



Commission for
Communications Regulation

General

Future Regulation of Electronic Communications Networks and Services -

ComReg Consultation Procedures

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1 Introduction

This paper indicates how the Commission for Communication Regulation (ComReg) intends to operate consultation procedures as part of the measures to continue to ensure transparency in its regulatory activities. This will be primarily achieved through procedures which allow the views of interested parties to be taken into account when considering measures relating to the regulation of the electronic communications sector. This statement of intended procedures is made for the information of parties who may wish to have their views considered in the context of such measures.

While this paper is a general statement of principles, there may be circumstances which require ComReg to depart from the procedures specified here. Such circumstances can include specific legislative requirements or where there is an urgent need to implement the measure in question.

2 Background

2.1 The European Dimension

From July 2003, a new regulatory framework for the electronic communications sector will come into effect. The framework is provided for through four Directives published in the Official Journal in April 2002¹. A period of 15 months was provided for during which Member States are required to transpose the provisions into national law and make the necessary administrative arrangements to give effect to the new framework. Article 6 of the Framework Directive requires National Regulatory Authorities to publish their national consultation procedures. This document is published in compliance with that requirement.

In addition, the Directives specify “fair procedures” provisions, particularly with regard to compliance issues and the imposition, amendment and withdrawal of obligations. These provisions are not addressed here although it should be noted that publication of intended actions may be involved.

2.2 National Legislation

The Department of Communications, Marine and Natural Resources is currently in the process of transposing the provisions of the Directives into national legislation and has published draft regulations for public consultation². Appendix 1 gives details of consultation required by the draft regulations and the associated provisions of the Directives.

2.3 Consultation elements of the Regulatory Framework

The full text of the relevant provisions of the draft regulations are set out in Appendix 1

2.3.1 Framework Directive/Regulations

As noted earlier, Article 6 requires NRAs to publish their national consultation procedures. It also requires that where an NRA intends to take a measure which would have a significant impact on the relevant market, interested parties shall be given the opportunity to comment. However, there are three exceptions to this requirement:

- Where the NRA considers that there is an urgent need to act in order to safeguard competition and protect the interests of users, it may adopt provisional measures. (Extending these measures or making them permanent would however require consultation)
- Dispute resolution between undertakings
- Resolution of cross-border disputes

¹

http://europa.eu.int/information_society/topics/telecoms/regulatory/maindocs/index_en.htm

² <http://www.dcmnr.ie>

2.3.2 *Universal Service Directive/Regulations*

Article 33 of the Directive requires that, as far as appropriate, NRAs take account of the views of interested parties, on issues related to end-user and consumer rights in respect of publicly available electronic communications services, particularly where the issues have a significant impact on the market. This article specifies interested parties in this context as end-users, consumers (particularly disabled users), manufacturers, undertakings providing electronic communications networks and/or services. This provision is addressed by draft regulation 27 of the associated regulations.

While Article 33 confers discretion on NRAs regarding the matters it shall consult on, specific articles make consultation mandatory. The issues are:

- Provision of public pay telephones (Article 6/draft regulation 5)
- USO quality of service targets (Article 11/draft regulation 10)
- Requirements for publication of comparable service quality information (Article 22/draft regulation 18)

In addition, the draft regulations make provision for consultation in relation to the costing of USO (draft regulation 11) and financing of USO (draft regulation 12) and concerning the withdrawal an obligation to provide tone dialling and calling line identification (draft regulation 25)

2.3.3 *Authorisation Directive/Regulations*

The Authorisation Directive makes provision for consultation in relation to the following matters:

- Limitation of the number of rights of use for radio frequencies (Article 7/draft regulation 12)
- Amendment of rights, conditions and procedures concerning general authorisations and rights of use (Article 14/draft regulation 14)

2.3.4 *Access Directive/Regulations*

The Access Directive specifies mandatory consultation in accordance with the specified national consultation procedures for the following:

