



Consultation Paper

**Future Regulation of Electronic  
Communications Networks and Services**

**Administrative Charges and WT Licence Fees Applicable  
to Broadcasting Networks and Services**

<b>Document No:</b>	<b>03/78</b>
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All responses to this consultation should be clearly marked:-  
“Reference: Submission re ComReg 03/78” as indicated above,  
and sent by post, facsimile, e-mail or on-line at [www.comreg.ie](http://www.comreg.ie)  
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## **1 Foreword by the Chairperson**

This document is another in the series of consultations on the future framework for authorisations under the new EU Directives for electronic communications networks (ECN) and services (ECS). It focuses on the broadcasting sector and builds on the earlier exchange of views concerning the application of administrative charges and fees for spectrum rights-of-use (ComReg's response was issued on 1 May 2003<sup>1</sup>).

Since the earlier response to consultation was published, and in light of the comments received, ComReg has given further consideration to certain issues and is pleased now to set out its final proposals with regard to the application of administrative charges and Wireless Telegraphy licence fees within the broadcasting sector. As it was necessary to await certainty in relation to the transposition of the EU package by the Department of Communications, Marine and Natural Resources before finalising ComReg's proposals in relation to administrative charges and Wireless Telegraphy fees in the broadcasting sector and as the new framework must come into force on 25 July, this consultation process must be brief. If ComReg is to be able to take account of the responses these must be received by 17.30, 23 July 2003.

As before, I would urge all interested parties to respond to the issues raised in this consultation so that the final decisions benefit from a full range of views.

**Etain Doyle**

**Chairperson**

**Commission for Communications Regulation**

### **1.1.1** \_\_\_\_\_

<sup>1</sup> Future Regulation of Electronic Communications Networks and Services – Fees for Authorisations and Rights of Use (Document No. 03/46)

## **2 Executive Summary**

This document continues the consultation process supporting the introduction of a new, European Union-wide regulatory framework for Electronic Communications Networks (ECNs) and Electronic Communications Services (ECSs) that comes into effect on 25 July 2003. It is concerned specifically with the application of administrative charges and Wireless Telegraphy licence fees within the broadcasting sector.

ComReg's general approach was set out in a consultation document issued last November and a summary of responses, together with further proposals, was published in May this year. Since then, ComReg has issued another consultation document on the Arrangements for General Authorisations (Document no. 03/61) clarifying which services and networks are considered to be within the authorisation scheme. In particular, it has been decided that for the time being ComReg shall not treat the provision of access to broadcasting networks and the delivery of content services to end users as an ECS. This has implications for the way in which fees are applied to broadcasters. ComReg's proposals for dealing with the issue are set out in this document.

While the final texts of the regulations transposing the EU Directives into Irish law have not yet been published, ComReg understands that they will clarify that it will have the legal authority to recover its administrative costs from the operators of ECNs and the providers of ECSs from 25 July 2003.

The EU's Authorisation Directive recognises that administrative charges levied by National Regulatory Authorities may not be sufficient to meet the associated costs. It recognises that the balance may be obtained from spectrum-related fees that cover the administrative costs of managing the spectrum and reflect the need to ensure the optimal use of spectrum.

ComReg does not propose any major changes in its general approach to the application of administrative charges and fees for wireless telegraphy licences. However, changes in the scope of the authorisation scheme, and the wish to apply a uniform regime to all network operators and service providers authorised under the new framework, will inevitably result in changes to the amounts paid by certain entities. ComReg anticipates that the income generated from administrative charges and wireless telegraphy licence fees in the broadcasting sector will be substantially less than heretofore.

### **2.1 Administrative Charges**

ComReg understands that the provision of ECSs involving the transmission of TV and Radio signals for third parties is covered by the new framework and would intend to levy an administrative charge equivalent to that charged to other providers of electronic communications services. In cases where the provision of a transmission service is identified, irrespective of platform, an administrative charge

would be levied according to the standard 0.2% of wholesale revenue earned, notional or otherwise.

The previous response document set out the arguments for and against RTÉ and the independent terrestrial radio and television broadcasters, whose terrestrial transmission networks fall within the authorisation scheme, as to whether they should contribute in future towards the costs of regulation. Currently they do not pay any administrative charges, or licence fees in respect of broadcasting spectrum. ComReg considers, mindful of the absence of any legislative basis on which it could impose a spectrum-related fee, that RTÉ and the Broadcasting Commission of Ireland (BCI) should be charged an annual administrative charge. However, no fees will be charged with regard to licences held by those bodies in respect of apparatus for wireless telegraphy used in the broadcasting transmission networks.

