



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Procedures for Oral Hearings

For use in ECS ‘End-user Dispute Resolution’

Response to Consultation 24/80 and Decision

Response to Consultation and Decision

Reference: ComReg 24/101

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Date: 16/12/2024

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Additional Information

Related Publications	Document Number
'Procedures for Oral Hearings' Submissions to Consultation 24/80	24/101s
'End-user Dispute Resolution Procedures' Procedures	ComReg 24/22aR1
'End-user Dispute Resolution Procedures' Response to Consultation and Decision	ComReg 24/22; D07/24
'End-user Dispute Resolution Procedures' Submissions to Consultation 23/107	ComReg 24/22s

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Chapter 1

1 Executive Summary

- 1.1 The Commission for Communications Regulation (“**ComReg**”) is required by statute to propose resolutions to certain disputes between end-users of electronic communications services (“**ECS**”) and their providers.
- 1.2 On 27 September 2024 ComReg set out its proposed procedures for oral hearings and the reasons for them, in its consultation entitled "Procedures for Oral hearings" (ComReg 24/80)¹ ("the consultation"). These procedures are for use in an oral hearing held during the course of the resolution of a dispute between an end-user and a provider by ComReg².
- 1.3 ComReg received submissions to the consultation from three (3) respondents.
 - Alternative operators in the communications market (“ALTO”)
 - Sky Ireland Limited (“Sky”)
 - Virgin Media Ireland Limited (“Virgin”)
- 1.4 ComReg has reviewed these submissions and given them due consideration.
- 1.5 This Response to Consultation sets out ComReg’s consideration of stakeholder responses to the consultation and ComReg’s position. ComReg’s responses to the submissions received are set out in Chapter 2.
- 1.6 Having considered the responses to the consultation, ComReg has decided to publish the procedures as consulted upon, subject to the amendments which are detailed in Chapter 2.
- 1.7 The final procedures are published as Annex 1 to the revised ComReg’s ‘End-user Dispute Resolution Procedures’ (ComReg 24/22a R). The responses to the consultation are also published in ComReg Document 24/101s.
- 1.8 All references to ‘procedures’ in this document refer to the final procedures, unless otherwise stated. The final procedures are known as the “Procedures for Oral Hearings (for use in ECS ‘End-user Dispute Resolution’)”.
- 1.9 These procedures will take effect from 16 December 2024.

¹ Procedures for Oral Hearings; For use in ECS ‘End-user Dispute Resolution’ (ComReg Document 24/80) published 27 September 2024 [ComReg-2480.pdf](#)

² ComReg’s ‘End-user Dispute Resolution Procedures’ ComReg 24/22aR1

Chapter 2

2 Respondents' views – summary, analysis and ComReg's position

- 2.1 In the consultation, ComReg asked questions regarding the draft revised procedures and sought the views of respondents on them.
- 2.2 ComReg has considered the responses and its analysis and final position regarding the issues raised are set out in this chapter of the Response to Consultation.
- 2.3 Respondents' comments on the proposed procedures are addressed under the following headings:
 1. Proportionality
 2. Test/basis for an oral hearing
 3. Novel submissions
 4. Selection and appointment process
 5. Hearings
- 2.4 All legislative references in this chapter are to the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 ("2023 Act") unless otherwise stated.

2.1 Proportionality

- 2.5 On the issue of proportionality, ALTO submitted that the assessment of whether or not to convene an oral hearing should include a proportionality component which takes account of the nature and value of the specific dispute. In making this submission, ALTO stated that such an assessment “*should not fetter ComReg’s discretion in any way*”. ALTO also pointed to the use of paper-based processes (submissions in written form) by many regulatory bodies and quasi-judicial decision makers.