- Imposition of access and interconnection obligations on non-SMP operators (Article 5/draft regulation 5)
- Amendment or withdrawal of obligations on access to conditional access systems and other facilities (Article 6/draft regulation 6)
- Imposition of obligations on SMP operators (Article 8/draft regulation 8)

2.4 Consultation with European Commission and NRAs in other Member States

Article 7 of the Framework Directive requires the ComReg to make certain draft measures available to the European Commission and to other national regulatory authorities. The measures which come within the scope of this requirement are

- Definition of relevant product and service markets (Article 15 Framework Directive)
- Decisions to impose, maintain, amend or withdraw obligations on the basis of a determination whether a relevant market is effectively competitive on the basis of an analysis of that market (Article 15 Framework Directive)
- Imposition of access and interconnection obligations on non-SMP operators (Article 5 Access Directive)
- Imposition of access and interconnection obligations on SMP operators (Article 8 Access Directive)
- Decisions to impose, maintain, amend or withdraw obligations on retail tariffs, carrier selection/pre-selection and leased lines on the basis of a determination whether a relevant market is effectively competitive on the basis of an analysis of that market (Article 16 Universal Service Directive)

and

- Which would affect trade between Member States.

The procedural requirements in relation to Article 7 are under discussion between national regulators, including ComReg, and the European Commission. The requirements are not expected to impact on national consultation procedures to any significant degree.

3 Consultation Procedure

3.1 Principles of Consultation

The essential requirements of consultation procedures necessitated by Article 6 of the Framework Directive is that interested parties are facilitated in making their views known and that those views are taken into account when decisions are made on measures which have a significant impact.

There are two central elements to be considered in relation to consultation procedures:-

- Who are the interested parties?
- How is significant impact to be assessed?

3.1.1 *Interested Parties*

ComReg considers that it is not desirable to limit the right to comment on draft measures to particular interests. The fundamental difficulty which would arise in doing so would be to identify those parties which have a valid interest in the matter under consideration. The recital to the Directive does not elaborate on who interested parties might be.

As noted earlier, Article 33 of the Universal Service Directive specifies as interested parties, in the context of end-user and consumer rights, end-users; consumers; manufacturers; network and service providers. Article 14 of the Authorisation Directive specifies interested parties as including users and consumers in the context of amendment of rights, conditions and procedures concerning general authorisations and rights of use.

While ComReg agrees with the inclusion of the above as interested parties, it considers that defining categories in such manner may be too restrictive. For example, members of the public would not have a right to express views unless they belonged to one of the categories listed. Similarly, an undertaking which may be considering becoming a network or service provider would also be excluded.

ComReg is fully committed to transparent procedures and considers that any party which may have an interest in a particular measure should be afforded the opportunity to comment on consultations. Accordingly, ComReg will apply the principle that any party shall be free to provide views on all draft measures

3.1.2 *Significant Impact*

A degree of subjectivity will affect decisions on whether particular measures may or may not have a significant impact. As noted in Section 2, the Directives identify particular measures for which consultation is mandatory. The extent to which additional issues will be subject to public consultation will be decided on a case-by-case basis. This will be decided by considering a number of factors including the numbers of parties potentially affected, whether points of principle are involved and not merely detailed implementation of an existing measure and the relative cost impact of the measure on users or operators.

3.2 Publication of Consultation Papers

Consultation will always take place prior to the implementation of relevant measures on the basis of a published consultation document. The document will outline the measure contemplated and discuss the factors which ComReg consider pertinent to the issue. Prior to a formal consultation, preliminary discussions may take place with affected entities and representative groups or associations. Such discussions are not in substitution for wider consultation but may be used by ComReg to inform the process of drawing up a draft measure. In addition ComReg may invite submissions on the basis of a general discussion document and not on specific draft measures. This again would precede a consultation on specific draft measures.

All current consultations will be accessible through the ComReg website. E-mail notifications will also be sent to parties who register with ComReg to be notified of new publications. Hard copies of all consultation documents will also be available on request. A Notice will be placed in *Iris Oifigiul* announcing the availability of the document and the closing date for submissions. Where appropriate, notice will also be placed in at least one national newspaper. Most consultation papers will be accompanied by a press release and media coverage which, while outside the control of ComReg, may also alert potential respondents to the consultation.

