Commission for
Communications Regulation

Response to Consultation and Final Determination regarding the Emergency Call Answering Service Call Handling Fee Review 2015/2016

Response to Consultation

Reference: ComReg 15/02

Decision: D01/15

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Content

Section **Page**

1 Introduction

1. The Communications Regulation Act, 2002 as amended ("the Act") outlines ComReg's statutory role in respect of the Emergency Call Answering Service ("ECAS") and, in particular, its duties relating to the review of the maximum permitted call handling fee ("CHF") that the ECAS provider is allowed to charge for handling emergency calls.[1]

2. This Response to Consultation and Determination is published to make the review process appropriately transparent and to summarise ComReg's consideration of stakeholder responses to the Consultation and draft Determination[2] ("the Consultation"). In addition, this Response to Consultation and Determination contains ComReg's determination of the maximum CHF that the ECAS provider is allowed to charge for handling emergency calls for the period 12 February 2015 to 11 February 2016.

3. ComReg received two responses to the Consultation from:

- Eircom Group ("Eircom");
- Hutchinson 3G Ireland ("H3GI"); and

4. ComReg wishes to acknowledge the valuable contribution of these respondents to the review process. ComReg has reviewed these submissions and given them due consideration in the conduct of its statutory review of the CHF.

5. It is important to note that in discharging its duties under the Act, ComReg is also acting within the context of a contract (known as the Concession Agreement ("the CA")) entered into between the Department for Communications, Energy and Natural Resources ("DCENR") and the ECAS provider, BT Communications (Ireland) Limited ("BT"). ComReg is not a party to the CA and the terms of same are not within ComReg's remit. Therefore, in most instances, ComReg has no discretion in relation to the treatment of certain cost categories. Neither is it appropriate for ComReg to comment on specifications or requirements of the ECAS detailed in the CA. This context was acknowledged by respondents to the Consultation.

[1] See section 58D of the Act, as inserted by section 16 of the Communications Regulation (Amendment) Act 2007.
[2] ComReg Document No 14/109.

6. ComReg has reviewed the costs incurred by the ECAS provider in its implementation of the CA, including commercial arrangements between the ECAS provider and third party suppliers. As noted in the Consultation, ComReg did not propose to disallow any costs of the ECAS provider or to require any amendments to its operational procedures. ComReg has, when appropriate, disallowed costs and required operational recommendations in previous reasonable costs reviews. ComReg is satisfied that the ECAS provider has made these previously recommended changes, and continues to implement them, in the period of the current review. ComReg remains of the view, as proposed in the Consultation, that the costs incurred by the ECAS provider are reasonable and that its operational procedures are appropriate.

7. The draft Determination contained in the Consultation proposed a maximum permitted CHF of €4.63. This was based on a forecast decline in call volumes for 2015/2016 of 15.2%, as well as an extension of the CA to July 2016. This proposed CHF was also influenced by an unprecedented decline of call volumes in 2014/2015. In the 2014/2015 CHF review a rate of decline of 3.0% was predicted, whereas the actual rate of decline transpired as closer to 20.0%.

8. In the present Determination, ComReg considers a forecast annualised rate of decline of 11.7% to be appropriate. This reflects:

- A further extension to the CA to July 2017;
- the views of respondents;
- the current rate of decline of c. 20% from January 2014 to December 2014;
- An acceleration in the rate of decrease of c. 22% between March 2014 and December 2014; and
- an allowance for possible further declines in noisy call volumes as a result of regular maintenance work by Eircom of faults associated with its fixed line network; as well as increasing smartphone penetration on the mobile side.

9. Having considered this information, ComReg now concludes that a maximum permitted CHF of €3.82 should apply for the period 12 February 2015 to 11 February 2016.

10. While there has been an increase in the CHF as applied to each call, the total amounts payable by operators annually has declined year-on-year.

11. It should be noted that if actual call volumes for the period to February 2016 are significantly less than those forecast in this document a further under-recovery will arise that would have to be recovered over the remaining life of the CA and would likely cause a further significant increase to the CHF. In this context, amongst others, ComReg is mindful of Section 58D(3)(a) of the Communications Act.