ComReg’s position:

- 2.6 As provided for under section 4 of the proposed procedures, the Decision Maker may conduct an oral hearing where it is considered necessary to ensure fairness of procedures and in particular, to resolve a genuine conflict of material fact arising from the papers that cannot otherwise be resolved.
- 2.7 Oral hearings will only arise in limited circumstances. As ComReg stated in its consultation “...*taking account of ComReg’s dispute resolution experience to date, it is expected that oral hearings will be the exception rather than the norm.*”³ However, section 4 envisages circumstances in which fairness dictates that in order to resolve a genuine conflict of material fact that cannot otherwise be resolved, an oral hearing must be conducted. ComReg does not agree that such considerations of fairness should be replaced, or accompanied, by a separate assessment of the nature and value of the dispute, an outcome of which could be that no oral hearing would be conducted even where a genuine conflict of material fact arose from the papers that couldn’t otherwise be resolved.

³ At paragraph 20.

- 2.8 While the precise meaning of the “*nature*” of the dispute (as referred to in ALTO’s submission) is unclear, end-user disputes referred to ComReg will generally relate to the relationship (usually contractual) of customer and provider of electronic communications services and some aspect(s) of the provision of such a service. These disputes are very often of low value. Nonetheless, it may be necessary to conduct an oral hearing to fairly resolve such a dispute. There is no threshold amount in the 2023 Act below which a dispute does not require to be resolved and in fact some disputes may not involve money or a compensation value and may be resolved by other means. A relevant dispute referred to formal dispute resolution must be processed fairly and consideration of the possible need for an oral hearing forms part of that process. A further assessment based, for example, on the value of the dispute could result in many disputes being ineligible for an oral hearing. The proposed approach is reflective of similar dispute resolution processes such as the Workplace Relations Commission (“WRC”)⁴ who state that “*all WRC cases are considered amenable*” to oral hearings. Similarly, where the Residential Tenancies Board (“RTB”) holds oral hearings for dispute resolution claims it does not subject the dispute to a further assessment based on its nature or value. Furthermore, simply because the value of a dispute is low does not mean that important issues do not require to be determined.
- 2.9 ComReg remains of the view that the test for the conduct of an oral hearing set out in the procedures is correct and not disproportionate. For an oral hearing to be required, firstly the test for the necessity for such a hearing would have to be met. As stated, this will be the exception. Second, the default position is that oral hearings will be held remotely. Third, if the nature of the dispute is such that it is a straightforward one to resolve (subject to resolving the relevant factual conflict), then the oral hearing itself should not take long. Conversely, if the dispute itself is particularly complex then this would tend to support the need for an oral hearing where genuine conflicts of material fact cannot be resolved from the papers.
- 2.10 ComReg is of the view that it is for the Decision Maker to decide, in accordance with the procedures, when an oral hearing is required.

⁴ See WRC procedures document of the 16th of September 2024.

2.2 Test/basis for an oral hearing

2.2.1 Material Facts

Respondents' views:

- 2.11 Sky welcomed the proposed requirement threshold that oral hearings may be convened when the Decision Maker considers one necessary to “*resolve a genuine conflict of material fact arising from the papers that cannot otherwise be resolved*”. It also approved of ComReg’s indicated position that oral hearings should be the exception rather than the norm. It stated that the vast majority of consumer complaints are best resolved in direct one-to one communication between the service provider and the end-user, and that this remained the focus of Sky’s complaint handling teams. Sky submitted that:

“Limiting the use of oral hearings to only those circumstances where a genuine division has arisen on material facts is the most practical process. It would be excessive and costly for all involved to have oral hearings used to expound or arbitrate all matters that enter the formal dispute stage.

All parties must be able to submit to ComReg or the decision maker any concerns when a view is held that the convening of a particular oral hearing has expanded beyond this “conflict of material fact” remit envisaged in the procedures...