3.3 Duration of consultation

The length of time allowed for responses to consultation in each situation will depend on the likely number of responses and the relative importance of the issue. The time allowed must strike a reasonable balance between the need for adequate input and the need for swift decision-making. Normally the time allowed for receipt of responses will be four weeks but this may need to be different in some cases because of:

- The urgency of the matter
- the complexity of the issues addressed;
- the stakeholders who might be most likely to wish to respond to the paper;
- other papers that might be addressed to the same stakeholders (and therefore the total effort required to respond);
- any statutory timing requirements; and
- the mobilisation of resources to deal with the issues raised.

Where there is an urgent need to implement measures, ComReg may propose a shorter period and will set out its detailed reasons for the reduction. It is also possible that ComReg will propose a consultation period shorter than 4 weeks where prior consultation on the issue has taken place.

Where consultations take place during traditional holiday periods, additional time will be allowed for receipt of responses. In exceptional circumstances, ComReg may also consider extending the period of consultation if requested to do so by potential respondents. ComReg will only consider such requests if received within 5 working days of publication. This is necessary to allow sufficient time to permit adequate consideration of the reasons for the request and to also allow for other parties to be made aware of any extension of the time limit should the request be granted.

3.4 Submission of Comments

Written comments are welcomed from any interested parties in relation to all individual consultations. Each consultation paper will contain instructions on how submissions should be forwarded to ComReg. Comments should, where possible, be provided electronically but comments sent by post, fax or hand delivered comments will also be accepted if received before the expiry of the consultation period. As it is ComReg's policy to make all responses available for inspection, respondents to consultations are requested to place confidential material in a separate annex to their response.

3.5 Consideration of Comments

The purpose of consultations is to allow ComReg to consider the views of interested parties in the context of reaching a decision on particular matters. All views will be considered and account taken of the merits of views expressed. It should however be noted that the process is not equivalent to a voting exercise on proposals and ComReg will exercise its judgement by considering the merits of the views expressed and any "vested interests" associated with particular views. It is not practical for ComReg to provide commentary on each individual submission but the report on the consultation will summarise the major elements of comments provided and ComReg's views in relation to these.

3.6 Regulatory Impact Analysis

On 21 February, the Minister for Communications, Marine and Natural Resources issued a series of policy directions to ComReg following a public consultation. Included was a direction in relation to Regulatory Impact Assessments (RIA). The text of the direction is as follows:

"The Commission, before deciding to impose regulatory obligations on undertakings in the market for electronic communications or for the purposes of the management and use of the radio frequency spectrum or for the purposes of the regulation of the postal sector, shall conduct a Regulatory Impact Assessment in accordance with European and International best practice and otherwise in accordance with measures that may be adopted under the Government's Better Regulation programme."

ComReg will issue an information note on how it intends to implement the policy direction following a review of the issues involved. The direction specifies that ComReg's actions in relation to RIA should be in accordance with best international practice and ComReg is currently reviewing practice by equivalent National Regulatory Authorities. Implementation will also be informed by the results of the examination of the issue by the Department of the Taoiseach's project on the matter. It is noted that RIA development has generally proved a complex matter taking some considerable time to complete.

In planning for RIA's, ComReg notes the Minister's comments that the benefits of RIA must be reconciled with the need for swift regulatory action where appropriate. In view of the need to conclude decisions on a number of matters which are currently under consideration, ComReg considers that it would be counter-productive to defer these regulatory decisions until the format and methodology of RIAs are established

That said, the purpose of RIA is to identify options and their impact prior to the introduction (or decision not to introduce) a new measure (or to cancel an existing measure). Many features of a RIA already form part of our initial investigation and major reviews of regulatory measures, and these are outlined in consultation

papers/responses, (where possible – some impacts would be subject to issues of commercial confidentiality). In particular, in the consultation process affected entities are provided with an opportunity to specify the impact on them of particular measures. For the future, it is expected that measurement of the impact of particular measures will become more explicit. In advance of formal adoption of procedures in relation to RIA, ComReg will codify reporting on the impact of particular measures where new measures are under consideration.