12. The CHF, as determined by ComReg, has regard to the reasonable costs that the ECAS provider has incurred, and can be expected to incur, in delivering the contracted service; and in handling the expected emergency call volume.

13. Some respondents to the Consultation wished to see the precise value of the reasonable costs incurred by BT in providing the ECAS service. However, ComReg, as in previous reviews, has redacted commercially sensitive and confidential information from the review in order to respect the legitimate interests of the ECAS provider and its third-party suppliers. ComReg is satisfied that these redactions are appropriate, but that, notwithstanding the redactions, sufficient detail is provided for stakeholders to properly understand the basis for the Determination on the CHF.

14. It should be noted that while the CA was due to expire on 15 July 2016 there is an option within the contract whereby the DCENR may extend its term for a further year. ComReg has been informed by the DCENR that it has decided to extend the term of the CA, to July 2017.

2 Executive Summary

15. The ECAS receives emergency calls made to 112 or 999 through dedicated Public Safety Answering Points ("PSAP") and forwards these calls, as appropriate, to the relevant Emergency Service on the basis of the service required and the location of the incident.

16. BT provides the ECAS on a 24-hour, 365-day basis, using three PSAPs located in Ballyshannon, County Donegal, Navan, County Meath, and Eastpoint, Dublin 3. The three PSAPs act as one "virtual" centre, with emergency calls being handled on a "next available agent" basis.

17. Under section 58D of the Act, ComReg is required to conduct a review of the maximum permitted CHF that the ECAS operator can charge for handling emergency calls, and as soon as practicable after conducting that review, ComReg has to determine the maximum CHF that the ECAS operator can charge for handling emergency calls on an annual basis. This Determination is made under section 58D of the Act and pursuant to the Consultation on this matter held during October/November 2014.

18. In making this Determination, ComReg has fully taken into account the responses to the Consultation and the recommendations made by its consultants, TERA Consultants (“TERA”).

19. Ultimately, ComReg concluded that the costs incurred by the ECAS provider were reasonable and that no adjustments were necessary to its operating procedures.

20. In the Consultation ComReg asked the views of respondents to six questions. The main points raised by respondents related to:

- The then proposed increase in the CHF to €4.63; and
- The forecast rate of decline in call volumes;

21. In this Response to Consultation document, ComReg has detailed its final conclusions in respect of the specific questions asked in the Consultation. Other points that were made by the respondents that are not directly related to the Consultation questions are discussed in Annex 1.

22. ComReg notes that many of these related issues concern operational, engineering or performance matters; or relate to more fundamental policy issues. ComReg considers that they are beyond the scope of this review (which is focused on the reasonable costs associated with the CHF). ComReg suggests that these issues may be dealt with, as appropriate, in the context of the ECAS Quarterly Forum ("the Forum") chaired by ComReg and attended by the DCENR, ComReg, and telecommunications providers.

23. Given that ComReg considers that the cost base is now relatively stable, the main factor in determining the CHF for 2014/2015 is the estimation of call volumes. After an initial period of significant decline from July 2010 (when the ECAS provider commenced live operations) call volumes declined at a gentler rate.[3] However in the current year, volumes have declined at a much faster rate.[4]

24. In the Consultation ComReg was of the preliminary view that an annual rate of decline in call volumes of 15.2% would be appropriate. Following a review of the responses to the consultation, and as discussed further below, ComReg considers that a rate of decline of 11.7% is now appropriate~~.~~ Overall, there has been a reduction of c. 54% in call volumes between the DCENR issuing its invitation to tender for the current CA and current predicted call volumes of c. 2.2m per annum.

