



Commission for
Communications Regulation

Management and Maintenance of the National Directory Database

Response to Consultation and Decision

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1 Introduction

- 1 The National Directory Database ("NDD") is a comprehensive record of all subscribers of publicly available telephone services in the State who have not refused to have their details recorded in it. The function of the NDD is primarily to facilitate the compilation of and access to information for telephone directories and directory enquiry services. In addition, following the entry into force of the E- Privacy Regulations¹, the NDD continues to be the basis for the operation of the "opt-out" register for direct marketing purposes.
- 2 The Commission for Communications Regulation ("ComReg") consulted on the management and maintenance of the NDD in May 2014 as set out in ComReg 14/36². ComReg decided that an undertaking should be required to maintain and operate the NDD under Regulation 19(4) of the Universal Service Regulations³. Consequently, ComReg in Decision D06/14⁴ required Eircom to manage and maintain the NDD until end June 2015.
- 3 In ComReg14/36, undertakings were asked to express an interest, if applicable, in management and maintenance of the NDD. In its submission to the consultation, BT said that it would be interested in exploring the possibility of maintaining the NDD, however, BT's submission lacked the necessary detail that ComReg would need to evaluate BT's interest. In order to allow BT a period to provide ComReg with the necessary detail, ComReg decided to require Eircom to continue to maintain the NDD until 30 June 2015, under Regulation 19 and Regulation 30 of the Universal Service Regulations.
- 4 BT has since confirmed to ComReg that it does not wish to pursue an interest in managing and maintaining the NDD.
- 5 Therefore, in light of the above, ComReg consulted in document 15/16 on whether the period of the current decision should be extended by three years, until the end of June 2018.
- 6 There were four respondents to the consultation as listed below;
 - Eircom Ltd. & Meteor Mobile Communications Ltd. (Eircom)

¹ S.I. No 336 of 2011, the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011

² ComReg Consultation: 14/36 - Management and Maintenance of the National Directory Database http://www.comreg.ie/_fileupload/publications/ComReg1436.pdf

³ The European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011.

⁴ Contained in Response to Consultation 14/67 "Management and Maintenance of the National Directory Database", dated 01/07/14.

- Interactive Direct Marketing Association. (IDMA)
- Three Ireland (Hutchinson) Ltd. (Three)
- UPC Communications Ireland Ltd. (UPC)

7 This document sets out the views of the respondents along with ComReg's considerations of the above submissions and its decision to require Eircom to continue to manage and maintain the NDD.

2 Background

- 8 The NDD lists over 2 million numbers of which over 1 million are opted out of receiving direct marketing calls.⁵
- 9 The NDD also holds details of consumer preferences for listing their telephone numbers. These are:
 - Listed: Details (name, address, telephone number) are listed in the telephone directory and with Directory Enquiries,
 - Unlisted: Listed with Directory Enquiries only, i.e. not in the phonebook,
 - Ex-Directory: Details not listed in the phone book or with Directory Enquiries.
- 10 In accordance with Regulation 19(2) of the Universal Service Regulations, undertakings that assign numbers to subscribers must supply the NDD with the relevant subscriber information.
- 11 In accordance with Regulation 19(4) of the Universal Service Regulations, the undertaking maintaining the NDD must provide access to the information on terms that are fair, objective, cost oriented and non-discriminatory.

2.1 Eircom's Obligations

- 12 Previously, Eircom, in its capacity as the universal service provider, was obliged by law to maintain the NDD.⁶ Since the coming into force of the Universal Service Regulations a universal service provider designated as such under those Regulations cannot be mandated to maintain the NDD merely by virtue of being the universal service provider.
- 13 There is however a specific power for ComReg under Regulation 19(4) of the Universal Service Regulations to require an undertaking to maintain the NDD.

⁵ Mobile telephone numbers are automatically protected pursuant to certain provisions in the European Communities (Electronic Communications Networks and Services) Data Protection and Privacy) Regulations 2011 against unsolicited communications.

⁶ Provision in the European Communities (Electronic Communications Networks and Services (Universal Service and Users' Rights) Regulations 2003.

