



Commission for
Communications Regulation

Response to Consultation

Future Regulation of Electronic Communications Networks and Services - General Authorisation Conditions

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An Coimisiún um Rialáil Cumarsáide

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Contents

Foreword	3
Introduction	4
1 Background	6
1.1 The EU Directives	6
1.2 Current licensing arrangements in Ireland	7
1.3 What changes are required?	7
1.4 Regulatory objectives	9
1.5 Scope of the consultation	9
1.6 Comments sought	10
2 Protection of Users	11
3 The applicability of the General Authorisation	12
3.1 Definitions of networks and services	14
3.2 The role of a general authorisation	15
3.3 Notification	15
3.4 Requirement to notify	16
3.5 Access to broadcasting content services distributed over electronic communications networks	17
3.6 Network operation	18
3.7 Distinction between public and private	18
4 The format of the general authorisation	20
5 General conditions to apply to all providers of networks or services	22
5.1 Condition 10 - Provision of information	22
5.2 Condition 12 - Terms of use during major disasters	23
5.3 Condition 13 - Measures regarding the limitation of exposure to electromagnetic radiation 24	
5.4 Condition 15 - Maintenance of the integrity of public communications networks	25
5.5 Condition 17 - Conditions for the use of radio frequencies where such use is not made subject to the granting of individual rights	25
5.6 Condition 18 - Measures designed to ensure compliance with standards and/or specifications	27
6 Additional general conditions to apply to providers of networks or services required to submit a notification	29
6.1 Condition 2 - Authorisation Charges	29
6.2 Condition 1 - Financial contributions to net costs of universal service	30
6.3 Condition 3 – Interoperability of services and interconnection of networks	31
6.4 Condition 4 - Accessibility of numbers from the national numbering plan to end users	32
6.5 Condition 5 - Environmental and town and country planning requirements	32
6.6 Condition 7 - Personal data and privacy protection	33
6.7 Condition 8 - Consumer protection rules	34
6.8 Condition 14 - Access obligations	35
6.9 Condition 16 - Security of public networks against unauthorised access	36
7 General conditions permitted by the Directive but which are considered inappropriate for inclusion in a general authorisation.	37
7.1 Condition 6 - “Must carry” obligations	37
7.2 Condition 9 - Restrictions in relation to the transmission of illegal content	37
7.3 Condition 11 - Enabling of legal interception	38
Appendix 1 Application of conditions to particular networks and services.	39

Foreword

Last August a consultation on the future framework for authorisations under the new EU Directives for electronic communications networks and services was published by the ODTR. The aim of the consultation was to open the debate on the broader issues involved with the General Authorisation Conditions. The consultation sought views on the issues to be covered by the new authorisations; in effect the conditions which will apply to operators both in terms of rights and obligations in the new regime.

Given the many tasks involved in implementing the new Directives, the Commission for Communications Regulation (ComReg) is working in parallel with the Department of Communications, Marine and Natural Resources which has responsibility for transposing the new Directives into Irish law. The final form of the general authorisation will be based on the transposed texts drafts of which were published on the Departmental web-site on 13 December 2002.

Etain Doyle

Chairperson

Commission for Communications Regulation

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 are due to be implemented. Two significant changes to the regulatory framework will result. Firstly all electronic communications networks and services will be subject to common rules, and secondly licences to provide relevant networks and services will be replaced by an authorisation regime. Anyone will be able to avail of a “general authorisation” to provide a network or service provided they conform to certain general conditions. The ODTR issued a consultation paper (02/72) on the future framework for authorisations under the new EU Directives for electronic communications networks and services. This document briefly reports on the views respondents have given, presents ComReg’s position on the various issues and documents the actions which ComReg is taking or intends to take as a result of this consultation.

The new EU regime will mean that licences currently required by telecoms operators will no longer operate. In addition, communications networks and services will in the future be subject to the same framework as telecommunications and licences in this regard will need to be re-evaluated against the requirements of the Directives. Instead of applying for licences, operators, provided that they notify ComReg of their intentions, will be able to operate in the market without waiting for the grant of a relevant telecommunications licence but will be bound by the terms of a general authorisation. The main difference will therefore be the absence of a formal licence application process. Individual rights of use for radio spectrum will still be required as is currently the case with licences issued under the Wireless Telegraphy Act. While many conditions of current telecommunications licences are similar to those which the Directives provides for in the general authorisation, all licences must be considered in the light of the new Directives and indeed experience since the existing regime was adopted in late 1998.

Full and final decisions on the application of regulatory measures needs to be informed by the transposed regulations. The Directives are not fully prescriptive about all aspects of regulatory mechanisms and regulatory instruments. Decisions will therefore need to be

appropriate to the state of development of the Irish market place and will also need to be implemented within the national legislative framework to be put in place by the Minister. The particular impact of this is that while ComReg may now indicate the manner in which it is envisaged that particular conditions may be implemented, or indeed the scope of the regulatory requirements in relation to individual types of networks or services, these cannot be finalised until the Directives are transposed.

Accordingly this paper sets out the principles which ComReg believes are appropriate to follow when formalising arrangements, but is subject to the provisions of the Regulations to be made by the Minister. Draft regulations have now been published for public consultation and can be viewed on the website of the Department of Communications, Marine and Natural Resources at

<http://www.dcmnr.gov.ie/display.asp?type=676103D110D5D842790C110D5D3BAEC58110D5D3549C2A110D5D3328170110D5D128CF5B117C1FE>

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.

1 Background

1.1 The EU Directives

Following a major review of regulation of the telecommunications sector carried out in 1999, the EU Commission developed its proposals for a new framework for the electronic communication sector. The proposals were subjected to a public consultation and discussed within the Commission, European Parliament and the Council of Ministers. The final texts of the four Directives and one Decision were published in the Official Journal¹ in April 2002. 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. The provisions of the Directives are to be applied from 25 July 2003 in all Member States.

The Directives and Decision are as follows:

- The **Framework Directive** sets the overall context and defines overall principles and approaches.
- The **Authorisation Directive** describes the mechanisms through which services and networks may be provided, including the conditions which may be applied to operators.
- The **Access Directive** describes how networks and service may be accessed and how interconnection between public network and service providers will be regulated.
- The **Universal Service Directive** considers how universal service will be protected and regulated and also addresses consumer rights.
- The **Spectrum Decision** concerns spectrum management issues.

¹ Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive);

Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive);

Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive);

Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)

Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision);

All published in the Official Journal: L 108 Volume 45, 24 April 2002 and are available at http://www.europa.eu.int/information_society/topics/telecoms/regulatory/new_rf/index_en.htm

Additionally, a further **Directive on Privacy and Electronic Communications** was adopted in July 2002².

