



Commission for
Communications Regulation

Electronic Communications Services:- Proposed Measures in relation to Text Relay Services

Submissions received from respondents

Submissions Document

Reference: ComReg 15/21s

Version: Final

Date: 26/05/2015

An Coimisiún um Rialáil Cumarsáide

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Document Number:	15/21s
Date:	07 May 2015

Consultation:	15/21

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1 BT Ireland.

BT Communications Ireland Limited ["BT"]

Response to ComReg Consultation:

Electronic Communications: - Proposed Measures in relation to Text Relay Services

Issue 1 - 1st May 2015

1.0 Introduction

We welcome the opportunity to comment on this important issue and would like to make some general comments before responding to the questions.

1. We believe this consultation would have been better as a Call for Inputs or preliminary consultation rather than a direct proposal for regulation as there is a clear need to establish how this service may be provided. Without an understanding of whether a wholesale solution is possible and permitted, it is difficult to see how most operators could reasonably meet the obligations proposed. The lack of a detailed understanding across the industry also makes it impossible for even an informed operator to know whether the desired requirements can be achieved.
2. The current small volume of calls to the National Text Relay Service (circa 1200 calls a year) suggests it is difficult to justify one operator hosting the service let alone every operator in Ireland of which there is approximately 382 with fixed network authorisations. The low volume also suggests that the service would have to be offered alongside other 24/7 attendant services to efficiently use resource. Hence if ComReg were to place the obligation on all operators (many of which are switchless and without 24/7 call centres) it is evident those operators will be dependent on wholesale or third party providers. The consultation does not address the wholesale situation.
3. ComReg is suggesting volumes will improve with the new service. Whilst some improvement may be envisaged from the current very low base, BT has not seen a significant increase in service usage in the UK following a change to the regulations similar to that proposed by ComReg. A possible reason is the widespread availability of alternative communication methodologies such as SMS/Text and the variety of social media internet based platforms. We therefore

consider the volumes will not increase by such a level as to change the economics of the service.

4. BT Ireland does not market or sell consumer services in Ireland. Our focus is on providing wholesale services to other operators, including switchless providers and providing retail services to medium to large businesses nationally and internationally. In our wholesale capacity we are therefore considering the viability of providing a commercial Text Relay Wholesale solution to the market based on our UK solution and would welcome discussion with ComReg and interested parties. However, at this time there are many unanswered details that would need to be addressed to determine the viability of any proposal. For example:
 - a. The commercial wholesale pricing model.
 - b. Numbering plan and call routing.
 - c. Interoperability with other solutions.
 - d. Type of solution.
 - e. How the end customer rebate scheme will work in practice.

2.0 Detail response to the questions.

Q. 1 Do you agree that all PATS Undertakings should be required to provide access to a TRS? Please provide detailed reasons and supporting evidence for your view.

A.1 – Whilst we agree that the service should be available we consider it unreasonable and disproportionate to place the obligation on all providers absent wholesale services. Considering the logistics a small operator would probably only address a few 10s of calls a year but would have to employ up to six people to offer 24/7 availability for the service (i.e. 3 shifts for a 24 period and cover for lunch breaks, etc.). Many operators in Ireland (even larger ones) are switchless i.e. they don't have a network to route these special calls and don't have 24/7 call centres.

ComReg do not discuss the availability of wholesale solutions within the consultation and as far as we are aware have not made any approach to wholesale providers to seek their opinion. Absent a wholesale solution, we do not agree the proposal is proportionate as most of the Authorised Operators would not be able to support this service without a significant expense.

Q. 2 Do you agree that the TRS should at a minimum meet the requirements as set out above? Please provide details of how the service could be provided, the suggested solutions and costings, which must be substantiated. All details will be considered and incorporated into the final RIA and Decision.

A.2 We consider a detailed review is required as to what is possible against that being sought. We would like to offer the following comments.

1. Technology-Neutral – We don't know what Eircom is going to offer or the interoperability of its solutions hence we can't make such a commitment at this time.
2. We agree the principle but need to understand the interoperability details and also we cannot give assurances for the services provided by other operators. I.e. we could send forward text in an agreed format, but we cannot determine that another operator processes them correctly.
3. We agree in principle but we would need to understand how this will work in practice before agreeing to meet such a requirement. Also as the text relay relies on manual intervention the speed will depend on how quickly the participants interact and the natural capability of the person carrying out the relay activity.
4. We agree in principle but until we are aware of what is available from Eircom we could not commit to this and it may not be financially viable to track the constant changes in technology and its resultant cost
5. The provision of the service is based on the principles of equivalence and as such it would be normal to charge for the service at the same rate as a standard call (with a rebate for additional time). We consider this creates the equivalent incentives for users to respect the service and encourages the efficient use of the service. A risk of free calls is that lines could be held for considerable periods of time thus limiting the availability of the service to others. As ComReg calls out, customers should be able to avail of standard bundled services where there is no charge for calls up to certain duration. In addition we consider that speech callers to the service should pay the standard rates and not be subsidised.
6. We agree in principle but we could not agree to such until we know the level of difficulty. Special call routing is likely to be required for Text Relay Services and this could limit international working in other countries as well as in Ireland. This may require international agreements.
7. We need to understand more about this requirement as any implementation may need modifications to the dialling plan.
8. Please see our response to question 3.
9. Agreed in line with the appropriate regulations and legislation.

Q. 3 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Please provide detailed reasons and supporting evidence for your view

A.3 With regards to the quality of service we are concerned the very low total volumes means any low quantity service issue will be accentuated into a high percentage making it problematic to meet the proposed requirements. Our UK solution works to 90% of calls answered in 15 seconds and an abandoned call rate of 3% but this is based on a considerably higher volume of calls. If every authorised operator had to provide attendants to manage answering the calls, the extremely low volume of calls – may be 10s of calls a year for smaller operators, it would be impossible to offer the levels of

service proposed as attendants could not reasonably be expected to maintain focus on such a low volume product. This further supports our view that a wholesale solution is required that operators could simply re-sell.

Q. 4 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service? Please provide detailed reasons and supporting evidence for your view.

A.4 As for our answer to question 3 the figures are only plausible for a significant volume service and in our view would not work if every operator had to provide their own attendant features. Even the national total of circa 1240 calls a year is low for the parameters set and would be difficult to achieve. We are aware and agree that similar and additional targets can be met in a high volume environment but we could not agree the proposals as reasonable if all operators had to provide their own attendant services for the reasons in answer 3. Such would also be difficult for a single national operator dealing with such low total volumes.

Q. 5 Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a Minicom device? Please provide detailed reasons and supporting evidence for your view.

A.5 We consider the Minicom and the new customers should both receive the NAD rebate as such is equivalent and aligns with basic charging principles to incentivise the efficient use of the network / service.

Q. 6 Do you agree that the TRS rebate scheme, that takes into account that the time taken to make a text telephone call is longer than that need to make an ordinary call, will not be appropriate for new TRS users? Please provide detailed reasons and supporting evidence for your view.

A.6 We agree that the call will take longer and that the rebate scheme should continue for all users both of the existing Minicom service and also for any new service that is offered. This provides equivalence of charging and as for an 'ordinary call' incentivises the efficient use of the networks scare resource.

Q. 7 Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures? Please provide detailed evidence and reasons to support your view.

A.6 We consider it will take 18 months to 24 months to implement the services required. It would be disproportionate to impose such an obligation on all Authorised Operators without the support of wholesale or third party services and to date none have been identified in the consultation or as far as we are aware offered. If there were to be two or more providers there will need to be interoperability discussions to ensure end to end working. BT is currently considering the viability of a commercial wholesale solution however we need to have discussions with a number of parties including ComReg and potential customers to determine if such is viable.

Q. 8 Do you agree with ComReg's preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view.

A.8 Yes – this is clearly required to maintain the service in the interim. There is no alternative supply readily available and we are not aware of any voluntary binding assurances to continue from Eircom.

Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors (including details of any proposed solutions, the costs of implementing a TRS that meets minimum requirements) that ComReg should consider in completing its RIA. All submissions in respect of proposals and costs must be substantiated.

A.9 We genuinely consider this should have been a call for inputs or preliminary consultation to determine how this could be progressed and the practicalities of implementing. The consultation therefore lacks foundation of how to make this work and fails to address the fundamental issues that many operators don't have networks or 24/7 call centres. Hence for most operators absent a wholesale or a dedicated third party provider these measures are disproportionate. In the UK BT is a wholesale provider that can and does offer the service to support other providers. We are not aware of this in Ireland.

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.

