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Rialáil Cumarsáide
Commission for
Communications Regulation

National Directory Database (NDD)

Proposals to manage and maintain the NDD

Consultation

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1 Executive Summary

1. The National Directory Database ("NDD") is a record of all subscribers of voice communication services in Ireland, including those with fixed, personal and mobile numbers who have not refused to be included in that record. The NDD is kept in accordance with Regulation 95 (3) of the European Electronic Communications Code Regulations 2022¹ (the "EECC Regulations") and Regulation 14 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (as amended) ("the e-Privacy Regulations").²
2. The function of the NDD is primarily to facilitate the compilation of and access to information for telephone directories and directory enquiry services. In accordance with the e-Privacy Regulations, the NDD continues to be the basis for the operation of the "opt-out" register for direct marketing purposes.
3. ComReg has the power to require a person³ to manage and maintain the NDD under Regulation 95 of the EECC Regulations.
4. In December 2018, following a consultation process, pursuant to ComReg Decision D16/18 ("D16/18"),⁴ ComReg decided that PXS B.V. (formerly Porting Access B.V. and hereinafter "PXS") would manage and maintain the NDD. This decision will expire on 30 June 2024, in line with ComReg Decision D06/22⁵ ("D06/22"). ComReg is now considering its options in respect of the management and maintenance of the NDD after 30 June 2024.
5. Information Notice 24/12⁶ extended an invitation to all persons who are interested in managing and maintaining the NDD to express their interest in doing so.
6. ComReg received one expression of interest, submitted by PXS. As part of the expression of their interest, detailed information was provided to ComReg by PXS, such as its competence and expertise to manage and maintain the NDD, back up and security procedures, and a proposal to manage and maintain the NDD going forward.

¹ Implementing Article 112 of the Code (Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast)), S.I. No. 444 of 2022.

² the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011. S.I. No. 336 of 2011.

³ Note that where previous legislation referred to "an undertaking", the EECC Regulations refer to "a person".

⁴ ComReg Decision D16/18 and ComReg document 18/108 Management and Maintenance of the National Directory Database | Commission for Communications Regulation (comreg.ie)

⁵ ComReg Decision D06/22 and ComReg document 22/54 National Directory Database (NDD) Management and maintenance of the NDD Response to Consultation and Decision | Commission for Communications Regulation (comreg.ie)

⁶ ComReg Information Notice document 24/12 National Directory Database (NDD) – Request for Expressions of Interest for Managing and Maintaining the NDD | Commission for Communications Regulation (comreg.ie)

7. ComReg has now completed its assessment of the information provided by PXS to determine the most appropriate person to manage and maintain the NDD beyond the current Decision D16/18, if decided by ComReg subject to this consultation process.
8. This Consultation seeks stakeholders' views on ComReg's proposals relating to; (i) a need for the NDD, (ii) should there continue to be a need for the NDD whether a person should be required to manage and maintain the NDD and (iii) the duration of this direction. ComReg is consulting on its preliminary view that PXS should be the person required to manage and maintain the NDD for a 3-to-5-year period commencing from 1 July 2024.
9. ComReg looks forward to receiving responses from all stakeholders in relation to its proposals as set out in this consultation. ComReg will review and fully take into account all of the responses it receives before coming to a final decision in respect of management and maintenance of the NDD from 1 July 2024.

2 Background

10. In accordance with Regulation 95 (1) of the EEC Regulations, providers of number-based interpersonal communications services (“NBICS”) that assign numbers to subscribers must supply the NDD with the relevant subscriber information.

2.1 Purpose of the NDD

11. The NDD is a record of all subscribers of voice communications services in Ireland, including those with fixed, personal and mobile numbers who have not refused to be included in that record, kept in accordance with Regulation 95 (3) of the EEC Regulations and the e-Privacy Regulations. The function of the NDD is primarily to facilitate the compilation of and access to information for telephone directories and directory enquiry services. The NDD also contains the preference of subscribers in relation to the receipt of unsolicited marketing communications.

2.1.1 Entries in a Directory and Directory Enquiry Service and the NDD

12. The NDD holds details of subscriber preferences for listing their telephone numbers as entered on the NDD by NBICS providers. The following are the possible options for directory listings (“Directory Listing Preferences“):

- I. **Listed:** Details (name, address, telephone number) are made available to providers of directory enquiry services or directories. In practice that means that these details can be accessed using directory enquiries.
- II. **Ex-Directory:** Details (name, address, telephone number) are not made available to providers of directory enquiry services or directories. In practice that means that these details cannot be accessed using directory enquiries.

2.1.2 Unsolicited communications for the purpose of direct marketing and NDD

13. The e-Privacy Regulations provide that subscribers of voice communications services have certain rights in relation to the potential inclusion of their personal data in a directory and/or directory enquiry service.⁷ The e-Privacy Regulations prohibit unsolicited communications (including telephone calls or calls by automated calling machines or facsimile machines) for the purpose of direct marketing ("Direct Marketing Communications") to subscribers who do not consent to receiving such communications.⁸ The e-Privacy Regulations contain obligations on providers of NBICS to record certain information in the NDD about whether an individual subscriber consents to Direct Marketing Communications or not ("Direct Marketing Preferences").

14. The Direct Marketing Preferences are held on the NDD and consist of:

- 1) A record of those fixed subscribers who have notified their service provider that they do not consent to receiving unsolicited Direct Marketing Communications and all ex-directory numbers. This list is known as the "opt out register". It is a means by which direct marketers can check telephone numbers to ensure that they do not conduct unsolicited communications with a subscriber who has indicated that they do not consent to unsolicited Direct Marketing Communications or an ex-directory number (i.e., those that have "opted out" of Direct Marketing Communications).
- 2) A record of those mobile subscribers who have consented to receiving Direct Marketing Communications⁹ i.e., "opted-in" to unsolicited Direct Marketing Communications. All other mobile subscribers have not consented to Direct Marketing Communications.

2.2 Current Direction

15. Pursuant to D16/18, PXS manages and maintains the NDD. This direction will expire on 30 June 2024, in line with D06/22.

16. The NDD must be managed and maintained in accordance with the relevant provisions of the EECC Regulations and the e-Privacy Regulations.

⁷ Regulation 12 of the e-Privacy Regulations.

⁸ Regulation 13(1) of the e-Privacy Regulations.

⁹ Regulation 13(6) of the e-Privacy Regulations. Communications by facsimile machine are not included for the purpose of mobile subscribers.

