



Commission for
Communications Regulation

Electronic Communications:- Proposed Review of Measures to Ensure Equivalence in Access and Choice

Consultation

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Commission for Communications Regulation

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Additional Information

This consultation has been made available in pdf format and audio version. Alternative formats of this consultation are available on request. To request alternative formats including word, large print and Braille of this consultation, please contact access@comreg.ie or phone +353-1-8049600.

All responses to this consultation should be clearly marked: "Reference: Submission re ComReg 17/71" as indicated above, and sent by post, facsimile or by e-mail to arrive on or before 5pm, 27 September 2017 to:

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Please note ComReg will publish all respondents' submissions with the Response to this Consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24.

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1 Executive Summary

- 1 The Commission for Communications Regulation (“ComReg”) may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services (“Undertakings”) in order to ensure that disabled end-users have access to electronic communications services (“ECS”) equivalent to that enjoyed by the majority of end-users. In addition, ComReg may specify measures to ensure that disabled end-users benefit from the choice of undertakings and services available to the majority of end-users¹.
- 2 In 2014 and 2015 ComReg placed a number of obligations on Undertakings. These are set out in detail in Annex 1 and 2 of this paper and summarised in paragraphs 5 and 6 below.
- 3 Our review has been prompted by the following developments:-
 - During 2016 and 2017, ComReg held a number of workshops with Undertakings and Disability Representatives and we received feedback on the operation and effectiveness of some of the existing measures, highlighting possible areas for review.
 - ComReg also met with the National Disability Authority (NDA) and sought additional independent professional opinion, particularly in respect of accessible websites and we have considered this.
 - We also considered work ongoing with other regulatory authorities throughout Europe. In light of this work we have identified aspects of the current measures that would be appropriate to review.
 - ComReg is cognisant of the changing needs of all end-users in respect of communication services and in particular in relation to developments in technology. ComReg is proposing a number of amendments in order to better meet the accessibility needs of disabled end-users, including in respect of accessible information.
- 4 ComReg now considers it appropriate to review some of the existing measures and this consultation proposes certain amendments to the following existing measures:-
 - Accessible Complaints Procedures
 - Accessible Information
 - Facility for Disabled Subscribers to Register Requirements

¹ Regulation 17 of S.I. No. 337/2011 - European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011.

- Accessibility Statement.

1.1. Summary of current measures and proposed amendments

5 On 20 June 2013, ComReg issued a consultation ComReg 13/58 “*Electronic Communications: Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users*” and on 29 May 2014 ComReg published its Response to Consultation and Decision ComReg 14/52 and D04/14². The decision introduced seven measures,³ as follows;

“4.1.1 Accessible Complaints Procedures

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

4.1.3 Accessible Directory Enquiries

4.1.4 Accessible Billing

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

4.2 Accessible Information

4.3 Facility for Disabled Subscribers to Register Requirements”

6 Following this, on 12 June 2015, ComReg published a consultation ComReg 15/51 “*Measures for disabled end-users Accessibility Statement*”, and on 2 September 2015 published its Response to Consultation and Decision ComReg 15/98 and D06/15⁴.

7 These decisions were informed largely by the work of the members of ComReg’s former Disability Forum. The Forum ran from 2006 until 2015 and was comprised of Disability Stakeholders Group representatives, the National Disability Authority (NDA) and the Department of Communications, Energy and Natural Resources (DCENR)⁵ and members of Industry.

² In response to “*Electronic Communications:- Measures to Ensure Equivalence in Access and Choice for Disabled End-Users*”. ComReg consultation 13/58 ComReg issued 14/52 /D04/14

³ Details of the measures as set out in the Decision Instrument D04/14 are set out in Annex 2

⁴ Decision 06/15 Measures for disabled end-users Requirement for an Accessibility Statement: <https://www.comreg.ie/publication/measures-for-disabled-end-users-requirement-for-an-accessibility-statement/>

⁵ Now the Department of Communications, Climate Action and Environment (DCCA/E)

- 8 In addition, ComReg had taken into account a report published by the Body of European Regulators for Electronic Communications (“BEREC”) in February 2011 entitled “*Electronic communications services: Ensuring equivalence in access and choice for disabled end-users*”,⁶ which provides guidance to national regulatory authorities (“NRAs”) in assessing and achieving equivalence of access and choice for disabled end-users. In December 2015 an update of the report on equivalent access and choice for disabled end-users was published, BoR (15) 201.
- 9 ComReg wishes to ensure that the measures in place are technology neutral. ComReg notes that the NDA endorses the principles of “Universal Design”⁷ and as such ComReg wishes to ensure that measures already in place are relevant in this regard and also that measures in place will be relevant in the context of new technologies into the future. As a result of this, and ComReg’s engagement with stakeholders, ComReg has reviewed the measures contained within both D04/14 and D06/15. In most cases, the changes constitute a non-material consolidation and updating exercise.
- 10 In summary, ComReg is proposing changes to the following:-

Accessibility Statement

- ComReg’s Disability Forum, which comprised representative members, has been replaced by periodic, topic based, disability workshops and related meetings and ComReg proposes to amend the terminology in Section 4.1(v) of ComReg Decision D06/15 to reflect this.
- ComReg also proposes to introduce further requirements on Undertakings regarding the publication of their Accessibility Statement to ensure that the required formats are also accessible from the home page of the Undertaking’s website together with information as to how other formats may be requested. These amendments are proposed to be made to Section 4.2 of ComReg Decision D06/15.

⁶ BoR (10) 47 Rev1 - BEREC REPORT

⁷ <http://universaldesign.ie/What-is-Universal-Design/The-7-Principles/>

Accessibility Measures

- **Accessible Complaints Procedures**

- ComReg has recently issued a Decision in relation to Undertakings' codes of practice for complaint handling.⁸ ComReg is now proposing to review the related measure on accessibility in ComReg Decision D04/14 (in respect of complaint procedures) to compliment the new Decision. In this respect, ComReg is proposing to retain and enhance the additional obligations to facilitate disabled end-users making enquiries and complaints. These include specifying methods of access and ensuring that there is adequate time afforded disabled end-users in their interactions with Undertakings. The current measures in respect of staff training and nominated third parties are proposed to be retained but with minor changes to provide further certainty.

- **Accessible Information**

- ComReg is proposing that the current measure in respect of accessible information on websites is modified to extend the scope from the current requirement for certain website pages to be accessible to require that all parts of the Undertaking's website and online facilities be accessible in accordance with WCAG, 2.0 Level AA Standard⁹. In addition, it is proposed that Undertaking's must have their website reviewed by an independent expert who will report on its accessibility on a yearly basis. This report will be made available to ComReg on request.
- Further minor changes in respect of the content of the Accessibility Section of Undertakings' websites are proposed.
- In light of the above, amendments to section 4.2(I) of ComReg Decision D04/14 are proposed.

- **Facility for Disabled Subscribers to Register Requirements**

- ComReg is proposing that the existing requirement should be amended to include a requirement that the details about the facility must be displayed prominently on Undertakings website and that Undertaking's must make all new customers aware of the facility and ask if they wish to register any accessibility requirements.
- In light of the above, amendments to Section 4.1 of ComReg Decision D04/14 are proposed.

11 ComReg is of the view that the proposed amendments to the existing measures outlined in this consultation document are proportionate and justified, given the requirement to ensure equivalence in access and choice for disabled end-users.