A.10 As previously indicated we consider it would have been more productive to have issued a call for inputs or preliminary consultation to stimulate the discussion and to bring together a framework to support the service. We have addressed the key elements of the draft Decision in our responses above and thus we consider the issues should be clarified and resolved where appropriate before progressing with the draft decision. Absent a wholesale or third party solution the proposal is disproportionate on most operators. As a wholesaler that has offered this service in the UK and who provides wholesale products in Ireland we have sufficient experience to suggest there are a number of issues that require clarification and agreement to support such a service in here.

2 DeafHear.



DeafHear.ie

Services for Deaf & Hard of Hearing People

DeafHear Submission

to

ComReg's Public Consultation

on

**Electronic Communications:-
Proposed Measures in relation to
Text Relay Services**

DeafHear April 2015

1 Introduction.

1.1 DeafHear.

DeafHear is a national organisation that provides a range of specialist services to Deaf and Hard of Hearing people and advocates for better access to services in society for Deaf and Hard of Hearing people. DeafHear's Vision is of an inclusive society where Deaf and Hard of Hearing people are fully integrated, with equality of opportunity and participation. DeafHear's role is to make this Vision a reality by promoting the equal rights of Deaf and Hard of Hearing people and enhancing their life opportunities.

1.2 Hearing loss.

One in six people have some level of hearing loss. Approximately one in a thousand people are profoundly Deaf and use Irish Sign Language to communicate. According to the HSE, 8% of adults have a 'disabling hearing loss' (270,000 adults in Ireland), and most of these people are older people with acquired hearing loss. By the age of 65, one third of people have a significant hearing loss. The fact that we are living longer and research has shown that many young people are damaging their hearing by using music playing devices at high sound levels, hearing loss is on the increase in the population. The World Health Organisation expects that in the coming decades hearing loss will be one of the top ten health burdens in developed countries.

1.3 Communication.

Communication is the key issue that affects people who are deaf or have acquired a hearing loss. Communication barriers contribute to social isolation and negatively impacts on the health, social and economic status of people with hearing loss or deafness. For example, older people with a mild hearing loss have twice the rate of dementia, people with moderate hearing loss 3 times the rate and people with severe hearing loss 5 times the rate of dementia compared to hearing peers. People with hearing loss have double the rate of depression compared to hearing peers, while the negative impact of hearing loss on the quality of life of people has been found to be greater than that of cancer or heart disease.

The key to understanding these significant research findings is an appreciation of just how fundamental communication is to daily living and quality of life. Research consistently demonstrates that there is a strong correlation between being able to communicate with family, friends and society in general, and a person's quality of life, health status and well-being. Based on an analysis of

the economic costs associated with deafness/hearing loss conducted in Australia, the annual cost to society of hearing loss in Ireland is €2.2billion. More than half of this cost is borne by the individuals affected in terms of loss of income, care costs and the costs of assistive technology. (For more information on these research findings see www.deafhear.ie).

1.4 Access to electronic communications.

Equivalent access to electronic communications is an extremely important issue for Deaf and Hard of Hearing people and their families. Access to electronic communications has significant potential to reduce the communication barriers faced by Deaf and Hard of Hearing people on a daily basis, enhance quality of life and increase social participation. In recent decades, access to text messaging, emails, internet video streaming etc, have been important developments in this regard.

Access to a modern Text Relay Service in Ireland would be a further significant and important development in furthering the independence, social inclusion and social participation of Deaf and Hard of Hearing people. As detailed in DeafHear's 2013 submission to ComReg on Electronic Communications, the present Text Relay Service is antiquated, typically handles 20 calls per week, and has very few regular users. The modern Text Relay Service available in the UK, similar to that presently being considered by ComReg, was handling 33,000 calls per week and had over 11,000 regular users in 2012. On a proportional basis, this means that the present antiquated Text Relay Service in Ireland is operating at a level of just 1% of that of the UK service. This is clear evidence of significant social exclusion and social isolation of Deaf and Hard of Hearing people due to the lack of a fit for purpose Text Relay Service.

A modern Text Relay Service in Ireland could expect to handle 125,000 calls per year and have over 800 regular users. This would represent a significant increase in activity in terms of enhancing the independence and social participation of people with disabilities. The potential beneficiaries of a Text Relay Service include Deaf and Hard of Hearing people, people with speech impairments and Deafblind people. The ComReg consultation document estimate that potentially 100,000 to 120,000 people could avail of a Text Relay Service.

These facts constitute the primary rationale for providing an enhanced Text Relay Service in Ireland. Providing such a service is also consistent with requirements under legislation, including Regulation 17 of the Universal Service Regulations (SI no 337 of 2011) and the Disability Act.

The remainder of this submission addresses the specific questions posed in the ComReg consultation document.

ComReg's Proposed Approach:

Question 1: Do you agree that all Publicly Available Telephone Service (PATS) Undertakings should be required to provide access to a TRS?

Yes, DeafHear believe that all PATS should be required to provide access to a Text Relay Service for their customers. DeafHear believe that this would be required to satisfy the obligations under Regulation 17 to ensure equivalence in access and choice for users who have a disability.

Proposed Minimum Requirements for a Text Relay Service:

Question 2: Do you agree that the Text Relay Service should at a minimum meet the requirements as set out in the ComReg document 15/21 'Electronic Communications:- Proposed Measures in relation to Text Relay Services'?

DeafHear broadly agree with the proposed minimum requirements. However, there is no reference to the competencies or training of relay personnel. Feedback received by Ofcom in the UK and ComReg highlights the importance of trained personnel in providing a quality text relay service. Also, recent feedback received by DeafHear on the current relay service indicates that at present the relay personnel are not adequately trained. For example, pace of typing text was a regular complaint made to DeafHear. Consequently DeafHear is of the view that that the minimum requirements should include a clause that refers to training requirements for relay personnel.

Also, DeafHear believes that in clause 4, the list of compatible terminal equipment should include Telebraille equipment, which may be used by Deafblind people to access a text relay service.

Quality of Service Obligations:

Question 3: Do you agree that the minimum Text Relay Service solution should be provided in line with the proposed Quality of Service Obligations?

Question 4: Do you agree that the minimum Text Relay Service solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service?

DeafHear agree with ComReg's view that the quality of service obligation for the Text Relay Service should be at least in line with general call answering and abandoned rates available to all customers, and believe that this is consistent with obligations under Regulation 17 to to ensure equivalence in

access and choice for users who have a disability. DeafHear also agrees with ComReg that there should be Quality of Service Obligations that are particular to the Text Relay Service.

Deaf Hear have some concerns in relation to ComReg's proposed minimum targets for Quality of Service Obligations for a Text Relay Service. In terms of translation accuracy, how this will be monitored and measured? For example, if a call is 'largely' handled correctly by the relay operator, would this be classified as a call that was handled correctly/incorrectly? There is no reference to 'pacing' of typing, one of the most common complaints made at present. DeafHear believes that the Quarterly Quality of Service Obligations should include more details of the typical elements that would be involved in handling a relay call correctly. These elements could include, for example, individual user's preferences and needs, including the ability to interrupt, 'be heard', and to understand and express emotions in real-time; relay operator guidance and support; and pace of text and speech. Details should also be included on how call handling will be measured, e.g user feedback, regular audit, etc.

Text Relay Service Rebate Scheme:

Question 5: Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a Minicom device?

Question 6: Do you agree that the Text Relay Service rebate scheme, that takes into account that the time taken to make a text telephone call is longer than that needed to make an ordinary call, will not be appropriate for new Text Relay Service users?

DeafHear agree with ComReg's preliminary view that those currently availing of the rebate scheme should continue to avail of the scheme. We believe that this proposed measure is consistent with obligations under Regulation 17 to ensure equivalence in access and choice for users who have a disability for users who have a disability.

DeafHear agrees that in the context where Undertakings offer multiplatform bundles and packages, the original basis for the rebate scheme may be no longer relevant, particularly for 'local' or 'national' calls. However, it is DeafHear's understanding that in terms of international calls and the typical tariffs applied by most Undertakings, the length of call is a critical element in the cost of the service. Where this is the case, then without some ameliorating measure, Text Relay Service users that needed to make regular international calls would not enjoy equivalent access and choice compared to ordinary users of electronic communication services, in contravention of Regulation 17. DeafHear propose that a

measure be included that allows Text Relay Users to seek a proportional rebate in the element of their bills arising from international calls from their service provider, where the costs of such calls are primarily calculated on a length of call basis.

ComReg Proposed Approach:

Question 7: Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures?

Question 8: Do you agree with ComReg's preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided?

DeafHear is in agreement with ComReg's preliminary view that a lead-in period of 6 months from the date of publication of any decision is reasonable, provided that such decision is issued prior to the expiration of the present obligation on Eircom which extends to 30th June 2015. DeafHear understands that this would mean that an effective date for the introduction of any new Text Relay Service would be 1st January 2016.