3.7 Post-Consultation Actions

There will always be a published report on consultations, providing a general review of submissions, ComReg's response to them and ComReg's decision relating to the matter under consultation.

ComReg believes that transparency of the process requires that views expressed by respondents should be publicly available. It is the practice to make all responses received available for inspection except for material supplied on a confidential basis (and marked confidential). Where it is inconvenient for interested parties to call to ComReg's offices to inspect responses, arrangements will be made to forward material. However, if such arrangements give rise to any significant costs, copying, postage, etc., the basis on which this is done may be reviewed.

4 Submitting Comments

This document is by way of an information notice and there are no specific questions requiring responses. However, ComReg would welcome comments of any kind on any aspect of the document or on any alternative viewpoints concerning consultation procedures generally. Comments may be sent, to arrive no later than 15 April 2003 to

Mr. John Kyne,

ComReg,

FREEPOST,

Abbey Court,

Irish Life Centre,

Lower Abbey Street,

Dublin 2

e-mail: john.kyne@comreg.ie

Fax: +353-1-8049671

Envelopes or e-mail message headers should be marked "ComReg Consultation Procedures".

Appendix 1 - Consultation required by the draft Regulations and associated provisions of the Directives

Draft regulation	Requirement	Article of Directive
<u>Framework Regulations</u>		<u>Framework Directive</u>
9	<p>(1) In this Regulation and in Regulation 10 the term “measure” means a decision, determination, a requirement or a specification made by ComReg under these Regulations or the Specific Regulations, other than a determination under Regulation 20 or 21 or a notification or direction under Regulation 24 or under Regulation 15 of the Authorisation Regulations, Regulation 17 of the Access Regulations or Regulation 32 of the Universal Service Regulations.</p> <p>(2) Except in cases falling within Regulations 10(8), where ComReg intends to take a measure in accordance with these Regulations or the Specific Regulations which has a significant impact on a market for electronic communications networks or services, it shall make available in accordance with procedures referred to in paragraph (3) to interested parties a statement of the proposed measure and give interested parties the opportunity to comment on the proposed measure within a reasonable period.</p> <p>(3) ComReg shall publish its consultation procedures and shall establish a single information point through which all current consultations can be accessed.</p> <p>(4) The results of any consultation under this regulation shall be made publicly available by ComReg, except in the case of information which ComReg considers to be confidential.</p>	Article 6
<u>Authorisation Regulations</u>		<u>Authorisation Directive</u>
12	<p>(1) Where ComReg proposes to issue, pursuant to its powers under the Act of 1926, licences for a particular class or description of apparatus for wireless telegraphy for the provision of an electronic communications network or service and considers that the number of such licences ought to be limited, it shall, without prejudice to sections 13 and 37 of the Act of 2002, -</p> <p>(a) give due weight to the need to maximise benefits for users and to facilitate the development of competition; and</p> <p>(b) give all interested parties, including users and consumers, the opportunity to express their views on any proposed limitation in accordance with <i>Regulation 9</i> of the Framework Regulations.</p>	Article 7