⁸ ComReg Decision 04/17: Electronic Communications Complaints Handling Code of Practice - Response to Consultation and Decision

⁹ Web Content Accessibility Guidelines (WCAG) published by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C)

Proposed Review of Measures to Ensure Equivalence in Access and Choice

12 The remainder of this consultation document is structured as follows:

- Section 2 Background
- Section 3 Review of measures
- Section 4 Regulatory Impact Assessment (“RIA”)
- Section 5 Draft Decision Instrument
- Section 6 Submitting Comments

Submissions are invited from all stakeholders in respect of the proposed amendments, the draft Regulatory Impact Assessment (“RIA”) and the Draft Decision Instrument.

2 Background

13 This section set outs the details of various inputs that have contributed to the review of the measures and that have assisted in forming ComReg's preliminary views in this consultation. In addition, there is a definition of key terminology used throughout this paper.

2.1 Inputs that have contributed to the review of the measures

The Equivalence of Access and Choice Workshop (The Workshop)

14 In 2016, ComReg developed a new ComReg Disability workshop that has a structured, topic based event programme associated with it. The composition of attendees at each event are compiled to ensure that those in attendance (from both service providers and those representing people with disabilities) have responsibility in respect of the topic in focus and can contribute their experience and best practice.

15 Since 2016, ComReg has held three workshops that discussed the following topics: Complaints Handling, Website Accessibility, Disability Register, Accessible Directory Enquiries, and Accessible top-up payments. The Workshops have provided insight in to the usefulness and effectiveness of the current measures as well as identifying potential amendments.

16 Representatives of industry and the NDA have attended in addition to the following individuals and representatives of end-user groups

- Individual 1¹⁰
- Individual 2¹¹
- Headway¹²
- NALA¹³
- Dyslexia Association of Ireland

¹⁰ PhD Candidate who is visually Impaired

¹¹ PhD Candidate who is visually Impaired

¹² Organisation established to bring positive change in the lives of those affected by an acquired brain injury.

¹³ National Adult Literacy Agency

17 Additionally, a number of other end-user groups have been invited and may attend in the future:

- DeafHear
- Aslam¹⁴
- Age Action
- The Irish Senior Citizens' Parliament

18 The Workshop which consists of invited representatives from various NGOs and individuals that represent end-users with additional accessibility needs as well representatives from Undertakings, was established in 2016. The Workshop replaced ComReg's previous Forum which contributed to the measures in D04/14 and D06/15.

Professional Evidence

19 ComReg engaged "ILIKECAKE"¹⁵, an organisation which undertakes accessibility and usability audits, to independently review a number of Undertakings websites to better inform ComReg in respect of end-users accessibility of websites. Arising from this work, ComReg gained better insight into the variances between the conformance levels A, AA and AAA adopted by Undertakings in website design.

20 ILIKECAKE presented to the Workshop regarding the approach they adopted to assess websites in relation to the requirements of the Web Accessibility Initiative (W3C). ComReg also provided ILIKECAKE's feedback on each Undertaking's website to Undertakings on an individual basis.

BEREC Report

21 BEREC is composed of the National Regulatory Authorities (NRA) of the European Union (EU) member's states in addition to the members of the European Economic Area (EEA). The BEREC Report (BoR (15)201) captured data from 28 NRAs.

¹⁴ AsIAM.ie aims to provide a one-stop shop for the Autism community in Ireland.

¹⁵ www.ilikecake.ie

- 22 The BEREC “Update of the report on equivalent access and choice for disabled end-user” (BoR (15)201) ¹⁶ provides details of the progress by the members of BEREC with regard to implementation of equivalent Regulation 17 provisions in the various member states published in December 2015.
- 23 ComReg has referenced the BEREC report in order to benchmark itself against other EU and EEA NRAs in the implementation of the obligations as set out in Regulation 17 of The Regulations.

2.2 Definition of Key Terminology

- 24 **Disability:** is defined in accordance with the Disability Act 2005 section 2(1) that states 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;
- 25 **Equivalence:** ‘Equivalence’, is defined in accordance with recital 12 of Directive 2009/136/EC¹⁷ which provides:

“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.”

- 26 **“Functional equivalence”** is also discussed in the BEREC Report¹⁸ 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.

¹⁶ Update of the report on equivalent access and choice for disabled end-users BoR201 Dec 2015 http://berec.europa.eu/eng/document_register/subject_matter/berec/reports/5549-update-of-the-report-on-equivalent-access-and-choice-for-disabled-end-users

¹⁷ Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws

¹⁸ Electronic communications services: Ensuring equivalence in access and choice for disabled end-users BoR (10) 47 Rev1 [BEREC Report](#) February 2011

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”.

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.”¹⁹

¹⁹ BEREC Report, pages 30-31

3 Proposed amendment of existing measures

- 27 The purpose of this consultation is to consult on the proposed amendments to some of the measures set out in ComReg Decisions D06/15 and D04/14.
- 28 The proposals reflect the findings of a review of the existing measures, input from the workshops held by ComReg with Undertakings and Disability Representatives, independent professional evidence and benchmarking against other members undertaken by BEREC and as set out in BEREC report BOR (15).
- 29 ComReg's objective is to continue to develop and implement an approach that end-users with accessibility needs have access to electronic communication services equivalent to that enjoyed by the majority of end-users. ComReg is cognisant of developments in technology and strives to ensure that any measures that are already in place are relevant and continue to be so taking into consideration new technologies into the future.
- 30 ComReg's preliminary view and proposed approach in respect of each individual measure is set out below.

3.1 Accessibility Statement

- 31 ComReg Decision D06/15 requires that all undertakings are obliged to publish and maintain an accessibility statement which benefits disabled end-users by enabling them to easily access information and compare details of the services and products that undertakings are required to have in place to meet the requirements of ComReg Decision D04/14.
- 32 The text of the existing measure is as follows:

"4.1 Accessibility Statement

4.1 In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking to which this Decision Instrument applies, shall develop, publish, provide and maintain in accessible format, an Accessibility Statement which contains at a minimum:-

- 1. Information about the accessibility products and services available to end users, including those mandated in accordance with Regulation 6 and 17 of the Universal Service Regulations.*

- II. Information about the range of accessible contact methods and details to assist disabled end-users, including those mandated in accordance with Regulation 17 of the Universal Service Regulations.*
- III. Information about the undertaking's approach and policy in respect of providing services and information to disabled end-users, including in respect of obligations mandated in accordance with Regulation 17 of the Universal Service Regulations.*
- IV. The Information provided in I, II and III above to include details of what is provided, how the disabled end-user can access it and details of associated contact information.*
- V. A statement regarding the undertaking's participation in ComReg's Forum on Electronic Communications Services for People with Disabilities as relevant.*
- VI. The date when the accessibility statement was last updated and the date by which it will be next reviewed or revised.*

4.2 The Accessibility Statement is to be made available in a range of accessible formats including HTML, Accessible PDF and Large Print. Additionally it is to be provided in Braille and Audio upon request.

4.3 The Accessibility Statement is to be developed to ensure that it is easy for end-users to read and understand."

Stakeholder Feedback

- 33 Since 1 January 2016, Undertakings are obliged to have an accessibility statement which is in an accessible format.
- 34 At the meeting of the Workshop on the 2 March 2017, it was noted by one of the end-user groups that in general, the accessibility sections of the websites do not contain sufficiently detailed information in respect of the products and services available to end-users including those with disabilities.