It should be noted that there have already been delays in modernising the existing Text Relay Service in Ireland, which has never been updated in any shape or form since its inception over 20 years ago. Indeed, DeafHear has also noted with interest the recent decision by Ofcom in the UK to fine BT £800,000 for a five month delay in the introduction of Next Generation Text Relay Services in 2014. DeafHear strongly believes that January 1st 2016 should be the latest date by which a modernised Text Relay Service should be launched.

Regulatory Impact Assessment

Question 9: Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors.

DeafHear agrees with ComReg's view that action is required and maintaining the status quo will not achieve the objective of equivalence required under the Regulations. We agree with ComReg's proposal to require all PATs Undertakings to provide access to an improved and

extended Text Relay Service. We also agree with ComReg's view that the benefits to be achieved outweigh any potential costs, and that their proposal is proportionate and justified. DeafHear also believes that the wider public and customers of Undertakings - who will ultimately bear the additional costs involved – would also be strongly supportive of ComReg's proposal that all telecommunication providers would provides access to an extended and improved Text Relay Service.

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eircom

Response to ComReg Consultation Paper:

Proposed Measures in relation to Text Relay Services

ComReg Document 15/21



7 May 2015

DOCUMENT CONTROL

Document name	eircom response to ComReg Consultation Paper 15/21
Document Owner	eircom Group
Status	Non- Confidential

The comments submitted to this consultation are those of eircom Ltd (eircom) and Meteor Mobile Communications Ltd. (MMC), collectively referred to throughout this response as “eircom”.

Response to Consultation Questions

Q. 1 Do you agree that all PATS Undertakings should be required to provide access to a TRS? Please provide detailed reasons and supporting evidence for your view.

eircom agrees in principle that all undertakings should be subject to the same obligations where there is an equivalence of access measure in relation to disabled users. However in the current case it is not clear that the provision of Text Relay Service (TRS) should be mandated either on PATS providers or under Universal Services Obligations (USO). It is well recognised that there is an increasing choice in telecommunications media including SMS and a myriad of Over the Top (OTT) data applications which are acting as a substitute for TRS. eircom estimates that significant capital and operational costs would be incurred in establishing a text relay service meeting the specifications set out in the consultation document.

The capital costs for eircom alone are estimated to be in the region of €3m if eircom were to replace the current TRS platform and if provision were to be made for special TRS call routing configuration in both the fixed and mobile networks (as would be the case if the proposed minimum requirements were mandated). This is before taking into account any network implications arising from the proposals to support text and voice being carried in parallel and support for braille readers.

When viewed from an industry perspective, the cost is likely to be significantly higher as call routing changes would be required across all networks. This is based on what we understand from the limited information that is in the public domain in respect of the UK TRS. The cost to the industry could be a multiple of this if various independent yet interworking solutions were required. In the interest of efficiency (which is ultimately linked to the promotion of the interests of end users) ComReg has an obligation to seek to minimise costs. This arises firstly in respect of carrying out a robust cost benefit analysis before mandating any TRS and secondly as part of any such analysis considering the risk of unnecessary duplication in meeting equivalence obligations. It is not sufficient for ComReg to merely mandate top level requirements while leaving it to industry to work through the detail.

The Regulatory Impact Assessment (RIA), contains a number of sweeping statements.

- It suggests that *“the impact on the costs to industry of implementing option 2 will vary depending on whether the Undertaking currently provides TRS or not.”*

eircom has established that, if it were to extend its current TRS solution, the proposed requirements would necessitate a significant investment in a new platform with little or no scope for savings arising from existing arrangements, particularly if it proved necessary to select an alternative vendor to deliver the platform.

- The RIA also suggests that costs *“will also vary depending on any required amendments to the systems of those providing TRS and the availability of existing technological solutions”*.

This suggests that amendments to systems may not be necessary. The proposed minimum requirements are certainly going to give rise to systems development for all fixed and mobile service providers. This highlights the need for a far more thorough analysis of the implication of the proposed minimum requirements. It is not possible to provide an accurate cost for the solution when the solution itself has not been defined. This applies in relation to the requirement to support braille readers, the handling of text in parallel with voice and in particular the reference to prefixes. The proposed minimum requirement in respect of prefixes states:

“The text relay service must be available to allow end-users, who because of their disabilities need to make calls using a Relay service, to receive incoming calls without out the calling party needing to dial a prefix;”

It would appear that this requirement is framed in the context of the legacy UK TRS which necessitated the use of a 18001 prefix (for calls made by disabled users) and 18002 prefix (for calls made to disabled users), mirroring the freephone numbers that enable access to eircom’s TRS (1800 207 900 and 1800 207 800).

If ComReg intends that neither a prefix nor a non-geographic range is used to access the service, amendments would undoubtedly be required to the systems of all operators involved in routing calls to the service. A solution upporting any fixed or mobile phone number as a TRS accessible number would be extremely complicated and would involve significant cost. It would appear that in recognition of this, the UK Next Generation TRS (NGTRS) solution has relied upon specific prefixes, 03 for fixed lines and 07 for mobiles, requiring operators to facilitate the routing of calls to these ranges directly to the UK NGTRS. This necessitated the implementation of new numbers ranges by all fixed and mobile operators.

It remains unclear what other changes would be necessary to support the other proposed minimum requirements.

- It is not reasonable for ComReg to then express the view that *“these measures are unlikely to result in a disproportionate cost burden and for the reasons set out above, the benefits to disabled consumers are likely to be significant. In contrast, if the obligation is not amended no such benefits would follow.”*

ComReg appears to be relying on its estimates of 100k-120k potential users as justification for the proposals no matter what the cost. eircom does not disagree that significant benefits may accrue if this number of new TRS users could be served through a NGTRS, however it is likely for the reasons outline in this response that only a portion of this group might avail of the service. The consultation relies on national Census data of 2011¹ and the National Disability Survey of 2006². Notably the analysis of persons with hearing and speech related disabilities is likely to suffer from double counting as speech difficulties often accompany hearing loss.

¹ Census 2011 Page 52,

<http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile,8,Tables,and,Appendices.pdf>

² National Disability Survey 2006 Page 86

<http://www.cso.ie/en/media/csoie/releasespublications/documents/otherreleases/nationaldisability/Detailed%20Tables.pdf>

The Census reports 92,000 persons with varying degrees of hearing loss. Unfortunately the Census does not provide a more granular view. However the National Disability Survey does, finding that approximately 39% of persons with a hearing disability had a lot of difficulty with or could not do everyday activities. By applying this percentage to the CSO figures we estimate that in 2011 61% or 56,000 persons have a moderate level of hearing difficulty, it cannot be assumed that this significant group of 56,000 would opt to use a text relay service.

Similarly it cannot be assumed that the 16,800 persons (47% of the total with speech difficulty). that have only a moderate level of speech difficulty would opt to use a TRS.

In total we estimate that those overcoming moderate hearing loss or moderate speech difficulties without resorting to a TRS would account for 66,000 of the total of 120,000 initially identified by ComReg.

eircom urges ComReg to survey these groups with a view to avoiding double counting and establishing whether a TRS would be adopted at all, not only by those with a moderate disability but also by those with more severe hearing loss or speech difficulty, particularly in light of the fact that even those with more severe hearing loss may achieve a high level of independence through the use of a hearing aid such that they would not consider TRS as an alternative.

The Current Number of TRS Users is not “Relatively Low” it is Extremely Low.

It is important to note that the current TRS support a handful of regular users with just 50 registered for the stepped discount at the end of 2014 (down 30% relative to the previous year), handling just 1,451 calls per annum in total in 2014 (voice to text and text to voice) representing a 30% reduction in volumes relative to 2013. This is despite the fact that the service is available from all networks free of charge and contrary to the impression given in the consultation, in the absence of any significant level of complaints in respect of the service.

Given the increase in alternatives and the decline in TRS usage, eircom does not see how usage will increase to any significant degree, even if access is improved. eircom is concerned by the lack of quantitative analysis underpinning ComReg’s proposals. It is surprising that ComReg has not undertaken any consumer research to understand the extent to which there is demand for an enhanced TRS. eircom requests that ComReg undertakes a thorough assessment of the potential costs and benefits arising from its proposed intervention. Furthermore, ComReg should also be taking into consideration the relative merits of continuing to support the legacy TRS alongside the NGTRS as opposed to retiring the legacy service.