3 Respondents views and the Commission's position

3.1 Directing an undertaking to maintain the NDD

14 The Commission's consultation 15/16⁷ asked the following question:

Q. 1 Do you agree that Eircom should be required, pursuant to Regulations 19 and 30 of the Universal Service Regulations, to continue to manage and maintain the NDD for the remainder of that 4 year period upon until 1 July 2018? Please provide detailed reasons and supporting evidence for your view.

Please provide detailed reasons and supporting evidence for your view.

Respondents' Views

15 All four respondents agreed that Eircom should continue to be required to manage and maintain the NDD until 1 July 2018.

Eircom, however noted its view that a centralised database would have efficiency benefits and that it considered that ComReg has "*not allayed Eircom's concerns as to the equity of ComReg's proposal to maintain the obligation on Eircom, which continues to be based primarily on decisions made in the past.*"

ComReg's Position

16 ComReg notes that Regulation 19(4) of the Universal Service Regulations provides that 'an undertaking' as opposed to the industry in general be required to maintain the NDD. In this respect, if ComReg were to require an undertaking other than Eircom, with or without an expression of interest, it could result in unnecessary cost and resource implications for stakeholders.

17 ComReg also notes that the undertaking required under Regulation 19(4) has the ability to set terms and conditions for access to the NDD that are cost oriented.

⁷ ComReg Consultation 15/16 Management and Maintenance of the National Directory Database http://www.comreg.ie/_fileupload/publications/ComReg1516.pdf

- 18 In light of the above, ComReg is of the view that it is most pragmatic and cost effective that Eircom continue to manage and maintain the NDD. Furthermore, not making such a requirement would create legal uncertainty for stakeholders⁸ and would result in detriment for end-users. One of ComReg's objectives is in relation to the provision of electronic communications networks, services, and associated facilities, of promoting the interests of users within the Community⁹.
- 19 ComReg remains of the view that it is appropriate to require Eircom to continue to manage and maintain the NDD for the remainder of the 4 year period, this is the fulfilment of the time period noted in the 2014 NDD consultation (ComReg Doc No. 14/36) and provides regulatory certainty for both end-users and undertakings.

3.2 The current NDD functionality

- 20 Question 2 focused on ComReg's preliminary view that the current NDD process and systems function adequately and are fit for purpose; this preliminary view is based on the outline of the upgrade to the NDD infrastructure discussed in consultation 15/16:

Q2. Do you agree that in your experience of the current NDD process and systems based on the recent upgrade function adequately?

Please provide detailed reasons and supporting recent evidence for your view

Respondents' Views

- 21 Two undertakings provided responses to the second question.
- 22 UPC advised that it: *"agrees that the current NDD process and systems based on the recent upgrade function adequately."*
- 23 Eircom noted that it: *"agrees that the current NDD process and systems function effectively, delivering a secure and reliable solution."*

ComReg's Position

- 24 As outlined in consultation 15/16, ComReg understands that the NDD processes and systems continue to function adequately and are fit for purpose, in particular since the 2014 upgrade.

⁸ Including: undertakings, subscribers, directory enquiry service providers, direct marketing companies, and the Office of Data Protection Commissioner.

⁹ Section 12(1)(a)(iii) of the Communications Regulation Act 2002 (as amended).

- 25 ComReg remains of the view that the current NDD process and systems based on Eircom's upgrade, function adequately and are fit for purpose.

3.3 Consideration of further issues

- 26 ComReg asked respondents to advise of any further issues that should be considered when formalising its views on the questions set out in consultation 15/16:

Q3 Are there any further issues in respect to ComReg's preliminary view that should be considered? Please provide detailed reasons and supporting recent evidence for your view.

Respondents' Views

- 27 Eircom noted the following; *"...there appears to be a need for Eircom to review its charges to ensure that the revenues obtained for providing the service adequately cover the associated costs."*
- 28 Eircom also sought an update on *"the inconsistency whereby the definition of "operator" in the Data and Privacy Regulations is currently aligned with the entity designated in respect of USO obligations but not the entity directed to maintain the NDD."*
- 29 The IDMA raised the following issue: *"Our members have concerns regarding the timeliness of data updates on the NDD, specifically the recycling of re-allocated numbers. Currently, when a number which is on the NDD is re-circulated to a new subscriber, the number remains on the NDD, rather than offering the new subscriber the option to opt in or out. This has led to the concern that a proportion of the numbers currently on the NDD now belong to subscribers who are well-disposed to receiving marketing calls and messages, but who will not do so since their number remains on the Directory."*

ComReg's Position

- 30 ComReg notes Eircom's comment in respect of charges. ComReg notes that in accordance with Regulation 19(4) of the Universal Service Regulations that access to the information maintained by Eircom is to be on terms that are 'cost oriented', and 'approved by the Regulator', among other requirements.
- 31 Regarding the matter in respect of the definition of 'operator', ComReg has raised this with the Department of Communications, Energy and Natural Resources (the Department). An information notice will be published by ComReg once the Department provides it with details of any developments on this matter.