14	<p>(1) ComReg may amend the rights, conditions and procedures concerning general authorisations, licences and rights of use for numbers provided that any such amendments may only be made in objectively justified cases and in a proportionate manner.</p> <p>(2) A road authority may amend the conditions of a consent under section 53 of the Act of 2002 provided that such amendments may only be made in objectively justified cases and in a proportionate manner.</p> <p>(3) Before making any such amendment ComReg or a road authority, as the case may be, shall –</p> <p>(a) give notice in such manner as it considers appropriate of its intention, inviting interested parties to make representations on the proposed amendments within such period (not, except in exceptional circumstances, being less than 28 days from the date of the notice) as may be specified in the notice;</p> <p>(b) have regard to any representations made to it pursuant to <i>subparagraph (a)</i>.</p>	Article 14
Access Regulations		Access Directive
5	<p>(1) ComReg shall, acting in pursuit of the objectives set out in section 12 of the Act of 2002, encourage and, where appropriate, ensure, in accordance with the provisions of these Regulations, adequate access and interconnection and interoperability of services in such a way as to –</p> <p>(a) promote efficiency,</p> <p>(b) promote sustainable competition, and</p> <p>(c) give the maximum benefit to end-users.</p> <p>(2) Without prejudice to any measures that may be taken in accordance with <i>Regulation 8</i> regarding undertakings with significant market power, ComReg may:</p> <p>(a) to the extent that it is necessary to ensure end-to-end connectivity, impose obligations referred to in regulations 9 to 13 inclusive on undertakings that control access to end-users, including in justified cases, the obligation to interconnect their networks where this is not already the case;</p> <p>(b) after consultation with the Broadcasting Commission of Ireland, impose obligations set out in Regulation 6, to the extent that it is necessary to ensure accessibility for end-users to such digital radio and television broadcasting services as may be specified by the Broadcasting Commission of Ireland, on operators to provide access to application programme interfaces and electronic programme guides, on fair, reasonable and non-discriminatory terms.</p>	Article 5

	<p>(3) ComReg, when imposing obligations on an operator in accordance with Regulation 12, may lay down technical or operational conditions to be met by the provider and/or beneficiaries of such access in accordance with Community law, where necessary to ensure normal operation of the network. Conditions that refer to implementation of specific technical standards or specifications shall respect Article 17 of the Framework Directive.</p> <p>(4) Any obligations imposed by ComReg pursuant to <i>paragraphs (1), (2) and (3)</i> shall be objective, transparent, proportionate and non-discriminatory and shall be applied in accordance with the procedures referred to in <i>Regulations 9 and 10</i> of the Framework Regulations.</p>	
6	<p>(1) An operator of a system for conditional access to digital television and radio services broadcast to viewers and listeners in the Community by any means of transmission shall ensure that the system has the necessary technical capability for cost-effective transcontrol at redistribution system heads-ends allowing the possibility for full control by operators of redistribution systems at local or regional level of the services using any such conditional access system.</p> <p>(2) An operator of conditional access services, irrespective of the means of transmission, who produces or markets access services to digital television and radio services and upon whose access services broadcasters depend to reach any group of potential viewers or listeners, shall -</p> <p>(a) offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, compatible with Community competition law, technical services enabling the broadcasters' digitally-transmitted services to be received by viewers or listeners authorised by means of decoders administered by the service operator, and</p> <p>(b) keep separate financial accounts regarding his or her activity as a provider of such a service.</p> <p>(3) A holder of industrial property rights to conditional access products and systems shall, when granting a licence to a manufacturer of consumer equipment in respect of those products or systems, ensure that this is done on fair, reasonable and non-discriminatory terms.</p> <p>(4) Without prejudice to the generality of <i>paragraph (3)</i>, taking into account technical and commercial factors, a holder of such rights as are referred to in <i>paragraph (3)</i> shall not subject the granting of licences to conditions prohibiting, deterring or discouraging the inclusion in the same product of -</p> <p>(a) a common interface allowing connection with several other conditional access systems, or</p> <p>(b) means specific to another conditional access system, provided that the licensee complies with the relevant and reasonable conditions ensuring, as far as he is concerned, the security of</p>	Article 6