The merits of the alternative text based solutions outlined below, need to be carefully considered relative to the capabilities of TRS in any Cost Benefit Analysis (CBA), with a view to determining what if any incremental benefits an NGTRS might deliver and the degree to which any such benefits might accrue in terms of the number of end users that would benefit. As stated in the BEREK guidelines:

*In accordance with Article 8 of the Framework Directive (2009/140/EC), the measures aimed at achieving the objectives should be proportionate to those objectives. Therefore, a cost benefit analysis examining the cost, applicability and benefit of the measures proposed and confirming the proportionality of these measures should be undertaken to evaluate, assess and, if appropriate, refine the draft measures proposed.*³

As acknowledged by disabled representative groups at the disability forum, in the case of peer to peer communications, disabled users that may in the past have relied upon the TRS have adopted instead SMS and more recently OTT web based messaging services such as WhatsApp. Indeed some OTT messaging services offer an even more real-time experience by presenting the text as it is being typed to the recipient, thereby providing a more real-time experience than could be achieved through a relay service⁴. SMS and OTT services also benefit disabled users by offering complete privacy, whereas TRS through the necessity of having an agent relaying the conversation compromise privacy. While the TRS currently provided by eircom operates to strict privacy and data protection policies and procedures, there is likely to a level of reticence with respect to using TRS for sensitive calls e.g. calls involving medical matters. Furthermore, TRS users encounter difficulties in accessing personal information where caller validation is required by the called party (e.g. financial institutions) due to privacy concerns (legitimate or otherwise) raised by such undertakings.

In the case of non-peer to peer communications, as previously outlined by operators at the Disability Forum, Taking the example of a disabled customer looking to access a business (e.g. their bank), building regulations would require the bank to provide wheelchair ramp access. Similarly other businesses that provide services to the public should be required to provide users that are deaf or hearing impaired with a text based means of having a real time conversation with it. The suggestion that PATS undertakings should fulfil this access requirement on behalf of other entities also gives rise to the question as to whether Equivalence should extend to the imposition of access costs of other sectors upon undertakings in the ECS sector. Article 21 of the UN Convention on the Rights of People with Disabilities (to which Ireland is a signatory), contains a commitment by signatories to:

take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by... (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

Indeed among the requirements in ComReg's Decision on Measures to Ensure Equivalence in Access and Choice for Disabled End-Users, ComReg required that undertakings provide such text based means of contact for disabled users negating the need to use a TRS for contacting electronic communications service providers. Moreover, telecoms service providers were typically providing such text based contact means prior to that Decision. Telecoms providers are not alone in offering real-time text access as real time text based (Web Chat) customer care is increasing being provided by the customer care centres in many other sectors. Indeed advocates for the rights of deaf people in

³ http://berec.europa.eu/doc/berec/bor_10_47Rev1.pdf

⁴ For example Beam Messenger: Real Time Text
<https://play.google.com/store/apps/details?id=com.beamlab.beam&hl=en>

business are calling for a more widespread adoption of internet based technologies that enable independence universally as preferable alternatives to Text Relay, suggesting the Text Relay could be hindering progress in this respect⁵.

In light of the above, eircom would question whether the claim made in Section 3 of the BEREC Guidelines is still valid. Section 3 of the 2011 Guidelines state:

“While communication methods such as SMS, instant messenger and email can be a good substitute (functionally equivalent) for some voice calls, it is clear that relay services are especially valuable for particular types of call, including those where real-time communication is needed.”

The fact that SMS has been adopted by a number of countries (including Ireland) as a means of directly contacting the emergency services, suggests that such direct text contact is suitable for arguably the most time critical communication of all.

Q. 2 Do you agree that the TRS should at a minimum meet the requirements as set out above? Please provide details of how the service could be provided, the suggested solutions and costings, which must be substantiated. All details will be considered and incorporated into the final RIA and Decision.

This question presupposes that a TRS can be justified in the first instance as do the subsequent questions, therefore each of eircom’s responses are without prejudice to eircom’s response to question 1 which calls for the proposed TRS to be objectively justified.

Without prejudice to eircom’s call for a robust cost benefit analysis that takes into account the factors identified in eircom’s response to question 1, if a TRS were ultimately warranted, eircom agrees that certain requirements would be justified in order to ensure that any resulting obligations are consistently provided by all undertakings. However as stated in response to question 1, the proposed minimum requirements are not sufficiently defined. Furthermore a robust cost benefit analysis must consider the merits of each of the proposed requirements once fully defined. To date ComReg has only considered two options. Option 1 being the continuation of the current TRS obligation on eircom under the USO and Option 2 being the imposition of the full set of requirements set out in the consultation. While more detail is required with respect to a number of the proposals, eircom would venture that at a minimum the following should be considered as distinct options due to the expected development requirements that these would entail, with the costs and benefits of each specifically assessed in the context of the other requirements:

- The operation of the NGTRS without using a prefix
- Voice and text operating in parallel over the NGTRS
- Support for Braille readers
- Support for the legacy Minicom service

We should also highlight that ComReg deferred consideration of a withdrawal of the USO obligation on eircom to provide TRS pending the current consultation and is now proposing to further extend the obligation until this consultation is concluded. Therefore there is an

⁵ <http://limpingchicken.com/2012/10/15/sarah-lawrence-is-text-relay-holding-deaf-people-back/>

onus on ComReg to consider among the options in its RIA, the withdrawal of the USO obligation irrespective of whether ComReg can ultimately justify the proposed NGTRS.

With respect to the question of cost, it is difficult to put precise cost on the proposed solution. In fact a full assessment of the solution would itself involve significant expenditure however as already outline in response to question 1, we roughly estimate the capital and operational costs to eircom would be at least €3m if eircom were to replace the current TRS platform and if provision were to be made for special TRS call routing configuration, while not taking account of costs associated with offering voice and text in parallel and braille support due to a lack of information in respect of these two elements. When viewed from an industry perspective, the cost is likely to be significantly higher as call routing changes would be required across all networks. The cost to the industry could be a multiple of this if various independent yet interworking solutions were required.

Q. 3 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Please provide detailed reasons and supporting evidence for your view .

ComReg proposes a number of Quality of Service measures and targets while offering no reasoning as to the proposed minimum targets. eircom requests that ComReg sets out in detail the rationale for each measure and how ComReg has derived the target as reasonable.

The performance targets will impact on the cost of each undertaking maintaining a TRS. For example an obligation to answer 80% of calls within 20 seconds will have a direct impact on staffing levels. Unfortunately it is impossible for eircom to establish the potential impact of the targets on operating the service when ComReg has not provided any reasonable indication of the volume of use of the service. The information in the consultation offers little insight other than the potential number of users of an enhanced TRS is somewhere between 50 and 120,000 users. ComReg must provide reasonable forecasts of anticipated consumption of the TRS in order that undertakings can make informed decisions including how the service might be supported.

ComReg has provided insufficient information in respect of some of the proposed QoS measures. As such it is not possible to take an informed view on the potential costs of developing management information systems to collect data and report on QoS. We request ComReg clarifies the following:

- How would accuracy be measured in respect of ‘relay assistance to be monitored for accuracy’.
- What data would have to be gathered?
- Would call recording be acceptable to TRS users?
- What data would need to be recorded in order to calculate ‘confidentiality observed’?
- How would average voice to text translation accuracy be measured? For example would this measure the number of typos in a message.
- Would abbreviations be permitted.
- What data would need to be gathered on the TRS management information systems to allow this measure to be calculated?

- ComReg has proposed a measure be established for total calls subject to handover. We would question the relevance of this measure and ask that ComReg explains its rationale.

QoS targets can have a significant impact on the operation of a service and ComReg has provided insufficient information for undertakings to consider the implications of the ComReg QoS proposals.

Furthermore, the Key Performance Indicators (KPIs) associate with each of these QOS measures will give rise to regulatory costs both for the operator(s) of the TRS and ComReg in monitoring compliance. Given the proposed requirement for quarterly KPI reporting, the regulatory overhead would not be insubstantial. This would also have to be considered in any cost benefit analysis of the proposed TRS. Reporting on QOS requirements would be just one aspect of the regulatory overhead that the proposed TRS would impose on industry, therefore with a view to minimising such costs, consideration should be given to lower reporting frequencies, for instance annual reporting.

Q. 4 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service? Please provide detailed reasons and supporting evidence for your view.

eircom does not believe that additional QOS obligations would be necessary. Rather as highlighted in response to question 3, the propose measures might well be excessive, should ComReg be in a position to justify the proposed NGTRS.

Q. 5 Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a Minicom device? Please provide detailed reasons and supporting evidence for your view.

Any requirement for a rebate should be based on the customer's price plan and not on the technology used. If text is being used over the voice channel, ComReg rightly considers the relative cost of a slower text communication. eircom agrees that the need for a rebate is negated in the case of very large or unlimited voice bundles and it is therefore logical to conclude that a Minicom user availing of a large or unlimited bundle should have no greater entitlement to a rebate.

Q. 6 Do you agree that the TRS rebate scheme, that takes into account that the time taken to make a text telephone call is longer than that need to make an ordinary call, will not be appropriate for new TRS users? Please provide detailed reasons and supporting evidence for your view.