- 2.12 Virgin Media welcomed ComReg’s position wherein “*oral hearings will be the exception rather than the norm*” and that these procedures will only be used where there is a conflict of fact and the “*conflict must be material to the resolution of the dispute.*”

- 2.13 Sky submitted that:

“...if a Decision Maker has decided to conduct an oral hearing that they should briefly identify the nature of the conflict of material fact to the parties in writing so that the rationale for convening the oral hearing is clear to all involved. We believe that sharing the rationale for the oral hearing in advance will serve to narrow the issues in disputes and will lead to earlier resolutions in matters.”

- 2.14 Virgin Media sought detail of the threshold and factors to be taken into account by a Decision Maker in deciding to conduct an oral hearing.

ComReg's position:

- 2.15 When an oral hearing is deemed necessary it may be used to deal with the totality of the dispute, subject to Decision Maker's discretion to manage the conduct of the hearing to ensure it proceeds in an appropriate and fair manner. This approach is the most efficient in terms of time commitment and costs. The procedures are required by section 48(1)(a) of the 2023 Act, amongst other things, to be "*simple and inexpensive*".
- 2.16 If an oral hearing is held during the course of the resolution of a dispute by ComReg, it will occur, in accordance with ComReg's 'End-user Dispute Resolution Procedures'⁵, in advance of ComReg making its draft proposed resolution in a dispute.
- 2.17 At an oral hearing the parties will be present and in a position to address any issues that may arise and assist the fair and proper resolution of the dispute. The proposed approach avoids what might otherwise be a frustrating, confusing and unnecessarily limiting approach to the receipt of evidence at an oral hearing. ComReg has also considered the procedures of other dispute resolution bodies and in the procedures of the WRC, RTB and the FSPO⁶ for example, there are no such limitations on the issues that the decision maker can address at an oral hearing.
- 2.18 Regarding the submission that oral hearings that went beyond the consideration of material facts would be excessive and costly, ComReg does not agree with this submission and considers the most efficient approach in terms of time and costs is to allow for the totality of the dispute to be capable of being addressed at an oral hearing with the ultimate conduct of the hearing being for the Decision Maker to determine.
- 2.19 In terms of managing the number of witnesses at an oral hearing, this is a matter for the Decision Maker to determine in the context of a specific dispute. That determination may be made, as appropriate, taking account of all the issues and is not confined to the material facts.

⁵ Paragraph 38 of ComReg 24/22a states "*In making its proposed resolution ComReg shall have regard to the submissions from the end-user and the provider, including any statements made or evidence given at an oral hearing if held.*"

⁶ Financial Services and Pensions Ombudsman

- 2.20 As noted above, an oral hearing may not necessarily focus only on the material fact(s) that gave rise to the need for that oral hearing and may deal with the totality of the dispute. The proper and appropriate conduct of the oral hearing will be for the Decision Maker. Insofar as Sky's submission seeks that the Decision Maker briefly identify the nature of the conflict of material fact that gives rise to the need for an oral hearing, ComReg agrees that it is reasonable and appropriate that the conflict of material fact(s) in question would be briefly identified to the parties. For the avoidance of doubt however, the identification of the material fact(s) will not, of itself, confine the oral hearing in any respect as this is at the discretion of Decision Maker.
- 2.21 ComReg has therefore amended paragraph 5.1 of the procedures as follows:
- “If the Decision Maker decides to hold an oral hearing the parties will be notified. The notification **will briefly identify the conflict of material fact or facts that give rise to the need for an oral hearing. It may also contain a statement that the oral hearing is not confined to the resolution of that fact/those facts and it will set out the issues in respect of the oral evidence that will be required and any documents that require to be produced at the oral hearing. The parties will be given an opportunity to advise of any dates which are unsuitable for attendance to give oral evidence and once that opportunity has passed, then a formal Notice of Hearing in writing will issue to the parties confirming the date and time and venue of the oral hearing**”* [emphasis denotes amendment].
- 2.22 The test for whether an oral hearing is required is set out in section 4 of the procedures. It will be for the Decision Maker to apply that test to the circumstances of a given case. As noted above, the Decision Maker will briefly identify the material facts in conflict that give rise to the need to conduct an oral hearing.