- 32 In relation to the claim raised by the IDMA, ComReg would like to draw the attention of all undertakings to the Universal Service Regulations¹⁰ regarding subscriber contracts and privacy preferences:

Contracts

14. (1) An undertaking that provides to consumers, and other end-users so requesting, connection to a public communications network or publicly available electronic communications services shall do so in accordance with a contract that complies with paragraph (2).

(2) A contract referred to in paragraph (1) shall specify in a clear, comprehensive and easily accessible form, at least—

(c) where an obligation exists under Regulation 19, the subscriber's options as to whether or not to include his or her personal data in a directory and the data concerned.

- 33 The above Regulation applies whether or not a new or “recycled” telephone number has been assigned to a new subscriber contract. ComReg will investigate any complaints submitted to it by end-users arising in respect of obligations under Regulations 19 and the option for subscribers to include or not, his or her personal data in the National Directory Database.

- 34 Furthermore, under Regulation 12(1) (b) and (c) of the E-Privacy Regulations, an undertaking referred to in Regulation 19(1) of (2) of the Universal Service Regulations has to ensure that all its subscribers are, without charge,

(b) given the opportunity to determine whether their personal data are included in that directory (i.e. the directory under Regulation 19 of the Universal Services Regulations for which the undertaking provides relevant information in accordance with that Regulation), and

(c) given the opportunity to determine which of their personal data are included in that directory to the extent that such data are relevant for the purpose of the directory as determined by the provider

- 35 ComReg is of the view that none of the issues raised prevent it from directing Eircom to maintain and manage the NDD until 1 July 2018.

¹⁰ S.I. No. 337 of 2011, European Communities (Electronic Communications Networks and Services), (Universal Service and Users' Rights) Regulations 2011.

3.4 Additional Considerations

36 ComReg received additional comments for consideration in response to the consultation requiring a response from ComReg in order to provide clarification.

37 Regarding the RIA, Eircom noted the following:

“... ComReg suggests that there would be a negative repercussion on competition if no one were designated, as this “could result in directory enquiry service providers being deprived of access to the NDD. Eircom would have exclusive access and being able to unilaterally set terms and conditions of access to it”. Eircom does not consider this to be a valid prognosis. If ComReg were not to require any undertaking to manage the NDD, no directory enquiry service providers would have access to the database, as Eircom is mandated to provide the NDD on a non-discriminatory basis. Presumably the database would have to be purged if the obligation on Eircom were to lapse.”

38 Eircom¹¹ further suggested that the options considered in the RIA were inadequate. Eircom also claims that *“the merits of identifying and selecting an alternative provider to manage the NDD are not assessed.”*

39 ComReg in its consultation ComReg Doc No. 14/36, requested that undertakings indicate whether or not they had an interest in managing and maintaining the NDD. As noted in the response to that consultation and decision document (ComReg Decision 06/14) BT Ireland indicated that it may have an interest in doing so. BT Ireland, later in 2014 withdrew any interest it had in pursuing the management and maintenance of the NDD. As such ComReg consulted on directing Eircom to continue to manage and maintain the NDD for the remainder of the period originally consulted upon in 2014. ComReg considers that ample opportunity has been provided for alternative undertakings to present for consideration and assessment, but none had been forthcoming. At the time of the next consultation, regarding the management and maintenance of the NDD, ComReg would expect to again request that undertakings indicate their interest in the management and maintenance of the NDD.

¹¹ See ComReg document 15/44s for Eircom’s full comments.

