



An Coimisiún um  
**Rialáil Cumarsáide**  
Commission for  
**Communications Regulation**

# National Directory Database

## Submissions to Consultation 18/45

### Submissions to Consultation

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**An Coimisiún um Rialáil Cumarsáide**  
**Commission for Communications Regulation**

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## Submissions Received from Respondents

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**Eircom Group**

**Response to ComReg Consultation:**

**Management and Maintenance of the National directory Database**

**ComReg Document 18/45**



**18 June 2018**



eir response to ComReg 18/45

## DOCUMENT CONTROL

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The comments submitted in response to this consultation are those of Eircom Limited and Meteor Mobile Communications Limited, collectively referred to as 'eir'.

## RESPONSE TO CONSULTATION

### **Q1: Do you agree that an undertaking should be required, pursuant to Regulation 19 and 30 of the Regulations, to manage and maintain the NDD after June 2018?**

This is an odd question for ComReg to be asking at this stage in the process as ComReg appears to have already concluded that there is a need for an NDD to be maintained. As noted<sup>1</sup> “ComReg must now assess this information in order to determine the most appropriate undertaking to direct to maintain the NDD.” This does not suggest there is discretion regarding the maintenance of the NDD and ComReg’s view is clear<sup>2</sup> that “the Regulations and the e-Privacy Regulations, read together, require the NDD to be in place”.

The wording of the question is disingenuous suggesting that there are a range of undertakings that could be required to manage and maintain the NDD after June 2018. The reality is that only the current NDD manager will be capable of maintaining the NDD in two weeks’ time (and there is also the legislative anomaly discussed later in this response). As such, it would appear that ComReg is consulting on a foregone conclusion. ComReg does not appear to be following fair procedures and has demonstrated pre-judgment and bias.

This consultation is the consequence of ComReg’s poor management of its administrative processes. ComReg has known for three years that the current designation will expire on 30<sup>th</sup> June 2018. ComReg should have started the review process earlier than 22<sup>nd</sup> March with the request for expression of interest and certainly should not be consulting on extending the current designation with only two weeks left before the current designation expires.

eir notes ComReg’s statement<sup>3</sup> that the universal service regime for directories in the State “is currently under review”. The printed directories USO (D07/14) is also due to expire on 30<sup>th</sup> June 2018 and it is impossible for ComReg to consult and reach a conclusion on any proposals arising from that review in advance of expiry of the printed directories USO.

It is a requirement<sup>4</sup> that “national regulatory authorities shall, in pursuit of the policy objectives referred to in paragraphs 2, 3 and 4, apply objective, transparent, non-discriminatory and proportionate regulatory principles by, inter alia:

- (a) promoting regulatory predictability by ensuring a consistent regulatory approach over appropriate review periods;”.

The haphazard manner in which ComReg approaches the review of what are considered to be critical<sup>5</sup> regulatory obligations cannot be said to be consistent with the policy objectives and regulatory principles placed on ComReg by the European Framework. Unfortunately the only consistency that ComReg has demonstrated in recent years is a persistent lateness in the conduct of its administrative processes. We urge ComReg to adopt better planning and allow sufficient time for reviews to be completed in advance of key dates. With regards to the specifics of the NDD, ComReg experience in 2014 when the direction was extended by a year to allow consideration of expression of interests and the similar situation now should be clear to ComReg that asking for expressions of interest three months in advance of expiry of the direction is simply insufficient.

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<sup>1</sup> Para 7, ComReg 18/45

<sup>2</sup> Para 26

<sup>3</sup> Footnote 5, ComReg 18/45

<sup>4</sup> Article 8(5) of the Framework Directive, as amended

<sup>5</sup> Para 32, ComReg 18/45, “Given the various functions of the NDD, it is critical that it continues to be maintained in its current form.”

**Q2: Do you agree that as an expression of interest was received that eir should be required, pursuant to Regulations 19 and 30 of the Regulations, to continue to manage and maintain the NDD?**

As with question 1, the wording of this question is disingenuous. The potential for the obligation to continue to be imposed on eir has not arisen because of an expression of interest being declared in the last couple of months but rather due to delays in ComReg's administrative processes.

eir is disappointed to note that due to the ongoing existence of the legislative anomaly "*the direction of eir for a further period is the only appropriate solution*"<sup>6</sup>. ComReg undertook in 2015 to remedy the anomaly with the Department - "*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.*"<sup>7</sup> Three years on and ComReg is relying on the anomaly to maintain the direction on eir. In the interest of transparency we request ComReg to set out the steps it has undertaken over the last three years to encourage the Department to remedy the anomaly.

**Q3: In your view is 9 months the correct time period to ensure adequate time for each stage of the process (evaluation, consultation, response to consultation and decision and transition, if appropriate)?**

ComReg proposes a 9 month extension comprising 3 months to assess the expression of interest, 3 months to consult and issue a decision, and a 3 month transition period.

eir believes that a shorter time period closer to 6 months should be sufficient<sup>8</sup>. ComReg's assessment of the expression of interest should be well advanced as it will have received a detailed submission by 16<sup>th</sup> April 2018, the deadline for the provision of information set in ComReg 18/22 and consequently has already had two and a half months to undertake analysis. ComReg should be aiming to complete the assessment, consultation and decision making phase by the end of Q3 2018.

eir notes that ComReg intends<sup>9</sup> to assess the expression of interest based on criteria from the regulations – "*on terms that are fair, objective, cost orientated and non-discriminatory*". The evaluation should also consider whether the proposed solution represents value for money, i.e. is the cost based associated with the cost orientated charges appropriate, proportionate and reasonable. We look forward to further consultation on the assessment of the expression of interest later in the year.

We note that ComReg has not asked for views on the draft RIA. The draft RIA is a repeat of the qualitative discussion in the main body of the consultation and as such is otiose.

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<sup>6</sup> Para 39 ComReg 18/35

<sup>7</sup> Para 31, ComReg 15/44, D02/15

<sup>8</sup> Subject to further consideration of the proposed three month transition period when further details of the technical solution are made available.

<sup>9</sup> Para 36, ComReg 18/45