Except where the provision of a transmission service is subject to a separate transaction fee, revenue cannot be directly attributed to the authorised elements of each broadcaster's activities which will be subject to a general authorisation. A levy on relevant turnover remains the preferred basis for determining the administrative charge. ComReg has, however, come to the view that in certain cases a proxy measure may be necessary. Such a proxy should, reflect the scale of the network and be relatively simple to apply in practice. Therefore, in the case of RTÉ and the BCI, it is proposed that an annual administrative charge of €100 per transmitter is charged. RTE currently operates about 600 transmitters, while the independent radio and television broadcasters contracted to the BCI operate approximately 160.

The same administrative charge would apply to future free-to-view digital terrestrial television (DTT) networks, as would a wireless telegraphy licence fee which is permitted under existing national legislation.

A similar problem of identifying relevant revenue arises in the case of some pay TV platforms. In the case of Pay-DTT, MMDS, cable and UHF deflector operations, it is proposed that the determinant should be the number of subscribers connected to the network. This has the merits of being relatively easy to establish and the resulting payments reflect the scale of each operator's network. The proposed administrative charge for the year is €0.50 per subscriber connected. ComReg proposes to only collect administrative charges when the aggregate amount for the undertaking is at least €1,000 in the financial year.

## **2.2 Spectrum Rights-of-Use**

In the past, a licence fee of 3.5% of turnover was applied to service providers licensed under the Wireless Telegraphy Act - namely cable, MMDS and UHF deflector operators - to recover administrative charges and spectrum fees. The WT Act will continue to be the legislative basis for bestowing spectrum rights-of-use but, with the proposed introduction of a separate administrative charge of €0.50 per subscriber connected, ComReg intends that any fees charged under the WT Act will relate specifically to the spectrum and associated apparatus for wireless telegraphy.

It is intended that DTT, MMDS and UHF deflector operators will pay a Wireless Telegraphy fee in addition to the administrative charges outlined above. In the case of MMDS, it will be based on the national charge for fixed wireless access (FWA) of €1,905 per MHz. However, as indicated in the earlier response document, a scaling factor will be applied (based on the required number of homes passed set out in the operators licence as a proportion of total TV households) to take account of the fact that coverage of MMDS services is less than national. DTT networks would be subject to a Wireless Telegraphy fee based on the same annual rate of €1,905 per MHz. Assuming that a single national DTT multiplex would require the same bandwidth as a single national analogue television network, the annual cost would be €60,960 (i.e. 4 channels x 8 MHz/channel x €1,905/MHz).

In the case of deflector operators, ComReg believes that because of the small scale and limited geographic scope of many of these operations it would be simpler and more practical to base the Wireless Telegraphy fee on an annual charge of €50 per transmitter.

Proposals were also outlined in the previous response document to introduce a voluntary scheme that would allow satellite operators licensed in a country other than Ireland and whose operating footprint falls on Ireland to pay a fee where spectrum is “protected” in relation to co-primary services licensed in Ireland. For reasons of proportionality, two alternatives to applying the FWA-based charge of €1,905 per MHz were proposed: (i) a fee of 0.2% of relevant revenue and (ii) a fee of €1.00 per satellite subscriber in Ireland. ComReg recognises that both of these may present difficulties in implementation and proposes, therefore, to apply a voluntary charge of €0.50 per satellite dish.

A summary of the proposed administrative charges and Wireless Telegraphy (spectrum) fees for the broadcasting sector is given in Annex A.

*This document is without prejudice to the legal position or the rights and duties of ComReg to regulate the market generally. Any views expressed are not binding and are without prejudice to the final form and content of any decisions which ComReg may make.*

### 3 Introduction

On 25 July 2003 the legal basis for the provision of electronic communications networks and services will change throughout the European Union as a new family of Directives is due to be implemented. Last November, the ComReg's predecessor, the ODTR<sup>2</sup>, issued a consultation paper (02/102) seeking views on the Charging Principles for Authorisations and Rights of Use under the new EU Directives<sup>3</sup> and a follow-up paper (03/46), issued in May this year, summarised the responses to that paper and ComReg's position on various issues. This present document continues that consultation process with specific regard to broadcasting-related networks and services and invites views on ComReg's proposals for charging fees.