- 40 In relation to Eircom's comments regarding the options assessed in the RIA, ComReg must specify an undertaking to manage and maintain the NDD. The option of appointing an undertaking other than Eircom, (for the specified time period) would have an impact on all stakeholders. Currently, an undertaking other than Eircom has not nominated themselves as ready and willing to undertake such a specification. Also, ComReg is not in the position to know whether an Undertaking possess the facilities required to manage and maintain the NDD without being advised by such an undertaking. As such ComReg considers the options assessed to be correct and adequate for assessment.
- 41 Eircom stated that there was an incorrect statement relating to the frequency of undertakings' updates to the telephone directory. Eircom noted:
- "...in the consultation document that telephone directory entries are provided by undertakings on an annual basis just as the printed phone book is produced on an annual basis. In fact undertakings submit printed directory preferences throughout the year in conjunction with directory entry additions and amendment, along with the directory enquiry and direct marketing preferences for each subscriber...."*
- 42 ComReg agrees with this correction, which is reflected within the RIA section of this document.
- 43 IDMA commented that: *"...the IDMA members would like the following concerns noted: Pending confirmation that this facility is extended with Eircom, we would appreciate the establishment of a more interactive structure with Eircom through which the IDMA can more easily represent our members' interests and requirements - this interactive facility has not been available to us up to now."*
- 44 This decision extends the direction on Eircom to manage and maintain the NDD until the end of June 2018. The structure of the NDD is based on specifications as set out in Regulations 19 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 and refer specifically to 'Undertakings'.¹² ComReg's remit extends only to undertakings to maintain and keep the NDD.

¹² <http://www.irishstatutebook.ie/2011/en/si/0337.html>

4 Final Regulatory Impact Assessment (“RIA”)

4.1 Role of the RIA

45 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether or not a proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate. The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders.

46 The Commission’s approach to RIA is set out in the Guidelines published in August 2007¹³. Furthermore, in conducting this RIA, the Commission takes account of the RIA Guidelines,¹⁴ adopted under the Government’s *Better Regulation* programme.

47 Section 13 (1) of the Communications Regulation Act 2002, as amended, requires the Commission to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings the Commission must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government’s *Better Regulation* programme. In conducting the RIA, the Commission also has regard to the fact that regulation by way of issuing decisions e.g. imposing obligations or specifying requirements can be quite different to regulation that arises by the enactment of primary or secondary legislation.

48 In conducting a RIA, the Commission takes into account the six principles of *Better Regulation*. These are:

1. Necessity.
2. Effectiveness.
3. Proportionality.
4. Transparency.

¹³ Commission Document No. 07/56 & 07/56a

¹⁴ See: <http://www.djei.ie/publications/ria/RIAGuidelines2009.pdf>

5. Accountability.

6. Consistency.

49 To ensure that a RIA is proportionate and not overly burdensome, a common sense approach is taken. As decisions are likely to vary in terms of their impact, and if after initial investigation a decision appears to have relatively low impact, the Commission would expect to carry out a less exhaustive RIA. In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate, or in exceptional cases, where robust, detailed, and independently verifiable data is available. This approach will be adopted when necessary.

4.2 Policy Issues

Purpose of the NDD

50 The Universal Service Regulations provide that all undertakings providing publicly available telephone services must ensure that their subscribers have the right without charge, to have an entry in a printed directory and/or a directory enquiry service.

51 Eircom as the USP in the State¹⁵ is legally obliged to ensure that a comprehensive printed directory of subscribers (based upon data maintained on the NDD) is made available to all subscribers, free of charge, and that it is updated at least once a year. For this purpose, Eircom receives, stores and maintains relevant subscriber data electronically. The technical specifications and protocols in relation to the arrangements are overseen by the Commission. The relevant subscriber data is obtained and recorded by Eircom in the NDD, without charge to undertakings¹⁶ and the NDD is updated nightly. The NDD is therefore, a central, up to date and reliable source of data relating to subscribers who have consented to their details being recorded on it.

¹⁵ Regulation 4(1) of the Universal Service Regulations, and ComReg Decision D07/14, contained in "Response to Consultation 14/68- Universal Service; Scope and Designation: Provision of Directory of Subscribers".

¹⁶ Commission Document No. 07/20.