ComReg's Preliminary View and Proposed Approach

- 35 ComReg considers that end-users with accessibility requirements should be able to interact with Undertakings such that as far as possible that they are afforded equivalence of access and choice. ComReg considers that the amendments proposed to the other measures throughout this document should serve to ensure that this continues to happen.
- 36 However, the Accessibility Statement measure is a complementary measure which is important to ensure that;
- (a) Undertakings formally set out in a statement how they provide the required accessible services and information to end users including those required in accordance with Regulation 17 of the Universal Service Regulations and
 - (b) disabled end-users are aware of how to access the required services.

- 37 ComReg is therefore proposing that Undertakings are required to publish their Accessibility Statement (in the currently required formats) on the Accessibility Section of their website, which is available to access from the home page of the website. ComReg also proposes that information as to how other formats of the Accessibility Statement may be requested should also be made available on this page. These amendments are proposed to be made to Section 4.2 of ComReg Decision D06/15.
- 38 Due to the replacement of the Forum with workshops and meetings, ComReg is proposing that the term Forum in the obligation should be replaced by the more generic term 'meetings' (that are currently in the form of workshops) be used in the Accessibility Statement.
- 39 ComReg is also proposing that references to Regulation 6 of the Regulations are removed as there are no longer any obligations unique to the Universal Service Provider but rather there are obligations on all Undertakings in accordance with Regulation 17.
- 40 For completeness, the amended measures (Sections 4.1(v) and 4.2) if decided will be as set out below and Sections 4.3 will remain unchanged:

4.1 "Undertakings shall develop, publish, provide and maintain in accessible format, an Accessibility Statement which contains at a minimum:-

- I. Information about the accessible products and services available to end-users, including those mandated in accordance with Regulation 17 of the Universal Service Regulations.*
- II. Information about the range of accessible contact methods and details to assist disabled end-users, including those mandated in accordance with Regulation 17 of the Universal Service Regulations.*
- III. Information about the undertaking's approach and policy in respect of providing services and information to disabled end-users, including in respect of obligations mandated in accordance with Regulation 17 of the Universal Service Regulations.*
- IV. The Information provided in I, II and III above to include details of what is provided, how the disabled end-user can access it and details of associated contact information.*
- V. A statement regarding the undertaking's participation in ComReg's meetings on Electronic Communications Services for People with Disabilities as relevant.*
- VI. The date when the accessibility statement was last updated and the date by which it will be next reviewed or revised.*

4.2 Undertakings shall ensure that the Accessibility Statement is made available in a range of accessible formats including HTML, Accessible PDF and Large Print on the Accessibility Section of their website. Additionally, undertakings shall provide the Accessibility Statement in Braille and Audio upon request and details of how alternative formats can be requested must be provided in the Accessibility Section of their website”.

- 41 ComReg proposes that this amendment be completed within 1 month of the date of publication of the final decision.

- Q. 1 Do you agree or disagree with ComReg’s proposed amendments to the Accessibility Statement requirements in ComReg Decision D06/15? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable
- Q. 2 Do you agree or disagree with 1 month from the date of publication of the final decision as the proposed compliance date for the amendment to this measure? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.

3.2 Accessible Complaints Procedures

Introduction

- 42 It is essential that end-users with disabilities can interact with Undertakings in relation to issues and complaints that they may have regarding the product or service they have purchased. As such D04/14 set out that the methods and entry points by which a complaint could be lodged were as comprehensive as possible. In addition the measures specified in D04/14 required undertakings to implement disability awareness training and to ensure that their staff have the appropriate skills to deal with disabled end-users.
- 43 The text of the measure is set out below.

“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.*

Stakeholder Feedback

- 44 At a meeting of the forum 30 April 2015, industry representatives presented details confirming the implementation of the measures of ComReg Decision D04/14, including Complaints Handling.
- 45 On 23 June 2016, ComReg convened “Equivalence of Access and Choice” workshop No. 1 which both industry and user-groups attended. The initial focus of the meeting was the measure 4.1.1 of ComReg Decision D04/14, Accessible Complaints Procedures.
- 46 At the workshop user-group representatives raised three key issues with the implementation of this measure for their members:-
- Services such as webchat were useful for some end-users when engaging with Undertakings if verbal communication is an issue for the consumer and an immediate response was preferable.
 - Often end-users may need extra assistance when accessing Undertakings services including complaints handling.
 - It was also noted that end-users frequently require more time to be given to supply information, fill in forms etc.
- 47 It was suggested that it would be useful to ensure digital information and websites are compatible with assistive technology, e.g. text-to-speech software, doing this ensures that end-users using assistive technology have independent access to complaint logging etc.

BEREC

- 48 Based on the BEREC Report (BoR(15)201), ComReg notes the Italian NRA (AGCOM) had introduced provisions to address accessibility of complaints handling when contacting Undertakings. Of particular interest is Resolution n. 79/09/CSP, on customer call centre quality, which has among its aims that of ensuring telephone contact services accessibility to deaf users. Article 7 of this resolution states that operators shall ensure that inbound telephone contact services are accessible to deaf people, using assistive technology and/or special configurations. Operators shall ensure free access to services through the following systems: - Chat and text message, with a response time that is equivalent to that provided for telephone calls; - Fax and e-mail, with an immediate response or, if deferred, within a maximum time of 2 hours.

ComReg's Preliminary View and Proposed Approach

49 ComReg has recently published decision D04/17²⁰ "Electronic Communications Complaints Handling Code of Practice which requires that Undertakings must have at least three methods of contact for complaints handling in place, as follows;

- (i) A Freephone (1800) number or a 19XX Customer Support Short Code number or a geographic or mobile telephone number or a number that is free to all end-users and
- (ii) An electronic means of contact and
- (iii) An address (excluding an address for an electronic means of contact);

50 Any measures mandated under Regulation 17 should be measures that disabled end-users require in addition to those mandated under Regulation 27. This will ensure they will more specifically meet the needs of disabled end-users, including those with hidden²¹ disabilities.

51 Based on feedback from the stakeholder meetings ComReg is aware that web chat is a preferred medium of interactive contact as is it offers an alternative to verbal communication for consumers and ComReg proposes to include this as a specific measure for disabled end-users to be able to interact with Undertakings in relation to queries or complaints.

52 It was also raised as feedback at the stakeholder meetings that end-users with disabilities may require additional time when contacting Undertakings customer care departments. ComReg consider that the current measure as set out in 4.1.1 of Decision D04/14 could be amended to better meet the specific needs raised in terms of time allowed to deal with the matters they wish to raise.

53 ComReg also noted that the current wording in respect to the ability to nominate a third party to deal with complaints and/or enquiries would benefit from being more specific such that Undertakings shall deal with a nominated third party.

54 Therefore ComReg's preliminary view is that the measure should be amended as set out in ComReg Decision D04/14 Section 4.1.1 as follows:

²⁰ ComReg Decision 04/17: Electronic Communications Complaints Handling Code of Practice - Response to Consultation and Decision

²¹ Hidden disability, sometimes termed invisible disability, is defined as a disability that is not immediately apparent. (iseebeyond.ie)

From

“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 accessibility requirements of disabled end-users and have the skills and give adequate time to appropriately deal with end-users who have accessibility those requirements*

To

Undertakings 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 including telephone, SMS, letter, electronic means of contact including web chat and email*
- Deal with complaints and/or inquiries made on behalf of the disabled subscriber by a third party nominated by the disabled subscriber to act on their behalf*
- Ensure staff dealing with disabled end-users are adequately trained to deal with disabled end-users requirements; and*
- Ensure staff dealing with disabled end-users allow adequate time to deal with disabled end-users requirements.*

55 ComReg proposes that this amended obligation must be implemented within 6 months of the date of publication of the final decision.