As explained in a further consultation document issued on 6 June 2003 concerning Arrangements for General Authorisations (03/61), ComReg has decided that for the time being it shall not treat the provision of access to broadcasting networks and the delivery of content services to end users as an Electronic Communications Service (ECS) to which its regulatory powers under the new framework relate. Accordingly, such activities will not be subject to the conditions of a General Authorisation and, hence, will not attract administrative charges.

ComReg understands that the Communication Regulations Act 2002 will be amended by the Authorisation Regulations and will establish the legislative basis for ComReg to impose a levy on providers of electronic communications services and networks in order, inter alia, to meet expenses incurred by ComReg in the discharge of its functions under the Act. The Act already provides for the making of regulations and the issue of licenses by ComReg, under the Wireless Telegraphy Acts, 1926 – 1988 (the WT Acts). This function includes the imposition of fees in respect of such licenses.

#### 3.1 Scope of the General Authorisation

The following networks used to provide broadcasting services within Ireland are considered to be within the scope of the definition of an ECN for the purposes of the Regulations:

- Radio and television terrestrial transmission networks
- Deflector networks

##### 1.1.1 \_\_\_\_\_

<sup>2</sup> On 1 December 2002 the Commission for Communications Regulation was established (under S.I. No. 510 of 2002) and the establishment of the Commission had the effect of dissolving the ODTR and transferring the functions of the Director to the new Commission (ComReg).

<sup>3</sup> Further details of the Directive may be found in the Background Section of the ODTR Consultation Paper 02/102.

- Cable networks
- MMDS networks
- Satellite networks

Other networks, which may in the future be used for the provision of broadcasting services - such as digital terrestrial television (DTT) or telecommunications networks - will, or are already, considered to be ECNs. Falling within the definition of an ECS is the provision of transmission services to programme service providers.

### **3.2 Approach to Setting Charges and Fees**

In implementing the new framework, ComReg does not anticipate the need for any significant change in its overall approach. The current regime, combining the recovery of administrative costs through a levy on turnover and specific fees associated with the use of radio spectrum, is consistent with the Authorisation Directive.

The Directive recognises that when spectrum fees are set to take due regard of the need to ensure the optimal use of such resources, the associated income is likely to exceed the directly attributable costs associated with the rights of use. It therefore allows such fees to be used to finance those activities of the national regulatory authority that cannot be covered by administrative charges.

The current balance between the two elements had broad support amongst respondents favouring the application of a levy and spectrum fees in the earlier consultation. Similarly, any surplus of telecommunications administrative income (i.e. levy) over related administrative expenses must be refunded to industry. In practice this has not happened because related expenses have exceeded the levy income. The Minister may direct that any overall surplus on WT fees after costs have been recovered, must be paid by the Commission to the Exchequer.

### **3.3 Issues for Consultation**

Purely on grounds of non-discrimination, it would be appropriate to recover relevant costs from all entities covered by the authorisation scheme. While there are arguments for and against charging a spectrum fee in relation to spectrum usage to the national terrestrial broadcasters it was pointed out in ComReg's response to an earlier consultation (03/46) that there is no legislative basis for doing so. It is however considered appropriate that as ComReg incurs costs in regulating these broadcasters they should in common with other operators in the sector, entities would contribute towards the administrative costs of the Commission which carried



out work . This issue is discussed further in connection with administrative charges and spectrum rights-of-use in Sections 4.3 and 5.3 respectively.

ComReg remains of the view that the most equitable way to recover the costs associated with a general authorisation regime is through the application of a turnover-related levy. However, the application of the fee regime within the broadcasting sector is complicated by the need to distinguish the transmission activities that fall within the framework from any content-related elements, making the definition and measurement of relevant turnover problematic in many instances. A key purpose of this document is to set out how ComReg proposes to address this problem (see Section 4).

Currently, all licenses issued under the WT Act, which includes cable, MMDS and UHF deflector services, are subject to WT Act licence fees. The fees are intended to recover the costs associated with issuing, monitoring and enforcing the conditions of WT licenses and, where appropriate, to encourage efficient use of radio spectrum. Hence fees vary depending upon the type of service, the frequency band and the amount of spectrum that is licensed. ComReg proposes to continue with this general approach<sup>4</sup> and its proposals with regard to broadcasting are set out in Section 5.