Please see the response to question 5.

Q. 7 Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures? Please provide detailed evidence and reasons to support your view.

eircom considers the proposed 6 month timeframe for implementing a (solution should ComReg be in a position to require the provision of the proposed NGTRS) to be highly unrealistic. ComReg should have regard to the lead times that applied in other countries that have implemented such solutions including the UK, the Netherlands and Sweden. It is also important to note that BT experienced difficulties in meeting the timelines that were set for the implementation of the UK solution, resulting in the imposition of a fine by Ofcom of £800,000⁶, this was despite a lead time being granted by Ofcom of 18 months. It ultimately took 2 years to implement the UK solution.

Q. 8 Do you agree with ComReg's preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view.

eircom does not disagree with the proposed extension provided that eircom is allowed to recover the cost of providing the service in an equitable manner and as outlined in response to question 2, provided that ComReg includes among the various options that it must consider, the option of removing the TRS USO obligation on eircom not only if the proposed NGTRS can be justified but also where ComReg concludes that an NGTRS equivalence obligation is not justified.

Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors (including details of any proposed solutions, the costs of implementing a TRS that meets minimum requirements) that ComReg should consider in completing its RIA. All submissions in respect of proposals and costs must be substantiated.

As outlined in response to the above questions, eircom considers the proposed measures to be disproportionate. It is our expectation that a thorough quantitative and qualitative cost benefit analysis will bear this out.

⁶ <http://media.ofcom.org.uk/news/2015/bt-fined-over-relay-text/>

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.

eircom considers it premature for ComReg to be drafting a decision instrument given the dearth of detail in respect of the minimum requirement and QOS obligations. In light of the issues raised in eircom's responses to the previous questions we would urge ComReg to consult further and in a more interactive way with industry and stakeholders, having firstly surveyed the likely demand for NGTRS in Ireland.

In refining the draft decision instrument for further consultation, eircom would highlight the need to take into account the points raised in eircom's response. Furthermore, the following should also be considered:

- The reference in section 4.1 (ii) to the rebate scheme proposes that users of the legacy TRS at the date of the decision should benefit from a rebate. This highlights the fact that the proposal is not so much technology based but end user based. As outlined in response to question 5, the end user's price plan is the only logical basis upon which a rebate should be justified. It makes even less sense to link the entitlement to specific end users as end users will undoubtedly change technology if alternatives are made available, even if the aggregate number of users remains low.
- The draft Decision proposes to impose the following equivalence obligation in addition to specifying QoS measures. *“Undertakings to which this Decision Instrument applies must ensure that the quality of service of the Text Relay Service provided for disabled end-users is of an equivalent quality of service of any equivalent service provided for all end users.”*

eircom understands that the purpose of the consultation is to determine whether a NGTRS is required to meet the equivalence requirement and if a requirement can be identified, to define how such a requirement can be met. Should the requirement be confirmed, it appears unreasonable to tag-on such an open ended QOS requirement, particularly in the context of demanding QOS proposals.

4 Ms. Emma McAuley.

FAO:
Commission for Communications Regulation
Irish Life Centre
Abbey Street
Freepost
Dublin 1
Ireland

To whom it may concern:

I wish to make a submission to the Commission for Communications Regulation with regards to the Electronic Communications: - Proposed Measures in relation to Text Relay Services (Ref: ComReg 15/21a)

Whilst I will not be providing a direct answer to any of the ten questions asked of those making submissions, I would like to provide some background information on why I personally feel that the Text Relay Service (TRS) is long overdue an overhaul and needs to be brought in line with current technologies to ensure that there is "...equivalence in access to electronic communications services and choice of undertakings and services...".

I am 44 years of age, an audiologist by profession, and I have a severe/profound hearing loss. I categorise myself as 'Hard of Hearing' as I have some hearing (with the aid of hearing aids) and rely heavily of lipreading. I have an excellent grasp of speech and English language, and this is my first language, as I did not start to lose my hearing until I was 5 years old. My hearing has progressively worsened over the years and now, without hearing aids, I am profoundly deafened.

In my previous employment in DeafHear (where I worked for almost 17 years) I became very aware of the varying types of assistive technologies available to enable Deaf and Hard of Hearing people to lead as accessible a life as possible, in comparison with their 'hearing' peers. One of these pieces of equipment was the Minicom, and I often used this to communicate with other Minicom users who contacted DeafHear in relation to other queries. I noticed the decline of the use of the Minicom over the past 10 years or so as a result of the advance of emails, SMSs, tablets and smartphones, amongst other items of communicative technologies.

I never bought a minicom for myself for a number of different reasons; cost of the minicom hardware, not having my own landline at my parents house, and then when I did get an extra

landline installed, I began to notice (when in work) that the reliability and accessibility of using the TRS started to deteriorate so I felt it was not worth my while investing in a minicom. Since purchasing my own home over seven years ago, I made a conscious decision at the time not to install a landline due to line rental costs and the infrequency that I would make/receive voice calls. I relied then, as I do now, on communications via SMSs, emails, online video calls and other online chat services.

However, I get increasingly frustrated by the lack of access provided by many business providers in that they will only carry out the majority of their business via telephone calls. For example, I might send a query via email to PhoneWatch or UPC, but they will reply to my query by 'phoning' me back on my mobile phone. When I explain that I cannot hear clearly what they are saying to me I either ask them to reply to me directly via email (often they don't) or I have to hand the phone to a third party to act as my relay. This is embarrassing, and at time causes confusion with details being relayed incorrectly. There are other times when I might need to communicate directly with my bank, or other utility services, and they will not communicate via a third party due to confidentiality reasons, and therefore the only way I can communicate with them is via a written letter sent by post (creating a delay of several days or longer) or by visiting the bank itself, and this is not always possible due to work commitments.

In my profession as an audiologist, (I am currently working in a private audiology practice) I may at times have to telephone other professionals to confer on my work, and it is not good practice to have another colleague make that phone call for me, due to the possible confidential nature of the phone call, the lack of understanding of the terminology I might be using therefore leading to confusion and incorrect relay of the information, and also that I am taking up another colleague's valuable work time. At times I would very much like to phone my clients to find out how they are getting on with their new hearing aids, or if they have any questions following on from their diagnostic initial consultation with me; they are far more reluctant to engage in a conversation with a third party who is not a professionally trained relay operator and therefore I feel that I am not able to offer them the best quality of service I can provide.

In recent years I have visited the USA on a number of occasions, mostly for conferences in connection with my audiology profession. I have met a large number of professionals, who have a significant hearing loss, but have no problem communicating with other professionals or their clients via telephone. This has been because of the excellent relay service which I understand has existed in the USA for a long time. In most cases, my hard of hearing colleagues have been able to make the voice calls themselves (as like myself, they have good speech and language) and then they 'read' the responses that their clients or other professionals are talking back to them. This is done through a relay service via their PCs, tablets or smartphones in what I understand is termed as a Voice Carry Over (VCO) relay.

I very strongly agree with DeafHear's previous submission to ComReg:

“In the early years, the number of calls made to the TRS was in the hundreds per week, but this has dwindled to an average of less than twenty per week. This is due to a combination of factors, including the introduction of other devices (such as mobile phones and smart phones); the introduction of SMS/texting; the prohibitive cost of buying and maintaining a Minicom phone; the dissatisfaction with the TRS itself in terms of quality and reliability; and most important of all, the failure to adapt the TRS to allow people to access the service with newer technologies. In effect, the TRS has been neglected and left to fall into disuse. By contrasting the Irish situation with that of the UK, we can see that the outcome is increased social exclusion and isolation of Deaf and Hard of Hearing people in Ireland.”

I have often communicated with professional colleagues in the UK, and many times they have expressed surprise that I do not have access to a service such as TypeTalk which I understand is accessible via PC as well as via minicomms.

There are many times when I have to make enquiries in relation to the renewal of my car insurance, house insurance, contact Revenue.ie, my GP, Irish Water, my bank etc and I cannot get the best deals or the best quality of information all because I cannot hear well on the phone, and I have to ask another person to relay information for me. Often this other person is a non-professional, who has not been trained in how to make a 'communication support call' and even with the best of intentions they may change or add information relayed between me and third party without my knowledge or consent. In short I am very frustrated by the lack of an adequate relay service in Ireland and, given the advance of modern technology over recent years, I strongly feel that there is no valid excuse now why Deaf and Hard of Hearing people in Ireland should be treated as 2nd class citizens in comparison to their hearing peers.