25. ComReg considers that the ECAS has a high element of fixed costs (it was specified to handle 4.8m calls per annum) a point further described in Annex 1. Because of this, a decline in call volumes may not lead to a corresponding fall in costs. For the current review, the level of fixed costs has remained relatively constant while call volumes have declined at a greater rate than predicted. This means that the CHF has increased. Two of the main drivers of this increase may be described as follows:

- With the call volume decline averaging 20% over the last year, as opposed to the predicted 3.0%, a significant under-recovery of costs has occurred during 2014/2015; and

[3] See ComReg Document No. 14/17 - “Emergency Call Answering Service ('ECAS'): Volume of emergency calls January 2013 -December 2013”

[4] See ComReg Document No. 14/98 – “Emergency Call Answering Service ('ECAS'): Volume of emergency calls January 2014 –June 2014”

- The stable fixed cost base must be recovered in the coming year over a much lower number of calls. This is despite the reduction in costs afforded by the one year extension to the CA. It is worth noting in this context that while respondents to the Consultation differed with ComReg's preliminary view of the extent of further decreases in call volumes in the coming year, both agreed that volumes would continue to decline.

26. ComReg has also been informed by the DCENR that it has decided to extend the CA for a further twelve month period to July 2017.

27. Having considered all of these points, ComReg now concludes that a maximum permitted CHF of €3.82 should apply for the period 12 February 2015 to 11 February 2016

28. The movement in the CHF between the 2014/2015 review and this, the 2015/2016 review is as follows:

2014/2015 CHF	**€3.08**
Extension to the CA	<€0.73>
Lower than estimated call volumes/Under-recovery (2014/2015)	✂
Impact of reduced volumes over remaining period of the CA (Feb 2015 to July 2016)	✂
Capital expenditure	✂
Pay and non-pay costs	✂
2015/2016 determined CHF	**€3.82**

29. The variation in the CHF from that proposed in the Consultation and this final decision is primarily due to:

- The further extension to the CA; and
- The amendment of the forecast in call volumes from 15.2% to 11.7%.

30. These have the effect of:

- Allocating the remaining depreciation charge over an extended period;
- Allocating the current under-recovery over an extended period; and

- Increasing the forecast number of calls from which costs must be recovered from 2.6m to 4.4m.

3 Consultation responses

31. As outlined in the Consultation, ComReg identified three principal focus items for its review and invited respondents to address them. These were:

    I. Section 3 - Reasonable costs

    II. Section 4 - Volumes

    III. Section 5 – Draft determination

32. Section 2 provided further background information and context with respect to this year's Consultation.

33. In addition to this material, a further series of annexes was dedicated to the following:

    I. Annex 1 – a list of the ECAS quality of service parameters;

    II. Annex 2 – How ComReg intended to conduct its Reasonable Cost review; and

    III. Annex 3 – The Relevant cost standard used to determine Reasonable Costs.

3.1 Reasonable costs

ComReg's preliminary views

34. In Section 3 of the Consultation, ComReg described the various costs which are charged by the ECAS provider in running the ECAS operation. Within each category, ComReg provided an overview of how the cost is derived and whether or not ComReg considered the cost to be reasonable. Due to the commercial sensitivity and confidential nature of the data relating to the ECAS provider and its suppliers, specific monetary values were redacted in the Consultation where appropriate.

35. In the Consultation, ComReg noted that while there had been some variation in the level of costs incurred (both up and down) there had not been a significant change in the nature/classification of the costs incurred since the 2013/2014 CHF review. ComReg further noted that it considered the costs to be reasonable.

36. Section 3 invited input from respondents through Question 1 which stated:

Q.1 Figure 6 represents the basis of the cost stack for the determination of the CHF for 2014-2015. Please provide any comments on whether the cost categories should remain the same for the determination of the CHF for 2015-2016, including detailed reasoning for your answer.

37. ComReg was also of the preliminary view that €29.34 was a reasonable hourly rate payable to the specialist call-centre company.

38. This section also incorporated Question 2 which asked:

Q.2 Do you agree or disagree with ComReg's preliminary view that €29.34 is a reasonable hourly rate payable to the specialist call centre company, based on what costs have been allowed and what costs have been disallowed? Please provide detailed reasoning and calculations for your views.