17. In accordance with D16/18,¹⁰ the NDD is managed and maintained in accordance with:

- The Operational Specification agreed with ComReg.¹¹ This document specifies the process and all technical requirements necessary for managing and maintaining the NDD.
- Agreed terms of access to the NDD, as approved by ComReg.¹²
- Established agreements with providers of NBICS that provide data to the NDD to give effect to Regulation 95 of the EECC Regulations.
- Established licence agreements with Directory Data Users (“DDUs”) (who can be directory service providers, directory enquiry service providers or direct marketers).
- Back-up and security arrangements for the contents of the NDD (the data contained on the NDD is put in escrow) to ensure the security, integrity and continuity of the NDD.
- A Joint Controllership Arrangement with ComReg for managing and maintaining the NDD in respect of data protection and associated matters.

2.3 Legal Basis

18. Regulation 95 of the EECC Regulations allows ComReg to require a person to manage and maintain the NDD, as set out at Annex 2.

19. The NDD must also be managed and maintained in accordance with e-Privacy Regulations, as set out at Annex 2. Regulation 14 of the e-Privacy Regulations requires all NBICS providers to record a subscriber’s telephone number in the NDD “do not call register” if the customer does not consent to unsolicited calls. The NDD is used as a direct marketing “opt-out” register, and is the mechanism used for collating the “do not call register” for the purpose of the e-Privacy Regulations.

¹⁰ Pursuant to D16/18 and Clause 3 of the decision instrument.

¹¹ Available on the PXS website NDD - [NDD - PXS](#) – National Directory Database.

¹² Pursuant to Regulation 95 of the EECC Regulations, the Terms of Access to the NDD shall be fair, objective, cost orientated and non-discriminatory and in accordance with the laws of Ireland and subject to the Courts of Ireland.

3 Consultation Issues

3.1 Overview

20. In light of the forthcoming expiration of D16/18, ComReg has commenced a review of the NDD measure and a possible need for management and maintenance of the NDD after 30 June 2024 (when the obligations on PXS expire).

21. As part of this review, ComReg considers if there have been any relevant developments impacting on the operation of the NDD, such as in respect of;

- Market changes,
- Technological developments,
- Regulatory framework and other associated legislative provisions.

22. As part of this consultation process, ComReg considers the expression of interest it has received in response to Information Notice 24/12.

3.2 Need for NDD

23. Under Regulation 95 (3) of the EECC Regulations, ComReg has discretion as to whether to require a person to manage and maintain the NDD. Therefore, as a starting point, ComReg must consider whether there continues to be a need for the NDD.

24. As referred to above, the NDD is currently used for a number of purposes:

- the information is currently used by providers for the collation of online directories (“providers”).
- directory enquiry service providers use the information to provide their service.
- the direct marketing industry use the information and it continues to be the basis for the “opt-out” register for direct marketing purposes.

25. In addition, under the e-Privacy Regulations, NBICS providers must provide up-to date information to the NDD and details of subscriber preferences for listing their telephone numbers as well as their telemarketing preferences.

26. Therefore, absent the NDD being in place, a number of regulatory requirements could not be fulfilled by NBICS providers. If ComReg should decide not to require a person to maintain and operate the NDD, it may create legal uncertainty for stakeholders.¹³ For example, absent an NDD, direct marketing companies may not be able to access the information they require to determine who they may and may not contact under the e-Privacy Regulations.

27. Absent an NDD being in place there is a risk that;

- a number of regulatory requirements could not be fulfilled by persons in accordance with the e-Privacy Regulations.
- subscribers might lose their legal entitlements and protections under the EECC Regulations in respect of directories/directory enquiries.
- subscribers might lose their legal entitlements and protections under the e-Privacy Regulations and be subjected to unsolicited Direct Marketing Communications.

28. ComReg is not aware of any significant market or technological developments that would change the analysis as regards the continued need for the NDD.

3.2.1 ComReg's Preliminary View

29. Given the various functions of the NDD as set out in this consultation, in light of the requirements for an NDD pursuant to the legislation, and likely continued need for an NDD; absent an NDD being in place, some regulatory requirements could not be fulfilled, and subscribers might lose some of their legal entitlements. In this context, there would be a continued demand to access to the directory services information contained in the NDD over the coming years. ComReg is of the preliminary view that it would be appropriate that an NDD continues to exist.

30. ComReg considers if users' rights would be delivered absent a direction. Importantly, without a direction there are no alternative ways in which stakeholders can access directory services information. Absent a direction, it is not guaranteed that the NDD would continue to be managed and maintained with the result that the need for the NDD would not be met.

31. A stakeholder's right to access this information would be ensured by requiring a person to manage and maintain the record.

¹³ Including: undertakings, subscribers, directory enquiry service providers, direct marketing companies, and the Data Protection Commission.

32. ComReg’s objective in requiring a manager of the NDD would be to help ensure, amongst other things, that NBICS providers can meet reasonable requests for access to the information contained in the NDD; that an up-to-date and comprehensive database (i.e. the NDD) containing directory information in relation to all listed telephone numbers would be kept centrally; that providers of directory information services would continue to have access to the information necessary to offer those services on the appropriate terms; and that the NDD would continue to be the basis for the “opt-out” register for direct marketing purposes, as relevant.

33. In light of the above factors, unless circumstances arise otherwise, ComReg’s preliminary view is that ComReg would require an appropriate person to manage and maintain the NDD under Regulation 95 of the EECC Regulations after 30 June 2024 (when the obligation expires on the current NDD manager). Requiring a person to manage and maintain the NDD would help ensure end-user rights are preserved. It would have a positive impact on the industry where the NDD assists them in meeting their respective obligations, as is set out in the draft Regulatory Impact Assessment (“RIA”).

Q. 1 Do you agree that there is a need for the NDD?

Q. 2 Do you agree that ComReg should require a person pursuant to Regulation 95 of the EECC Regulations, to manage and maintain the NDD from 1 July 2024? Please provide detailed reasons and supporting evidence for your view.

3.3 Relevant Person

34. Should there be a continued need for the NDD, ComReg is considering, subject to this consultation, whether PXS is best placed going forward to manage and maintain the NDD, as set out below.

3.3.1 Management and maintenance of NDD 2019 to 2024

35. As referred to, the NDD must be managed and maintained in accordance with the relevant provisions of the EECC and the e-Privacy Regulations.