Q. 3 Do you agree or disagree with ComReg’s proposed amendments to the accessible Complaints measure? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.

Q. 4 Do you agree with 6 months from the date of publication of the final decision as the proposed compliance date for the amendment to this measure? Please explain your answer providing appropriate evidence and costings, if applicable.

3.3 Accessible Information

Introduction

56 The ability to access information about the products and services offered by Undertakings is a fundamental part of acquiring and engaging with telecommunications services.

57 In accordance with Decision D04/14 the measures as set out in 4.2 - Accessible Information states the following:

“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 Initiative²², 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:*
 - 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*

²² 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.

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."

Stakeholder Feedback

- 58 At a meeting of the forum 30 April 2015, industry representatives presented details confirming the implementation of the measures of ComReg Decision D04/14, including Accessible Information. At the meeting it was agreed that ComReg would organise a presentation in respect to WAI and in particular the three levels as set out within the Web Content Accessibility Guidelines (WCAG) 2.0
- 59 On 23 June 2015, ComReg organised a presentation that gave some background in relation to the World Wide Web Consortium (W3C) and the main international standards organisation for the World Wide Web (WWW or W3). W3C launched the Web Accessibility Initiative (WAI) in 1997. The WAI is an initiative to improve the accessibility of the World Wide Web for people with disabilities. WAI consists of several working groups who produce technical reports that become W3C recommendations one of which was the WCAG 2.0²³.
- 60 WCAG 2.0 is a technical standard. It has 12 guidelines that are organised under four principles: perceivable, operable, understandable, and robust. For each guideline, there are testable success criteria, which are at three levels: A, AA, and AAA.
- 61 On 24th October 2016, ComReg facilitated a workshop which focused on Accessible Information (Website accessibility). [An accessibility audit is where a website is tested for technical accessibility problems against guidelines which in this case WCAG 2.0. guidelines were used]. The workshop attendees included individuals with visual impairments.
- 62 At that workshop, the following issues were identified as potentially common issues across Undertaking's websites:
- Buttons – should be actionable
 - Graphics – should be labelled effectively

²³ Link to the WCAG 2.0 Guidelines is at <http://www.w3.org/TR/2008/REC-WCAG20-20081211/>

Proposed Review of Measures to Ensure Equivalence in Access and Choice

- Captcha²⁴ – an alternative to a visual image should be available
- Submit/tick boxes – not always actionable, prevents sales etc.
- Links – should have accurate descriptions
- Colour – shades of the same colour should not be used as differentiators
- Automated video links – Can be difficult to locate a stop facility
- Magnifier Icon – should be available and prominently displayed.

BEREC

63 The BEREC Report (BoR(15)201) notes that along with ComReg, the Finnish NRA (FICORA) and (latterly) the Polish NRA (UKE) have recommended or obliged undertakings to ensure that their websites are in line with the W3C Web Content Accessibility Guidelines (WCAG 2.0);

- FICORA: has issued a recommendation in 2014 that service providers should take into account the W3C Web Content Accessibility Guidelines (WCAG 2.0) on their websites and via their electronic customer service. According to the recommendation, websites should conform to level AA. This includes information concerning pricing and contracts made available on websites.²⁵
- UKE from April 2016 Poland (UKE) has also obliged Undertakings to ensure that their Websites meet WCAG 2.0 Standards.

ComReg Preliminary View and Proposed Approach

64 From the information gathered at the Workshops and from the ILIKECAKE presentation, it is clear that the ability to access information provided by Undertakings affects how a person with a disability may interact with a particular Undertaking.

65 It is also clear that in order to ensure equivalence of access and choice the Undertaking's online facilities offered to end-users must be accessible to end-users with disabilities.

²⁴ Captcha is a computer program or system intended to distinguish human from machine data input, websites

²⁵ Berec BoR (15) 201

- 66 ComReg considers that the amendment to section (I) of the measure, extending the accessibility requirement to the entirety of Undertakings websites which relate to the provision of electronic communications services will better ensure equivalence of access and choice for end-users. ComReg is aware that many Undertakings already endeavour to ensure that their entire website is accessible to end-users with disabilities, as such ComReg considers that mandating this requirement will provide certainty for end-users without incurring significant additional costs. However, ComReg is asking Undertakings to submit their views on this extended scope in terms of both costs and timing.
- 67 ComReg is also seeking details from Undertakings in respect of their wider online facilities (online billing; account management etc.) to better understand the costs associated with ComReg's proposal to extend the accessible information measure to such facilities.
- 68 ComReg considers that information in relation to complaints handling (including Undertakings' Codes of Practice as required by Regulation 27 (ComReg Decision D04/17) should be accessible to all end-users including those with disabilities and therefore no change is proposed to ComReg Decision D04/14 Section 4.2 III.
- 69 ComReg continues to consider that it is important that information in relation to contracts (ref 4.2 II) is accessible to end-users with disabilities, so no change is proposed with regard to 4.2 II of ComReg Decision D04/14.
- 70 ComReg is of the preliminary view that the Accessible Information measure as set out in ComReg Decision D04/14 Section 4.2 I should be amended as follows:

From

4.2 "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:

- II. The Web Accessibility Initiative²⁶, 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:*

²⁶ 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.

- 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."*

To

4.2 Undertakings shall ensure that information regarding its products and services, is accessible for all end-users including disabled end-users as set out below.

- I. Undertakings shall ensure that*
 - i. their online facilities including website comply with the Web Content Accessibility Guidelines (WCAG) published by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C) and in this regard it shall ensure that the online facilities and website conforms at a minimum to WCAG 2.0 Level AA Standard and*
 - ii. (a) A report on conformity with their obligations arising under Sec.4.2 (I)(i) is prepared by an independent expert in web accessibility auditing on an annual basis and*
 - (b) a copy of such report shall be furnished to ComReg on request.*
 - iii. there is one click access from the home page of the Undertaking's website to the Accessibility Section.*
 - iv. The Accessibility Section of the Undertaking's website shall contain up to date information in relation to the products and services it provides which are of particular interest and relevance to people with accessibility requirements and that this section fulfils the requirements of III below and Section 4.3 of the Accessibility Statement.*

- II. *Contractual information in accordance with Regulation 14 of the Universal Service Regulations, including notifications in respect of 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."*

71 ComReg proposes that this amended obligation be implemented within 9 months of the date of publication of the final decision.

Q. 5 Do you agree or disagree with the ComReg proposed amendments to section 4.2 of ComReg Decision D04/14? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.

Q. 6 Do you agree with the proposed compliance date for the amendment to this measure? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.

3.4 Facility for Disabled Subscribers to Register Requirements

Introduction

72 When ComReg introduced this measure its aim was to ensure that end-users could engage with their Undertaking in the manner that suited them, and to ensure that the Undertaking provided the required methods of interaction to the disabled end-user.

