



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Response to Consultation and Final Determination regarding the Emergency Call Answering Service Call Handling Fee Review 2020

Decision D01/21

Response to Consultation & Final Decision

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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1 Executive Summary

1. The Communications Regulation Act, 2002 (as amended) ("the Act") sets out ComReg's statutory role in respect of the Emergency Call Answering Service ("ECAS") and, in particular, its functions relating to the review of the maximum permitted call handling fee ("CHF") that the ECAS operator 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 Determination² ("the Consultation"). In addition, this Response to Consultation and Determination contains ComReg's determination on the maximum CHF that the ECAS operator is allowed to charge for handling emergency calls for the period from 12 February 2021 to 11 February 2022.
3. ComReg received one response to the Consultation from Eircom Limited ("Eircom"). ComReg has reviewed this submission and given it due consideration in the conduct of this statutory review of the CHF.
4. It is important to note that in discharging its functions under the Act, ComReg is also mindful of the agreement ("the Agreement") between the Department of the Environment, Climate and Communications ("DECC")³ and the ECAS operator, BT Communications (Ireland) Limited ("BT").
5. ComReg is not a party to the Agreement 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. Nor is it appropriate for ComReg to comment on the specifications or the requirements of the ECAS detailed in the Agreement.
6. ComReg has reviewed the costs incurred by the ECAS operator in providing the service. As noted in the Consultation, ComReg considered the majority of costs incurred by the ECAS operator to be reasonable. ComReg remains of this view.
7. The draft Determination contained in the Consultation proposed a maximum permitted CHF of €2.83 based on a forecast annualised rate of 2.45 million calls. In the present Determination, ComReg considers a forecast annualised rate of 2.45 million calls remains appropriate.

¹ See section 58D of the Act, as inserted by section 16 of the Communications Regulation (Amendment) Act 2007.

² ComReg Document No 20/102.

³ Previously Department of Communications, Climate Action and Environment ("DCCA").

8. As identified in the Consultation the following are the significant movements in the CHF:

CHF to 11 February 2021	€1.77
Contribution of Sinking Fund and historical volumes adjustment from 2020/2021	€X (+)
Sinking Fund adjustment 2021/2022	€X (-)
Effect of volume increases	€X (-)
Increase in operating costs	€X (+)
Operating costs disallowed pending further review	€X (-)
Other cost movements	€X (+)
2021-2022 CHF payable	€2.83

Contribution of Sinking Fund and historical volumes adjustment from 2020/2021

9. As noted in the Consultation certain adjustments that reduced the CHF in 2020/2021 were one-off events and are not present in the CHF for 2021/2022.

Sinking Fund adjustment 2021/2022

10. ComReg has been informed by DECC that €X can be transferred against the costs of the ECAS. DECC will arrange this transaction directly with BT.

Effect of volume increases

11. ComReg expects call volumes to increase from 2.3m calls to 2.45m calls which reduces the CHF.

Increase in operating costs

12. As noted in the Consultation there were increases noted across a number of categories in particular premises, network services and staff costs some of which were COVID 19 related.

Operating costs disallowed pending further review

13. During the course of its review ComReg queried a number of costs which it intends to investigate further before deciding on whether they are permissible as reasonable costs. They relate to:

- Networks – dual running costs;
- Networks – recruitment of an engineer; and
- Engineering and scheduling – additional costs in relation to Help desk function.

14. Currently these costs are excluded from the calculation of the CHF.

Other cost movements

15. “Other movements” includes the effect of a number of small adjustments impacting the CHF.

16. If actual call volumes for the forthcoming period vary significantly from those forecast in this document, an under-recovery or over-recovery could arise. During the course of the Agreement under or over recoveries may be addressed in subsequent review periods by appropriate adjustment of the CHF. This ensures that BT only recovers its reasonable costs.

17. 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 operator and its third-party suppliers. ComReg is satisfied that these redactions are appropriate, but that, notwithstanding the redactions, sufficient detail is always provided for stakeholders to properly understand the basis for the Determination of the CHF. The redactions are also made in accordance with Section 24 of the Act and in accordance with ComReg’s Guidelines on the treatment of confidential information (ComReg Document No. 05/24).

18. ComReg therefore concludes that a maximum permitted CHF of €2.83 should apply for the period 12 February 2021 to 11 February 2022.