36. Pursuant to D16/18, PXS manages and maintains the NDD in accordance with the Operational Specification agreed with ComReg. PXS's approach to keeping a record of all subscribers of voice communication services in the State (including those with fixed, personal and mobile numbers who have not refused to be included in that record), and meeting all reasonable requests for access to any information contained in that record, is as set out in the Operational Specification.¹⁴ The Operational Specification contains the functional and technical details of the PXS system (the National Directory Database Service or NDS), notably, the terms of formats, functionality, interfaces, connections and its services.¹⁵ Since 2 September 2019, PXS' NDS is fully functional and in operation. PXS therefore owns the assets and systems currently supporting the NDD.
37. PXS provides access to the NDD to NBICS providers to enable them to upload directly their Directory Listing Preferences and Direct Marketing Preferences on to the NDD; which gives effect to the requirements of Regulation 95 the EECC Regulations and the e-Privacy Regulations.
38. In accordance with Regulation 95 of the EECC Regulations, PXS currently provides access to information held in the NDD to licensed stakeholders i.e., DDUs (who can be directory service providers, directory enquiry service providers or direct marketers); As regards these categories of stakeholders, PXS currently provides access to information relating to Directory Listing Preferences to directory information service providers ("**DISP's**") under a Directory Information Licence Agreement ("**DILA**"). In addition, PXS currently provides access to information relating to Direct Marketing Preferences to direct marketers under a Direct Marketing Licence Agreement ("**DMLA**").
39. As referred to, PXS managing and maintaining the NDD must provide access to the information on terms that are fair, objective, cost oriented and non-discriminatory. The Terms of Access¹⁶ and all relevant information on how to access any information on the NDD are published currently on the PXS website.
40. The Operational Specification and Licence Agreements are available to inform parties that interact with the NDD including ComReg, ECS providers, DISPs (directory service providers and directory enquiry service providers) or direct marketers.

¹⁴ In accordance with D16/18, Operational Specification means the process, and all technical requirements necessary for managing and maintaining the NDD, as agreed with ComReg.

¹⁵ See [NDD - PXS](#) PXS – National Directory Database – Operational Specification.

¹⁶ In accordance with D16/18, "Terms of Access" means the terms and conditions specified by PortingXS for the purpose of providing reasonable access to the NDD as approved by ComReg.

41. PXS currently backs up the contents of the NDD and has put data contained in the NDD in Escrow as a means of ensuring the security, integrity, and continuity of the NDD, as set out in the Operational Specification.
42. Upon request, PXS will provide information to the Data Protection Commission and/or to ComReg, in the timeframe set out in the request, for the purposes of the carrying out their respective regulatory functions.

3.3.2 Expression of interest

43. As noted above, Information Notice 24/12 extended an invitation to persons who are interested in maintaining the NDD to express their interest in doing so. ComReg requested that the expression be accompanied by the following minimum information:
 - i. The persons expertise in order to manage and maintain the NDD,
 - ii. How the technical requirements of the NDD would be fulfilled, including:
 - iii. How the back-up and security requirements of the NDD would be fulfilled,
 - iv. Costings and revenues involved with the management and maintenance of the NDD,
 - v. Details of any proposed arrangements to give effect to the requirements of Regulation 95 of the EECC Regulations and for the purpose of providing reasonable access to the NDD,
 - vi. Details of any proposed transition plan to migrate all parties with a minimal impact from the current manager of the NDD onto a different solution.
 - vii. A letter confirming the undertakings legitimate interest in managing and maintaining the NDD.
44. PXS was the sole person to express an interest in managing and maintaining the NDD.
45. ComReg has undertaken an assessment of the expression of interest received to determine if PXS would be an appropriate person to require to manage and maintain the NDD should ComReg decide to proceed to have an NDD from 1 July 2024. The assessment includes aspects in relation to PXS' current role as NDD manager, as well as its proposal to be an NDD manager from 1 July 2024.

i. Expertise

46. PXS has implemented, managed, and maintained the NDD in accordance with Regulation 95 (3) of the EEC and Regulation 14 of the e-Privacy Regulations since 2 September 2019.
47. In the time since PXS became manager of the NDD, PXS has provided a stable, robust, and secure service benefitting the NBICS providers, directory service providers, marketing companies and consumers. To date, PXS has provided its NDS and associated services to manage and maintain the NDD in a satisfactory manner without any significant issues arising for all users.
48. PXS has relevant experience in managing large databases. It includes number portability database management, together with NDD and directory services management. PXS provides NDD or similar type services in Belgium (the solution provided is known as a Number Information Register). In addition, PXS provides central databases services including providing Number Portability Clearinghouse, Number Portability Gateway, Number Management Systems and Operator Switching Hubs across multiple countries.
49. Having considered all of the information provided, ComReg is of the preliminary view that PXS has sufficient relevant technical competence and expertise in managing and maintaining the NDD. In that context, PXS is a suitable candidate for consideration to manage and maintain the NDD in Ireland.

ii. Technical Requirements

50. ComReg considered whether PXS has the technical understanding and capability to manage and maintain the NDD.
51. PXS currently fulfils its obligation as NDD manager by providing the NDS in accordance with the Operational Specification. The process flows are outlined in further detail in the Operational Specification. In summary, this system enables PXS to,
- a. collect inputs from providers of NBICS in relation to Directory Listing Preferences and Direct Marketing Preferences; where these providers update their data onto the NDD by direct technical interface; and
 - b. provide access to Directory Listing and Direct Marketing Preferences held on the NDD to licensed directory data users.

52. PXS provides DISPs with access to the information contained in the NDD relating to Directory Listing Preferences, and direct marketers with access to the information contained in the NDD relating to Direct Marketing Preferences, in a format agreed by ComReg and set out in the Operational Specification.
53. In its submission, PXS outlined that it plans to continue providing this solution with all existing functionality and may offer additional functionality. PXS outlined that it has invested in the robustness of the service, recently upgrading its hosting facilities.
54. Based on information available, ComReg is satisfied that so far PXS provides a sufficient technical solution to manage and maintain the NDD.

iii. Back-up and Security Requirements

55. PXS backs up the contents of the NDD at regular intervals, as outlined in Appendix VII of the Operational Specification. In addition, PXS deposits full exports of the data held in the NDD to an escrow agent monthly.
56. ComReg understands that PXS also maintains and applies an active Information Security Policy, governing a security framework ensuring organizational and technical measures to ensure the integrity, availability, and confidentiality of the NDD.
57. In addition, PXS and ComReg have signed a Joint Controller Agreement detailing their responsibilities in terms of processing of personal data for the purpose of providing the NDD service.
58. PXS has confirmed in its submission that it commits to maintain these back-up and security arrangements should it be required to be the NDD manager.
59. Based on information available, ComReg is of the preliminary view that the standards, processes and procedures which PXS have enacted are sufficient to manage and maintain the NDD.

iv. Prices, Costs and Revenues

60. In accordance with Regulation 95 (3), the person maintaining the NDD must provide access to the information on terms that are cost oriented.
61. PXS set out its proposed prices together with the expected costs and revenues.