Principal points raised by respondents in relation to Question 1

39. Eircom raised three main points in relation to Question 1. It also suggested that its capacity to respond to the question was affected by the level of redaction. Eircom's points addressed:

- Depreciation/amortisation;
- Cost of Capital Rebate; and
- Guaranteed Rate of Return.

40. Eircom queried the methodology by which calculation of depreciation/amortisation was carried out. It also made the assumption that the residual value of ECAS assets must be nil. On the basis of this, Eircom submitted its own analysis and calculation of what it considered the correct value of depreciation/amortisation should be.

41. Eircom disagreed with the application of a cost of capital rebate as BT would be compensated for all of its relevant costs over the life of the CA.

42. Eircom disagreed with the application of the Guaranteed Rate of Return to the gross book value of assets as opposed to the mean capital employed.

43. H3GI did not specifically answer Question 1.

ComReg's conclusions

44. There are a number of differences between Eircom's approach to the calculation of depreciation and that employed by ComReg/TERA:

- Eircom has calculated the change in the depreciation charge over 12 months between February 2015 and February 2016, whereas, in determining the CHF, ComReg has calculated the change in depreciation over the remaining life (17 months) of the CA. As the CHF must be calculated so that the ECAS provider's accumulated profit or loss balances to zero at the end of the CA, the difference in depreciation needs to be calculated over 17 months between February 2015 and July 2016, rather than over 12 months between February 2015 and February 2016 as suggested by Eircom.

- Furthermore, Eircom's calculation uses the call volume forecast for 2014 (1.7m call for the 12 months between February 2015 and February 2016) which gives about 2.5m calls for the 17 months between February 2015 and July 2016.This is instead of using the previous forecast volume for the same period (3.6m calls for the 17 months between February 2015 and July 2016 as forecast in the 2014/2015 CHF review).

45. Therefore Eircom's depreciation calculation does not reflect the calculation of under-recoveries due to the change in the forecast call volumes from the 2014/2015 review (c. 3.6m) vis-à-vis the expected outturn in volumes from the Consultation (c. 2.2m).

46. ComReg has calculated the movement in the CHF using Eircom's method of depreciation calculation. This has the effect of increasing by the same amount the level of under-recovery so that the net result in the CHF is the same.

47. When the ECAS went live in July 2010 it became clear that the number of calls being received was significantly less than the number of calls forecast. This resulted in an under-recovery of costs by the ECAS provider. This under-recovery was spread out over the remaining life of the CA and incorporated into future CHF calculations. As this under-recovery was beyond the control of the ECAS provider a cost of capital rebate was applied to compensate it for having to fund the under-recovery from its own funds. As this earlier under-recovery has now been cleared the cost of capital rebate has gone to nil. A cost of capital rebate has not been applied to the current under-recovery. This is because the period over which the current under-recovery is being recovered is much shorter.

48. The manner in which the Guaranteed Rate of Return applied and calculated is set out in the CA and as such is beyond the scope of ComReg. It should be noted, however, that were the Guaranteed Rate of Return calculated on the mean capital employed it would yield a very low rate of return in the final year of the CA.

49. ComReg remains of the view that the main cost categories to be included in the cost stack for the determination of the 2013/2014 CHF are as follows:

- Pay costs
- Non-pay costs
- Depreciation/amortisation
- Guaranteed rate of return
- Cost of capital rebate
- Sinking fund
- Prior period under-recovery

50. ComReg is of the view that substantive comments raised in relation to these matters concern matters specifically addressed in the CA and, as such, are beyond the scope of this review. They are discussed in Annex 1.

Main issues raised by respondents in relation to question 2

51. Eircom disagreed that €29.34 was a reasonable hourly rate payable to the specialist call-centre company. It queried the necessity to further redact certain figures in this review given that these had not always been redacted in previous reviews. Eircom also commented that wage rates in Eircom and nationally were either falling or remaining constant.

ComReg's conclusions

52. During the review process ComReg has examined, in detail, each of the cost components within the hourly rate payable to the specialist call-centre company. While the basic pay of CSRs was published by ComReg in previous years, ComReg has considered it appropriate to redact them this year. Although the disclosure of basic pay rates for CSRs would always be considered to be sensitive, basic salary levels were, in practice, made publically available in prior years through recruitment advertisements for the ECAS. This was not the case in this review period.