In drawing up its proposals, ComReg has been guided by the need to ensure that the fee schemes are non-discriminatory, transparent, proportionate and objectively justified, in accordance with the Authorisation Directive. It has also taken due account of the need to ensure that the fee schemes are both reasonable and practical. Procedures for responding to the consultation are given in Section 6.

### 1.1.1 \_\_\_\_\_

<sup>4</sup> ComReg also considered development of spectrum pricing including congestion charging and incentive pricing. It intends to proceed with a phased review of the fees applied to the use of radio spectrum. Initially this review will focus on point-to-point fixed links, where there have already been instances of congestion. Currently, there are no further proposals concerning broadcast services.

## 4 Administrative Charges

### 4.1 General Principles

Under the general authorisation, by definition, administrative costs are not directly attributable to individual undertakings and therefore some mechanism is needed to determine how much each undertaking should contribute towards the costs. The Authorisation Directive requires that this be done in an objective, transparent and proportionate manner which minimises additional administrative costs and attendant charges.

ComReg believes that administrative charges are best applied, wherever possible, through a levy on relevant turnover. The Commission has sought to devise an equitable sharing of the burden amongst the relevant operators and service providers. Linking the fee to revenue ensures that new entrants to a market are not unduly burdened by administrative charges, which could otherwise create a barrier to entry. New entrants and smaller operators are also helped by ComReg's proposal to waive the collection of administrative charges if they amount to less than €1,000 a year.

ComReg intends to apply a uniform rate of 0.2% of relevant turnover wherever possible, consistent with the current levy on other electronic communications services. This rate is comparable to that applied by other European regulators such as Spain, Sweden and Austria, whilst the actual annual payment is typically substantially lower, reflecting the smaller size of the Irish market.

Turnover that is clearly not related to the provision of electronic communications networks or services, e.g. revenue generated from consultancy services etc, will not be subject to the levy. With particular regard to broadcasting, the provision of content is excluded from the authorisation scheme. While it is recognised that there is a complexity with revenue attribution, a mechanism for calculating an appropriate levy is set out in Section 4.2.

In the case of broadcasters of free-to-air television and radio<sup>5</sup>, a similar problem of revenue attribution occurs. Except where the transmission network is used to provide a wholesale service to third parties, directly relevant revenue is not easily identifiable. More crucially, RTÉ and the independent radio and television broadcasters contracted to the BCI do not, at present, pay any administrative charges (or fees in relation to apparatus for wireless telegraphy or use of spectrum) to ComReg. These issues are considered in Section 4.3.

It is proposed that in situations where a broadcaster's network is used to provide an ECS at the wholesale level, the associated revenue attracts the 0.2% levy in common with other ECS providers. The relevant turnover is gross revenue (excluding VAT) paid or payable to the operator for the provision of an ECN or ECS. This could apply

#### 1.1.1 \_\_\_\_\_

<sup>5</sup> ComReg's consultation document (03/61) on the arrangements for authorisations explains that the transmission networks of RTÉ and the independent broadcasters are considered to fall within the definition of ECNs.

to transmission services including backbone networks if capacity on a network were made available to third parties.

Bearing in mind the costs involved in fee collection, ComReg proposes to only collect the fee where the aggregate administrative charge to an undertaking is at least €1,000 during the financial year.

#### **4.2 Pay TV Services on ECN Platforms**

In the case of cable, MMDS and deflector networks, the operation of the ECN and the provision of content services are intrinsically linked. Revenue cannot be directly attributed to the ECN, making a levy on relevant turnover difficult to apply. Nevertheless, as ComReg incurs significant expenses in regulating those networks and will continue to incur expenses in relation to the management, control and enforcement of the general authorisation scheme, it considers it appropriate to recover those costs from operators in the broadcasting sector. ComReg believes that an appropriate mechanism should be put in place to ensure that an equitable payment is received on an ongoing basis. It may be possible to impute a revenue based on the costs of the network and the need to make a reasonable return. However, this would also not be without its problems, both in terms of determining an appropriate formula and in its subsequent data requirements and application. ComReg does not believe that the administrative costs of adopting such a system are justified. Instead, ComReg proposes to apply an administrative charge based on a fixed rate per subscriber connected to the cable, MMDS or deflector network. Such a charge is simple to apply and minimises the burden on new entrants. It also reflects the size of each network which obviously impacts on the cost of regulation.