Costs

62. As part of its submission, PXS provided a breakdown of its ongoing costs. The anticipated annual ongoing costs are [REDACTED]. When appointed NDD manager, the costs proposed by PXS for managing and maintaining the NDD were significantly lower than the historical operational costs, prior to 2019.
63. Based upon the expression of interest received, the costs proposed by PXS remain in line with the existing operational costs. ComReg is of the preliminary view that the proposed anticipated annual costs appear reasonable and consistent with the principle of cost orientation.
64. PXS has confirmed in its submission that there will be no setup costs or investments associated with a direction. It is envisaged that PXS should not experience any significant additional costs in terms of managing and maintaining the NDD resulting from a direction.

Prices

65. Table 2 shows the licencing pricing structure proposed by PXS. The prices outlined are based on the assumption that the number of licences purchased are in line with current volumes for both DMLA and DILA licences.

Table 1: Prices

Prices by licence type	No. of Licences	Unit Price
DILA	[REDACTED]	[REDACTED]
DMLA Single Use	[REDACTED]	[REDACTED]
DMLA Multi Use	[REDACTED]	[REDACTED]

66. PXS indicate that licensees would pay once yearly for the service. In addition, they noted that in the event of an increase or decrease in the number of licences, possibly a significant impact on the yearly profit in the context of management and maintenance of the NDD may occur. If the number of either licence category decreases, PXS may implement a price increase, subject to ComReg's approval. The price increase will only serve to maintain its total revenue (and consequently profit).
67. ComReg notes the number of licences has largely remained relatively stable since PXS became NDD manager in 2019. Having regard to market developments over the last years and trends across the UK and Europe, it is unlikely that a significant increase in licences would occur in the coming years.

68. ComReg notes that there is a risk of a licence price increase should the number of licensees decrease. However, this risk would exist regardless of which person would be required to manage and maintain the NDD from 1 July 2024, if decided by ComReg subject to this consultation.

69. It is envisaged that any costs to PXS of managing and maintaining the NDD would be covered by the licence fees under DILA and DMLA.

Revenues

70. In order to ensure that the proposal adhered to the cost-orientation requirement, interested persons were also asked to provide revenue forecasts for DMLA and DILA for each of the three years 2024 to 2026. ComReg considers how this forecast revenue compares to the cost information already provided.

71. Revenues are attained from both DMLA and DILA fees. PXS have in all instances proposed DMLA and DILA fees which are the same as those currently charged to licensed stakeholders. PXS have in determining their expected profit, assumed the number of licences in each category remains the same over the 3-year forecast period, 2024 to 2026.

72. PXS have estimated an annual profit of [REDACTED] over the three-year period based on current licence numbers.

73. ComReg is of the preliminary view that the proposed prices appear consistent with the cost-oriented principle in accordance with Regulation 95 (3) of the EECC Regulations.

v. Agreements

74. As NDD manager, PXS enters into agreements to formalise their arrangements to provide access to NBICS providers so they can update data on to the NDS directly; and to licensed stakeholders to access the directory information data, as appropriate, as set out in the Operational Specification.

75. In its submission to be the NDD manager from 1 July 2024, PXS proposes to maintain the same process as is in place for the current solution as set out in the Operational Specification.

3.3.3 ComReg's Preliminary View

76. Having regard to all information available to it, and the preliminary view that there is a continued need for the NDD; having considered aspects in relation to PXS' current role as NDD manager and the proposal as provided by PXS in response to the expression of interest, and in light of the factors considered in sections 3.3.1 and 3.3.2 above, ComReg is of the preliminary view that it would be appropriate and proportionate to require PXS, pursuant to Regulations 95 (3) of the EECC Regulations, to manage and maintain the NDD from 1 July 2024.

Q. 3 Do you agree that PXS, as the sole person who expressed an interest in managing and maintaining the NDD, should be required, pursuant to Regulation 95 of the EECC Regulations, to do so? Please provide detailed reasons and supporting evidence

3.4 Relevant Time period

77. Table 2 sets out the period for which previous directions in terms of managing and maintaining the NDD applied.

78. ComReg, pursuant to D16/18, decided that PXS would manage and maintain the NDD for a minimum period of 3 years and up to 5 years from 1 July 2019, at ComReg's discretion, having regard to any future developments as regards a changing legislative, regulatory framework and electronic communications sector generally. ComReg, pursuant to D06/22, extended the direction pursuant to D16/18 on PXS to continue to manage and maintain the NDD until 30 June 2024.

Table 2: Previous Designations and time periods

Period	Duration	Person
Oct 2012 - June 2014¹⁷	20 months	Eircom
July 2014 - June 2015¹⁸	1 year	Eircom
July 2015 - June 2018¹⁹	3 years	Eircom
July 2018 - Mar 2019²⁰	9 months	Eircom
Mar 2019 - June 2019²¹	3 months	Eircom
July 2019 - June 2022²²	3 years	PXS
July 2022 - June 2024²³	2 years	PXS

79. A shorter period may be beneficial where a number of persons have expressed an interest in managing and maintaining the NDD or where the regulatory environment is uncertain. In this case neither of these issues arise.

80. Following transposition of Regulation 95 of the EEC Regulation into Irish Law, there are unlikely to be any changes in the near future to the regulatory requirements for managing and maintaining an NDD.

81. There is currently no other way in which directory data information can be accessed or provided to DISPs or direct marketers while also protecting end-users other than by a regulatory direction by ComReg. No other persons have expressed an interest in being directed.

¹⁷ ComReg Document D10/12, "Response to Consultation – Management and Maintenance of the National Directory Database", 19 October 2012.

¹⁸ In 2014 ComReg received an Expression of Interest from another undertaking, in order to allow time to fully assess this expression of interest, ComReg directed Eir to manage and maintain the NDD for a period of one year. (ComReg Document D06/14 "Management and Maintenance of the National Directory Database", 1 July 2014). The Expression of Interest was subsequently withdrawn.

¹⁹ ComReg Document D02/15 "Management and Maintenance of the National Directory Database", 18 May 2015.