73 In accordance with ComReg Decision D04/14 the measures as set out in 4.3 states the following:



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."*

Stakeholder Feedback

- 74 At a meeting of the forum on 30 April 2015, industry representatives presented details confirming the implementation of the measures of ComReg Decision D04/14.
- 75 At the Workshop held on 2 March 2017, one of the end-user representative groups stated that the facility for disabled subscribers to register requirements was difficult to locate on Undertakings' websites.
- 76 Representatives at the meeting stated that when some disabled end-users were asked about the register they advised that they were not aware of the service.
- 77 At the meeting it was suggested that it would be important to provide end-users with an opportunity of advising the Undertaking of their particular accessibility requirements. It was also recommended that such information should be sought during the normal course of signing-up a customer.

BEREC

- 78 It is noted in the BEREC Report (BoR(15)201), that the only other NRA to address this issue was ANACOM the Romanian NRA. ANACOM provides for the right of the end-users to complain to the operator by themselves or by a designated third party.

ComReg's Preliminary View and Proposed Approach

79 Even though this measure has been implemented by Undertakings, there seems to be a lack of awareness of the facility and its usefulness amongst the target end-users.

80 ComReg considers it important that the original measure is enhanced to ensure that end-users are made aware of the facility and that the facility to register information is more useful (with the appropriate permissions) for both end-users and Undertakings when engaging with each other.

81 ComReg is proposing that the requirements of Section 4.3 of ComReg Decision D04/14 be amended as follows:-

- To ensure that the facility is displayed prominently on the Undertakings websites in the accessibility and account holder details sections.
- All end-users must be made aware of the facility when they are entering into a contract.
- To allow the nature of the disability to be record in the account details, subject to the subscribers permission

From

“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.”*

To

“Undertakings shall establish and maintain a facility or enhance and maintain an existing facility to enable subscribers with disabilities to register their requirements. The facility must be displayed prominently on Undertakings websites; in the Accessibility Section and also in the account details section. All End-users must be made aware of the facility when signing up to a new account. The facility to enable the subscribers to register their requirements must, at a minimum, have the ability to record, subject to the subscriber’s consent, the following:

- i. Name, address, contact details (to include phone and/or email and/or third party nominated contact details);*
- ii. Preferred means of communication;*
- iii. The option to note the nature of their accessibility requirements*
- iv. Details of any alternative billing medium requirement.”*

82 ComReg proposes that the implementation of this amendment be completed within 6 months of the date of publication of the final decision.

Q. 7 Do you agree with the ComReg proposed amendments to the Facility for Disabled Subscribers to Register Requirements of ComReg Decision D04/14? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable .

Q. 8 Do you agree with the proposed compliance date for the amendment to this measure? Please provide reasons to support your view.

4 Draft Regulatory Impact Assessment ("RIA")

4.1 Introduction

- 83 This section sets out our impact assessment. Our approach follows the RIA Guidelines²⁷ published by us in August 2007 and takes into account the “Better Regulation” programme²⁸ and international best practice (for example, considering developments about RIA published by the European Commission²⁹ and the OECD). In addition, Section 13(1) of the Communications Regulation Acts 2002 to 2011 requires us to comply with Ministerial Policy Directions. In this regard, Ministerial Policy Direction 6 of February 2003³⁰ requires that, before deciding to impose regulatory obligations on undertakings, we must conduct a RIA in accordance with European and international best practice and otherwise in accordance with measures that may be adopted under the “Better Regulation” programme.
- 84 This RIA is an overall analysis of the likely effect of proposed regulation or regulatory change. Its purpose is to help identify regulatory options, and should establish whether the proposed regulatory approach is likely to have the desired impact in terms of promotion of the interests of consumers through ensuring that Undertaking comply with applicable regulations on the availability of services. Our aim in conducting this RIA is to ensure that all proposed amendments, withdrawal and additions to are appropriate, proportionate and justified.
- 85 As part of the process in selecting an appropriate regulatory approach in this instance, we set out the key policy issues and objectives below, followed by an assessment of potential regulatory options and their respective impacts for consumers, service providers as well as competition.

²⁷ ComReg, “Guidelines on ComReg’s Approach to Regulatory Impact Assessment”, ComReg Document 07/56a, 10 August 2007 (the “**RIA Guidelines**”).

²⁸ Department of the Taoiseach, “Regulating Better”, January 2004. See also “Revised RIA Guidelines: How to conduct a Regulatory Impact Analysis”, June 2009, http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf.

²⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Second strategic review of Better Regulation in the European Union”, COM(2008) 32 final 30.01.2008, p. 6.

³⁰ Ministerial Policy Direction made by the Minister of Communications, Marine and Natural Resources on 21 February 2003.

86 We now conduct our RIA having regard to regulatory requirements on Undertakings which we have set out in section 3 of the document our approach in proposing the changes to the applicable measures. We consider other options including forbearance from regulation at this time with respect to availability of services. The following sections, in conjunction with the rest of the analysis in this Consultation represent a RIA. It sets out a preliminary assessment of the potential impact of our proposed regulatory approach for consumer protection.

4.2 Preliminary assessment of the regulatory approach

87 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 approach³¹ in its implementation of Regulation 17 of the Regulations. The steps taken by ComReg in this regard are set out in Annex 4 of this consultation document.

88 ComReg has taken the preliminary view that it should make amendments to measures to be complied with by Undertakings in order to continue to ensure equivalence in access and choice for disabled end-users pursuant to Regulation 17 and Regulation 30 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.

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

4.3 Policy Issue and Objectives

90 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.

91 ComReg considers that disabled end-users should not face any barriers when accessing electronic communications services. As such we consider it important that we carry out a periodic review of existing measures to ensure that they are effective.

³¹ BEREC Report, pages 68-73

- 92 ComReg's objective is to ensure that equivalence in access to electronic communications services and choice of undertakings and services is ensured for disabled end-users.
- 93 In accordance with 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.
- 94 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.
- 95 ComReg is of the preliminary view that the benefits to be achieved by the measures proposed in this 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. ComReg is seeking submissions from undertakings in respect to the costs and timing of the proposed measures.

4.4 Assessment of the regulatory options

Accessibility Statement

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

- **Option 1:** Status quo remains; maintain the existing measure
- **Option 2:** ComReg introduces further requirements.
 - To ensure that the required Accessibility Statement formats are also accessible from the home page of the Undertaking's website together with information as to how other formats may be requested.
 - To ensure that their Accessibility Statement is available and amended to reflect participation in ComReg's meetings rather than forums and by removing reference to Regulation 6 which is no longer relevant.

Benefits

97 Option 2 would require all Undertakings to make the proposed changes to the wording in their Accessibility Statement and facilitate the already required formats to be made available on-line.

Costs

98 ComReg considers that Option 2, would have little impact on industry as amending the Accessibility Statement and publishing the already required formats on their website will have minimal cost impact.

Net Welfare

99 ComReg is of the preliminary view that option 2 is equitable as all Undertakings would be obliged to amend their Accessibility Statement and would have no negative impact on competition.

100 ComReg is of the view that making the changes to the Accessibility Statement requirements (Option 2) would ensure that the content of the Statement remains current and that end-users would be able to access each Undertakings Accessibility Statement in a format that best meets their needs from the Accessibility Section of the Undertakings' website.