2.2.2 Submissions on conflict of fact

Respondents' views:

- 2.23 Virgin Media sought confirmation that parties could make written submissions to the decision maker in relation to a “perceived” conflict of fact and its materiality. It sought a formal process around this to reduce the burden on the parties and ComReg “*where these issues can be dealt with in writing and avoid such oral hearing except where necessary.*”

ComReg's position:

- 2.24 As is set out in section 4.1 of the procedures, an oral hearing may be conducted by the Decision Maker where it is considered necessary to ensure fairness of procedures and in particular to resolve a genuine conflict of material fact that cannot otherwise be resolved. This assessment will be made by the Decision Maker after the parties have submitted their papers for the purposes of the dispute. The Decision Maker can seek the submission of further information from parties during the course of the resolution of a dispute. If a Decision Maker has determined that an oral hearing is required, it will be because the issues *cannot* be dealt with in writing.
- 2.25 Furthermore, the procedures are subject to the statutory requirement that they are simple and inexpensive. Formalising a submissions process on conflicts of fact and the materiality of those facts does not serve these requirements and would delay the progression of the dispute. As noted above, the notification of the oral hearing will contain a brief identification of the conflict of material fact(s) that gave rise to the need for the oral hearing. It is open to the parties at any time to indicate that matters are not in dispute which may negate the necessity for an oral hearing in a given case.
- 2.26 The decision on whether or not an oral hearing is required will at all times be for the Decision Maker. In this regard, section 4 of the procedures sets out when an oral hearing is required. Section 4.2 provides that, one or more parties to a dispute may request an oral hearing. As noted above, it will be for the Decision Maker alone to exercise their discretion to decide if an oral hearing is necessary in all of the circumstances.

2.2.3 Reasons

Respondents' views:

- 2.27 Virgin Media sought confirmation that the Decision Maker would provide written reasons for their decision to conduct or not to conduct an oral hearing and details of timelines and appeal provisions.

ComReg's position:

- 2.28 ComReg does not consider that in every case in which an oral hearing is not held that a Decision Maker should give reasons for this as the default position is for a paper-based process. If an oral hearing is requested by one or more parties, it will be for the party seeking an oral hearing to establish that this is necessary to ensure fairness and to resolve a genuine conflict of material fact arising from the papers that cannot otherwise be resolved. ComReg considers it appropriate that in answering that request the Decision Maker would provide a brief explanation as to why the request is or is not being acceded to. As noted above (section [2.1](#)), if the Decision Maker decides to conduct an oral hearing other than upon request, they will briefly identify the conflict of material fact(s) that has formed the basis of that decision.
- 2.29 ComReg has therefore amended paragraph 4.2 of the procedures as follows:
- “One or more parties to a dispute may request an oral hearing. In that event, the Decision Maker will consider the request. It is for the Decision Maker alone to decide if an oral hearing is necessary **taking account of the criteria set out in paragraph 4.1. It will be for the party seeking an oral hearing to establish that this is necessary to ensure fairness and to resolve a genuine conflict of material fact arising from the papers that cannot otherwise be resolved. The Decision Maker will provide a brief explanation for their decision on the request.**”* [emphasis denotes amendment].
- 2.30 With regard to details of timelines and appeals, these are addressed in the procedures.

2.3 Selection and appointment process

Respondents' views:

- 2.31 Virgin Media sought clarification regarding the selection and appointment process for the independent person and in this regard made reference to the *“strict rules and procedures around the appointment of adjudicators under the Part 7 of the 2023 Act”*.

ComReg's position:

- 2.32 ComReg will ensure that the appointment of Decision Makers is in accordance with the provisions of Part 5 of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023, and Section 47 thereof. The provisions of Part 7 of that Act are not applicable to this process.