As quoted on page 12 of your document “Census 2011 shows that 92,000 people experience deafness or a serious hearing impairment.” I would guess that this figure of 92,000 is an underestimation as from my experience of working with hard of hearing people many play down the extent or seriousness of their hearing loss due to the often negative stigma associated with it and therefore are unlikely to categorise themselves as being 'Deaf or having a serious hearing impairment'. In truth I would reckon that the levels of those with a significant hearing loss is closer to 300,000 being approximately 7% of the population. Regardless of whether these people who have a hearing loss are young, in the work place or elderly etc, having access to a phone is a vital business and social tool for communication not only with officials but also with family members young and old and friends.

My mother, like myself, has been hard of hearing since childhood, and she like myself does not use the phone. My brother, who fortunately has good hearing, has to make many of the

phone calls on our behalf, and it would be nice to give him back some of his life to spend with his wife rather than having to make unnecessary but important phone calls for us.

I look forward to being able to make and receive phone calls in the same way as my hearing peers very soon as I have faith that ComReg will ensure equal access for those of us who are Hard of Hearing or Deaf.

Yours faithfully

Emma McAuley

✂

5 Magnet Networks Limited.

Q. 1 Do you agree that all PATS Undertakings should be required to provide access to a TRS? Please provide detailed reasons and supporting evidence for your view. 18

Magnet Networks Limited (hereinafter “Magnet”) does not agree that all PATs undertakings should be required to provide access to a TRS service. Magnet believes that the obligation is onerous and burdensome on small operators. Obligating Magnet to put in a system equivalent to Minicom is onerous. It is creating a barrier to entry for new providers and ensuring that current providers will re-evaluate their presence in the residential market.

Q. 2 Do you agree that the TRS should at a minimum meet the requirements as set out above? Please provide details of how the service could be provided, the suggested solutions and costings, which must be substantiated. All details will be considered and incorporated into the final RIA and Decision. 19

As Magnet has already stated that the obligation is onerous on small companies like Magnet. Placing a prescriptive list of minimum requirements is laudable however misguided. Also to comply with the minimum requirements set out by ComReg Magnet would have to increase its staff by between 7-9 employees. With a 24/7/365 shift pattern, which we don't currently operator 2-3 people need to be on a shift to cover breaks, holidays, sick leave etc. This would mean a 10% increase in staff without any increase in revenue. Magnet has had to make redundancies over the last 6 months and this imposition of an obligation has a massive impact on a company's ability to continue to operate in the market.

Q. 3 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Please provide detailed reasons and supporting evidence for your view. 20

As Magnet does not agree with the imposition of this onerous obligation in the first place, asking how this obligation should be implemented and what QoS is attached is irrelevant.

Q. 4 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service? Please provide detailed reasons and supporting evidence for your view. 21

There are laudable proposals, however, as stated above, very onerous obligations are being proposed for small operators who do not have the resources to put such a service in place.

Q. 5 Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a Minicom device? Please provide detailed reasons and supporting evidence for your view. 21

If this service is being obligated then a rebate should be provided to all operators who put such a service in place. It may sound dramatic; however, small operators may leave the residential market if further pricing obligations are place on them. This obligation would require extensive outlay as outlined above and this is either passed onto the customer or absorbed. In the current market,

residential pricing is a low margin product with a return of investment for over 2 years and if this further investment was required this return would be pushed out to an unsustainable timeframe i.e. longer than the current average customer lifespan and thus supporting the products would become unsustainable.

Q. 6 Do you agree that the TRS rebate scheme, that takes into account that the time taken to make a text telephone call is longer than that need to make an ordinary call, will not be appropriate for new TRS users? Please provide detailed reasons and supporting evidence for your view. 22

This is presumptuous by Comreg that the technologies that operators may implement involve call to texts not being longer than ordinary calls. Each operator may choose different implementation platforms that may not coincide with such a presumption.

Q. 7 Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures? Please provide detailed evidence and reasons to support your view. 2

This is an extraordinary short time to review, source, purchase, and implement a change to the network. Besides developing new products, hiring and training staff and also marketing the new product. New products and network changes as large as this may take between 18 months to 2 years to implement. As well as waiting for current contracts expire. It is potentially a total change to an operators voce infrastructure.

Q. 8 Do you agree with ComReg's preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view. 22

Magnet believes that eircom should continue with their TRS obligation as outlined in the USP.

Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors (including details of any proposed solutions, the costs of implementing a TRS that meets minimum requirements) that ComReg should consider in completing its RIA. All submissions in respect of proposals and costs must be substantiated. 29

Magnet believes that this obligation is unnecessary considering the advances in technology namely mobile phone technology. Magnet doesn't believe there are barriers to calls at the moment, as stated by ComReg. As outlined by ComReg there have been mobile advances together with technological advances that have allowed ease of access to communications for people with disabilities. With the advent of VoIP and video messaging may dissipate the need for minicom or an equivalent service. Also, different disabilities have different technologies that interact with standard computer or tablet hardware that assist in their day to day lives e.g. screen readers, braille printers etc. A minicom system may not necessarily be appropriate for all category of disabled users. Thus, imposing an obligation for an even smaller subset of one grouping is an unfair burden on operators.

Magnet does not believe that this obligation is proportionate as it affects all operators irrespective of size and demand.

Magnet would like ComReg to assess the cost benefit of its implementation rather than relying on operators to provide ComReg with differing prices based on differing questions asked and specifications given. As well as initial different voice network design and implementation.

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. 47

How can ComReg state Clause 95 when it admits it has not done any costings and are waiting for industry to do it for them. As Magnet has already identified there would be an increased cost to Magnet by the requirement to increase staffing numbers by 10%. Magnet does not believe that this is “unlikely to result in a disproportionate cost burden” as outlined by ComReg in Clause 95. It will be a large cost burden and an unfair one. Magnet does not believe that obligations set out in this decision notice is necessary and proportionate. Magnet does not think this promotes competition or develops the internal market as it places an unfair burden on smaller operators forcing them to either increase prices or leave the residential market due to its uncompetitiveness and added regulatory cost burdens.

6 Three Ireland (Hutchinson) Ireland.

**Response to Document 15/21
from Three**

07 May 2015



Three.ie

Three welcomes the opportunity to provide input into ComReg's consultation regarding the Proposed Measures in relation Text Relay Services ("TRS").

Three disagrees with ComReg's proposal to require that all service providers offer to disabled end-users a TRS. Three believes that ComReg has a third option ("Option 3¹") to consider which it has not addressed in the consultation document which is that eircom as the Universal Service Provider ("USP") continue to provide the TRS but that they update and extend the current service so that it is fit for purpose for its users across all platforms. This would therefore negate the need to mandate this unjustified requirement on all service providers. Three believes that due to the following reasons that ComReg's current proposal is unreasonable and disproportionate and therefore needs to be reconsidered.

The telecommunications market is a dynamic one, constantly evolving providing innovative products and services for all users to enjoy. It's a digital age, where services are available at the touch of a button or through the recognition of a voice. The information society and the innovative mediums which have evolved provide all users with opportunities to engage globally via online, social media, voice, text and web based services (WhatsApp, VoIP, Skype and Facetime to name a few) and there are specialised apps² suitable for all requirements. The technological environment for electronic communications services is changing at an increased pace, and the usage of those services is changing accordingly.

Most notably with the introduction of apps (software applications that run on mobile devices and tablets) they have further revolutionised the way users can use their devices. There are thousands of apps available for download with new ones constantly being developed. There are apps available that have been designed specifically to meet the needs of people with disabilities, for example, Prologue2Go, a text-to-speech app for people who have difficulty with their speech. As the app market is constantly growing and changing, Three believes that it is premature of ComReg to propose to mandate that all service providers offer a *Text Relay Service* ("TRS") without completing a full review as to the services that are currently available across all platforms. Further research is required which should involve engaging the app creators and device manufacturers so to understand what apps and device features are available and to know what apps and features are coming down the line. Furthermore, Assist Ireland³ is an example of an organisation that is not involved in the Disability Forum yet it provides a comprehensive list on its website of all the relevant disability apps available, including the Prologue2Go app referenced above. These apps and others which may provide a functionally equivalent service of that of making and receiving a voice telephone call may have been overlooked as a possible solution to meet the requirements of the low number of users of the current TRS service provided by eircom.

Ultimately, Three would agree with ComReg in that *'although the current number of users of the existing Text Relay Service ("TRS") is relatively low, the service continues to be valuable*

¹ eircom as the Universal Service Provider ("USP") continue to provide the TRS but that they update and extend the current service so that it is fit for purpose for its users across all platforms.

²

http://www.assistireland.ie/eng/Information/Information_Sheets/Apps_for_People_with_Disabilities_and_Older_People.html

³ www.assistireland.ie

to these users'. Three believes that it is 'these users'⁴ that may not have adapted to the innovative mediums of communications listed above, and that it is their needs that need to be catered for by eircom, as the USP by updating and extending the current system so that it can be usable across all platforms. Placing this requirement on the USP would be necessary, appropriate, reasonable and justified in that it will only go towards ensuring its users are provided with a fit for purpose TR service.