- 52 The E-Privacy Regulations also require all undertakings to record a subscriber's telephone number in the NDD "*do not call register*" if the customer requests, (fixed line ex-directory numbers must be placed automatically on the "*do not call register*" by undertakings)¹⁷. The NDD is used as a direct marketing "*opt-out*" register. The NDD is the mechanism used for collating the "*do not call register*" for the purpose of the E- Privacy Regulations. Consumers can opt out of direct marketing by asking their telecoms service provider to place their number on the "*do not call register.*"
- 53 Therefore, the Universal Service Regulations and the E- Privacy Regulations, read together, require the NDD to be in place.
- 54 The NDD is a valuable and convenient resource for directory enquiry service providers. Subscriber names and telephone numbers are key inputs for their businesses and Eircom (who is currently responsible for maintaining the NDD) provides them with this information from a central and convenient source.

Issue

- 55 Since the coming into force of the Universal Service Regulations in 2011, a USP designated as such thereunder, cannot be mandated to maintain the NDD merely by virtue of being the USP.
- 56 However, ComReg now has the power to require an undertaking to maintain the NDD in accordance with Regulation 19 (4) of the Universal Service Regulations. That undertaking may still be the USP, but the USP cannot be obliged to maintain the NDD *in its particular capacity as the USP,* rather it would be obliged in its capacity as an *undertaking*, like any other undertaking.
- 57 Without the NDD, a number of regulatory requirements could not be fulfilled by undertakings. Residential consumers and businesses might lose their legal entitlements and protections under the Universal Service Regulations and the E-Privacy Regulations in respect of directories/directory enquiries and unsolicited direct marketing.
- 58 Given the various functions of the NDD, it is critical that it continues to be maintained in its current form.

4.3 Policy Options

- 59 ComReg has considered the options available to it to ensure that the NDD is maintained in its current form.
- 60 **Option 1:** Not to specify an undertaking to maintain the NDD.

¹⁷ See Regulation 14 ("National Directory Database").

- 61 **Option 2:** Require Eircom, an undertaking, to maintain the NDD for the remainder of the 4 year period to 2018. (ComReg considers specifying Eircom to be the most pragmatic option available)

Assessment of Options

Option 1

- 62 ComReg has considered the impact if it were to forebear from specifying an undertaking to maintain the NDD.
- 63 If ComReg does not direct an undertaking, to maintain and operate the NDD, it would create significant legal uncertainty for stakeholders and may jeopardise other obligations and rights of undertakings and other entities in relation to the NDD and in turn, affect the rights of consumers.

Consumers

- 64 ComReg is of the view that if no undertaking is specified to continue to maintain the NDD, consumers who do not wish to be contacted for Direct Marketing purpose may now be contacted as, there would be no way for them to register their preference. This would cause detriment to consumers, in ComReg's view, this scenario must be avoided.

Industry

- 65 In accordance with Regulation 19 of the Universal Service Regulations, subscriber details are made available by undertakings, recorded and maintained by the undertaking that maintains the NDD. In addition, the undertaking that maintains the NDD must provide access to that information in accordance with specific terms and conditions. If there is no undertaking specified to maintain the NDD, this will create legal and commercial uncertainty about who must provide access to the NDD and the terms of the access specified in Regulation 19 (4) of the Universal Service Regulations.
- 66 In terms of Directory Inquiry service providers, they would no longer have access to the source of information which their services are based upon, in this case they may potentially have to cease operation.
- 67 Additionally, in Eircom's case this would be no longer incurring the costs of managing and maintaining the service, but also this would mean losing any potential revenue from it.

Competition

68 Currently Eircom is required, under Regulation 19(4) of the Universal Service Regulations, to manage and maintain the NDD on a fair, objective, cost-oriented, and non-discriminatory basis. In light of the current state of the market, ComReg considers that, all things being equal, if another undertaking was obliged to manage and maintain the NDD, it could be likely to be more costly for directory enquiry service providers and consequently for consumers.

Option 2

69 ComReg has considered the impact of requiring an undertaking to maintain the NDD.

70 ComReg is of the view that this is the most appropriate and objectively justified option at this time, as it is the only way to ensure that the related rights and obligations can be guaranteed.

71 In addition, ComReg has considered which undertaking it should specify and it is of the view that to specify Eircom as the undertaking to continue to maintain the NDD, is the most appropriate, objectively justified, and proportionate option at this time.