The Directives include discretionary elements that are variously applied to Member States or National Regulatory Authorities (NRA). The Minister for Communications, Marine and Natural Resources has responsibility for the enactment of legislation to transpose the Directives into Irish law and has published his proposals for legislation. However, the precise legal framework may not be finalised for some time. Therefore, any proposals or decisions made by ComReg in advance of legislation are without prejudice to final decisions which can only be taken when legislation is enacted. Nevertheless it should be noted that

- the Communications Regulation Act 2002 specifies regulatory objectives contained in the Directives and
- the concept and scope of general conditions are clearly set out in the Directives.

1.2 Current licensing arrangements in Ireland

The present position in Ireland is that the regulatory regime involves individual telecommunications licences issued under the Postal and Telecommunications Services Act of 1983 (for example General Telecommunications Licence (“GTL”), Basic Telecommunications Licence and Mobile Licence). In addition to these licences, certain operators also require licences issued under regulations made on foot of the 1926 Wireless Telegraphy Act. These include, for example, licences for mobile phone operations, cable TV and MMDS operations, deflector licences, link licences, private mobile radio licences, etc.

1.3 What changes are required?

The current licensing regime will need to be modified to ensure compliance with the Authorisation Directive, and will, in particular, involve the replacement of some categories of licences with general authorisations. General authorisations will be in a standard format for all electronic communications networks and services, irrespective of the network involved or the service to be provided. Where the use of radio frequencies is involved, authority is currently granted through licences issued under the Wireless Telegraphy Act which dates from 1926. ComReg considers that rights to use radio frequencies should instead be managed through explicitly granting a right to the frequency concerned instead of maintaining the

² Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications). Published in the Official Journal L 201 Volume 45, 31 July 2002 and is available at http://www.europa.eu.int/information_society/topics/telecoms/regulatory/new_rf/index_en.htm

Wireless Telegraphy licensing framework which relates to apparatus and not to frequency. This would enable Ireland to reach for the forefront in terms of spectrum management and wireless based operator flexibility. However it is noted that the draft regulations are based on the continuation of the WT licensing with the spectrum rights of use superimposed. The Department of Communications, Marine and Natural Resources, in addition to working on the transposition of the Directives is also reviewing Wireless Telegraphy legislation. It is likely therefore that the question as to whether spectrum rights of use will relate to apparatus or frequencies or both will be subject to further consideration in one stream of work or another.

The rights associated with a general authorisation are set out in Article 4 of the Authorisation Directive. In summary, the rights conferred include:

- The right to provide electronic communications network and services
- The right to have applications for the necessary rights to install facilities considered in accordance with the process set out in the Framework Directive.

If an operator makes its network or services available to the public, additional rights include:

- The right to negotiate interconnection (see ODTR Document No. 02/69 – Briefing Note on Access Directive),
- The opportunity to be designated as a universal service provider (see Universal Service Directive; consultation on the future USO framework is also being held).

An operator will be entitled to begin the provision of networks or services subject to meeting notification requirements. However any such operator must also comply with certain conditions to be set out in a general authorisation. The Directives define and limit the types of conditions that may be included. These are in the main not dissimilar to many of the conditions which apply to licences currently issued under both the Wireless Telegraphy Act and the Postal and Telecommunications Services Act.

The consultation requested that operators and users consider conditions from all different types of licences that are currently used and for guidance, a note on the future applicability of the conditions of a GTL was attached as Annex 2 to the consultation.

The consultation also noted that while the document indicated the format of the general authorisation which will be common to all operators covered by the Directive, all of the conditions will not necessarily apply to all operators. For example, the Directives distinguish between public and private operators and recognise that private operators may be subject to

different – less onerous – conditions. The consultation document set out the ODTR view on the applicability of individual conditions to public and private operators and also noted that there could also be a distinction between the conditions which apply in the case of different services provided. Views were sought on which conditions are appropriate (or inappropriate) for different categories of services.

1.4 Regulatory objectives

Article 8 of the Framework Directive (which is reflected in Section 12 of the Communications Regulation Act) defines the objectives underpinning sector regulation. Three broad areas are defined: promotion of competition; development of the internal market; and promotion of the interests of users. When considering general authorisation conditions (i.e. whether to maintain, modify or remove current licence conditions into the new regime or whether to set entirely new conditions) ComReg must consider each condition in the context of these objectives. Competition and user concerns are clear, while the development of the internal market is more concerned with measures aimed at achieving harmonisation of rights and conditions across all Member States.

1.5 Scope of the consultation

The Authorisation Directive defines and limits (in Part A of the Annex) the conditions which may be imposed as part of a general authorisation. The appropriateness and applicability of these conditions were the main issues addressed by the consultation.

The Directive also refers to provisions of other Directives (the Universal Service Directive and the Access Directive) which define certain additional conditions³ (the “specific obligations”) that may be imposed on operators, primarily those determined as having significant market power in relevant markets or on operators designated to provide universal service obligations. The specific obligations were excluded from the scope of the consultation but will be considered in detail at a later date.

³**Access** Directive – transparency, publication of RIO (NB may include mobile operators), non-discrimination, accounting separation.

USO Directive – obligations regarding end-to-end connectivity and interoperability, retail tariffs for access to and use of public telephone network, obligations regarding carrier selection/pre-selection, the provision of a minimum set of leased lines, price cap & appropriate cost accounting system.

More specific conditions are permitted under the Authorisation Directive in relation to the allocation of radio frequencies and numbers. These are set out in Part B and C of the Annex to the Directive. Consultation on these will also be conducted separately.

1.6 Comments sought

Relevant comments were welcomed from all operators, users or other interested parties. Nine responses were received to the consultation document; they are listed (alphabetically) below:

- BSkyB
- Chorus
- Eircom
- Esat BT
- Ireland Offline
- Matheson Ormsby Prentice, Solicitors
- NTL
- RTE
- Telecommunications and Internet Federation, IBEC

ComReg wishes to express thanks to everyone who contributed to the consultation. A copy of the non-confidential elements of the responses is available for inspection at the ComReg's offices.

2 Protection of Users

In this section of the consultation an opportunity was given users to raise concerns that may be addressed under the new framework. The consultation sought views on general conditions aimed at protecting users.

Question 2.1

Do you have specific concerns in respect of the relationship between users and operators that might appropriately be addressed through general conditions aimed at protecting users? Please indicate what they are.

Views of Respondents

Only one response to the consultation was received from a user group and this response did not address the question. Responses from operators generally adopted the view that competition and general consumer protection measures provided the best protection for users. Certain respondents were of the view that regulation should be lightened to protect user interests as the cost of compliance with regulatory requirements ultimately was reflected in charges to consumers.

ComReg's Position

The promotion of user interests is one of the objectives which the Framework Directive set for National Regulatory Authorities. This objective is also set for ComReg by Section 12 of the Communications Act, 2002. The ODTR had earlier indicated that a specific consultation on consumer and end user rights would take place to inform the establishment of requirements in this area. It is planned that this consultation will take place in the second half of January. It is hoped that at that stage a wider selection of views would be offered to assist in the development of appropriate conditions.