2 Background

19. 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.
20. BT provides the ECAS on a 24-hour, 365-day basis, using two PSAPs located in Ballyshannon, County Donegal and Navan, County Meath. The two PSAPs act as one "virtual" centre, with emergency calls being handled on a "next available agent" basis. ComReg normally visits these PSAPs annually but due to COVID 19 restrictions was unable to do so as part of this review.
21. Under section 58D of the Act, ComReg must 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 2020.
22. In making this Determination, ComReg has fully taken into account the response to the Consultation and the recommendations made by its consultants, TERA Consultants.
23. ComReg concluded that the majority of costs incurred by the ECAS operator were reasonable and that no adjustments were necessary to its operating procedures.

3 Consultation responses

24. In the Consultation, ComReg asked the views of respondents to three questions. These related to:

1. Forecast call volumes;
2. Any matters arising; and
3. The draft determination.

3.1 Forecast call volumes

25. Eircom agreed that ComReg's forecast call volume of 2.45m calls appeared reasonable.

3.2 Any matters arising

26. Eircom responded on four issues:

- General observations
- Fixed and variable costs
- ComReg should encourage greater efficiency, rather than penalising it
- Sinking Fund

General observations

27. Within "General observations" Eircom commented on (a) the level of redactions and (b) the level of the call handling fee.

The level of redactions

28. Eircom considered that the level of redactions hampered the ability of respondents to critically examine the basis for the CHF.

29. ComReg would note that the financial data used in deriving the CHF is extracted from the confidential financial records of BT. This confidential data contains amongst other matters pay costs and also contract values with third parties. ComReg applies a similar level of redaction to the financial data for the CHF calculation as it does in other financial models used to set wholesale tariffs.

The level of the fee.

30. Eircom also noted that the CHF charged since 2010 is in excess of the rate of €1.55 charged when Eircom was the ECAS operator. This point is made without reference to total costs incurred at that point and absent any analysis of call volumes then received.
31. ComReg did not have oversight of the fee charged by Eircom pre 2010. ComReg is rigorous in its review of the CHF for the ECAS and only allows the recovery of reasonable costs. ComReg would also note that the CHF set initially in the current contract was €3.93 and that the current rate of €2.83 represents a reduction of c. 28%.

Fixed and variable costs

32. Eircom was of the view that as this was the second contract entered by the ECAS operator many of the long-life assets should be fully written off, only variable costs should be recovered and therefore the CHF should be lower.
33. ComReg would note that the first ECAS contract ran for approximately 10 years and over the course of the contract all assets were fully written off. However, given that many of the assets were of an IT nature and because of the criticality of the service in the preservation of life an upgrade/replacement of certain assets was required for the new contract. These are being written off over the life of the new contract.

ComReg should encourage greater efficiency, rather than penalising it

34. Eircom considered “[...] that ComReg has been very lenient in recent years in its analysis of the ECAS costs [...]”. In Eircom’s view the fact that fixed costs are spread over projected call volumes discourages efficiencies and it claimed that any effort by operators to remove invalid or spurious calls leads to increases in the CHF.
35. ComReg disagrees that it has been lenient with the ECAS operator in the setting of the CHF. In reviewing the CHF under the requirements of the Act ComReg assesses each cost category in detail and will disallow costs when considered appropriate to do so.

36. The configuration of the ECAS was determined by the DECC with a fundamental aspect being the ability to handle calls given a predetermined set of Key Performance Indicators (“KPIs”). By its nature many of the costs will be fixed in nature to reflect these KPIs. For example, an increase or decrease in call volumes does not automatically translate into a comparable increase or decrease in the CHF. This is because the KPIs determine minimum thresholds that cannot be breached.

Sinking Fund

37. Eircom was of the view that it was regrettable that the annual Sinking Fund contribution of €250,000 was not reduced for two reasons:

- Operators who are refunded are impacted by the time value of money for the contributions they have made in earlier years; and
- There is no way of knowing that operators are refunded sums proportionate to their original contribution.

38. ComReg would note that the Sinking Fund is under the sole control of DECC and that c. €250,000 will have been returned to operators in the last two years.

3.3 The draft determination

39. With respect to the text of the draft determination, Eircom disagrees with the amount of the CHF that is necessarily included in the draft determination. It had no other comment on the draft determination.

40. Having considered all of these points and the response to the Consultation, ComReg now concludes that a maximum permitted CHF of €2.83 should apply for the period 12 February 2021 to 11 February 2022. A twelve-month review period is in line with ComReg’s statutory obligations.⁴

⁴ Section 58 (D) of the Communications Regulation (Amendment) Act 2007

4 Determination

Definitions

1.1 In this determination:

- “*the Act*” means the Communications Regulation Act 2002 (as amended);
- “*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 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. 20/102;
- Having duly taken account of the response received to Commission Document No. 20/102; 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 from 12 February 2021 to 11 February 2022 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 **€2.83**.

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