Union law,*

*(d) provide information on any procedures put in place by the provider to measure and shape traffic so as to avoid filling or overfilling a network link and on how those procedures could impact on service quality,*

*(e) inform subscribers of their right to determine whether or not to include their personal data in a directory and of the types of data concerned in accordance with Regulation 12 of the Privacy and Electronic Communications Regulations, and*

*(f) regularly inform disabled subscribers of details of products and services designed for their requirements.*

*[...]*

*(9) The Regulator may specify obligations to be complied with by an undertaking providing publicly available electronic communications networks or publicly available electronic communications services requiring such undertaking to publish comparable, adequate and up-to-date information for end-users on the quality of its services and on measures taken to ensure equivalence in access for disabled end-users.*

*[...]*

*(13) For the purpose of paragraph (9), the Regulator may specify, among other things, the quality of service parameters to be measured and the content, form and manner of information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled end-users, have access to comprehensive, comparable, reliable and user-friendly information and, where it considers it appropriate, the Regulator may specify that the quality of service parameters, definitions and measurement methods set out in Annex III to the Universal Service Directive should be used.*

[...]"

**In relation to dispute resolution, including complaints, Regulation 27 of the Regulations provides as follows:**

*“Dispute resolution*

*27 (1) Without prejudice to any legal rights of action which may apply, an undertaking providing electronic communications networks or services shall implement a code of practice for settling unresolved disputes, including complaints, between end-users and the undertaking arising under these Regulations and relating to the contractual conditions or performance of contracts concerning the supply of electronic communications networks or services and any other issues arising under, or covered by, these Regulations. The code of practice shall make provision for the following matters –*

- (a) first point of contact for complainants,*
- (b) a means of recording complaints,*
- (c) a timeframe within which the undertaking concerned shall respond to complaints,*
- (c) procedures for resolving complaints, including a timeframe for referring the customer to the Regulator which shall be no more than 10 working days from the day a complaint is first notified,*
- (d) appropriate cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made, and*
- (e) retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination) for a period of not less than one year following the resolution of the complaint.*

*(2) The Regulator may specify requirements to be met for the purpose of ensuing compliance with paragraph (1) and the manner of publication of a code of practice referred to in paragraph (1) including, without limitation, any requirements to ensure that the code of practice and procedures for settling unresolved disputes are fair, prompt, transparent, inexpensive and non-discriminatory.*

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(3) The Regulator may issue directions to an undertaking to which paragraph (1) relates to require that undertaking to make such alternations or additions to its code of practice as the Regulator considers appropriate and specifies in the directions.*

*[...]*

*(6) The procedures established for the purpose of paragraphs (1), (3) and (4) shall be –*

*(a) transparent,*

*(b) non-discriminatory,*

*(c) simple,*

*d) inexpensive, and*

*(e) enable disputes to be settled fairly and promptly.*

*[...]”*

### **In relation to enforcement, Regulation 31 of the Regulations provides as follows:**

*“Enforcement — compliance with obligations*

*31. (1) The Regulator shall monitor compliance with these Regulations, other than Regulation 18(3) and (5).*

*(2) Where the Regulator finds that an undertaking has not complied with an obligation, term or condition, requirement, specification or direction under these Regulations, the Regulator shall notify the undertaking of those findings and give the undertaking an opportunity to state its views or, if the non-compliance can be remedied, to remedy the non-compliance within a reasonable time limit as specified by the Regulator.*

*(3) The Regulator may publish, in such manner as it thinks fit, any notification given by it under this Regulation subject to the protection of the confidentiality of any information which the Regulator considers confidential.*

*(4) The Regulator may amend or revoke any notification under this Regulation.*



Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(5) Where, at the end of the period specified by the Regulator under paragraph (2), the Regulator is of the opinion that the undertaking concerned has not complied with an obligation, term or condition, requirement, specification or direction, the Regulator may, whether or not the non-compliance is continuing, subject to paragraph (10), apply to the High Court for such order as the Regulator considers appropriate including—*