3 The applicability of the General Authorisation

The EU Framework relates to the provision of electronic communications networks and services. This section of the consultation was intended to help the development of views on what networks and services fall within the scope of the Framework and therefore subject to regulatory requirements.

The consultation considered the following:

- The definition of electronic communications networks within the scope of the Directives;
- The applicability of regulatory provisions to networks;
- Specific concerns on conditional access and other associated facilities;
- The application of regulatory provisions to services;
- Different treatments of public and private networks and services.

With regards to the definition of electronic communications networks, the Consultation Document considered the scope of the definition in the Framework Directives. In this regard the following question was posed.

Question 3.1

What views do you have concerning the approach to interpreting the definition of networks as set out above?

What factors do you consider that the ODTR should take into account when defining Network Termination Points?

With regards to applicability of measures to networks, the Consultation Document raised a number of issues including the definition of ‘providing’ a network and in particular issues concerning the operation of a virtual network with respect to regulatory measures. In this respect the following question was posed.

Question 3.2(a)

What are your views in relation to this analysis?

What appropriate factors should be taken into account in determining which network operations are subject to network regulatory provisions?

The Consultation Document also discussed the application of conditions to specific types of network.

Question 3.2(b)

What are your views on the above indicative listing? Are there specific networks which you believe should be excluded or alternatively are there networks which you believe should be included? Please provide reasons.

With regards to conditional access systems and associated facilities, the Consultation Document considered the scope of conditions relating to such facilities and mechanisms for their application. The following general question was posed.

Question 3.3

What are your views on the above issue?

The Consultation Document considered the issue of applicability of the regulatory framework to electronic communication services. The important matters of convergence and treatment of networks providing access to broadcast content services was also raised and a possible list of regulated services was presented. The following question was posed.

Question 3.4

*What are your views on the above analysis and indicative listing?
Are there specific services which you believe should be excluded or alternatively are there services which you believe should be included? Please provide reasons.
What are your views regarding the regulation of services provided by “cable” “MMDS” and “satellite”?*

The Consultation Document noted the differences between public and private networks and services. The following question was posed.

Question 3.5

*What are your views on the distinction between public and private networks and services?
What factors should be taken into account when considering the position of closed user groups? Please provide reasons*

Views of respondents

A number of comments were made in this area covering a range of issues. Some views were specific to the questions above while over covered broader issues. In the light of the views presented and in the context of the close relationship of the issues involved, this section presents a general analysis rather than considering each question separately. Responses received included the following:

- A number of respondents considered that virtual networks should not be subject to regulatory requirements. Reasons advanced included the fact that operators of VPNs do not control physical equipment and that such networks can be established by running software on computers with access to the internet.
- One respondent also felt that regulatory oversight should not be extended to currently unlicensed operators such as resellers and ISPs but (conversely) that public operators should be strictly defined as anyone offering services to a third party.
- One response also considered that providers of a “virtual” network should not be regarded as entitled to negotiate interconnection rights.
- In relation to the possibility of interpreting network operation broadly to include the making available of third-party provided infrastructure, respondents offered no support for this position.
- In relation to broadcast distribution networks and services, one operator disputed that the service which it provides falls within the definition of services set out in the Directives. In particular, it was claimed that the service involved is the provision of content.

3.1 Definitions of networks and services

The first point which ComReg notes is that the definitions of services and networks as used in the Directives are broad. Some respondents pointed to specific recitals in support of their view as to limitations on applicability. The function of recitals is to help in the interpretation of the articles of the Directives and, while they must be taken into account when interpreting an Article whose meaning is ambiguous, they themselves are not legally binding. This is the approach that is taken in deciding on the applicability of individual conditions.

***Principle** The requirements of the new framework apply, where appropriate, to networks and services defined in accordance with the definitions of networks and services stated in the Framework Directive, subject to the transposing legislation*

3.2 The role of a general authorisation

There is some confusion as to the role of the general authorisations. Firstly, the general authorisation is defined in the Directives as a “legal framework” – its terms may not even be a single document. The concept of an authorisation differs from a licence in a key respect. Under the new arrangements, it will not be ComReg’s function to “approve” an operator or the provision of networks or services by any operator in the way that this would be done in respect of a licence. The Directive confers the right to provide networks and services and the draft transposing legislation proposes to give effect to this concept.

However, the entitlement to provide networks or services is conditional upon compliance with the associated obligations. Having considered the comments received and its own analysis of the Directives, ComReg believes that, given the broad definition of networks and services (as discussed above), any entity providing a network or service will need to comply with appropriate conditions. The rest of this document will discuss what is or is not appropriate in terms of obligations.

***Principle:** All electronic communications networks and services will be required to conform to an appropriate set of conditions as set out in this document.*

3.3 Notification

The next key concept to consider is notification. The Directives provide the right to the NRA to require notification and this right is expressed in very general terms. Notification is a formal process whereby operators will inform ComReg that they intend to provide a network or service. The Directives do not make notification mandatory, and ComReg believes that it would be disproportionate to require all operators of networks and services (as defined by the Directives) to notify. The circumstances where ComReg considers that notification is necessary include situations where verification of compliance with conditions of the general authorisation is required to promote or sustain the development of competition and the publication of indices of providers of networks and services for the information of users. The exact mechanism by which a requirement to notify may operate will be subject to provisions in the transposing legislation. The draft transposing legislation proposes that ComReg may determine that providers of particular classes or description of networks or services may not be subject to the notification requirement. However, as noted above, such an exemption would not exclude such networks or services from the scope of relevant conditions

ComReg wishes to emphasise the consequences for a category of network or services being subject to a notification requirement. Effective implementation will dictate that a failure to comply (i.e. failure to notify) will be an offence subject to enforcement procedures. Nevertheless, the notification process is anticipated as being undemanding, and will require a

simple declaration and include the limited information as set out in Article 3.3 of the Authorisation Directive. Some respondents were concerned to ensure that notification remained simple. This too is ComReg's objective, and potential operators can be assured that notification requirements will be restricted to contact information and straightforward operational descriptions. It should also be noted that the provision of networks and/or services can commence once a notification is duly made and is not dependent upon "approval" of the network, service or applicant concerned. As noted above, this is a fundamentally different approach from the current licensing regime where the grant of a licence (i.e. the approval of an application) is required before operations can commence.

If, notification is not required, this does not mean that such operators will be totally free to operate as they choose. They will be required to operate in conformity with appropriate authorisation conditions. However, ComReg will not have prior information about such operators or their activities and will not generally actively monitor compliance with the conditions in the absence of a complaint. If a breach of a relevant condition is brought to ComReg's attention, it will impose appropriate remedies as are available under the legislation.