Accessible Complaints Procedures

101 ComReg is of the initial view that there are two options;

- **Option 1:** Status quo remains; maintain the existing measure
- **Option 2:** ComReg requires all Undertakings to ensure that web chat is offered as a new channel of communication if not already available in addition to phone, SMS, letter and electronic means of contact. ComReg also requires all Undertakings to ensure that, extra assistance is available to end-users with disabilities, and additionally, that all Undertakings deal with a disabled subscribers complaints and/or enquiries made by a nominated third party and adequate time would be available to deal with the disabled end-users requirements.

Benefits

102 While Option 1 offers no additional benefits, Option 2 would benefit disabled end-users as they will have the ability to engage with consumer departments for enquiries and complaints using the contact method which is most accessible to them e.g. web chat, or via a nominated third party etc. Training staff and ensuring adequate time is provided to the agent when dealing with the disabled end-user results in a benefit as it allows disabled end-users to get the most out of their engagement with the Undertaking and will lead to an improved customer experience.

Costs

103 Maintaining Option 1 may lead to some end-users not being able to effectively engage with their Undertaking, which may result in a lost opportunity due to the Undertaking not meeting disabled end-users' needs.

104 Option 2 may initially result in extra cost for Undertakings if they do not currently offer web chat or any of the other 3 communication channels. Also they may have to (re)train their staff to deal appropriately with disabled end-users or have a dedicated set of staff that have adequate knowledge and skills. Allowing adequate time for completion of transactions, if required, is to all users benefit. ComReg invites Undertakings to provide cost estimates and timing implications in their responses so that this can be taken into account in reaching a final Decision.

Net Welfare

105 Choosing Option 2 will clarify the intrinsic elements of the measure; 1) the ability of the end-user to engage with the Undertaking, 2) the ability of the Undertaking to enable to deal with the disabled end-users communication.

106 Under Option 2 all Undertakings will have the same obligations in respect of end-users with accessibility requirements ensuring that there is no negative impact on competition. End-users with accessibility requirements can be assured of equivalent treatment, enhancing competition by facilitating choice and switching.

107 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 that end-users with accessibility requirements can enjoy access and choice equivalent to that of the majority of end-users.

Accessible Information

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

- **Option 1:** Status quo remains; maintain the existing measure
- **Option 2:** ComReg's proposed amendments are imposed and Undertakings' online facilities including websites comply with the Web Content Accessibility Guidelines (WCAG) published by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C) In this regard it will ensure that their online facilities and their website conforms at a minimum to WCAG 2.0 Level AA Standard. A report on conformity with their obligations arising under S.4.2 (l) is prepared by an independent expert in web accessibility auditing on an annual basis and a copy of such report shall be furnished to ComReg on request

Benefits

109 With Option 2 ComReg is proposing that the Undertakings' online facilities must be accessible to end-users with disabilities. For example ensuring that the website is developed under the principles of Universal Design³² should ensure that the majority of all end-users should be able to successfully access Undertakings information using online facilities.

110 This proposed measure should benefit disabled end-users as they can be confident that they can access Undertakings websites and on-line facilities as easily as any other end-user. In turn, this measure should also have a positive effect on competition as all the websites will be accessible, end-users may be more encouraged to switch as the informational barrier will no longer be present.

Costs

111 Maintaining Option 1 would mean no change.

112 ComReg is aware that adopting option 2 may take time in that some Undertakings have commenced the process of making all of their websites accessible already and others may only have made the necessary amendments to ensure that they have made certain website pages accessible. As such, ComReg understands that further changes to the website and on-line facilities may require further cost and will require time for planning and implementation. We are seeking input from Undertakings on any cost estimates to extend the current website accessibility measure to the rest of their website and online facilities, ensuring that it meets the required standard.

113 We have proposed an effective date of 9 months from the date of publication of the final decision for Undertakings to achieve compliance with this amended measure.

114 Option 2 will also result in Undertakings being required to certify on an annual basis that their online facilities are accessible and compatible with assistive technology. ComReg is seeking details from Undertakings in respect of online facilities that are offered to better understand the costs associated with ensuring those online channels are accessible to all end-users. ComReg understands that there are a number of professional entities that provide such services and, based on its own experience in getting an audit undertaken for its website, the cost of certification is nominal.

³² <http://universaldesign.ie/What-is-Universal-Design/The-7-Principles/>

Net Welfare

115 Choosing Option 2. The costs involved in ensuring the information is more accessible, together with the costs of ensuring the website is also accessible are not expected to be significant, but will be of benefit to all end-users, particularly given the feedback at the workshops, and should lead to an improvement in the engagement between end-users and Undertakings

Facility for Disabled Subscribers to Register Requirements

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

- **Option 1:** Status quo remains; maintain the existing measure
- **Option 2:** ComReg requires all Undertakings to put processes in place so that details regarding the facility are available from the Accessibility Section on Undertakings websites and to make all end-users aware when signing up to a new contract and to include the option to note the nature of the accessibility requirements.

Benefits

117 Option 2 would mean that details about the existing register would be more widely known and that end-users are given the opportunity at contract stage to place their details on it. This would mean there should be no need to inform customer service representatives of particular subscriber requirements or an alternative contact person each time contact is made.

118 Option 2 also provides benefits for industry as it could more easily determine which subscribers require which services specially designed for disabled end-users (e.g. text relay, billing mediums, query and complaint channels etc.). There may be minor costs in setting up or amending current systems and processes. Net gain should outweigh costs as a more useful and used register of disabled subscribers' requirements can potentially be used by Undertakings to proactively enhance their communications and dealings with disabled subscribers.

Costs

119 ComReg is of the preliminary view that choosing Option 1 would not fully achieve the objective of equivalence for end-users with accessibility requirements. Making the changes to the facility for disabled subscribers to register requirements, would allow more end-users with accessibility requirements to inform Undertakings of their specific requirements, particularly at contract stage. It would also benefit Undertakings by, for example, enabling them to determine those subscribers who would be entitled to free Directory Enquiry (DQ) calls or the Text Relay Service (TRS), or whether a nominated third party may interact with the Undertaking on their behalf.

Proposed Review of Measures to Ensure Equivalence in Access and Choice

120 Option 2 may lead to Undertakings incurring costs in setting up or amending existing systems and process and ComReg invites Undertakings to provide relevant details in terms of costs and timing.

Net Welfare

121 The key benefit of choosing option 2 is that end-users in registering their preferences with their Undertaking should have a better experience when engaging with their Undertaking. The need to repeatedly explain their needs as a disabled end-user should be removed.

122 In choosing option 2 Undertakings will have the ability to determine which subscribers are entitled to certain services such as the free DQ and TRS service. The net gain should outweigh costs.

123 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.

Conclusion

124 ComReg is now seeking interested parties to offer views on other factors (if any) that ComReg should consider in completing its RIA.

125 Should respondents to this consultation document object to any of the proposed measures outlined herein on the basis that the implementation of the measure(s) could be cost prohibitive, ComReg will request the respondent(s) to substantiate those objections with sufficient evidence.

Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and offer views on other factors (if any, in particular if Undertakings consider substantial costs or timing issues will arise due to the proposed measures) so that ComReg can consider the detail provided in completing its final RIA.