With regards ComReg's current proposal and the usage of the TR service across the UK and Ireland, the volumes of minutes of calls made annually in the UK using the traditional TR service were 7.4m for 2011 as opposed to usage statistics for 2014 provided by eircom which show that only 189 voice calls and 1,262 texts were made using the eircom TR service. At the end of 2013, there were 70 end-users availing of eircoms TR service and at the end of 2014 this reduced to 50. The statistics show that there was and is significant demand in the UK for the service hence the approach adopted by the UK was justified. The same cannot be said for Ireland. On this basis, it would be disproportionate to mandate this on all service providers. Three believes that it would be disproportionate to mandate this requirement on all service providers, considering the volumes are so low. Furthermore, Three believes that mandating this obligation on all operators regardless of demand is excessive and that ComReg has failed to justify the need for this.

Three understands and appreciates the statistics provided in the consultation regarding an aging society. However, Three believes that the innovative services and products that are available, specifically the apps referenced above, that the 120k 'potential' users of the TRS referred to in the consultation, are currently using these innovative services now, whereas it's the users who are not currently using the innovative services and are using the current eircom TRS that need their service to be updated so to enable them to use their mobiles and tablets. Should ComReg consider Option 3, then the requirements of the current and potential users of the TRS will be provided for.

The following statement which is referenced from the BEREC report should be held as ComReg's reference point when it is considering proposals regarding appropriate measures specifically Text Relay Services *'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'*. In this regard, ComReg must quantify what is appropriate and necessary.

With the above statement in mind, specifically *'the cost of achieving 100% equivalence could be disproportionate to the benefits arising from providing it'*, should ComReg require that all service providers provide a TRS, Three understands that the costs associated with implementing a TRS service can be significant due to network changes required and the minimum standards set and therefore would be disproportionate to the benefits arising from providing the service which may not be availed of by end-users. (Note the costs of implementing a TRS are not fully known as no set up costs have been provided for in the consultation document, nor is it available via the web as to eircoms costs or BT's costs in the

⁴ It is Three's understanding that there are approx. 58 customers using the TRS.

UK – this again would support the view that further research is required so that operators are aware of the associated technical and network specifications, if any and the associated costs of same). Another factor which will impact on cost is the requirement to meet a set of minimum standards including providing access 24*7 and adhere to the quality of service parameters, these costs for a service provider would be disproportionate and excessive considering the low volumes availing of the current service. These specifications are equating the TR service to ECAS services where the costs are significant for low volumes. Forcing this unreasonable and unjust obligation on all operators would put a significant financial burden on smaller operators which may not have any registered disabled end-users.

As outlined above, *'the cost of achieving 100% equivalence could be disproportionate to the benefits arising from providing it'* and if operators were required to provide access without the demand for same, this would be disproportionate and may result in consequences effectively reducing operators ability to compete, particularly smaller operators including MNVO, MNVE, WIFI and VoIP service providers. ComReg is required to ensure a competitive landscape exists in the Irish market. ComReg is not required to disproportionately enforce requirements and additional financial burden on operators where the benefit arising from implementing the measures are questionable considering the lack of customer demand for such services, therefore it is prudent for Three to request ComReg to review and reassess the measures proposed to ensure they are justified and proportionate.

With regards to the proposal to implement within 6months, Three believes that it will require at least 18 – 24mths to implement this service should all operators be mandated to do so. This timeframe is based on the fact that there are a lot of unknowns as to how the service would run. From an initial review of the TRS service in Ireland and the NGT introduced in the UK, it seems that it may require the creation, allocation and implementation of a discrete number range for both fixed and mobile end-users availing of the service; it may require that operators implement specific calling prefixes to link directly into the existing text relay services (this would require significant development work as the number range and prefixes will have to be configured onto the networks); it may require configurations to the billing system which will be dependent on if and how should certain discounts be required for certain call types (there are call scenarios that will have to be addressed for example how operators treat international calls through the service); it may require that a network could complete a dual voice and data connection simultaneously (this technical requirement would have to be investigated and fully tested). Three would question why ComReg would propose such a short window to implement such a significant development when it was advised during the Disability Forum meetings that nothing of this nature was introduced elsewhere. Furthermore it is worth noting that in the UK OfCom had given its operators initially 18months to implement but this was then extended to 2 years due to issues being encountered by the TRS provider. Therefore, Three believes that a 2 year implementation timeframe would be warranted.

The measures proposed by ComReg must be objective and proportionate, Three requests that ComReg complete a robust cost benefit analysis and research all possible options that may be considered viable via a comprehensive RIA. Ultimately Three believes Option 3 should be considered.

Q. 1 Do you agree that all PATS Undertakings should be required to provide access to a TRS? Please provide detailed reasons and supporting evidence for your view.

Three does not agree that all PATS Undertakings should be required to provide access to a TRS. Three believes that should sufficient demand require the introduction of a service that the market should compete on service availability.

Three believes that ComReg has a third option (“Option 3⁵”) to consider which it has not addressed in the consultation document which is that eircom as the Universal Service Provider (“USP”) continue to provide the TRS but that they update and extend the current service so that it is fit for purpose for its users across all platforms. This would therefore negate the need to mandate this unjustified requirement on all service providers.

Ultimately eircom the USP is in a unique position in that it already provides the TRS service to those availing of it and it should be required as the USP to ensure that its service is fit for purpose i.e. thereby update and extend its current system so to provide a multiplatform TR service. The statistics show that there was and is significant demand in the UK for the service hence the approach adopted by the UK was justified. The same cannot be said for Ireland. On this basis and the reasons detailed above it would be disproportionate to mandate this on all service providers.

Q. 2 Do you agree that the TRS should at a minimum meet the requirements as set out above? Please provide details of how the service could be provided, the suggested solutions and costings, which must be substantiated. All details will be considered and incorporated into the final RIA and Decision.

Without prejudice to our position (i.e. ComReg should not mandate the requirement across all service providers), should ComReg mandate the service across all service providers, the minimum set of requirements are excessive and a full cost benefit analysis should be undertaken by ComReg regarding same. Furthermore, should ComReg mandate the service across all service providers and in the event that a TRS service be offered in Ireland via a suitable third party and service providers avail of this service, then it should be clear that these minimum requirements fall on the third party provider to comply with these minimum standards.

In relation to Table 1 on page 19 and the requirement (4), Three request ComReg to advise as to what it means ‘by making it available to access through braille readers’?; with regards to requirement (5) Three would request ComReg to consider the app’s available in the market which would negate the need for this service to be available 24*7 – Three believes this requirement is excessive and equating the TRS to ECAS.

⁵ eircom as the Universal Service Provider (“USP”) continue to provide the TRS but that they update and extend the current service so that it is fit for purpose for its users across all platforms.

Q. 3 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Please provide detailed reasons and supporting evidence for your view.

Without prejudice to Three's position, should the TRS be mandated across all service providers, then the Quality of Service ("QoS") obligations should be in line with industry best practice.

Q. 4 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service? Please provide detailed reasons and supporting evidence for your view.

Without prejudice to Three's position, should the TRS be mandated across all service providers, then the Quality of Service ("QoS") obligations should be in line with industry best practice.

Q. 5 Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a minicom device? Please provide detailed reasons and supporting evidence for your view.

Three agrees that those who currently avail of a rebate scheme should continue to receive same and with the competitive landscape that exists that there should not be a need for a rebate scheme. However, for new customers Three believes that there may be customers that may need this rebate scheme (dependent on their circumstances and they should meet a set of criteria - to be set by the TRS and agreed with ComReg) in order to avail of the scheme should they require it. This would ensure that customers are treated equally regardless of when they signed up to the service. Three contends that this service should be provided by the USP eircom as they are best placed to provide this service.

In relation to special tariffs to compensate disabled end-users for the additional time it would take to complete a TR call, Three offers the most competitive value packages in the market with our most popular prepay offer giving '*All You Can Eat Data, Unlimited texts & weekend calls to any network for €20 top-up.*' See <http://www.three.ie/eShop/phone-plans/prepay/> and bill pay plans to suit the customer's needs – see <http://www.three.ie/eshop/phone-plans/bill-pay/>

Q. 6 Do you agree that the TRS rebate scheme that takes into account that the time taken to make a text telephone call is longer than that need to make an ordinary call, will not be appropriate for new TRS users? Please provide detailed reasons and supporting evidence for your view.

Three disagrees with this assertion, as not all operators offer bundles which provide unlimited calls, texts and data and therefore there is a risk that some users may go beyond the usage allowances and subsequently are charged out of bundle rates which are generally higher than the average cost. Therefore a rebate is required considering Ireland is not long out of a recession and such rebate services are required and relied upon especially by older people.