Operators will be exempt from the notification requirement will not be subject to administrative charges on the basis that their activities do not give rise to direct regulatory costs even though they may have to pay other fees, for example those associated with rights of use of spectrum. Some direct regulatory costs would arise however where ComReg is required to take enforcement action. As indicated below, it is intended that exemption from notification would apply to those not offering services to third parties. If the complaint, or as a result of ComReg's own investigation were to bring to light that such services were being offered, the operator involved would be in breach of the requirement to notify and it is the intention that administrative charges which should have arisen in respect of its activities would become payable. If a particular category of exempt operators caused significant expenditures on the part of the ComReg, the exemption of that category might be reviewed again.

Principle: Subject to the final form of transposing legislation, ComReg will not require certain types of networks to submit notifications.

3.4 Requirement to notify

ComReg believes that it is generally appropriate to require organisations providing electronic communications networks that are made available to third parties or organisations providing services (as defined in the Directives) to third parties to notify it of their intentions. Within the above categories, there are a variety of networks and services and, subject to the format of

the legislation, ComReg will specify which categories or classes of networks and services shall be required to notify. As noted above, the basis for the notification requirement is that ComReg believes that notification by such categories of network and service providers is necessary for the development of competition. Some examples of networks and services that will not be required to notify would therefore be:

Networks:

- Self-provided infrastructure strictly for own use. This would include radio-based facilities which would be subject to the requirements relating to spectrum rights of use.
- Customer equipment including for example PABXs and in-building wiring schemes

Services

- Provision and management of self-provided networks strictly for own use.
- Own-use services run over self-provided networks or externally acquired capacity. For example the provision of an Intranet using a mixture of self-provided bridges and routers, in-building wiring and leased lines would not require notification.
- Provision and management of customer equipment. For example when a company contracts out the management of its *internal* telephone and data networks to a third party.

Principle: Operations that will not require notification are expected to comprise electronic communications networks provided solely for own use, internally provided electronic communications services, and electronic communications services and networks relating solely to customer equipment.

3.5 Access to broadcasting content services distributed over electronic communications networks

The consultation document considered the importance of convergence and raised the concerns that are unique to Ireland about current inconsistencies in the regulation of certain aspects of the provision of access to broadcast content. Compared to other Member States, Ireland has a very high take up of access to pay TV services. However, the number of operators providing access to the provision of these services is limited and one of the main delivery platforms is located outside the State and is not subject to current Irish regulatory requirements. In some member States, broadcasters must pay the cable operator a carriage fee for distributing its

services. In Ireland, the cable TV operators must pay the broadcasters (except for the Irish free to air services) for the entitlement to distribute the services.

As noted, a number of responses provided views on the issues raised. Having analysed these views, ComReg is not convinced that the only interpretation of the definition of “electronic communications services” in the Framework Directive is one that excludes all aspects of the provision of access to broadcasting from the scope of the Directives. ComReg considers it appropriate that such services be subject to standardised regulatory requirements particularly in relation to users’ rights – approximately three-quarters of all households receive television services through a subscription to cable, MMDS, satellite or deflector services.

Principle: A pay service consisting of providing access to broadcast content services will be subject to regulatory requirements

3.6 Network operation

The consultation document considered the definition of “provision of an electronic communications network” and noted that this could potentially be interpreted to mean the making available of the facilities of a third-party, for instance by a virtual network operator. Such a broad interpretation received no support. However ComReg is concerned that the regulatory regime should be future proofed. In this regard ComReg is currently reviewing the future development of virtual networks and will consider the appropriateness of future regulatory requirements to such networks. However, while it is not possible to specify at this stage network related conditions and rights which may apply to a virtual operator, service related conditions would have applicability. For the avoidance of doubt, the making available of the facilities of a third party will constitute a service subject to the general authorisation.

Principle: ComReg considers that provision of virtual networks may be subject to network related conditions and rights but will consider further the appropriateness of future requirements.

3.7 Distinction between public and private

There are two main concerns in this area. Firstly some conditions may be disproportionate for operators not providing services to the public; secondly only operators providing publicly available networks should benefit from certain interconnection rights. Comments received suggested that different criteria be applied to different categories of networks and services

when determining whether particular networks or services were public. However, on reflection this would appear inappropriate and ComReg believes that anyone making a service or network available to a third party for remuneration (including offset) should be considered to be engaged in the provision of publicly available electronic communications services. This approach would include carrier's carrier services.

A possible exception might arise where the third party in question is a related entity such as a parent company, subsidiary company or other related entity. ComReg is considering the implications of a definition that would result in networks used wholly or mainly for the provision of services to 'unconnected' third parties (companies which are not subject to common control), will be considered as publicly available networks. Whether or not a network is a "public communications network" and therefore entitled to interconnection rights can only be determined by the extent to which such a network is used for the provision of services to third parties. Suitable definitions will be provided in a later consultation.

Principle: *ComReg will interpret publicly available electronic communications networks and services to mean networks and services provided to unconnected third parties for remuneration.*

4 The format of the general authorisation

Comments were sought on the format and structure of general authorisations. Respondents were asked to consider alternatives to the automatic provision of a paper copy of an authorisation to all undertakings; to comment on the proposal of issuing separate documentation on individual conditions; and to identify any particular legal requirements which should be brought to the attention of the operator.

Question 4

Do you believe that the proposal to maintain the text of a general authorisation by alternative means instead of the automatic provision of a paper copy to all undertakings is appropriate?

What views do you have in connection with the proposal to maintain the approach of issuing separate documentation for the purpose of setting out the detail of individual conditions to be observed?

Are there particular legislative requirements that you consider should be specifically brought to the attention of operators?

Views of Respondents

- No objections were raised to the modular approach to the structure of the general authorisation or to a web-based document
- Some respondents emphasised the need for detailed and stable conditions and a full consultation on the detail of such conditions.
- The issue of ‘double jeopardy’ was raised and it was felt that this principle was not applied with regards to data protection conditions

ComReg’s Position

The consultation document proposed that conditions be published but sought opinions whether a web-based system would be appropriate. No objections were raised to a web-based system or to a modular approach. By modular ComReg means that the applicability of particular conditions will be clear from the conditions themselves rather than having a collection of documents each of which applies to one particular class of operator. So, for example, some conditions that apply to public operators may not apply to private operators but there would not be separate documents for public and private operators.

Principle: *The conditions of the general authorisation will be published on the ComReg website in a modular format*

The consultation document also sought opinions on the nature of the conditions and proposed that the conditions themselves would often be general in nature and would refer to other documents to provide detailed requirements. There was some acceptance of this view although one respondent strongly propounded the need for stable and detailed regulations. Whilst recognising this important need (especially in light of current economic circumstances), ComReg believes that given the dynamic nature of the industry it would be impossible to be fully prescriptive about all conditions at this stage. Nevertheless it is accepted that changes to such requirements are likely to fall within Article 6 of the Framework Directive and would be subject to consultation.