72 If the NDD is maintained in its current form by Eircom it will mean that there is no change to the *status quo*.

Consumers

73 ComReg is of the view that the preferred option to facilitate the associated consumer rights in respect of directory entries and opting out of direct marketing (the Data and Privacy Regulations) is for ComReg to require an undertaking to maintain the NDD. Doing this would avoid any risks in relation to the continuity of operation and the integrity of the data held and processed by the NDD. Also, if the NDD is maintained, consumers Direct Marketing preferences will continue to be recorded, as will their ability to access a Directory Inquiry service. Therefore, ComReg is of view that Eircom should continue to maintain the NDD.

Industry

- 74 Subscriber details are obtained from undertakings and recorded by the undertaking that maintains the NDD, without charge to undertakings. In addition, the undertaking that maintains the NDD must allow access to the information in accordance with specific terms. Undertakings submit printed directory preferences throughout the year in conjunction with directory entry additions and amendments, along with the directory enquiry and direct marketing preferences for each subscriber. Therefore the NDD is linked to the production of a printed directory as it is one of the sources for the production of the printed and online directories.
- 75 By ensuring the maintenance of the NDD by a specified undertaking, industry and direct marketers will not need to obtain information from each telecoms service provider individually. While undertakings are legally obliged to provide this information, the directory enquiry service providers do not obtain it in this manner. It is more convenient and less costly for them and undertakings to obtain the information from the one, centralised source that is the NDD.
- 76 Requiring Eircom to continue maintain the NDD would preserve the *status quo* and continuity and clearly have a positive impact on the industry.
- 77 ComReg understands that the costs to Eircom of maintaining the NDD maybe covered by the licence fees (Directory Information Licence Agreement/Direct Marketing Licence Agreement).¹⁸

Competition

- 78 ComReg is not aware of any competition issues arising by specifying Eircom to continue to manage the NDD. In addition, ComReg has observed from responses by industry to previous consultations by ComReg, that the majority of telecoms service providers are supportive of the NDD and its functions and the continued maintenance and operation of the NDD by Eircom.
- 79 In light of the above, ComReg is of the preliminary view that it is appropriate, objectively justified and proportionate that ComReg specifies Eircom to be the undertaking required to continue to maintain the NDD.

¹⁸ Commission Document No. 10/46 – Decision Notice Response to Consultation – The Provision of Telephony Services under Universal Service Obligations.

5 Decision Instrument

STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1. This Decision and Decision Instrument, made by the Commission for Communications Regulation (“ComReg”), relates to the maintenance and management of the National Directory Database (“NDD”) and is made:

- i. Having regard to sections 10 and 12 of the Communications Regulation Act 2002 (“the Act” of 2002”);
- ii. Having regard to the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011;
- iii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulations 19 and 30 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (“the Regulations”);
- iv. Having taken account of the representations of interested parties submitted in response to ComReg document No. 15/16 and
- v. Having regard to the analysis and reasoning set out in ComReg document No. 15/44.

2. Decision

2.1 Eircom Limited and its subsidiaries, and any undertaking which it owns or controls and any undertaking which owns or controls it and its successors and assigns (“Eircom”) shall maintain the NDD for a period of 3 years.

2.2 Eircom shall meet all reasonable requests for access to any information contained in the NDD in an agreed format.

2.3 The terms of access to the NDD shall be fair, objective, and cost orientated and non-discriminatory.

2.4 The terms of access to the NDD shall otherwise be in accordance with such terms and conditions as may be specified by Eircom and approved by ComReg in advance of the implementation of any such terms and conditions and such approval shall be obtained in writing.

3. Statutory Powers Not Affected

Nothing in this direction shall operate to limit ComReg in the exercise and performance of its statutory functions, powers and duties under any primary or secondary legislation (in force prior to or after the effective date of this direction) from time to time as the occasion may require.

4. Maintenance of Obligations

If any section, clause or provision or portion thereof contained in this direction is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that section, clause or provision or portion thereof shall, to the extent required, be severed from this direction and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this direction and shall not in any way affect the validity or enforcement of this direction.

5. Effective Date and Duration

5.1 This Decision shall be effective from 1 July 2015.

5.2 This Decision shall remain in force from the effective date for a period of 3 years.

JEREMY GODFREY
CHAIRPERSON
THE COMMISSION FOR COMMUNICATIONS REGULATION
18 May 2015