²⁰ ComReg Document D07/18 "Management and Maintenance of the National Directory Database", 27 June 2018.

²¹ ComReg Document D03/19 "Management and Maintenance of the National Directory Database", 29 March 2019.

²² ComReg Document D16/18 "Management and Maintenance of the National Directory Database", 6 December 2018.

²³ ComReg Decision D06/22 and ComReg document 22/54 National Directory Database (NDD) Management and maintenance of the NDD Response to Consultation and Decision | Commission for Communications Regulation (comreg.ie).

82. A longer direction period may give greater certainty to stakeholders, for example, in terms of a cost recoupment period. ComReg observes that as the NDD system (i.e., the NDS) is in operation since 2019, any set-up costs for PXS ought to have been recovered. PXS currently receive a cost orientated price from DMLA and DILA holders who access and use the information in the NDD.
83. Moreover, a longer direction period would mean potentially less systems and process changes for stakeholders that interact with the NDD and therefore possibly a more stable environment. ComReg observes that PXS proposes as part of its submission to be the NDD manager from 1 July 2024 to provide all existing functionality.
84. The number of DILA licences declined over the period since 2019 whereas DMLA licences have remained broadly stable. In general, any significant reduction in the market size, including, a reduction in the number of licenced stakeholders, possibly impact the financial viability of managing and maintaining the NDD.

3.4.1 ComReg's Preliminary View

85. A longer period should help ensure management and maintenance of the NDD is met in a cost-effective manner. It may lead to greater certainty for stakeholders. It would assist NBICS providers in meeting their respective obligations and therefore help to ensure that entitlements and protections under the legislation will be met.
86. Having regard to all information available to it, and the continued need for the NDD, should ComReg decide subject to this consultation to require PXS to manage and maintain the NDD from 1 July 2024, ComReg is of the preliminary view that it would be appropriate and proportionate that PXS would manage and maintain the NDD for a period of 3 to 5 years. ComReg may be caused to review or may amend the NDD measure should a significant development occur which impacts the operation of the NDD. Other potentially impacted stakeholders may also call for a review of the NDD measure should they have a reasonable cause for a change in the management and maintenance of the NDD.

Q. 4 In your view is 3 to 5 years, the most appropriate time period for this direction? Please provide detailed reasons and supporting evidence for your view.

4 Draft Regulatory Impact Assessment (RIA)

4.1 Introduction

87. The analysis presented in this section represents ComReg's draft RIA. It sets out ComReg's preliminary conclusions of the likely effect upon stakeholders and competition, of ComReg exercising its discretion as to whether or not to continue to have in place an NDD from 1 July 2024 and, require a manager to manage and maintain the NDD for a relevant period commencing from 1 July 2024 and of imposing any associated requirements.

88. This RIA forms part of ComReg's overall analysis of (i) the continued need (or absence of the need) for an NDD beyond 30 June 2024 (when the current obligations on PXS expire) and (ii) should ComReg proceed to continue the NDD, who would be the most appropriate person to manage and maintain the NDD beyond the current Decision, D16/18.

89. ComReg's aim in conducting its RIA is to ensure that any specific obligations imposed are appropriate, proportionate and justified in light of the analysis conducted, having regard to our functions and objectives under the Communications Regulation Act 2002 (as amended), and having regard to its objectives for the NDD while also taking into account the principle of proportionality.²⁴

90. The purpose of the RIA is to establish whether regulation is actually necessary, to identify any possible negative effects which might result from imposing a regulatory obligation and to consider any alternatives.

91. Consistent with the RIA Guidelines,²⁵ ComReg's draft RIA considers the effect stakeholders and competition of ComReg's proposals (i) to have in place an NDD from 1 July 2024 and, (ii) to require PXS to manage and maintain the NDD. It considers a relevant time period in terms of management and maintenance of the NDD going forward, a period of 3 to 5 years from 1 July 2024.

92. This draft RIA follows the five steps set out in the RIA Guidelines.

²⁴ Regulation 4(4) of SI 444 of 2022.

²⁵ ComReg, "Guidelines on ComReg's Approach to Regulatory Impact Assessment", ComReg Document 07/56a, 10 August 2007 (the "RIA Guidelines").

4.2 Step 1 Describe the policy issues and identify the objectives

93. Under the e-Privacy Regulations, NBICS providers must provide up-to date information to the NDD and details of subscriber preferences for listing their telephone numbers as well as their telemarketing preferences.
94. The NDD is a record of all subscribers of voice communication services in Ireland who have not refused to have their details recorded in that record. It includes both home phone and mobile phone numbers.
95. The function of the NDD is primarily to facilitate the compilation of and access to information for telephone directories and directory enquiry services. In accordance with the e-Privacy Regulations, the NDD continues to be the basis for the operation of the “opt-out” register for direct marketing purposes.
96. The e-Privacy Regulations require that all NBICS providers record a subscriber’s telephone number in the NDD “do not call register” if the customer does not consent to unsolicited calls. Consumers can opt-out of direct marketing by asking their telecoms service provider to place their number on the “do not call register.” Fixed line ex-directory numbers must be placed automatically on the “do not call register” by undertakings. Additionally, Regulation 13(6) of the e-Privacy Regulations automatically precludes unsolicited calls to mobile numbers and as such these numbers are already “opted out” by default. Therefore, the NDD is used as a direct marketing “opt-out” register, and is the mechanism used for collating the “do not call register” for the purpose of the e-Privacy Regulations.
97. In this context, the NDD is an important and convenient resource for DISPs (directories or directory enquiry services) and direct marketing companies.

98. Having regard to its statutory objectives²⁶ and its functions under the EECC Regulations, ComReg's concern is that, if left to the operation of market forces alone, the NDD may not be guaranteed. ComReg's objective in requiring a manager of the NDD is to help ensure stakeholders legal entitlements and protections under the Regulations in terms of directories /directory enquiry services; that an up-to-date and comprehensive database (NDD) containing telephone directory information in relation to all listed telephone numbers is kept; that providers of directory information services continue to have access to the information necessary to offer those services on the appropriate terms; and that the NDD continues to be the basis for the operation of the "opt-out" register for direct marketing purposes, as relevant.

99. Regulation 95 of the EECC Regulations allows ComReg to require a person to manage and maintain the NDD.

4.3 Step 2 Identify and Describe the Regulatory Options

100. ComReg recognises that any regulatory measure should be kept to the minimum necessary whilst ensuring the needs of industry, end-users and subscribers of voice communications services are met. ComReg now considers there are two regulatory options available to it as follows:

Option 1: Allow D16/18 to lapse on 30 June 2024 and do not require a person to manage and maintain the NDD from 1 July 2024.