Principle: *When drafting conditions, ComReg may express them generally and refer to other documents that will from time to time provide more specific details. Any significant changes to these documents will be a matter for consultation.*

The consultation raised the issue of “double jeopardy” and respondents supported the need to avoid duplicating existing legislative provisions in the general authorisation. Areas where respondents felt this principle was not consistently applied will be addressed under the specific conditions.

Principle: *Duplication of existing legislative provisions in the conditions of the general authorisation will be avoided*

5 General conditions to apply to all providers of networks or services

5.1 Condition 10 - Provision of information

The issues raised in the consultation concerned both notification details and subsequent information requests.

Question 5.3

Do you agree with the above general approach?

If not, please state the basis for your views and indicate alternative means whereby ODTR may obtain the necessary information to carry out its statutory functions including enforcement of conditions.

Views of Respondents

- Respondents commented that the extent of information required under the heading of description of network or service will be important.
- Respondents also considered that notification requirements should be as simple as possible
- In relation to the provision of information after operations commence, most respondents commented on the resource and cost implications of addressing information requests.
- Respondents suggested that information requests could be better defined to avoid subsequent requests for additional information.

ComReg's Position

As noted in Section 3, ComReg believes that information requirements at notification stage should be factual and straightforward. As such, the notification process is anticipated as being undemanding, and will require a simple declaration and include the limited information as set out in Article 3.3 of the Authorisation Directive. The precise details required for a description of the network or service concerned will be specified at a later stage but will be based on the requirements of the Directive which specify a short description, bearing in mind that the intention of the notification is to allow ComReg to keep a register of network and service providers

In relation to the provision of information ComReg notes that it is a requirement of the Authorisation Directive that information requests be proportionate and that the specific

purpose of the information be stated. Resource/cost implications may be minimised by operators anticipating periodic requests. In relation to the issue raised concerning requests for supplementary information, these arise where the information sought is not provided. To the extent that this may be a result of the information request not being sufficiently detailed, ComReg will review the manner in which requests are made. However on some occasions, supplementary requests arise where the information sought has not being provided or where the data supplied gives rise to additional issues.

***Principle:** A condition of a general authorisation will require all operators to provide information in response to requests made in accordance with the provisions of the Directives. While the condition will have general applicability, it is anticipated that requests would arise in relation to non-notifying operators only in the course of investigating a complaint.*

5.2 Condition 12 - Terms of use during major disasters

The consultation paper proposed maintaining the terms of condition 6.7 of the GTL which requires an operator to comply with any directions issued from time to time regarding emergency services and the provision of Licensed Services in times of emergency.

Question 5.5

Do you agree with the above general approach?

Views of Respondents

Respondents agreed to measures being taken if there was no alternative but they requested that powers in this area be clarified.

ComReg's Position

The coordination of measures during times of national emergencies is a responsibility of various government Ministers. Requirements which may be placed on operators of networks and services can vary in scope depending on the particular situation. In the absence of specific legislative powers requiring compliance with measures which have been decided upon to address a particular emergency or disaster, it is considered appropriate that there should be a general requirement to comply with such measures as provided for by the Directive. As the enforcement of the conditions of a general authorisation is a matter for ComReg, it is considered appropriate that the condition should relate to directions to be given

by ComReg. Such directions could take the form of a requirement to comply with decisions of the relevant authorities in the case of a specific incidence or to cooperate generally with the relevant authorities in emergency planning. It is envisaged that directions would only be issued where the relevant authorities considered such action necessary.

Principle *All operators of networks and providers of services will be subject to a requirement to comply with Directions to be issued by ComReg concerning emergency services and the provision of services during a major disaster or in times of an emergency.*

5.3 Condition 13 - Measures regarding the limitation of exposure to electromagnetic radiation

The consultation paper proposed that a condition be contained in a general authorisation requiring operators to comply with measures regarding the limitation of exposure of the general public to electromagnetic fields. The consultation paper pointed out that this issue is not specifically addressed in the GTL but there is a requirement in Wireless Telegraphy licences.

Question 5.6

Do you agree with the above general approach?

Views of Respondents

Though most respondents agreed in general terms with the proposal, one respondent raised an issue regarding the compatibility with the provisions of the Directive of conditions which would be communicated by direction. Respondents also called for any directions to be issued in respect of this issue to be preceded by a public consultation.

ComReg's Position

The existing provisions whereby network operations are required to comply with international standards will be maintained. It is not envisaged that ComReg would set out any additional requirements.

Principle *All operators of networks and providers of services will be subject to a requirement to comply with specified international standards concerning measures to limit exposure to electromagnetic radiation.*

5.4 Condition 15 - Maintenance of the integrity of public communications networks

The consultation paper considered that the existing condition of the General Telecommunications Licence concerning the prevention of electromagnetic interference be maintained. It was also proposed that it will be a condition for operators to cooperate with ODTR/ComReg in investigations into network integrity and to implement appropriate recommendations.

Question 5.7

Do you agree with the above general approach?

Are there appropriate additional conditions that you think ODTR should consider in this area?

Views of Respondents

Most respondents agreed with the general approach though a proviso was requested by some that modified requirements be subject to a public consultation.

ComReg's Position

The proposal contained in the consultation paper will be implemented. As indicated in the previous Section, the requirements of Article 14 will be observed in relation to any amendment of general requirements.

Principle *All operators of networks and providers of services will be subject to a requirement to avoid interference or other disruptions to other networks or services. There shall also be a duty on operators to cooperate with ComReg in investigations into cases of interference and to implement any measures deemed necessary to deal with such instances.*

5.5 Condition 17 - Conditions for the use of radio frequencies where such use is not made subject to the granting of individual rights

Article 5.1 of the Authorisation Directive provides that, where possible, the use of radio frequencies shall not be subject to individual rights but that the conditions for the use of such frequencies shall be included in the general authorisation. As noted, the use of radio

frequencies is currently subject to the grant of licences under the Wireless Telegraphy Act for the use of apparatus. In addition, certain categories of apparatus have been specified in orders as “licence exempt”. Such orders set out the conditions which govern the use of such apparatus to maintain the licence exempt status. The consultation paper noted that it would not be practical to specify in a single document the conditions of use to cover all circumstances where apparatus is exempt from licensing requirements. Accordingly, it was proposed that operators who intend to use frequencies for which an individual right is not required would be required to observe the conditions of such usage to be issued from time to time.

Question 5.8

Do you agree with the above general approach?

Are there alternative approaches which you consider might be more appropriate or which would be more efficient?