*(a) a declaration of non-compliance,*

*(b) an order directing compliance with the obligation, term or condition, requirement, specification or direction,*

*(c) an order directing the remedy of any non-compliance with the obligation, term or condition, requirement, specification or direction, or*

*(d) an order as provided for in paragraph (9).*

*(6) The High Court may, on the hearing of the application referred to in paragraph (5), make such order as it thinks fit which may include—*

*(a) a declaration of non-compliance,*

*(b) an order directing compliance with the obligation, term or condition, requirement, specification or direction,*

*(c) an order directing the remedy of any non-compliance with the obligation, term or condition, requirement, specification or direction, or*

*(d) an order as provided for in paragraph (9),*

*or refuse the application.*

*An order of the High Court compelling compliance may stipulate that the obligation, term or condition, requirement, specification or direction must be complied with immediately or may specify a reasonable time limit for compliance and may also stipulate appropriate and proportionate measures aimed at ensuring compliance.*

*(7) The High Court when dealing with an application under paragraph (5) may make such interim or interlocutory order as it considers appropriate.*

*(8) The High Court shall not deny interim or interlocutory relief, referred to in paragraph (7), solely on the basis that the Regulator may not suffer any damage if such relief were not granted pending conclusion of the action.*

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(9)(a) An application for an order under paragraph (5) may be for, or include an application for, an order to pay to the Regulator such amount, by way of financial penalty, which may include penalties having effect for periods of non-compliance with the obligation, term or condition, requirement, specification or direction, as the Regulator may propose as appropriate in the light of the non-compliance or any continuing non-compliance. Such an application for an order in respect of a financial penalty for a period of non-compliance may be made even if there since has been compliance with the obligation, term or condition, requirement, specification or direction.*

*(b) In deciding on such an application, the High Court shall decide the amount, if any, of the financial penalty which should be payable and shall not be bound by the sum proposed by the Regulator.*

*(c) Any financial penalty ordered by the High Court to be paid by an undertaking under this paragraph shall be paid to and retained by the Regulator as income.*

*(d) In deciding what amount, if any, should be payable, the High Court shall consider the circumstances of the non-compliance, including—*

*(i) its duration,*

*(ii) the effect on consumers, users and other operators,*

*(iii) the submissions of the Regulator on the appropriate amount, and*

*(iv) any excuse or explanation for the non-compliance.*

*(10) Where the Regulator has brought proceedings for an offence under these Regulations or given a notice under section 44 of the Act of 2002 in respect of an alleged offence under these Regulations, the Regulator shall not make an application for an order under this Regulation to the High Court to compel compliance by the undertaking with the obligation to which the proceedings or notice relates.”*

### **In relation to itemised billing, Regulation 24 of the Regulations provides as follows:**

*“Provision of additional facilities*

*(1) Without prejudice to Regulation 9(2) and subject to paragraph (3), the Regulator may specify that all undertakings providing publicly available telephone services or access to public communications networks are required to make available —*

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

*(a) all or part of the additional facilities listed in Schedule 1, Part B, subject to technical feasibility and economic viability, and*

*(b) all or part of the additional facilities and services listed in Schedule 1, Part A.*

[...]"

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

**Schedule 1 Part A of the Regulations** sets out the obligations automatically applicable to a universal service provider by virtue of Regulation 9 of the Regulations, and those obligations that may be imposed under Regulation 24 of the Regulations (referred to above). Itemised billing is included as follows:

“SCHEDULE 1

DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN REGULATIONS 9 AND 24

Part A: Facilities and services referred to in Regulation 9:

(a) *Itemised Billing*

The Regulator may, subject to the requirements of relevant legislation on the protection of personal data and privacy, lay down the basic level of itemised bills which are to be provided by undertakings to subscribers free of charge in order that they can —

- (i) allow verification and control of the charges incurred in using the public communications network at a fixed location or related publicly available telephone services, and
- (ii) adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills.