53. ComReg does not consider that the skills developed by CSRs are easily replicable by staff from other call-centre environments. Given the life-critical nature of their work, there is a significant level of expertise required of them to handle what at times can be very challenging and distressing situations. The loss of CSRs is considered to be highly undesirable for the ECAS. Increased CSR churn therefore cannot be seen as an opportunity to put downward pressure on pay rates and generate relatively modest financial savings for the ECAS.

54. ComReg, therefore, remains of the view that €29.34 is a reasonable hourly rate payable to the specialist call-centre company.

3.2 Call Volumes and call volume relationship

ComReg's preliminary views

55. In Section 4 of the Consultation, ComReg described how call volumes had evolved and how it expected them to continue evolving to the end of the CA. ComReg noted that while it had predicted a rate of decline from October 2013 to September 2014 of 3.0% the decrease in 2014 had been much greater than predicted.

56. ComReg requested respondents to provide details on any network remediation programme or other relevant initiatives being undertaken by them in the short to medium term (1 to 2 years) which might materially impact the volume of emergency calls presented to the ECAS. Section 4 incorporated Question 3 which stated:

> *Please outline if you are aware of any network remediation programme or any such initiatives in the short to medium term (1 to 2 years) which may affect the forecasted volume of emergency calls.*

57. Also in Section 4 of the Consultation, ComReg requested inputs from respondents on the forecast rate of decline of 15.2%. Respondents were also requested to provide comments on any other matters they considered to be relevant to the CHF review.

58. To this end Question 4 asked:

> *Do you agree or disagree with the proposed forecast of the call volume decline rate of 15.2% per annum? Please provide detailed reasoning and calculations for your views.*

while Question 5 asked:

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

Main issues raised by respondents in relation to Question 3

59. In relation to Question 3, Eircom commented that it did not have specific programmes which might affect the forecasted volumes of emergency calls.

60. H3GI did not comment on any specific remediation programmes.

Main issues raised by respondents in relation to Question 4

61. In relation to Question 4 Eircom and H3GI disagreed with ComReg's view that a 15.2% rate of decline was appropriate.

62. Eircom also considered that ComReg's estimation of the impact of Smartphones on call volumes was underestimated historically but overestimated in the current forecast. Eircom's position is based on a critique of the manner in which ComReg calculates smartphone penetration in the Quarterly Report. Eircom was of the view an annual rate of decline in call volumes of 5% was appropriate.

63. H3GI considered that the improvements in the reduction in "Silent" and "Cleared without Speech" calls had largely been made at this point and that there is limited opportunity for on-going improvements in this area. It was also of the view that an annual rate of decline in call volumes of 5% was appropriate.

Main issues raised by respondents in relation to Question 5

64. Eircom and H3GI responded to question 5.

65. Eircom considered that there were shortcomings in ComReg's analysis and that the proposed CHF was far in excess of any justifiable value.

66. H3GI made the following points:

- Despite the decline in call volumes the necessity for a third call-centre had not been queried;
- No provision is made for ComReg to take into account the Sinking Fund and therefore ComReg would appear to be acting ultra vires by including this in the calculation of the call handling fee; and
- How would any potential over-recovery/refund be applied?

ComReg's conclusions in relation to Question 3

67. Based on the views of the respondents, ComReg is of the view that no specific remediation programmes will be undertaken within the short to medium term that will materially affect the forecasted volumes of emergency calls.

ComReg's conclusions in relation to Question 4

68. Based on the views of respondents ComReg considers that the annualised rate of decline will be 11.7%. In the Consultation, ComReg reported that the average reduction for the year to September had been in the region of 22%. Since the publication of the Consultation, year on year reductions for October, November and December have become available and these show further reductions of 23.4%, 19.9% and 24.5% respectively. In this context, ComReg does not agree with respondents that a projected decline in call volumes of 5% is appropriate in estimating the CPS for the coming year.