Views of Respondents

Respondents generally agreed with the approach proposed. In the first instance there was recognition that the use of “unlicensed” spectrum should not cause interference to other users. It was also generally considered that individual licensing of spectrum should be avoided where possible. Comments also noted that the Wireless Telegraphy legislative framework is being reviewed by the Minister at present and that shoehorning the requirements of the Directives into the legislative framework provided by the 1926 WT Act was not the best way to ensure legal clarity and regulatory best practice. As an alternative to ComReg setting conditions, there was a proposal that these be self-regulated by the industry.

ComReg’s Position

ComReg also has concerns about the adequacy of the 1926 Wireless Telegraphy Act to address the requirements of the Directives concerning the use of spectrum. Irrespective of the legal framework decided upon to implement the Directives, it is self evident that conditions of use must be established and met in order to minimise the risk of harmful interference. Since decisions on the necessity of individual rights in particular parts of the frequency band is the responsibility of ComReg, the conditions of use must also be specified by ComReg. Spectrum is a key resource for new entrants and is a key enabler of communications infrastructure in Ireland. It would not be appropriate that this resource

would be managed by way of self-regulation by operators, but their views are regularly sought and taken into account in the consultation process.

Principle *Where the use of parts of the radio frequency spectrum is not subject to an individual right of use, any user must comply with conditions established by the CCR relating to its use. Subject to the terms of the transposing legislation, it is intended that these conditions will be specified in an annex to the General Authorisation.*

5.6 Condition 18 - Measures designed to ensure compliance with standards and/or specifications

Conditions in this area relate to Article 17 of the Framework Directive. The consultation paper proposed a condition that operators take account of guidelines concerning the use of standards and to implement any standards specified as mandatory following a consultation procedure or which are made compulsory by the EU Commission.

Question 5.9 & Question 5.10

Do you agree with the above general approach?

Are there alternative approaches which you consider might be more appropriate? Do you agree with the applicability of the above conditions in the manner described in this Section to all providers of networks and services?

Please give reasons if you disagree

Views of Respondents

The power to specify standards was queried, in particular it was pointed out that the Directive refers to “encouraging” the use of standards. Some respondents considered that standards should be set through industry self-regulation in the first instance with regulatory intervention limited to circumstances where a dispute arises between members of the industry.

Respondents also referred to the need for appropriate consultation and due notice being necessary to allow for proper planning in the implementation of new standards.

ComReg’s Position

ComReg believes that the questioning of the power to specify standards is misplaced. It is not the intention that ComReg would draw up standards – the proposal is that harmonised standards which are technical specifications adopted by a recognised European standards

body, such as CELENEC or ETSI, may apply. The consultation paper made clear that standards would be used where necessary to achieve the aims of ensuring interoperability of services and improving freedom of choice for users. The paper also indicated that a consultation would precede any such action.

Principle *It shall be a condition for operators to comply with stated standards where this is necessary to ensure interoperability of services and to improve freedom of choice for users.*

6 Additional general conditions to apply to providers of networks or services required to submit a notification

6.1 Condition 2 - Authorisation Charges

Article 12 of the Directive states that administrative charges shall, in total, cover only the administrative costs which will be incurred in the management, control and enforcement of the general authorisation scheme and of rights of use and of the specific obligations.

Question 5.1

Do you agree with the general proposal regarding administrative charges? If, not please indicate how the activities of the ODTR should be funded.

Views of Respondents

This subject gave rise to much comment. There was no opposition to the principle that administrative charges be based on a turnover related charge subject to a minimum charge.

- Comments made were generally concerned with transparency of administrative costs.
- Mention was also made of limited funds available to operators and the need to minimise costs.
- Cable/MMDS fees at 3.5% were also mentioned as being out of line with the telecoms levy

ComReg's Position

A Consultation Paper has been issued (ODTR 02/102 Future Regulation of Electronic Communications Networks and Services – Charging Principles for Authorisations and Rights of Use) which outlines in detail future options for fee regimes. This paper includes an Appendix which details ComReg's income and expenditure and benchmarks our costs to those of other European countries. As indicated in that document, it is considered that the regulatory activities of ComReg will continue to be financed by a mixture of turnover-based administrative charges (similar to the present Telecom Levy) and usage fees for the use of radio spectrum (similar to the existing Wireless Telegraphy Licence Fees). It should be noted that where spectrum is used for private purposes it is envisaged that usage fees would be

payable. The Commission does not anticipate any overall increase in the level of fees it applies.

Principle *Only networks and services subject to a requirement to notify will be required to pay administrative charges calculated on a standardised basis.*

6.2 Condition 1 - Financial contributions to net costs of universal service

The consultation paper posed the following question concerning the condition relating to the funding of universal service in conformity with the provisions of the Universal Service Directive.

Question 6.1

Do you have any preliminary comments regarding the principles involved in any USO fund sharing mechanism?

Views of Respondents

Respondents observed the lack of public consultation on this issue and they would wish a consultation before any fund is established.

ComReg's Position

A consultation on Universal Service Obligations will be held shortly but decisions on the establishment of a Universal Service Fund are not being taken at this stage. A universal service provider may receive funding for the net cost of meeting the USO obligation concerned, where, on the basis of such net cost calculation, ComReg determines that the undertaking in question is subject to an unfair burden.

As the possibility exists that such a fund or sharing mechanism may be established, ComReg believes it appropriate to include a condition similar to condition 6.6 of the GTL which provides that an operator shall make contributions to assist in the funding of a USO in accordance with any directions issued.

Principle *Providers of public networks and services may be subject to requirements regarding the sharing of the costs of providing universal services. The precise mechanism for any such cost sharing, including the classes of networks and services to whom the sharing*

requirement would apply will not be determined until the establishment of such a mechanism is necessary and after a public consultation has taken place.

6.3 Condition 3 – Interoperability of services and interconnection of networks

The consultation paper noted that requirements in relation to interoperability and interconnection are set out in the Access Directive and proposed that these would be recorded for reference in the general authorisation. It was also proposed that a condition be inserted requiring compliance with directions necessary to achieve interoperability and interconnection.

Question 6.2

Have you any comments on the manner proposed for the implementation of the condition?

Views of Respondents

Only one respondent opposed the suggestion both in terms of recording the references in a general authorisation and in requiring compliance with directions if these are not specified at the outset.

ComReg's Position

ComReg is not persuaded that the text of a general authorisation should not contain specific references to the general provisions of the Access Directive. In particular, it is considered appropriate to do so in order to give effect to Article 4.2(a) which states the rights and obligations regarding interconnection and access in the case of providers of publicly available networks and services. ComReg also considers it appropriate to have a requirement to comply with direction. The circumstances where such a direction might arise could include a dispute resolution or, if following a public consultation, where it was considered appropriate to issue general directions to ensure adequate access and interconnection as required by Article 5 of the Access Directive.