5 Draft 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 Act 2002 (as amended) and ComReg’s further objectives set out in Regulation 16 of the Framework Regulations
- ii. Having regard to the functions and powers conferred upon ComReg under and by virtue of, Regulation 17 and Regulation 30 of the Universal Service Regulations
- iii. Having regard to the analysis and reasoning set out by ComReg Decision No 04/14 (Document No 14/52) Electronic Communications: Measures to Ensure Equivalence in Access and Choice for Disabled End _Users
- iv. Having regard to the analysis and reasoning set out by ComReg in Decision 06/15 (Document No. 15/98) Measures for Disabled End _Users: Requirement for An Accessibility Statement
- v. Having regard to the analysis and reasoning set out by ComReg Decision No 04/17 (Document No 17/62) Electronic Communications Complaints Handling Code of Practice – Response to Consultation and Decision
- vi. Having, pursuant to Section 13 of the 2002 Act (as amended), complied with Ministerial Policy Directions where applicable;
- vii. The provisions of the response to consultation and final Decision Instrument entitled [ComReg Document No. 17/X] shall, where appropriate, be construed together with this Decision Instrument.

2. DEFINITIONS

2.1 In this Decision Instrument, the following words and phrases shall have the following meaning unless the context otherwise requires.

- i. **“Act”** means the Communications Regulation Act 2002 (as amended)

- ii. **“ComReg”** means the Commission for Communications Regulation, established under section 6 of the Communications Regulation Act, 2002 (as amended).
- iii. **“Decision Instrument”** means this Decision Instrument ComReg Document { } which is made pursuant to, inter alia, Regulation 17 of the Universal Service Regulations
- iv. **“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](#).
- v. **“Effective Date”** means the date set out in Section 8.1 of this Decision Instrument
- vi. **“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.
- vii. **“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”.
- viii. **“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.
- ix. **“Implementation Date(s)”** means the date(s) as set out in the table in section 8.2 of this Decision Instrument on which the requirements in the amended measures take full force and effect and the existing requirements under ComReg Decision Section 4 (1)(v) of D06/15 (Document No. 15/98 and Sections 4.1.1; 4.2 and 4.3 of ComReg Decision No04/14 (Document No 14/52) cease to have full force and effect.
- x. **“Ministerial Policy Directions”** Means the policy Directions made by Dermot Ahern TD, then Minister for Communications, Marine and Natural Resources, pursuant to Section 13 of the Communications Regulation Act 2002 (as amended), dated 21 February 2003 and 26 March 2004;
- xi. **“SMS”** means a Short Message Service text message, composed principally of alphabetical or numerical characters, capable of being

sent between mobile or fixed numbers assigned in accordance with national numbering plans;

- xii. **“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.
- xiii. **“Undertaking”** means an undertaking providing publicly available electronic communications services.
- xiv. **“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.

2.2 (i) References to European Union legislation or to Irish primary legislation or secondary legislation shall be construed as references to that legislation as amended from time to time(ii)Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise admits or requires.

(ii) Examples shall not be construed to limit, expressly or by implication, the matters they illustrate.

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

3. SCOPE AND APPLICATION

3.1 This Decision Instrument applies to and is binding on all Undertakings providing publicly available electronic communication services and only in relation to the provision of electronic communication services.

3.2 This Decision Instrument relates to proposed amendments of the obligations to ensure equivalence in access and choice for disabled end-users imposed by ComReg in ComReg Decision D04/14 (ComReg 14/52) and obligations for disabled end-users requirement for an Accessibility Statement in ComReg Decision D06/15 (ComReg 15/98), pursuant to Regulation 17 and Regulation 30 of the Universal Service Regulations.

3.3 The requirements contained in this Decision Instrument shall apply from the dates (“the Implementation Dates”) as set out in the table in Section 8.2 of this Decision Instrument.

4. Proposed amendment of requirements to ensure equivalence in access and choice for disabled end- users and proposed amendments of measures for disabled end-users requirement for an Accessibility Statement

4.1 Accessible Services

4.1.1 Accessible Complaints Procedures:

Pursuant to Regulations 17 and 30 of the Universal Service Regulations Section 4.1.1 of Decision Instrument annexed to ComReg Decision 04/14 is hereby amended by the replacement of the current Section 4.1.1 with the following:

“Undertakings shall:

- i. 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 including telephone, SMS, letter, electronic means of contact including web chat and email;*
- ii. Deal with complaints and/or inquiries made on behalf of the disabled subscriber by a third party nominated by the disabled subscriber to act on their behalf*
- iii. Ensure staff dealing with disabled end-users are adequately trained to deal with disabled end-users requirements; and*
- iv. Ensure staff dealing with disabled end-users allow adequate time to deal with disabled end-users requirements.”*

4.2 Accessible Information

Section 4.2 including subsection (I) of Decision Instrument annexed to ComReg Decision D04/14 is amended by replacing the current Section4.2 with the following

Undertakings shall ensure that information regarding its products and services, is accessible for all end-users including disabled end-users as set out below.

I. “Undertakings shall ensure that:

- (i) their online facilities including websites comply with the Web Content Accessibility Guidelines (WCAG) published by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C) and in this regard it shall ensure that their online facilities and their website conforms at a minimum to WCAG 2.0 Level AA Standard and

- (ii) (a) A report on conformity with their obligations arising under Section 4.2 (l)(i) is prepared by an independent expert in web accessibility auditing on an annual basis and
- (b) A copy of such report shall be furnished to ComReg on request
- (iii) There is one click access from the home page of the Undertaking's website to the Accessibility Section.
- (iv) The Accessibility Section of the Undertaking's website shall contain up to date information in relation to the products and services it provides which are of particular interest and relevance to people with accessibility requirements and that this section fulfils the requirements of III below and Section 4.3 of the Accessibility Statement.
- 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 Accessibility Section of the Undertaking's website) and all of these formats must be printable.”

4.3 Facility For Disabled Subscribers to Register Requirements

Section 4.3 of the Decision Instrument annexed to ComReg Decision D04/14 is amended by the replacement of the current Section 4.3 with the following:-

“Undertakings shall :-

- 1. establish and maintain a facility or enhance and maintain an existing facility to enable subscribers with disabilities to register their requirements.*
- 2. ensure that the facility is displayed prominently on their websites; in the accessibility section and also in the account details section.*
- 3. ensure that they make all end-users aware of the facility when signing up to a new account.*
- 4. ensure that the facility to enable subscribers to register their requirements has, at a minimum, the ability to record, subject to the subscriber's consent, the following:*

- *Name, address, contact details (to include phone and/or email and/or third party nominated contact details);*
- *Preferred means of communication;*
- *The option to note the nature of their accessibility requirements*
- *Details of any alternative billing medium requirement.”*

5. FOR THE AVOIDANCE OF DOUBT

There is no amendment to the following sections of the Decision Instrument annexed to ComReg Decision 04/14:

5.1 Sections 4.1.2 (Accessible Top – Up Facility for Pre-Paid Mobile Telephone End-Users);

5.1.2 Sections 4.1.3 (Accessible Directory Enquiries)

5.1.3 Sections 4.1.4 (Accessible Billing)

5.1.4 Sections 4.1.5 (Accessible Facility to Test Compatibility of Terminal Equipment or appropriate returns policy)

6. MEASURES FOR DISABLED END-USERS REQUIREMENT FOR AN ACCESSIBILITY STATEMENT: COMREG DECISION INSTRUMENT D06/15 / 15/98

6.1 Accessibility Statement

Section 4.1 (V) of the Decision Instrument annexed to ComReg Decision D06/15 is amended by replacing the current Section 4.1(v) with the following:-:

“A statement regarding the undertaking’s participation in ComReg’s Meetings on Electronic Communications Services for People with Disabilities as relevant”.