	<p>transactions of conditional access system operators.</p> <p>(5) Each duty referred to in <i>paragraph (3) and (4)</i> is a duty owed to any person who may be affected by a breach of it, and without prejudice to any other cause of action which may arise therefrom</p> <ul style="list-style-type: none"> (a) any breach of such duty which causes that person to sustain loss or damage shall be actionable in tort, and (b) any condition included in a licence in contravention of the duty referred to in <i>paragraph (4)</i> shall be void. <p>(6) In <i>paragraph (1)</i>, “redistribution” in relation to television or radio signals, means the retransmission or relaying of those signals and “redistribute” shall be construed accordingly.</p> <p>(7) ComReg may, if it considers it appropriate so to do, review any conditions applied in accordance with <i>paragraphs (1) to (4)</i> by carrying a market analysis in accordance, where appropriate, with an agreement with the Competition Authority under section 34 of the Competition Act 2002 and taking utmost account of the guidelines referred to in Article 15.2 of the Framework Directive, to determine whether to maintain, amend or withdraw any such conditions.</p> <p>(8) Where, as a result of any such market analysis, ComReg determines that one or more operators do not have significant market power on the relevant market, ComReg may amend or withdraw the conditions with respect to those operators in accordance with the procedures referred to in <i>Regulations 9 and 10</i> of the Framework Regulations but only to the extent that:</p> <ul style="list-style-type: none"> (a) accessibility for end-users to radio and television broadcasts and broadcasting channels and services specified in accordance with the Broadcasting Act, 2001 (No. 4 of 2001), would not be adversely affected by such amendment or withdrawal, and (b) the prospects for effective competition in the markets for: <ul style="list-style-type: none"> (i) retail digital television and radio broadcasting services, and (ii) conditional access systems and other associated facilities would not be adversely affected by such amendment or withdrawal. 	
8	<p>(1) Where an operator is designated as having a significant market power on a relevant market as a result of a market analysis carried out in accordance with Regulation 16 of the Framework Regulations, ComReg shall impose on such operator such of the obligations set out in <i>Regulations 9 to 13</i> of these Regulations as ComReg considers appropriate.</p> <p>(2) ComReg may impose such of the obligations set out in Regulations 9 to 13 of these Regulations as ComReg considers appropriate on an operator in order to ensure that the State can comply with an</p>	Article 8

	<p>international agreement to which the State or the European Community is a party.</p> <p>(3) Without prejudice to:</p> <ul style="list-style-type: none"> (a) the provisions of Regulations 5(1), (2) and (3) and 6(1) to (4), (b) the provisions of Part V of the Act of 2002, Condition 7 in Part B of the Annex to the Authorisation Directive as applied by virtue of Regulation 9 of the Authorisation Regulations, Regulations 23, 24 and 26 of the Universal Service Regulations and the relevant provisions of Directive No.97/66/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the telecommunications sector, containing obligations on undertakings other than those designated as having significant market power; or (c) the need to comply with an international commitment referred to in <i>paragraph (2)</i>, <p>ComReg shall not impose the obligations set out in <i>Regulations 9 to 13</i> on operators that have not been designated in accordance with <i>paragraph (1)</i>.</p> <p>(4) In relation to the provisions of <i>paragraph (2)</i>, ComReg shall notify any decision to impose, amend or withdraw obligations on operators to the European Commission in accordance with the procedure referred to in <i>Regulation 10</i> of the Framework Regulations.</p> <p>(5) Where, in exceptional circumstances, ComReg intends to impose on operators with significant market power obligations for access or interconnection other than those set out in <i>Regulation 9 to 13</i>, ComReg shall submit to the European Commission a request for permission to impose such other obligations. ComReg shall not impose such other obligations pending the decision of the European Commission in accordance with Article 14.2 of the Access Directive to authorise or prevent ComReg from taking such measures.</p> <p>(6) Any obligations imposed in accordance with the provisions of this Regulation shall:</p> <ul style="list-style-type: none"> (a) be based on the nature of the problem identified; (b) be proportionate and justified in the light of the objectives laid down in section 12 of the Act of 2002; and, (c) only be imposed following consultation in accordance with Regulations 9 and 10 of the Framework Regulations. 	
USO Regulations		USO Directive