Due to the problems outlined before in identifying relevant revenue, the appropriate rate per subscriber connected cannot be determined in a way that makes it demonstrably equivalent to the 0.2% levy on turnover. ComReg has, therefore, looked at the expected yield under the new scheme and the amounts previously paid by pay TV services and decided that an annual rate of €0.50 per subscriber connected to each network would be appropriate. The payment would be transparent, be applied in a non-discriminatory way to all networks regulated here and would reflect the size of each network.

**Q. 1. Do you agree that a payment of €0.50 per subscriber connected is an appropriate basis for determining the administrative charge payable by operators of ECNs used for pay TV services?**

#### **4.3 Free-to-air and Other Terrestrial Services**

As set out in ComReg's consultation document (03/61) on the arrangements for general authorisation, the transmission networks of the free-to-air broadcasters are considered to fall within the scope of the general authorisation. These networks can be substantial and ComReg believes, on grounds of non-discrimination, that it is

appropriate to seek a contribution from the terrestrial broadcasters towards the costs of this regulation.

Currently, RTÉ and the independent terrestrial radio and television broadcasters do not pay any administrative charges (or fees in relation to apparatus for wireless telegraphy or use of spectrum) to ComReg. Any substantial change in this position could clearly have consequences for their financial position. Nevertheless, ComReg incurs cost associated with managing spectrum for the broadcast services and considers that it would be appropriate to levy a charge in relation to those expenses.

If the broadcasters were brought into line with other players with regard to the payment of administrative charges or spectrum fees, it is probable that the latter would be the more significant, given their considerable use of spectrum. ComReg explored in its response document (03/46) the arguments for and against the application of spectrum fees and also pointed out the absence of a legislative basis to apply spectrum fees. ComReg is proposing, therefore, not to apply any spectrum fees but to include RTÉ and BCI in the administrative charges scheme.

In the case of free to air broadcasters it would not be possible to impose an administrative charge based on numbers connected to the network. ComReg therefore proposes to apply an administrative charge based on a fixed rate per transmitter. RTE, including TG4, operates about 600 transmitters while the broadcasters contracted to the BCI have approximately 160. As with the proposed approach to pay TV platforms, this approach has the benefits of being simple to apply and broadly reflecting the scale of each network. Where an income arises from transmission services provided to third parties it will be possible to apply the levy of 0.2% of relevant turnover.

For the reasons outlined in Section 4.2, it is not possible to equate a particular rate per transmitter to the proposed 0.2% levy on turnover. ComReg therefore proposes to adopt an annual sum of €100 per transmitter.

The same principles as those outlined above would apply to any future digital terrestrial network. Digital terrestrial services may be free-to-view or subscription-based. It is proposed, therefore, to collect an administrative charge of €100 per transmitter if the service is free-to-view or an administrative charge of €0.50 per subscriber connected for Pay-DTT. In addition a Wireless Telegraphy fee based on an annual rate of €1,905 per MHz will apply.

- Q. 2. Do you agree that RTÉ and BCI should pay administrative charges (but not spectrum fees) in recognition of the ECNs operated by RTÉ and the independent radio and television broadcasters and that the payment should be based on €100 per transmitter?**
- Q. 3. Do you agree that future digital terrestrial television services should be subject to the same administrative charge of €100 per transmitter in the case of free to view DTT or €0.50 per subscriber connected in the case of each pay DTT platform (as well as paying spectrum fees)?**

## **5 Spectrum Rights-of-Use**

All providers or distributors of programme services currently licensed in Ireland, with the exception of cable operators, have frequency assignments and will continue to require a licence for apparatus for wireless telegraphy under the new Framework. As explained previously, regulated entities that require an individual right of use for radio spectrum will, generally, continue to be subject to a payment for this right of use. Until now, MMDS and UHF deflector network operators have effectively paid for the right to use spectrum as an element of a licence fee of 3.5% of turnover. ComReg's proposals under the new authorisation scheme are given below.