Option 2: Require an NDD manager to manage and maintain the NDD for a period of 3 to 5 years from 1 July 2024.

²⁶ As set out in Section 12 (1) (a) (iii) of the Act, including the promotion of interests of end-users of services and protecting end-user welfare.

4.4 Steps 3 and 4 Determine the impacts on Stakeholders and Competition

101. For the stakeholder analysis, there are 2 groups to consider: subscribers and industry.

	Impact on Industry	Impact on Consumers	Impact on Competition
<p>Option 1:</p> <p>Allow D16/18 to lapse on 30 June 2024 and do not require a person to manage and maintain the NDD from 1 July 2024.</p>	<p>This option would create significant legal uncertainty for stakeholders that interact with the NDD and may jeopardise other obligations and rights of parties and in turn, affect the rights of subscribers of NBICS.</p> <p>In addition, the person that maintains the NDD must provide access to subscriber details in accordance with specific terms and conditions. If there is no person 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 95(3) of the Regulations.</p> <p>DISPs may 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.</p> <p>Direct marketers may no longer have access to the source of information where they can check telephone numbers to ensure that they do not conduct unsolicited communications for the purposes of direct marketing.</p> <p>The manager of the NDD, would no longer incur the costs of managing and maintaining the NDD</p>	<p>If a person does not continue to maintain the NDD consumers who do not wish to be contacted for Direct Marketing purposes may now be contacted as, there would be no way for them to register their Direct Marketing preference. This would cause detriment to consumers.</p> <p>Directory enquiry service providers may cease operation or increase prices possibly causing detriment to consumers.</p>	<p>Currently PXS is required, under Regulation 95(3) of the EEC Regulations, to manage and maintain the NDD on a fair, objective, cost-oriented, and non-discriminatory basis. Absent a direction to do it, it could be more costly for DISPs to access this information and consequently for consumers.</p> <p>It could be more costly for Direct marketers to access this information.</p>

	<p>but would also lose the potential revenue from it.</p>		
<p>Option 2 Require an NDD manager to manage and maintain the NDD for a period of 3 to 5 years from 1 July 2024.</p>	<p>If the NDD is maintained in its current form by an NDD manager, it would mean that there is no significant change to the status quo in terms of systems and process. Hence, stakeholders that interact with the NDD would not incur significant system costs.</p> <p>The NDD is a centralised database and industry and convenient and possibly less costly for DDUs and NBICS providers to interact with one, centralised source that is the NDD.</p> <p>The costs to the NDD manager of managing and maintaining the NDD would be covered by licence fees (DILA/ DMLA).</p>	<p>Requiring a person to maintain the NDD would avoid any risks in relation to the continuity of operation and the integrity of the data held by the NDD.</p> <p>Also, if the NDD is maintained, NBICS subscriber Listing and Direct Marketing preferences will continue to be recorded, as will their ability to access a directory/directory enquiry service offered.</p>	<p>An NDD manager would be required, to manage and maintain the NDD on a fair, objective, cost-oriented, and non-discriminatory basis. This would ensure stakeholders that interact with the NDD have access to the relevant information on reasonable terms.</p>

4.5 Step 5 Assess the impacts and choose the best option

102. ComReg has considered the options available to it in terms of managing and maintaining the NDD from 1 July 2024.
103. Option 1 would cause detriment to consumers of NBICS and other stakeholders that interact with the NDD, in ComReg's preliminary view, and this scenario must be avoided so that the objectives of the EECC and e-Privacy Regulations are met.
104. Given the various functions of the NDD, ComReg's preliminary view is that it is critical that it continues to be maintained, otherwise, absent regulation:
- a number of regulatory requirements may not be fulfilled by NBICS providers;
 - subscribers might lose their legal entitlements and protections under the EECC Regulations in respect of directories/directory enquiries.
 - subscribers might lose their legal entitlements and protections under the e-Privacy Regulations and be subjected to unsolicited direct marketing.
105. In that context, ComReg is of the preliminary view that it is appropriate to require a person to manage and maintain the NDD. It would help facilitate the legal entitlements and protections under the relevant legislation in respect of directory entries and opting out of direct marketing. If the NDD is maintained, consumers Lising and Direct Marketing preferences would continue to be recorded, as would their ability to access directory information services. Doing this would help mitigate any risks in relation to the continuity of operation and the integrity of the data held by the NDD.
106. By ensuring the maintenance of the NDD by a required person, industry and DDU's will help ensure one centralised source. It is convenient and less costly for DDU's to obtain/supply the information from the one centralised source that is the NDD.
107. Having considered the submission as provided by PXS in response to the Information Notice 24/12, ComReg is of the preliminary view that PXS should be required pursuant to Regulations 95 of the EECC Regulations, to manage and maintain the NDD from 1 July 2024. ComReg is of the preliminary view that to require PXS to manage and maintain the NDD for period of 3 to 5 years 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.

108. ComReg is not aware of any competition issues arising by proposing to require PXS to manage and maintain the NDD from 1 July 2024.

Q. 5 Do you agree with ComReg's draft assessment of the impact of the proposed options? Please provide detailed reasons and supporting evidence for your view.

5 Next Steps

109. The timeframe for receipt of submissions to this consultation paper is **5.00 pm on 4 June 2024** during which time ComReg welcomes written responses on the question posed in this consultation document.
110. Responses must be submitted in written form (post or email) to the following address/email and clearly marked “**Submission to ComReg 24/32**”:
- Commission for Communications Regulation
- Retail Policy
- One Dockland Central,
- 1 Guild St.,
- North Dock,
- Dublin 1
- D01 E4XO
- Ireland
- Email: RetailConsult@comreg.ie
111. To promote further openness and transparency, ComReg will publish all respondents’ submissions to this consultation, subject to the provisions of ComReg’s Guidelines on the Treatment of Confidential Information – ComReg 05/24.
112. Respondents are requested to clearly identify confidential material and provide a confidential and non-confidential version of its responses.
113. Respondents are also requested to provide any electronic submissions in an unprotected format so that they can be appended into ComReg’s submissions document for electronic publication.
114. When ComReg has considered the responses received to this Consultation, ComReg will issue a decision.