Principle *Operators shall comply with directions regarding interoperability of services and interconnection of networks which may be issued as part of a dispute resolution or, following public consultation, which may be issued with general application.*

6.4 Condition 4 - Accessibility of numbers from the national numbering plan to end users

The consultation paper proposed a general requirement to comply with appropriate directions in relation to the accessibility of numbers.

Question 6.3

Do you agree with the above general approach?

Are there particular factors which you consider the Director should consider in the context of possible directions?

Views of Respondents

Respondents were generally favourable to the proposal.

ComReg's view

The condition will be provided for as indicated in the consultation paper. To maintain continuity with the current regime, under which numbering is subject to a condition on licences which requires compliance with the National Numbering Convention, ComReg shall issue a direction with the same requirement.

Principle *Directions will be issued to all number holders to ensure accessibility for all users of publicly available telephony networks and services to all numbers from the national numbering plan.*

6.5 Condition 5 - Environmental and town and country planning requirements

The consultation proposed that environmental and planning requirements should not feature but that there should be conditions related to co-location and facilities sharing. The actual conditions would be developed following public consultation as provided for by Art 12 of the Framework Directive.

Question 5.2

Do you agree with the general approach indicated? In particular do you disagree with the exclusion of any conditions relating to meeting planning/right of way conditions imposed by other authorities?

In relation to co-location and facility sharing are there particular aspects or circumstances which you consider should be addressed?

Views of Respondents

Respondents were generally supportive of the proposal in relation to planning matters. In relation to co-location and facilities sharing, there were some comments to the effect that the issue was addressed by Part 5 of the 2002 Act and questioning the inclusion of requirements which were already the subject of national legislation.

ComReg's Position

ComReg considers that it is necessary to include a condition in the general authorisation which would require compliance with appropriate rules established to achieve stated regulatory objectives. This does not cut across Section 57 of the Act which empowers ComReg to impose conditions for facilities sharing only in the context of dispute resolution. Art 12 of the Framework Directive does not restrict the exercise of the power to set conditions to dispute resolution but requires a public consultation prior to the imposition of any obligations on an undertaking.

***Principle** Operators of networks will be required to comply with requirements which ComReg may specify in relation to co-location and facilities sharing. Any requirements in this regard will be subject to prior public consultation.*

6.6 Condition 7 - Personal data and privacy protection

In the consultation paper it was proposed that the general provisions of Condition 6.4 of the GTL would be maintained and adapted as necessary to cater for future requirements in this area.

Question 6.5

Do you agree with the above general approach?

Views of Respondents

Respondents observed that it does not seem clear what role the ODTR/CCR has or will have in enforcing national and/or EU laws in respect of personal data and privacy protection. A view was expressed that such conditions should only be imposed in the event that no other

means of enforcing such rules exists. Other respondents questioned why, having respected the principle of “double jeopardy” acknowledged in Article 6(3) of the Authorisation Directive in relation to broadcasting and planning, it was now proposed to set this aside in relation to data protection.

ComReg’s Position

It should be noted that ComReg has a statutory responsibility in this area by virtue of SI 192 of 2002. Accordingly, where ComReg considers that specific measures are required to give effect to legislation (e.g. in respect of Caller Line Identification), directions may be made in this regard.

***Principle** ComReg may issue directions regarding measures to be taken to safeguard personal data and the protection of privacy.*

6.7 Condition 8 - Consumer protection rules

The consultation paper indicated that it was proposed to include a condition to require operators to comply with directions to give effect to consumer and end user rights. It was indicated that a consultation would be held later in the process on the detailed requirements

Question 6.6

Do you agree with the above general approach?

What preliminary views do you have regarding appropriate conditions in regard to consumer and user rights? In responding to this question existing rights and remedies for consumers such as the Sale of Goods and Supply of Services Act should be borne in mind.

In addition to the measures mentioned in the Universal Service Directive, are there other measures which you believe are appropriate and necessary in order to adequately address consumer and user concerns?

Views of Respondents

While endorsing the need for a high level of consumer protection, one respondent referred to existing remedies available to consumers through consumer legislation and the Small Claims Court and posed the question whether measures which may be provided for as a condition of a general authorisation would be a duplication of national legislation. The response also suggested that a Regulatory Impact Assessment should be carried out prior to implementing any measures in this area. One respondent considered that generally consumer protection issues should be dealt with by the Director of Consumer Affairs, particularly where questions

arise relating to the existing rights and remedies afforded to consumers by prevailing general consumer protection legislation such as the Sale of Goods and Supply of Services Act. A further response also referred to interaction with the ODCA

ComReg's Position

Comments in relation to existing general statutory provisions regarding consumers and users rights including the role played by the Director of Consumer Affairs are noted. However, respondents should note that, in addition to the provisions of the Directives relating to user interests, a specific objective of promoting the interests of users was established for ComReg in the Communications Regulation Act 2002. Existing licences contain provisions relating to consumer/user protection and it is not considered that consumer protection issues should be weakened as a result of the Directives. As was pointed out earlier, it is planned to have a consultation on consumer/user rights issues in January 2003 and this will focus on specific measures.

***Principle** Providers of services to third parties will be required to comply with measures specified by ComReg concerning consumer and user rights. Where these measures differ from existing requirements a prior public consultation will be held.*

6.8 Condition 14 - Access obligations

The consultation paper proposed a condition requiring operators to implement measures aimed at encouraging or ensuring adequate access and interconnection

Question 6.8

Do you agree with the above analysis and general approach?

Views of respondents

Responses mirrored responses offered in relation to interconnection.

ComReg's Position

In addition to the specific obligations which may be imposed on SMP or USO operators, there are general requirements on operators to provide access. The Directives distinguish between "interconnection" that can only occur between public operators and "access" which occurs in all other cases. As noted in relation to the condition relating to interconnection, it is

considered appropriate that the general power exist, for ComReg to be able to specify, where necessary, measures to achieve the objectives set out in the Access Directive regarding access.

Principle *Operators shall comply with directions regarding access which may be issued as part of a dispute resolution or, following public consultation, which may be issued with general application.*

6.9 Condition 16 - Security of public networks against unauthorised access

This condition area relates specifically to the requirement to keep customer data secure. Requirements are set out in the Data Protection Directive of 1997 as implemented by SI No 192 of 2002. It is expected that these requirements will be updated upon the transposition of the new Directive on Privacy and Electronic Communications (2002/58/EC) Condition 6.4 of the GTL addresses this area and the consultation paper proposed that this condition be maintained.

Question 6.9

Do you agree with the above general approach?

Views of Respondents

There was no objection to the principle involved but the potential for two sets of legal proceedings being taken in the event of one breach was mentioned as a difficulty. The statutory function of the Regulator in relation to data protection was also raised.