ComReg's conclusions in relation to Question 5

69. ComReg notes Eircom's comments in relation to the current consultation process. However, ComReg is of the view that Eircom overestimates ComReg's discretion in relation to the conduct of the annual review and the setting of the CHF, both of which are carried out pursuant to Regulation 58D of the Communications Act 2002, as amended.

70. In relation to H3GI's comments ComReg would note the following:

- The use of the third call-centre is specified in the CA. ComReg is not a party to the CA and is not empowered to alter its terms and conditions. Nevertheless, ComReg understands that the cost of the third call-centre may be considered to be marginal when compared to the overall cost of the ECAS. ComReg understands that the third call-centre is required in the CA principally for the provision of greater resilience within the ECAS solution. The third call-centre does not host data-centre equipment and is primarily used for the answering of calls.

- The requirement for the Sinking Fund is contained within the CA. Therefore, ComReg considers that the annual cost of the Sinking Fund is a Reasonable Cost to the ECAS provider and, as such may be recovered by the ECAS provider.

- Under the terms of the CA, ComReg is required to conduct a review of the final costs of the ECAS four months after the end of the CA. If at this time there is found to be an under-recovery then the ECAS provider will be entitled to recover this amount of the under-recovery from the Sinking Fund. If there is an over-recovery the provider will be required to pay the amount of the over-recovery into the Sinking Fund. The use of the Sinking Fund is at the sole discretion of the DCENR.

3.3 Draft determination

ComReg’s preliminary views

71. In Section 5 of the Consultation, ComReg issued its draft determination and requested views on its proposed wording.

72. This section incorporated Question 6 which asked:

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

Main issues raised by respondents

73. On the basis of the points it had made in response to the preceding questions, and more generally, Eircom disagreed with the proposed increase in the CHF. However, it did not comment on the specific wording of the draft determination.

74. H3GI did not answer question 6.

ComReg's conclusions

75. ComReg is of the view that no amendments are required to the wording in the determination.

4 Determination

1 Definitions

1.1 In this determination:

- "*the Act*" means the Communications Regulation Act 2002;
- "*the Commission*" means the Commission for Communications Regulation established under Section 6 of the Act;
- "*emergency call*" has the same meaning as in Section 58A of the Act; and
- "*the emergency provider*" means BT Communications Ireland Limited.

2 Determination

2.1 The Commission makes this determination:

- In exercise of its powers under section 58D (2) of the Act;
- Pursuant to its functions at section 10(1)(ca) of the Act;
- Pursuant to the review conducted by it under section 58D (1) of the Act;
- Having had due regard to section 58D (3) of the Act;
- Pursuant to Commission Document No. 14/109 and Commission Document No. 14/109a;
- Having duly taken account of the responses received to Commission Document No. 14/109 and Commission Document No. 14/109a; and
- Having regard to the reasoning and analysis conducted by the Commission and set out in this response to consultation and determination.

2.2 The Commission hereby determines that for the period 12 February 2015 to 11 February 2016, the maximum permitted call handling fee that the emergency provider may charge to entities who forward emergency calls to it for handling such a call shall be €3.82.

2.3 This determination is effective from the date of the publication of this response to consultation and determination.

Annex 1: General comments

76. Eircom and H3GI, raised a number of points not addressed by the questions posed in the Consultation. Many of the points raised relate to the CA, which, as previously stated, is an agreement between the DCENR and BT. ComReg is not a party to the CA.

77. In discussing the various points raised by respondents ComReg has addressed them under the following headings:

- Lack of proper transparency
- Report of the Comptroller and Auditor General
- ComReg should encourage greater efficiency, rather than penalising it
- Costs should not be regarded fixed in the face of plummeting call volumes
- Alleged errors and misleading statements in Tera report
- Regulatory Impact Assessment
- Sinking Fund

Lack of proper transparency

78. Eircom considered that a comprehensive response to the Consultation was impossible as all pertinent data had been redacted. Nevertheless, Eircom was also of the view that ComReg should safeguard "all data that is genuinely commercially sensitive."