Annex 1: Draft 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 and is made:
 - i. Having regard to sections 10 and 12 of the Communications Regulation Act 2002, as amended (“the Act”);
 - ii. Having regard to the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (as amended);
 - iii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 95 of the European Electronic Communications Code Regulations 2022 (“the EECC Regulations”);
 - iv. Having taken account of the expression of interest submitted in response to ComReg document No. 24/12
 - v. Having taken account of the representations of interested parties submitted in response to ComReg document No. 24/32.

2. Definitions

In this Decision Instrument, save where the context otherwise admits or requires:

“National Directory Database” (“NDD”) means a record of all subscribers of voice communication services in Ireland, including those with fixed, personal and / or mobile numbers who have not refused to be included in that record, kept in accordance with regulation 95(3) of the EECC Regulations and subject to regulation 14 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (as amended).

“PXS” means PXS B.V. (formerly Porting Access B.V.).

“Operational Specification” means the process, and all technical requirements necessary for managing and maintaining the NDD including the process and technical requirements necessary for managing and maintaining the NDD in respect of data protection and associated matters, as agreed with ComReg.

“JCA” means the Joint Controllorship Agreement as agreed with ComReg to give effect to data privacy requirements and associated matters, the terms and conditions of which are outlined in the Operational Specification

“Terms of Access” means the terms and conditions specified by PXS for the purpose of providing reasonable access to the NDD as approved by ComReg.

3. Decision

- 3.1** From 1 July 2024, subject to Clause 3.2, PXS shall manage and maintain the NDD in accordance with the Operational Specification, for a period of [X] years. This [X] year period is extendable by ComReg, at its discretion, for a further period of up to [X] years, such that the maximum period, including any extension, shall not exceed [X] years.
- 3.2** The obligation imposed on PXS in Clause 3.1 may, subject to the prior agreement of ComReg in writing and in ComReg's sole discretion, be carried out by the successors or assigns of PXS or by a related company, its successors or assigns. For the purposes of this Decision Instrument the term "related company" shall have the meaning ascribed to it in the Companies Act 2014. References to "PXS" and to the obligations imposed on it in this Decision Instrument, shall be construed accordingly.
- 3.3** The Operational Specification shall be agreed with ComReg and confirmed by it in writing.
- 3.4** For the purposes of Regulations 95(3) of the Regulations, PXS shall enter into such agreements with relevant persons as are necessary to give effect to the requirements of Regulations 95 (3) of the Regulations.
- 3.5** Upon request, PXS, its successors, assigns or any related companies, or the successors or assigns of any related companies, or any agents, contractors or sub-contractors of any of the foregoing, shall provide information to the Data Protection Commission and/or to ComReg, in the timeframe set out in the request, for the purposes of the carrying out their respective regulatory functions. To ensure the NDD continues to be managed and maintained at all times and to ensure the integrity and comprehensiveness of the NDD in the event of any changeover of provider of the NDD at any time or catastrophic event, PXS and / or any entity referenced in this Clause, shall provide and facilitate access by ComReg and/or any person nominated by ComReg in this regard, to any information contained in the NDD in such format, and within such time period, as may be specified by ComReg.
- 3.6** PXS shall back up the contents of the NDD at appropriate intervals and make arrangements for the data contained on the NDD to be put in escrow as a means of ensuring the security, integrity and continuity of the NDD. The details of these requirements shall form part of the Operational Specification.
- 3.7** The JCA shall be agreed with ComReg and confirmed by it in writing.
- 3.8** PXS shall meet all reasonable requests for access to any information contained in the NDD in a format agreed by ComReg.
- 3.9** The Terms of Access to the NDD shall be fair, objective, cost orientated and non-discriminatory and in accordance with the laws of Ireland and subject to the Courts of Ireland.

- 3.10** Subject to Clause 3.9, the Terms of Access to the NDD shall be specified by PXS and approved by ComReg.
- 3.11** PXS shall publish on its website the Terms of Access and all relevant information on how to access any information contained on the NDD.
- 3.12** PXS shall comply with all applicable EU Data Protection Law in managing and maintaining the NDD in accordance with the Operational Specification. Without limiting or affecting this requirement, PXS shall comply with the Joint Controller Agreement outlined in the Operational Specification with respect to data protection requirements in connection with the NDD.

4. 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.

5. 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.

6. Effective Date and Duration

- 6.1** This Decision shall be effective from [1 July 2024] (the “Effective Date”).
- 6.2** The Decision shall remain in force from the effective date until 30 June 202X unless otherwise specified by ComReg.

THE COMMISSION FOR COMMUNICATIONS REGULATION

<p>Q. 6 Do you agree with the terms of ComReg’s draft Decision Instrument? Please provide detailed reasons and supporting evidence for your view.</p>

Annex 2: Legislation

115. Sections 10 and 12 of the Communications Regulation Act 2002, as amended (“the Act”).

116. Regulation 95 of the EECC Regulations, as transposed by S.I. 444 of 2022, provide:

95. (1) A provider of number-based interpersonal communications services which attributes numbers from a numbering plan shall meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services, directories and the record referred to in paragraph (3), the relevant information in an agreed format, on terms which are fair, objective, cost oriented, and non-discriminatory.

(2) In accordance with Regulation 42, the Regulator may impose obligations and conditions on undertakings that control access to end-users, for the provision of directory enquiry services and any such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.

(3) Subject to Regulation 14 of the Privacy and Electronic Communications Regulations and for the purposes of this Regulation, a person that may be required to do so by the Regulator shall keep a record (to be known as the National Directory Database) of all subscribers of voice communication services in the State, including those with fixed, personal and mobile numbers who have not refused to be included in that record, and shall meet all reasonable requests for access to any information contained in that record in an agreed format, on terms that are fair, objective, cost orientated and non-discriminatory, and in accordance with such terms and conditions as may be specified by the person and approved by the Regulator.

(4) The Regulator shall not maintain any regulatory restriction which prevents an end-user in the State from accessing directly, by voice call or SMS, a directory enquiry service in another Member State or an end-user in another Member State from accessing directly directory enquiry services in the State and shall take measures to ensure such access in accordance with Regulation 83.

(5) This Regulation applies subject to the requirements of European Union law on the protection of personal data and privacy and in particular Regulation 12 of the Privacy and Electronic Communications Regulations.

(6) A person that fails to comply with a requirement of paragraph (1), (2) or (3) commits an offence and is liable on summary conviction to a class A fine.

(7) In proceedings for an offence under paragraph (6) it is a defence for the person charged to show that they took all reasonable steps and exercised due diligence to avoid committing the offence.