Where appropriate, additional levels of detail may be offered to subscribers at reasonable tariffs or at no charge.

*Calls which are free of charge to the calling subscriber, including calls to helplines, are not to be identified in the calling subscriber’s itemised bill.”*

**Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (SI No.336 of 2011)** provides as follows in relation to the entitlement to receive bills that are not itemised:

“*Itemised billing*

- 7. (1) *An undertaking shall comply with a request of a subscriber to that undertaking to give him or her bills that are not itemised in respect of the electronic communications service supplied by the undertaking to the subscriber.*
- (2) *The Regulator and the Commissioner shall, in the performance of their functions, have regard to the need to reconcile the rights of subscribers to receive itemised bills with the right to privacy of calling users and called subscribers”*

## Annex: 3 Universal Service Requirements

A 3.1 In July 2012, ComReg in accordance with Regulation 7 of the Regulations issued a decision to redesignate Eircom as the Universal Service Provider (“USP”) for a 2-year period to June 2014 and detailed the universal service obligations that Eircom would thus have, including obligations as provided for by Regulation 6 of the Regulations as follows:<sup>45</sup>

A 3.2 In ComReg document 13/58 ComReg proposed that, In the event that the proposed measures are imposed on all Undertakings, certain universal service obligations, with respect to ‘Specific Measures for Disabled Users’ in D07/12 would be revoked and would read as set out below: (obligations with strikethrough text will be deleted). However, as there is a period of time for compliance of these Decisions these redactions are not yet effective and will be handled as part of the designation of a USP for specific measures for disabled end users from 1 July 2014.

### **“Specific Measures for Disabled Users**

2.8 In accordance with Regulation 7 of the Regulations, Eircom Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 6 of the Regulations.

2.9 The USP shall do the following:

~~i. Provide a dedicated section of its website, accessible from the homepage, containing comprehensive information in relation to the services it provides which are of particular interest and relevance to people with disabilities;~~

ii. Maintain, operate, monitor and ensure its own compliance with a Code of Practice concerning the provision of services for people with disabilities and shall periodically review and, where appropriate, amend the Code of Practice in consultation with the NDA and other representative bodies.

iii. The USP shall provide the following specific services:

### **For users who are hearing-impaired**

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

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<sup>45</sup> ComReg D07/12; ComReg 12/71

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

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

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

### **For users that are hearing and/or speech impaired**

A text Relay Service providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa.

A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.

### **For users with limited dexterity or mobility**

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

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

### **For users with restricted vision**

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

Braille billing free of charge.

### **~~For users unable to use the phone book because of a disability~~**

~~275 Special Directory Enquiry arrangements to allow the use of directory enquiry services free of charge.~~

## Annex: 4 ComReg Disability Forum

A 4.1 The Forum was established in 2006 to further ComReg's statutory objectives to promote competition and to promote the interests of users.

A 4.2 The Communications Regulation Act, 2002 envisages that ComReg takes specific measures in relation to those objectives including the following measures:

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

A 4.3 The Forum comprises of members representing the Disability sector in Ireland and Electronic Communications Service providers. The goal of the Forum is to ensure that organisations represented at the Disability Stakeholders Group (DSG) are also represented at the Forum. To that end, ComReg requested nominations from the Chairperson of the DSG to attend the Forum. Organisations currently nominated by the DSG and representing the Disability sector at the Forum include:-

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

A 4.4 Undertakings represented at the Forum include:-

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

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

A 4.5 Functions of the Forum include the following:

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

A 4.6 Key initiatives developed and implemented to date include:

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



## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

A 4.7 ComReg Consultation 13/58; Electronic Communications:- Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users – June 2013 To date the Forum has worked in a collaborative manner with its membership to progress and implement measures on a voluntary basis. It is proposed to continue working in this way to implement measures to satisfy the requirements of Regulation 17 of the Regulations.