79. ComReg has redacted data where it considers that data to be confidential or commercially sensitive. This is in line with ComReg's confidentiality guidelines contained in ComReg Document No. 05/24[5].

80. ComReg considers that it has provided as much information and detail as possible without disclosing commercially sensitive information. ComReg's approach is consistent with its approach in other consultation contexts, where it does not disclose commercially sensitive information.

Report of the Comptroller and Auditor General

81. Eircom considered that ComReg should have referred to the report of the Comptroller and Auditor General in relation to the operation of the ECAS.

[5] Guidelines on the treatment of confidential information

82. ComReg has read the report of the Comptroller and Auditor General. While the report makes observations regarding the ECAS, ComReg, having reviewed the report, considers that these are not relevant to the calculation of the CHF.

ComReg should encourage greater efficiency, rather than penalising it

83. Eircom was concerned at the "apparent leniency" that, it said, ComReg showed during its review of the CHF. Eircom considered that telecoms operators, who improved efficiency through the elimination of invalid calls were being penalised through an increase in the CHF. It noted the "average speed of answer" which, per the report of the Comptroller and Auditor General is 0.6 seconds, whereas the standard set for the ECAS is 1.3 seconds. In its view this was resulting in over-staffing of the ECAS.

84. Eircom also commented that BT, through its wider operations, should be able to benefit from economies of scale and scope but as it was fully compensated for its costs it and no incentive to pursue these economies.

85. ComReg has encouraged efficiency by operators and the ECAS. The overall cost of the ECAS has fallen since 2010. This is reflected in:

    a. The disallowance by ComReg of certain costs by ComReg in previous reviews;

    b. The improvement of resourcing methods for the allocation of CSRs;

    c. A reduction in CSR hours and the associated cost reflecting a reduction in calls.

86. In the Consultation ComReg noted the relatively stable nature of the fixed cost base of the ECAS. Based on the ECAS structure, as set out in the CA, it is necessary to have a minimum number of CSRs present across the ECAS to handle varying volumes of calls as they are presented during the course of any day. In this context, despite the fact that volumes have fallen by over 50% since the awarding of the CA, it is not possible to reduce CSR hours by a linearly proportionate amount. However, it should be noted that CSR hours have fallen by c. 25% in the same period. The "average speed of answer" is a standard set by the DCENR as part of the CA and the ECAS provider is required to resource to a level which meets this standard. ComReg is not a party to the CA and therefore it cannot amend this standard. Furthermore ComReg is also of the view that an average speed of answer which is more efficient than that as set out in the CA cannot necessarily be viewed as resulting in over-staffing. Instead the efficient answering of calls provides reassurance to the public that their calls will be answered promptly.

87. BT provides various support staff to the ECAS. These include those dedicated to the ECAS and those who are required to provide support on a regular basis. The number of dedicated staff has been reduced over the life of the CA generating increased efficiencies. The requirement for other support staff has also reduced. However, there remains an annual requirement for both dedicated and other support staff that cannot be reduced below a certain threshold.

88. Many of the costs associated with running the ECAS are also fixed. These include fixed support contracts with suppliers (I.T. and backhaul), rental agreements for premises, and the general day-to-day costs of running a service. They cannot be reduced without having a detrimental effect on the integrity of the ECAS operations. The ECAS provider has also, where possible, used resources available within the wider BT network rather than third party providers thereby making use of economies of scale and scope. For example, it provides part of its own backhaul. During the review the cost of this backhaul was found to be reasonable when compared to prevailing market rates.

89. The treatment of depreciation and amortisation of the capital investment, the Guaranteed Rate of Return and the Sinking Fund are all provided for under the CA. ComReg is not a party to the CA and cannot alter their treatment.

90. ComReg notes the amounts paid to the ECAS provider (calculated on the basis of annual volumes and pertinent CHF) as included in the report of the Comptroller and Auditor General. ComReg has expanded this list to include the estimated amounts payable to February 2016.