(8) The National Directory Database under Regulation 19(4) of the Universal Service Regulations continues in being.

117. Regulation 14 of the e-Privacy Regulations²⁷ provide:

National Directory Database

14. (1) A provider of number-based interpersonal communications services which attributes numbers from a numbering plan shall, for the purpose of Regulation 13(3)(b) or (5)(b), record or cause to be recorded in the National Directory Database the relevant information specified in paragraph (3) in respect of a line of any one of its subscribers who—

(a) is, upon the making of these Regulations, an ex-directory subscriber in respect of that line who, in the absence of any express instructions to the contrary, shall be taken not to consent to unsolicited calls for the purpose of direct marketing or to such calls by means of an automated calling machine or a facsimile machine, or

(b) had, at any time after the establishment of that Database, made a request to the operator or notified the relevant provider that the subscriber does not consent to unsolicited calls for the purpose of direct marketing or to such calls by means of an automated calling machine or a facsimile machine to a line of that subscriber.

(2) A provider referred to in paragraph (1) that has not already done so shall ensure that its subscribers are provided with information regarding their entitlements under Regulation 13(1), (3)(b) and (5)(b) and the possibilities referred to in paragraph (1).

(3) A provider referred to in paragraph (1) shall, for the purpose of Regulation 13(3)(b) and (5)(b) and when so notified by any one of its subscribers, make available to the operator the following relevant information in respect of a line of that subscriber to be recorded in the entry in the National Directory Database in relation to that subscriber—

(a) the fact that the subscriber does not consent to unsolicited telephone calls for the purpose of direct marketing or to such calls by means of automated calling machines or facsimile machines, and

²⁷ European Communities (Electronic Communications Networks And Services) (Privacy And Electronic Communications) Regulations 2011 (as amended) - SI 336 of 2011

(b) if appropriate, the date on which a notification under Regulation 13(3)(b) and (5)(b) was received by the operator

(4)

(a) A provider, for the purpose of Regulation 13(3)(b) or (5)(b), shall, as soon as practicable after having been notified under paragraph (3) that a subscriber does not consent to unsolicited telephone calls for the purpose of direct marketing or to such calls by means of automated calling machines or facsimile machines, transmit particulars of such notification to the operator or other person who publishes a directory to whom the provider supplies relevant information relating to its subscribers for inclusion in that directory.

(b) When the operator or other person who publishes a directory receives particulars of a notification under paragraph (1), the notification shall be deemed, for the purpose of this Regulation, to have been made to the operator or that other person at the time the operator or that other person receives particulars of the notification.

(5) The operator shall record the relevant information referred to in paragraph (3) in respect of a line of a subscriber in the entry in the National Directory Database in relation to that subscriber when it is made available to the operator.

(6)

(a) For the purpose of complying with Regulation 13(3)(b) and (5)(b) a person may, on such terms and conditions as may be approved under Regulation 95(3) of the Electronic Communications Code Regulations and on payment to the operator of such fee as may be required by the operator—

(i) be allowed access to the National Directory Database at all reasonable times and take copies of, or of extracts from, entries in that Database, or

(ii) obtain from the operator a copy (certified by the operator or by a member of the operator's staff to be a true copy) of, or of an extract from, any entry in the National Directory Database,

or both, but the operator shall refuse such inspection or copying of, or of extracts from, entries in the National Directory Database if the operator has reasonable grounds to believe that the person will not comply with the Data Protection Acts and these Regulations in respect of the information in that Database.

(b) A subscriber, or other person with the written consent of the subscriber, may—

(i) be allowed access to the entry in the National Directory Database in relation to that subscriber in respect of a particular line of the subscriber at all reasonable times and, on payment to the operator of such fee as may be required by the operator, take a copy of that entry, or

(ii) on payment to the operator of such fee as may be required by the operator, obtain from the operator a copy (certified by the operator or by a member of the operator's staff to be a true copy) of that entry,

or both.

(c) In any proceedings—

(i) a copy of, or of an extract from, an entry in the National Directory Database certified by the operator or by a member of the operator's staff to be a true copy is evidence of the entry or extract on the date that it is so certified, and

(ii) a document purporting to be such a copy, and to be certified as aforesaid, is deemed to be such a copy and to be so certified unless the contrary is proved.

(d) In any proceedings—

(i) a certificate signed by the operator or by a member of the operator's staff of an entry in the National Directory Database in relation to a specified subscriber in respect of a particular line is evidence of the entry on the date that it is so certified, and

(ii) a document purporting to be such a certificate, and to be signed as aforesaid, is deemed to be such a certificate and to be so signed unless the contrary is proved.

(7)

(a) Subject to subparagraph (c), the operator may require the payment of fees in respect of the matters referred to in paragraph (6)(a) or (b) and the amount of those fees shall be designed to secure, as nearly as may be and taking one year with another, that the aggregate amount of fees received, or reasonably expected to be received, equals the costs incurred, or reasonably expected to be incurred, by the operator in performing the functions conferred on the operator by this Regulation.

(b) Different fees may be required in respect of the matters referred to in paragraph (6)(a) and (b).

(c) The amount of the fees required under subparagraph (a) is subject to the approval of the Regulator.

(8) For the purpose of his or her functions under Regulation 17, the Commissioner—

(a) shall be allowed access to the National Directory Database at all reasonable times and take copies of, or extracts from, entries in that Database, and

(b) may obtain from the operator a copy (certified by the operator or a member of the operator's staff to be a true copy) of, or an extract from, any entry in the National Directory Database,

without payment of a fee to the operator.

Annex 3: Consultation Questions

Q. 1 Do you agree that there is a need for a NDD?

Q. 2 Do you agree that ComReg should require a person pursuant to Regulation 95 of the EECC Regulations, to manage and maintain the NDD after June 2024? Please provide detailed reasons and supporting evidence for your view.

Q. 3 Do you agree that PXS, as the sole person who expressed an interest in managing and maintaining the NDD, should be required, pursuant to Regulation 95 of the EECC Regulations, to do so? Please provide detailed reasons and supporting evidence

Q. 4 In your view is 3 to 5 years, the most appropriate time period for this direction? Please provide detailed reasons and supporting evidence for your view.

Q. 5 Do you agree with ComReg's draft assessment of the impact of the proposed options? Please provide detailed reasons and supporting evidence for your view.

Q. 6 Do you agree with the terms of ComReg's draft Decision Instrument? Please provide detailed reasons and supporting evidence for your view.