### **5.1 MMDS**

ComReg stated in (03/46) that it intends that in the future a charge similar to that applied to Fixed Wireless Access (FWA) spectrum at 3.5GHz would apply nationally to MMDS spectrum i.e. €1,905 per MHz per annum. As the MMDS services are not national in coverage, a scaling factor will be applied based on the required number (X) of homes passed in each case, as set down in the operators' licences, as a proportion of total television households as reported in ComReg's Irish Communications Market: Quarterly Key Data Report in respect of the final quarter of each calendar year (Y) (currently 1.3 million,). Since MMDS operators are at present licensed to use 22 x 8MHz channels the annual spectrum right of use charge to each company will be  $X/Y \times (\text{€}1,905 \times 22 \times 8)$ . Where the operators licence does not contain a requirement to pass a minimum number of homes then (X) will equate by the Central Office of Statistics (CSO) Census of Population to the total number of homes in the area served by the licensee as reported in a relevant official publication selected by ComReg as appropriate.

### **5.2 UHF Deflectors**

ComReg explained in its previous response to consultation that UHF deflector networks are in many instances of such a small scale that it would be uneconomic to collect a spectrum-related fee and instead proposed only to apply an administrative charge of €1.00 per subscriber.

In view of its current proposal to apply an annual administrative charge of €0.50 per subscriber connected to other relevant pay TV platforms, ComReg believes that it would be appropriate to bring the proposed administrative charge for UHF deflectors in line accordingly. In addition, however, a spectrum-related fee would be applied.

Because of the practical difficulties in applying a spectrum-related fee, where many of the operations are small in scale and limited geographically, ComReg intends to adopt a flat rate of €50 per transmitter per annum in relation to the fee for the issue and renewal of a WT licence. This maintains a notional relationship with the amount of spectrum used.

**Q. 4. Do you agree that operators of UHF deflector networks should pay a fee for spectrum rights-of-use based on an annual rate of €50 per transmitter?**

### **5.3 Terrestrial Broadcasters**

In the response to the earlier consultation, ComReg set out the arguments for and against the imposition of a spectrum related fee with respect to the terrestrial broadcasters. It also suggested how a spectrum-based fee could be applied as part of establishing a uniform regime for the broadcast and telecommunications sectors. Whether or not national free-to-air broadcasters should be charged for spectrum is, however, ultimately a policy matter for Government. The current legislation under which RTE and the BCI are licensed by ComReg do not provide for payment of a fee in either case.

Provisions for licensing digital terrestrial television (DTT) are contained in the Broadcasting Act 2001. That Act envisages the issue of a Wireless Telegraphy licence in respect of transmission; such a licence would attract a fee for award and renewal. It is expected that a single national DTT multiplex would require the same amount of spectrum as a single national analogue TV programme service. Under the proposals set out in ComReg's response document (03/46), a single national DTT multiplex (which could carry about four TV programme services) would attract a fee of €60,960 a year. A similar sum would be payable if the multiplex were to be used for FWA purposes such as internet access.

**Q. 5. Do you agree that future operators of DTT networks should be subject to a fee for spectrum rights-of-use based on the same rate as that applied to FWA spectrum (€1,905 per MHz)?**

### **5.4 Satellite**

ComReg put forward a proposal in its previous response document (03/46) designed to extend spectrum usage recognition rights within Ireland to satellite operators who are licensed in another country. Satellite downlinks currently carrying broadcast services to consumers in Ireland operate in a band in which they are co-primary with terrestrial broadcast services. ComReg is minded to allow digital terrestrial services to commence operations in that band and considers that both services can be accommodated. This would require a degree of co-ordination between the services in order to provide mutual protection. Under ComReg's proposals, terrestrial operators would be required to pay administrative charges to ComReg and fees for the right to use spectrum (see Sections 4.3 and 5.3 respectively).

Under present arrangements, satellite operators licensed in a country other than Ireland are not granted a spectrum right of use by Ireland and do not pay any fees to ComReg. The proposed scheme would give satellite operators the opportunity to have extended spectrum usage recognition rights in Ireland by paying a spectrum usage fee.

Respondents to document no. 03/46 with particular interest in satellite broadcasting expressed concern over the introduction of the spectrum usage recognition scheme. It is important to note that this would be a voluntary scheme. Hence, it would be for the operators of the satellite downlinks to assess the potential risks of interference before deciding whether to participate. ComReg also believes that it is appropriate that the charges associated with the scheme are primarily intended to contribute to the administrative costs of managing the spectrum, rather than maximise income by seeking to reflect the opportunity cost of the spectrum.