5	<p>(3) Where ComReg determines, after consultation with the Minister and having regard to views expressed to it pursuant to a public consultation carried out in accordance with Regulation 27, that there exists a sufficient number of public pay telephones in any geographic area to satisfy the reasonable needs for such service in that area, taking into account the population density in such geographic area and the state of development of the communications market in that area, ComReg may decide not to designate an undertaking under Regulation 7 for the purposes of paragraph (1) in relation to that area or in a specified part of that area, as the case may be.</p>	Article 6 (1)
10	<p>(4) ComReg may specify performance targets for those undertakings designated by ComReg under <i>Regulation 7</i> in respect of the services referred to in <i>Regulation 3</i> and in respect of such other services referred to in Regulations 4, 5, 6 and 8 as ComReg deems appropriate from time to time and in so doing it shall have regard to any views expressed by interested parties, in particular pursuant to public consultations carried out in accordance with <i>Regulation 27</i>.</p>	Article 11 (2)
11	<p>(1) An undertaking designated as having an obligation pursuant to <i>Regulation 3, 4, 5, 6, 8 or 9</i> may receive funding, in accordance with <i>Regulation 12</i>, for the net costs of meeting the obligation concerned where, on the basis of such net cost, calculated in accordance with Annex IV, Part A, of the Directive, ComReg determines that such undertaking is subject to an unfair burden.</p> <p>(2) Where any undertaking referred to in paragraph (1) seeks to receive funding pursuant to paragraph (1), it shall submit to ComReg a written request for such funding-</p> <p>(a) in respect of the year commencing on the day on which the designation takes effect, within 60 days of receipt of written notice of ComReg's decision to designate the designated undertaking as having a universal service obligation, or</p> <p>(b) in respect of any subsequent year, within 60 days of the commencement of that year and stating the estimated net cost of meeting the obligation in that year, calculated in accordance with and subject to Annex IV, Part A, of the Directive, and accompanied by such supporting information as may be reasonably required by ComReg to enable a determination under paragraph (3) to be made. The calculation may be based in such period as may be specified by ComReg.</p> <p>(3) ComReg shall make a determination as soon as practicable after receipt of a request, as to whether-</p> <p>(a) the obligation represents a net cost to the undertaking concerned, and</p> <p>(b) in the opinion of ComReg the net cost represents an unfair burden on the undertaking concerned.</p>	Article 12

	<p>(4) In making its determination under paragraph (3), ComReg shall have regard to-</p> <ul style="list-style-type: none"> (a) the information provided by the undertaking concerned in their request for funding, (b) any audit conducted under paragraph (5), (c) any response received within any time specified by ComReg pursuant to any relevant public consultation carried out by ComReg in accordance with <i>Regulation 27</i>, and (d) any other information which ComReg considers relevant. <p>(5) The accuracy of the accounts or other information or both, serving as the basis for the calculation of the net cost of an obligation shall be audited or verified, as appropriate, by ComReg or by a body independent of the undertaking concerned and approved of by ComReg.</p> <p>(6) ComReg shall make publicly available the results of the cost calculations and the conclusions of any audit or verification undertaken pursuant to this Regulation.</p>	
12	<p>(1) Where ComReg makes a determination that the net cost of meeting an obligation under Regulation 3, 4, 5, 6, 8 or 9 represents an unfair burden on an undertaking it shall, upon request from such undertaking, apportion the net cost of universal service obligations between providers of electronic communications network and services.</p> <p>(2) ComReg shall establish a sharing mechanism administered by it or by a body independent from the undertakings designated by ComReg under <i>Regulation 7</i>, which body shall be under the supervision of ComReg. Only the net cost, as determined in accordance with <i>Regulation 11</i>, of the obligations provided for in <i>Regulations 3, 4, 5, 6, 8 or 9</i> may be financed.</p> <p>(3) A sharing mechanism established pursuant to paragraph (1) shall respect the principles of transparency, least market distortion, non-discrimination and proportionality in accordance with the principles of Annex IV, Part B of the Directive. ComReg may choose not to require contributions from undertakings whose audited national turnover is less than such amount as may, from time to time, be specified by ComReg, having regard to any views expressed to it pursuant to any consultations carried out in accordance with <i>Regulation 27</i>.</p>	Article 13
18	<p>(1) An undertaking providing publicly available telephone services shall provide to end-users such transparent and up to date information on applicable price tariffs, on standard terms and conditions in respect of access to and use of publicly available telephone services and in such form and manner, as may be specified in rules made by ComReg.</p> <p>(2) The information which ComReg may specify under paragraph (1) may include-</p> <ul style="list-style-type: none"> (a) name(s) and address(es) of the head office(s) of undertaking(s) providing public telephone 	Article 21