Amounts payable to ECAS provider **July 2010 to February 2016**	**€m**
Period ending 11 February 2011 (7 months)	3.86
Period ending 11 February 2012	9.42
Period ending 11 February 2013	9.30
Period ending 11 February 2014	7.76
Period ending 11 February 2015[6]	6.47
Period ending 11 February 2016[7]	7.26

[6] Not part of C&AG report – estimated 2.1m calls @ €3.08
[7] Not part of C&AG report – estimated 1.9m calls @ €3.82

91. On average the overall amounts payable annually to the ECAS provider are falling. While the amount payable to 11 February 2016 is expected to rise this reflects an underpayment to 11 February 2015 based on the ECAS provider's reduced revenues in the context of lower than expected call volumes. The average payment for these two periods is €6.87m and is less than that payable to 11 February 2014.

92. As operators tend to pay sums reflective of their market shares their overall bills should be declining notwithstanding the increase in the CHF.

Costs should not be regarded as fixed in the face of plummeting call volumes

93. Eircom considered that ComReg's view that costs were essentially fixed in the face of falling call volumes to be "unsustainable" and "incomprehensible."

94. Eircom considers that the ECAS provider can downscale considerably. It further commented that the capital investment should be analysed into a fixed and variable amount. From an operating cost perspective Eircom considered that departing staff should only be replaced where justified.

95. ComReg considers it has addressed the issue of the stable fixed cost base elsewhere in the document.

96. In relation to the capital base ComReg is of the view that it is not possible to separate this into fixed and variable elements without undermining the integrity of the ECAS solution. ComReg is also of the view that this would cause an unacceptable and unjustifiable level of risk which it could not support. Furthermore the capital element of the ECAS is highly integrated and was designed on the basis of 4.8m calls. ComReg does not consider that, in the context of the CA, the ECAS provider can be penalised and not compensated for its investment because actual volumes are substantially less than those forecast.

97. The ECAS provider has reduced its CSR requirements as call volumes have declined.

Alleged errors and misleading statements in Tera report

98. Eircom considered that there were errors in the TERA report.

99. It considered that the references to changes in the CHF should have commenced at a rate of €2.23 which was BTs initial CHF in 2010 or pre-2007 when the CHF was zero.

100. It also queried the basis for the TERA calculation of churn whereby it calculated an average monthly attrition rate of 4.8% equated to an annual attrition rate of more than 60%.

101. ComReg does not consider that a zero CHF is relevant as this was applied in a different context and prior to the awarding of the CA. The CHF of €2.23 was estimated before the Go-Live date of the ECAS and on a much higher number of calls.

102. An average attrition rate of 4.8% would annualise at 58%. 4.8% was based on a monthly attrition value provided by the ECAS provider and an absolute number of leavers and applying a linear average. TERA in their calculations used the total annual number of staff leavers and the, as then current, overall CSR population, which resulted in an annual attrition rate of over 60% (i.e. annual leavers divided by overall CSRs currently employed).

Regulatory Impact Assessment

103. Eircom considered that a regulatory impact assessment was necessary given the proposed level of increase in the CHF.

104. As noted in the Consultation ComReg is not imposing a regulatory obligation upon any stakeholder. The obligation to pay the CHF is imposed by the Act of 2002. The Act of 2002 also obliges ComReg to conduct the review and to determine the CHF annually. ComReg has no discretion to refuse to do so.

Sinking Fund

105. Eircom requested clarity on the fate of any balance held in the Sinking Fund.

106. As noted in the Consultation the use of the sinking fund is the responsibility of the DCENR. Under the CA the purpose of the sinking fund is to address:

- Any exit costs which BT may incur, should it be required to provide a parallel service along the lines of that provided by Eircom when it was exiting from the provision of the ECAS service during September and October 2010;
- Any under-recovery which remains outstanding at the end of the CA.

107. As ComReg is not a party to the CA it cannot determine the ultimate use of the Sinking Fund. However, ComReg understands from DCENR that the Sinking Fund will be used solely to cover reasonable costs incurred in the context of the ECAS, as appropriate; and that DCENR intends to commence the process to select the next ECAS operator in Q1, 2015.