ComReg's Position

As pointed out earlier, ComReg has a statutory responsibility in this area by virtue of SI 192 of 2002. The issue concerning the potential for two sets of enforcement proceedings has been noted and this issue will be considered again when finalising proposals in the light of transposing legislation.

Principle *ComReg may issue directions regarding measures to be taken to secure public networks against unauthorised access.*

7 General conditions permitted by the Directive but which are considered inappropriate for inclusion in a general authorisation.

7.1 Condition 6 - “Must carry” obligations

The consultation paper proposed that this would not be a condition as it is covered by other legislation (Broadcasting Act 2001).

Question 6.4

Do you agree with the above analysis and general approach?

Views respondents

No objections were expressed by respondents.

ComReg’s Position

The general Authorisation will not contain a condition requiring the carriage of specific radio and television services. Nevertheless, certain networks are subject to “must carry” rules contained in the Broadcasting Act 2001.

7.2 Condition 9 - Restrictions in relation to the transmission of illegal content

The consultation proposed that this not be included as responsibility rests with REGTEL and, in the case of television, is addressed by the Broadcasting Act.

Question 6.7

Do you agree with the above analysis and general approach?

Views of respondents

No dissenting comments were received

ComReg’s Position

The general Authorisation will not contain a condition in relation to illegal content as the issue is addressed by other authorities.

7.3 Condition 11 - Enabling of legal interception

The consultation noted that this condition requires that legal interception of communications in conformity with relevant EU law be enabled. Condition 6.3 of the general telecommunications licence addresses this point and requires licensees to comply with any directions given by the Minister under Section 110 of the 1983 Act. The consultation paper pointed out that the authorisation of legal interception was outside the statutory power of ComReg and that the issue may be capable of being addressed through existing legislation – Sections 110 and 98 of the 1983 Act. However it was suggested that the condition be expressed as a requirement to comply with relevant legislation including directions by the Minister.

Question 5.4

Do you agree with the above general approach?

Are there associated issues which you believe should be taken into account?

Views of Respondents

Many respondents considered that such a condition was not appropriate for inclusion in a general authorisation

ComReg's Position

Having considered the responses, it is believed that a general authorisation is not the appropriate mechanism for implementing the condition. As Section 98 of the 1983 Act in part provides the legal basis for such authorisation it appears to ComReg that the Act provides a sufficient legal basis for the relevant authorities and ComReg does not have a statutory basis for authorising interception of messages. It should be noted however that the legislation refers to “licensed operators” and the appropriate authorities may need to consider the consequences for the operation of Section 98 as a result of the change from licences to general authorisations.

Appendix 1 Application of conditions to particular networks and services.

Publicly available networks are those networks used wholly or mainly for the provision of services to unconnected third parties.

Requirement to notify:

Services – All services (as defined in the Framework Directive) which are provided to third parties

Networks – All networks (as defined in the Framework Directive) which are used to provide services to third parties

Applicability of conditions will depend on characteristics of the class of network or service involved.

Condition	Publicly available networks	Networks		Services	
		Notifying	Non-notifying	Notifying (services to third parties)	Non-notifying (own use)
1 Financial contributions to the funding of universal service in conformity with Directive 2002/22/EC (Universal Service Directive).	Potentially	Potentially	No	Potentially	No
2. Administrative charges in accordance with Article 12 of this Directive.	Yes	Yes	No	Yes	No
3 Interoperability of services and interconnection of networks in conformity with Directive 2002/19/EC (Access Directive).	Yes	Yes	No	Yes	No
4 Accessibility of numbers from the national numbering plan to end users including conditions in conformity with Directive 2002/22/EC (Universal Service Directive).	Yes	Yes	No	Yes	No
5(a) Environmental and town and country planning requirements	No	No	No	No	No
5(b) Conditions linked to co-location and facility sharing in conformity with Directive 2002/22/EC (Framework Directive) and including, where applicable, any financial or technical guarantees necessary to ensure the proper execution of infrastructure works.	Yes	Yes	Yes	Yes	No

Condition	Publicly available networks	Networks		Services	
		Notifying	Non-notifying	Notifying (services to third parties)	Non-notifying (own use)
6 “Must carry” obligations in conformity with Directive 2002/22/EC (Universal Service Directive).	No	No	No	No	No
7 Personal data and privacy protection specific to the electronic communications sector in conformity with Directive 97/66/EC of the European Parliament and of the Council of 15 December 1997 concerning the processing of personal data and the protection of privacy in the telecommunications sector.	Yes	Yes	No	Yes	No
8 Consumer protection rules specific to the electronic communications sector including conditions in conformity with Directive 2002/22/EC (Universal Service Directive).	Yes	Yes	No	Yes	No
9 Restrictions in relation to the transmission of illegal content, in accordance with Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the internal market and restrictions in relation to the transmission of harmful content in accordance with Article 2a(2) of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.	No	No	No	No	No
10 (a) Information to be provided under a notification procedure in accordance with Article 3(3) of this Directive	Yes	Yes	No	Yes	No
10 (b) Information to be provided for other purposes as included in Article 11 of this Directive	Yes	Yes	Yes	Yes	Yes

Condition	Publicly available networks	Networks		Services	
		Notifying	Non-notifying	Notifying (services to third parties)	Non-notifying (own use)
11 Enabling of legal interception by competent national authorities in conformity with Directive 97/66/EC and Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.	No	No	No	No	No
12 Terms of use during major disasters to ensure communications between emergency services and authorities and broadcasts to the general public.	Yes	Yes	Yes	Yes	Yes
13 Measures regarding the limitation of exposure of the general public to electromagnetic fields caused by electronic communications networks in accordance with Community law.	Yes	Yes	Yes	N/A	N/A
14 Access obligations other than those provided for in Article 6(2) of this Directive applying to undertakings providing electronic communications networks or services, in conformity with Directive 2002/19/EC (Access Directive).	Yes	Yes	No	Yes	No
15 Maintenance of the integrity of public communications networks in accordance with Directive 2002/19/EC (Access Directive) and Directive 2002/22/EC (Universal Service Directive) including by conditions to prevent electromagnetic interference between electronic communications networks and/or services in accordance with Council Directive 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility.	Yes	Yes	No	No	No
16 Security of public networks against unauthorised access according to Directive 97/66/EC.	Yes	Yes	No	Yes	No

Condition	Publicly available networks	Networks		Services	
		Notifying	Non-notifying	Notifying (services to third parties)	Non-notifying (own use)
17 Conditions for the use of radio frequencies, in conformity with Article 7(2) of Directive 1999/5/EC, where such use is not made subject to the granting of individual rights of use in accordance with Article 5(1) of this Directive.	Yes	Yes	Yes	Yes	Yes
18 Measures designed to ensure compliance with the standards and/or specifications referred to in Article 17 of Directive 2002/21/EC (Framework Directive).	Yes	Yes	Yes	Yes	Yes