Section 4.2 of the Decision Instrument annexed to ComReg Decision D06/15 is amended by replacing the current Section 4.2 with the following:-

Undertakings shall ensure that the Accessibility Statement is made available in a range of accessible formats including HTML, Accessible PDF and Large Print on the Accessibility Section of their website. Additionally, undertakings shall provide the Accessibility Statement in Braille and Audio upon request and details of how alternative formats can be requested must be provided in the Accessibility Section of their website.

7. MAINTENANCE OF OBLIGATIONS AND SEVERANCE

7.1 Subject to Section 8.2 below or as otherwise expressly stated in this Decision Instrument, all obligations and requirements contained in Decision Instrument D04/14 and Decision Instrument D06/15 and Directions made by ComReg applying to Undertakings and in force immediately prior to the Effective Date of this Decision Instrument continue in force and Undertakings shall comply with same.

7.2 If any section, clause or provision or portion thereof contained in this Decision Instrument is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that section, clause or provision or portion thereof shall, to the extent required, be severed from this Decision Instrument and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this Decision Instrument, and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.

8. EFFECTIVE DATE AND DURATION

8.1 This Decision and Decision Instrument is effective on the date of publication (17/71), and shall remain in full force unless otherwise amended by ComReg.

8.2 Undertakings will be required to comply with the requirements in Section 4(1)(v) of ComReg Decision 06/15 (Document No. 15/98) and Sections 4.1.1, 4.2 and 4.3 of ComReg Decision 04/14 (Document No 14/52), as amended by this Decision Instrument, in accordance with the timeframes specified in the table below

Measure in this Decision Instrument	Implementation date of amendment
6.1 Accessibility Statement	One month from the effective date of this Decision Instrument
4.1.1 Accessible Complaints Procedures	Six months from the effective date of this Decision Instrument
4.2 Accessible Information	Nine months from the effective date of this Decision Instrument
4.3 Facility for Disabled Subscribers to Register Requirements	Six months from the effective date of this Decision Instrument

8.3 Undertakings shall, no later than 12 months from the effective date of this Decision Instrument, on request from ComReg, confirm and demonstrate to ComReg's satisfaction with documentary evidence, compliance with these measures.

Q. 10 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.

6 Submitting Comments

126 The consultation period will run from 17 August 2017 to 27 September 2017 during which ComReg welcomes written comments on any of the issues raised in this paper.

127 All comments are welcome; however it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

128 Having analysed and considered the comments received, ComReg will review the proposed approaches. The consultation process will culminate with the publication of a response to consultation paper containing a full set of measures to ensure equivalence in access and choice for disabled end-users.

129 In order to promote further openness and transparency, ComReg will publish all respondents' submissions to this consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information.³³ We would request that electronic submissions be submitted in an unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.

130 ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful.

131 As it is ComReg's policy to make all responses available on its web-site and for inspection generally, respondents to consultations are requested to clearly identify confidential material and place confidential material in a separate annex to their response.

132 Such Information will be treated subject to the provisions of ComReg's guidelines on the treatment of confidential information.³⁴

³³ ComReg 05/24

³⁴ ComReg 05/24

Annex: 1 Current Measure as set out ComReg Decision D04/14

EXTRACT FROM ComReg Decision D04/14

SECTION 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.

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”³⁹, 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 condition
- 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 Initiative⁴⁰, 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:

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.

Annex: 2 Current Measures as set out in ComReg Decision D06/15

EXTRACT FROM ComReg Decision D06/15 - Accessibility Statement

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

Accessibility Statement

4.1 In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking to which this Decision Instrument applies, shall develop, publish, provide and maintain in accessible format, an Accessibility Statement which contains at a minimum:-

I. Information about the accessibility products and services available to end users, including those mandated in accordance with Regulation 6 and 17 of the Universal Service Regulations.

II. Information about the range of accessible contact methods and details to assist disabled end-users, including those mandated in accordance with Regulation 17 of the Universal Service Regulations.

III. Information about the undertaking's approach and policy in respect of providing services and information to disabled end-users, including in respect of obligations mandated in accordance with Regulation 17 of the Universal Service Regulations.

IV. The Information provided in I, II and III above to include details of what is provided, how the disabled end-user can access it and details of associated contact information.

V. A statement regarding the undertaking's participation in ComReg's Forum on Electronic Communications Services for People with Disabilities as relevant.

VI. The date when the accessibility statement was last updated and the date by which it will be next reviewed or revised.

4.2 The Accessibility Statement is to be made available in a range of accessible formats including HTML, Accessible PDF and Large Print. Additionally it is to be provided in Braille and Audio upon request.

4.3 The Accessibility Statement is to be developed to ensure that it is easy for disabled end users to read and understand.

Annex: 3 Legal Basis

European Communities (Electronic Communications Network and Services) (Universal Service and Users' Rights) Regulations 2011, "the Regulations"³⁵

A 3.1 The Universal Service Directive ("USD") as amended³⁶ 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 3.2 Recital 12 of the amending USD³⁷ 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 3.3 The legal basis is set out in the Regulations. Provisions of particular relevance are set out below.

Obligations in law

1. 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.
2. 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.*

³⁵ SI No 337 of 2011

³⁶ 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

³⁷ Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009

17.(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.

3. Regulation 30 of the Regulations further provides:

30. The Regulator may, for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under these Regulations, issue directions to an undertaking to do or refrain from doing anything which the Regulator specifies in the direction.

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

5. Section 12 of the Communications Regulation Act, 2002 outlines 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—

(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,

[...]

6. 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.

7. Regulation 16 of the Framework Regulations provides furthermore, in relation 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.

8. Prior to the introduction of Regulation 17 of the Regulations in 2011, protections for disabled end-users were largely confined to requirements established by the Universal Service Obligations. As such, 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.

Annex: 4 Questions

Question	Page
Q. 1 Do you agree or disagree with ComReg’s proposed amendments to the Accessibility Statement requirements in ComReg Decision D06/15? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable	16
Q. 2 Do you agree or disagree with 1 month from the date of publication of the final decision as the proposed compliance date for the amendment to this measure? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.	16
Q. 3 Do you agree or disagree with ComReg’s proposed amendments to the accessible Complaints measure? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.	19
Q. 4 Do you agree with 6 months from the date of publication of the final decision as the proposed compliance date for the amendment to this measure? Please explain your answer providing appropriate evidence and costings, if applicable.	19
Q. 5 Do you agree or disagree with the ComReg proposed amendments to section 4.2 of ComReg Decision D04/14? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.	25
Q. 6 Do you agree with the proposed compliance date for the amendment to this measure? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable.	25
Q. 7 Do you agree with the ComReg proposed amendments to the Facility for Disabled Subscribers to Register Requirements of ComReg Decision D04/14? Are there any other factors that you consider to be relevant? Please explain your answer providing appropriate evidence and costings, if applicable	28
Q. 8 Do you agree with the proposed compliance date for the amendment to this measure? Please provide reasons to support your view.	28

Q. 9	Respondents are asked to provide views on whether the proposed measures are proportionate and justified and offer views on other factors (if any, in particular if Undertakings consider substantial costs or timing issues will arise due to the proposed measures) so that ComReg can consider the detail provided in completing its final RIA.	36
Q. 10	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.	44