As ComReg explained in its earlier response (03/46), if an annual spectrum fee of €1,905 per MHz were charged, consistent with that proposed for MMDS and FWA, the cost to satellite operators would be in the region of €3.4 million per annum. However, in the interests of proportionality, ComReg suggested two fee schemes. The first would be equivalent to the administrative charge payable by terrestrial operators, i.e. 0.2% of the income derived by a satellite operator from the transmission of a broadcaster's content into Ireland. The second would be a flat rate annual charge of €1 per subscriber. ComReg recognises that there may be difficulties for the satellite operators in attributing a particular revenue stream to the Irish market. In recognition of the possible difficulties and in keeping with the administrative charges proposed for cable, MMDS and UHF deflector networks, ComReg is proposing to give satellite operators the opportunity to pay a flat rate annual charge of €0.50 per satellite dish which would reflect the administrative cost to the office of managing the spectrum in the interests of both terrestrial and satellite operators.

**Q. 6. Do you agree that operators of satellite networks with downlinks in Ireland but licensed elsewhere should be given the opportunity to obtain equal recognition with co-primary services licensed in Ireland in return for an annual fee of €0.50 per satellite receiving dish?**

**Q. 7. What is your assessment of the impact of these measures on your company?**



## 6 Responding to the Consultation

The consultation period will run from 18 July to 23 July 2003. Written comments should be marked “**Response to ComReg Consultation 03/78**” and submitted either electronically or in hard copy before 17.30, 23 July 2003:

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All comments are welcome, and should reference the relevant question numbers from this document (for convenience a summary list of the questions is at Appendix B).

ComReg expects to publish a report on this consultation. If there are elements of any response that are commercially confidential, then it is essential that these be clearly identified and placed in a separate annex to the main document. They will then be treated in confidence. ComReg regrets that it will not be possible to enter into correspondence with those supplying comments.

Appendix A - Comparison of Current Arrangements and Proposals for Broadcasting Sector

		<b>Administrative Charges (per annum)</b>	<b>Wireless Telegraphy (Spectrum) Fee (per annum)</b>
	<b>Existing charges</b>	<b>Proposed Charge</b>	<b>Proposed Charge</b>
<b>Cable networks</b>	3.5%	€0.50 per subscriber connected	n.a.
<b>MMDS networks</b>	3.5%	€0.50 per subscriber connected	X/Y x €1,905/MHz*
<b>Deflector networks</b>	€176 or 3.5% whichever is >	€0.50 per subscriber connected	€50 per transmitter
<b>Satellite networks</b>	No charge	€0.50 per dish (voluntary)	n.a.
<b>RTÉ terrestrial network</b>	No charge	€100 per transmitter	n.a.
<b>BCI contractors' terrestrial networks</b>	No Charge	€100 per transmitter	n.a.
<b>Digital terrestrial networks</b>	3.5%	€0.50 per subscriber (per pay platform operator) or €100 per transmitter carrying FTV services	€1,905/MHz
<b>Transmission services (terrestrial and satellite)</b>	No charge	0.2% of relevant revenue	n.a.
<p>Entities will be exempt from paying administrative charges that total less than €1,000 in the financial year.                      *X/Y = number of homes passed divided by total number of TV Households (currently 1.3 million. <b>Source:</b> <i>ComReg 03/29b, Irish Communications Market: Quarterly Key Data Report</i>).</p>			

## Appendix B – Consultation Questions

Q.1. Do you agree that a payment of €0.50 per subscriber connected is an appropriate basis for determining the administrative charge payable by operators of ECNs used for pay TV services?

Q.2. Do you agree that RTÉ and BCI should pay administrative charges (but not spectrum fees) in recognition of the ECNs operated by RTÉ and the independent radio and television broadcasters and that the payment should be based on €100 per transmitter?

Q.3. Do you agree that future digital terrestrial television services should be subject to the same administrative charge of €100 per transmitter in the case of free to view DTT or €0.50 per subscriber connected in the case of each pay DTT platform (as well as paying spectrum fees)?

Q.4. Do you agree that operators of UHF deflector networks should pay a fee for spectrum rights-of-use based on an annual rate of €50 per transmitter?

Q.5. Do you agree that future operators of DTT networks should be subject to a fee for spectrum rights-of-use based on the same rate as that applied to FWA spectrum (€1,905 per MHz)?

Q.6. Do you agree that operators of satellite networks with downlinks in Ireland but licensed elsewhere should be given the opportunity to obtain equal recognition with co-primary services licensed in Ireland in return for an annual fee of €0.50 per satellite receiving dish?

Q.7. What is your assessment of the impact of these measures on your company?