Q. 7 Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures? Please provide detailed evidence and reasons to support your view.

Three believes that it will require at least 18 – 24mths to implement this service should all operators be mandated to do so. This timeframe is based on the fact that there are a lot of unknowns as to how the service would run. From an initial review of the TRS service in Ireland and the NGT introduced in the UK, it seems that it may require the creation, allocation and implementation of a discrete number range for both fixed and mobile end-users availing of the service; it may require that operators implement specific calling prefixes to link directly into the existing text relay services (this would require significant development work as the number range and prefixes will have to be configured onto the networks); it may require configurations to the billing system which will be dependent on if and how should certain discounts be required for certain call types (there are call scenarios that will have to be addressed for example how operators treat international calls through the service); it may require that a network could complete a dual voice and data connection simultaneously (this technical requirement would have to be investigated and fully tested). Three would question why ComReg would propose such a short window to implement such a significant development when it was advised during the Disability Forum meetings that nothing of this nature was introduced elsewhere. Furthermore it is worth noting that in the UK OfCom had given its operators initially 18months to implement but this was then extended to 2 years due to issues being encountered by the TRS provider. Therefore, Three believes that a 2 year implementation timeframe would be warranted.

Q. 8 Do you agree with ComReg’s preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view.

Three agrees that Eircom as the USP should be obligated to continue to provide the TRS but also Three believes that ComReg has a third option (“Option 3⁶”) to consider which it has not addressed in the consultation document which is that eircom as the Universal Service Provider (“USP”) continue to provide the TRS but that they update and extend the current service so that it is fit for purpose for its users across all platforms. This would therefore negate the need to mandate this unjustified requirement on all service providers.

Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors (including details of any proposed solutions, the costs of implementing a TRS that meets minimum requirements) that ComReg should consider in completing its RIA. All submissions in respect of proposals and costs must be substantiated.

Three has referenced its views throughout the response.

⁶ eircom as the Universal Service Provider (“USP”) continue to provide the TRS but that they update and extend the current service so that it is fit for purpose for its users across all platforms.

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.

Three would make the following amendment to the Scope and Application

- i. This Decision Instrument applies to the Universal Service Provider;

7 UPC Communications Ireland.



**UPC Ireland Response to: ComReg 15/21
Proposed Measures in relation to Text Relay
Services (TRS)**



Introduction

UPC Communications Ireland Limited (“UPC Ireland”) welcomes the opportunity to provide its response to ComReg on its Consultation (“the consultation”) on Proposed Measures in relation to Text Relay Services (TRS), in Electronic Communications.

UPC Ireland recognises the importance and desirability of facilitating the achievement of an information society for all and promoting an inclusive digital society that provides opportunities for all and reduces the risk of social exclusion amongst disabled users of electronic communications.

UPC Ireland has been at the forefront of innovation and developments in this area and has been an active participant in the ComReg Disability Forum for a number of years.

UPC Ireland has voluntarily introduced many initiatives on disabled access and choice. Given the proactive nature of UPC Ireland and also other telecommunications providers, in the area of disabled access and choice, it is important that ComReg is properly guided by the key legislation in this area (stated below, emphasis added) and does not overly prescribe solutions that may be inappropriate or disproportionate for some or all telecommunication operators in Ireland:

Regulation 17 of the Universal Service and User Rights Regulations provides:

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

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

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

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

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.

In relation to this consultation, UPC Ireland has a number of concerns particularly in relation to ComReg’s approach to this consultation. These include;

- Requiring operators to comment on measures in the absence of critical information, including but not limited to;
 - o No information being provided on the likely technical solution.



- No information being provided on commercial models that could be used to enable the industry to provide a TRS, in particular no information being provided on likely TRS wholesale operators / providers in Ireland.
- No information being provided on likely costs to operators to implement and run a TRS and consequently a completely inadequate impact assessment lacking any quantifiable cost / benefit analysis with which to gauge the proportionality of ComReg's proposals.

This is a consultation on a very specialist technical area where many operators will have little direct experience or expertise. This, along with the lack of detail (as outlined above) means operators are seriously constrained in their ability to respond meaningfully to the consultation.

UPC Ireland is of the view that the approach taken by ComReg to this consultation is incomplete, inefficient and highly unlikely to lead to the best outcome for the key stakeholders, namely operators and disabled consumers.

Given the above concerns, UPC Ireland believes that ComReg should reconsider its approach to this matter and start by addressing the information gaps listed above. These could be addressed in a number of ways including the following;

- Supplemental Information Notice.
- Dedicated working groups facilitated and hosted by ComReg (as in the current process for evaluation of fixed porting solutions)

UPC Ireland response to specific questions in ComReg 15/21:

Q. 1 Do you agree that all PATS Undertakings should be required to provide access to a TRS? Please provide detailed reasons and supporting evidence for your view.

UPC Ireland understands that such an obligation is highly unusual in Europe, however we are aware that this obligation exists in the UK based on a wholesale solution provided by BT. UPC Ireland understands that implementation costs for individual operators in the UK were significant, particularly annual running costs driven by an unregulated BT wholesale call charge of 142 pence per minute.

UPC Ireland is not aware of any other examples in Europe where an obligation to offer text relay services is imposed on all electronic communications service providers.

UPC Ireland recognises the importance and desirability of facilitating the achievement of an information society for all and promoting an inclusive digital society that provides opportunities for all and reduces the risk of social exclusion amongst disabled users of electronic communications. However, in the absence of the information listed in the



Introduction section above, and in particular the lack of an adequate impact assessment including a quantifiable cost / benefit analysis with which to gauge the proportionality of ComReg's proposals, UPC Ireland is unable to answer this question at this time.

Q. 2 Do you agree that the TRS should at a minimum meet the requirements as set out above? Please provide details of how the service could be provided, the suggested solutions and costings, which must be substantiated. All details will be considered and incorporated into the final RIA and Decision.

The minimum requirements specified seem reasonable, however UPC Ireland has insufficient information with which to properly assess them, particularly as ComReg has chosen to provide a list of requirements with no detailed discussion or justification of particular measures. This means that UPC Ireland is unable to make a proper assessment of the proposals and in particular, give a view as to whether it would be proportionate to require all operators to offer this service free of charge.

Q. 3 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Please provide detailed reasons and supporting evidence for your view.

UPC Ireland sees merit in the use of quality of service standards being applied to such services. However, in the absence of any information being provided by ComReg on the matters listed above i.e. possible solutions, service providers or costs that would be incurred in offering this service, UPC Ireland is unable to comment on the suggested Quality of Service Obligation levels proposed by ComReg.

Q. 4 Do you agree that the minimum TRS solution should be provided in line with the proposed Quality of Service Obligations? Do you consider additional Quality of Service Obligations are necessary to deliver the service? Please provide detailed reasons and supporting evidence for your view.

Please see response to Q3 above.

Q. 5 Do you agree existing end-users registered with the NAD rebate scheme should continue to avail of that scheme while continuing to use a Minicom device? Please provide detailed reasons and supporting evidence for your view.



In the absence of the information mentioned in the Introduction section above, UPC Ireland is of the view that the best means of facilitating TRS generally is that it remain a Universal Service Obligation (USO) for the existing Universal Service Provider (USP). This includes continuation of the existing rebate scheme.

Q. 6 Do you agree that the TRS rebate scheme, that takes into account that the time taken to make a text telephone call is longer than that need to make an ordinary call, will not be appropriate for new TRS users? Please provide detailed reasons and supporting evidence for your view.

Please see response to Q.5 above.

Q. 7 Do you have any views with regard to the 6 month timeframe proposed for the development and implementation of the proposed measures? Please provide detailed evidence and reasons to support your view.

UPC Ireland understands that the equivalent implementation timeframe allowed by Ofcom in the UK was 18 months. UPC Ireland believes that 18 months post publication of a Decision Notice is the minimum implementation timeframe that should apply in Ireland, if ComReg proceeds as proposed in this draft consultation.

Q. 8 Do you agree with ComReg's preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view.

Please see response to Q.5 above.

Q. 9 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and are invited to offer their views on other factors (including details of any proposed solutions, the costs of implementing a TRS that meets minimum



requirements) that ComReg should consider in completing its RIA. All submissions in respect of proposals and costs must be substantiated.

Please see Introduction section to UPC Ireland response where a number of concerns are outlined with the approach taken by ComReg, in particular;

“No information being provided on likely costs to operators to implement and run a TRS and consequently a completely inadequate impact assessment lacking any quantifiable cost / benefit analysis with which to gauge the proportionality of ComReg’s proposals”.

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.

No comment.