## Annex: 5 BEREC Report

### Electronic communications services: Ensuring equivalence in access and choice for disabled end-users

#### BEREC Approach

A 5.1 BEREC published a report in February 2011 entitled “*Electronic communications services: Ensuring equivalence in access and choice for disabled end-users*” that proposes a stepped, systematic approach in considering what measures, if any should be implemented in respect of Article 23a of the Universal Services Directive (USD)<sup>46</sup>. In its consideration of appropriate and necessary measures, ComReg has endeavoured to adopt as a template the BEREC approach as follows:

#### Step 1 - Determination of factors to assess equivalent access and choice

A 5.2 The following factors, proposed by the BEREC report, are examined when assessing equivalent access for end-users with disabilities:

- availability of accessible terminal equipment
- price
- number of additional suppliers and additional setup
- accessible complaint handling and support and maintenance processes
- accessible billing
- accessible directory services

A 5.3 The following factors, proposed by the BEREC report, are examined when assessing equivalent choice for end-users with disabilities:

- range of services and Providers with accessible services
- choice of packages with accessible handsets
- accessible information regarding the services provided
- accessible information about prices
- accessible contract terms
- accessible switching procedure

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<sup>46</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

## **Step 2 – Assess each factor for end-users with disabilities in relation to other end-users**

A 5.4 Assessment of each factor for end-users with disabilities in relation to other end-users is required in order to determine detriment, if any, for disabled end-users when compared with other end-users. Detriment is established by a lack of functional equivalence.

## **Step 3 – Identify proportionate measures to address issues with respect to equivalence**

A 5.5 Where detriment is established, measures are identified, in consultation with the Forum, that are appropriate and necessary to ensure equivalence in access and choice for disabled end-users. Section 4 of this response to consultation document provides further details about proposed measures in this regard.

## **Step 4 – Consult with interested parties regarding proposed measures and obligations on undertakings**

A 5.6 ComReg to consult with interested parties regarding the proposed measures to ensure that inputs from all stakeholders, including disabled end-users, can be obtained. In that regard, the consultation document and consultation process should be fully accessible.

## **ComReg implementation of Steps 1 – 4 above**

A 5.7 As part of an assessment process on this issue, ComReg facilitated three meetings of the Forum from June to September 2011. At the initial meeting the approach proposed by the BEREC report was presented.

A 5.8 At the two subsequent meetings of the Forum, steps 1-3 above were completed by:

- assessing the current legal framework and associated measures currently in place;
- establishing where detriment occurs;
- determining what could be done to limit detriment for disabled end-users when compared with the majority of end-users in accessing services and availing of a choice of undertakings;
- assessing whether equivalence can be achieved by the introduction of new measures or by adapting current services;
- proposing measures for implementation;

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

- proposing a timeframe for implementation of measures; and

**Step 4 - will be completed by consulting with interested stakeholders (including accessible consultation documents and processes).**

**Step 5 – Forum meetings – monitoring implementation and review of measures mandated by ComReg**

A 5.9 Draft measures for ensuring equivalence in access and choice, set out in section 3 of this response to consultation document, were discussed at the Forum meetings to ensure that measures proposed are robust and have a high likelihood of achieving the goals required by Regulation 17 of the Regulations.

A 5.10 However, a further step was introduced and discussed at the Forum meetings to cover the following issues:

- proposing mechanisms for review of measures implemented; and
- providing for mechanisms to review in light of changing circumstances, for example, unexpected and escalated developments in technology.

## Annex: 6 Accessible Billing

A 6.1 In June 2013 ComReg issued its Response to Consultation and Decision (“the Decision”)<sup>47</sup> on a number of consumer protection conditions relating to the provision of itemised bills to consumers and billing mediums for electronic communications services. The conditions standardise service provider requirements to ensure all consumers are protected in respect of billing, irrespective of who the service provider is.

A 6.2 The conditions set out in the Decision are being attached to the General Authorisation (“GA”)<sup>48</sup> and are “consumer protection rules” and will apply only to consumers.<sup>49</sup> Accordingly, these conditions will not apply to business customers.