	<p>networks and/or publicly available telephone services;</p> <p>(b) publicly available telephone services offered, including-</p> <p>(i) scope of the publicly available telephone service providing description of the publicly available telephone services offered and indicating what is included in the subscription charge and the periodic rental charge (e.g. operator services, directories, directory inquiry services, selective call barring, itemised billing, maintenance etc.;</p> <p>(ii) standard tariffs covering access, all types of usage charges, maintenance, and including details of standard discounts applied and special and targeted tariff schemes;</p> <p>(iii) compensation/refund policy, including specific details of any compensation/refund schemes offered;</p> <p>(iv) types of maintenance service offered;</p> <p>(v) standard contract conditions, including any minimum contractual period, if relevant,</p> <p>(c) dispute settlement mechanisms including those developed by the undertaking, or</p> <p>(d) information about rights as regards universal service, including the facilities and services mentioned in Annex I.</p> <p>(3) ComReg may specify obligations to be complied with by undertakings providing publicly available electronic communications services requiring such undertakings to publish comparable, adequate and up to date information for end-users on the quality of their services.</p> <p>(4) ComReg may require an undertaking to which paragraph (3) relates to supply such information to ComReg in advance of the publication.</p> <p>(5) Every undertaking shall comply with any requirement made under paragraph (4) within such period as ComReg shall specify.</p> <p>(6) ComReg shall, before specifying obligations under paragraph (3), have regard to any views expressed to it pursuant to any public consultation carried out by it in accordance with <i>Regulation 27</i>.</p> <p>(7) For the purposes of paragraph (3), ComReg may specify, inter alia, the quality-of-service parameters to be measured, and the content, form and manner of information to be published in order to ensure that end-users have access to comprehensive, comparable and user-friendly information and where it considers it appropriate, ComReg may specify the quality of service parameters, definitions and measurement methods set out in Annex III of the Directive.</p>	
25	(1) Subject to paragraph (4), an undertaking operating a public telephone network, shall make	Article 29

	<p>available to end-users the facilities listed in Annex I, Part B, of the Directive subject to technical feasibility and economic viability.</p> <p>(2) Where an undertaking referred to in paragraph (1) considers that it is not technically feasible, or not economic, or neither, to provide the facilities listed in Annex I, Part B, of the Directive, it shall notify ComReg of the fact and give reasons, including all relevant information in support of its views.</p> <p>(3) ComReg shall consider the information given to it pursuant to paragraph (2) and any other information it considers relevant and shall either agree or disagree with the decision of the undertaking.</p> <p>(4) Where ComReg disagrees with the decision of the undertaking as aforesaid, it may issue a direction to that undertaking to provide the facilities listed in Annex I, Part B of the Directive.</p> <p>(5) If ComReg considers, after taking into account any views expressed to it pursuant to public consultations carried out in accordance with Regulation 27, that there is sufficient access to the facilities referred to in paragraph (1) in all or in any part of the State, it may dis-apply paragraph (1) in relation to the whole or any such part of the State.</p> <p>(6) Without prejudice to paragraph (2) of Regulation 9 ComReg may require all undertakings of a class or classes specified by ComReg to comply with the requirements of subparagraph (c) of that paragraph.</p>	
27	<p>(1) For the purposes of its functions under these Regulations, ComReg shall, where specified in these Regulations and otherwise where it considers it appropriate, have regard to the views of end-users and consumers (including, in particular, disabled users), manufacturers and undertakings, on issues related to all end-user and consumer rights concerning publicly available electronic communications services, in particular where they have a significant impact on the market, in accordance with such procedures as may be drawn up by ComReg under Regulation 9(3) of the Framework Regulations.</p> <p>(2) The procedures referred to in paragraph (1) may include a provision that views received after such period as may be specified by ComReg may not be taken into account.</p>	Article 33