A 6.3 The conditions are being implemented by means of amendments to the GA and amendments to universal service obligation(s) and to ECS providers’ current licences, thereby standardising the rules relating to billing applicable to service providers across the industry.

A 6.4 While ComReg has remained of the view that a basic protection to be afforded to consumers is to be able to access their bill, ComReg is also aware that the information contained on the bill and the manner in which consumers access their bills may change over time. ComReg is also aware that it is in service providers’ interests to ensure that their customers can access bills.

A 6.5 The conditions set out in the Decision, have been drafted so as to minimise the amount of disruption to existing billing systems and processes that service providers already use to provide customer bills, which have sufficient information and are accessible.

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<sup>47</sup> Consumer Bills and Billing Mediums – Consumer protection amendments to the General Authorisation, Document 13/52, Decision D08/13.

<sup>48</sup> As defined in Regulation 2 of the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2011 (“the Authorisation Regulations”) which provides that “‘general authorisation’ means an authorisation for an undertaking to provide an electronic communications network or service under and in accordance with Regulation 4”

<sup>49</sup> A consumer is defined under the Framework Regulations as “any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession”.

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

A 6.6 ComReg notes that the e-Privacy Regulations<sup>50</sup> allow consumers to request a service provider to provide them with bills that are not itemised. Therefore, service providers must offer their customers the option of non-itemised bills in line with the e-Privacy Regulations.

A 6.7 The conditions will allow service providers to move their customers to an e-bill if certain conditions are met. The conditions allow customers to inform their service provider if they cannot access or use an alternative billing medium and in those cases, service providers must provide a paper bill to consumers free of charge.

A 6.8 The conditions came into effect two (2) months from the date of the Decision and a maximum of six (6) months was allowed for service providers to fully comply with all the amended conditions as set out in the amended GA subject to notification to ComReg of the time required by individual service providers to come into full compliance.

A 6.9 Full details of the new measures can be found in Annex 1 of the Decision. The new conditions are summarised below:

### Measures for post-paid consumers:

#### Itemisation

- Service providers shall provide a bill to its post paid customers free of charge.
- Service Providers may not change the level of bill itemisation a post paid customer is currently receiving unless the explicit consent of the customer is obtained or unless a post paid customer has requested a bill that is more or less detailed than what is currently being received.
- Service providers shall provide the customer with the minimum details the consumer requires to be able to access and use the alternative billing medium offered, in advance of providing that billing medium to a consumer.
- A post paid customer may request, from their service provider, a bill that is more or less detailed (fully itemised bill or a non-itemised) than the level of itemisation currently being provided. In this case, the service providers must provide a fully itemised bill or a non-itemised bill free of charge.

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<sup>50</sup> European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011

## Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

### Billing Mediums

- Service providers are entitled to issue alternative billing mediums to their customers if they can ensure and verify that the customer can access and use the alternative medium. If such verification cannot be obtained, service providers shall continue to issue a paper bill.<sup>51</sup>
- Where the consumer cannot access the alternative billing medium, (for example because the consumer does not have broadband access or cannot use an on-line service) the service provider must allow the consumer to revert to paper billing free-of-charge.

### Other

- For an online bill, the service provider must alert their customer when the bill is available online. The alerts (especially if being sent by SMS) should be sent during appropriate (sociable) hours, and consumers who do not want to receive such alerts should have the option to opt-out of receiving them in accordance with Data Protection legislation. Alerts must be separate to any direct marketing messages that may be sent in accordance with Data Protection legislation.

### For pre-paid consumers:

- If a pre-paid customer requests details of his/her transactions, (including usage and charges), from its Service Provider, the Service Provider shall provide, to the consumer, the transaction details free of charge.

### For all consumers:

- Calls which are normally free-of-charge to all calling Consumers, are not to be identified by the Authorised Person in the calling Consumer's transaction history or bill.

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<sup>51</sup> The means by which such verification can be obtained is set out in Annex 1 of Document 13/52