2.4 Novel submissions

Respondents' views:

- 2.33 Sky sought that the draft procedures be amended to include a reference that all parties, if seeking to rely on novel written submissions at the oral hearing, must provide the Decision Maker and other parties with copies of the submissions at least 5 days in advance of the hearing. Sky submitted that any such submissions for oral hearing should again be focused to the material facts in dispute.

ComReg's position:

- 2.34 The Decision Maker will have made the decision to hold an oral hearing based on their finding that there is a genuine conflict of material fact arising from the papers already submitted that cannot otherwise be resolved. At this stage the documentary evidence will either be closed or the notification of oral hearing itself may require the production of additional documents.

2.35 In its response Sky refers to novel written submissions which relate to the conflict of material fact that gives rise to the decision to hold the hearing. ComReg considers that such submissions would generally not be required in respect of this process (consistent with requirements that the procedures are simple and inexpensive). It will be within the discretion of the Decision Maker to set out such time periods for the preparation and delivery of any submissions they deem necessary and appropriate in all of the circumstances. Submissions on the law, or on facts already known, should be distinguished from the submission of additional evidence belatedly at the hearing, which has the potential to cause prejudice. It will be for the Decision Maker to determine the appropriate course of action to take should the latter situation arise, taking account of the requirements of procedural fairness but also the requirement that the procedures are simple and enable disputes to be settled promptly.⁷

2.5 Hearings

2.5.1 In-person or Hybrid hearings

Respondents' views:

- 2.36 Sky submitted that on the occasion that one party seeks an in-person hearing that other parties are allowed to reserve the right to continue to attend remotely when giving evidence and that this would be in line with other fora.
- 2.37 In relation to in-person hearings, Virgin Media submitted that a *'5 working day turnaround period for an objecting party, is too short to allow an objecting party to properly formulate a response'* in the event a party wished to object to a request for an in-person oral hearing. Virgin Media also submitted that *"...the 10 day time limit for submitting the initial request should be increased to allow a larger gap between these deadlines"*.
- 2.38 Virgin Media also requested details *"as to the factors which the decision maker will be required to consider in making this decision (and that reasons will be required from the decision maker)"* in relation to in-person hearings.

ComReg's position:

- 2.39 ComReg is of the view that the form of oral hearing to be held (remote, in-person or hybrid) is a matter falling squarely within the discretion of the Decision Maker. It is for the Decision Maker to decide if an oral hearing is required and having done so, to conduct that hearing in accordance with fair procedures. This may permit a hybrid hearing, in the circumstances of a specific dispute.

⁷ Section 48(1)(a) and (b) of the 2023 Act.

- 2.40 In addition to the factors set out in section 4 of the procedures which govern when an oral hearing may be necessary, the Decision Maker is required to give due consideration to the principles of fair procedures and constitutional justice when coming to their decision as to whether or not to hold an oral hearing.
- 2.41 Where an oral hearing is considered necessary, and as the default position is that such a hearing would be conducted remotely, ComReg considers that a party objecting to a remote hearing should be in a position to demonstrate why a remote hearing would be unfair or contrary to the interests of justice.
- 2.42 It would not be appropriate for ComReg to attempt to list exhaustively the factors relevant to the decision as to whether or not an in-person hearing or hybrid hearing will be required. These are likely to be many and varied. However, ComReg is of the view that relevant considerations would include the likely delay to the progression of the dispute if there is an in-person hearing, the complexity of the issues involved, the number of potential witnesses required to give evidence, the personal circumstances of the parties (which would include health issues, the vulnerability of a party, accessibility requirements, or any specific accommodations necessary to ensure the ability for a party to effectively participate), and practical issues such as access to the requisite IT facilities and a functioning internet service.
- 2.43 It should be noted that Decision Maker may require evidence to support the reasons advanced as to why a remote hearing should not be conducted.
- 2.44 ComReg has considered the submission from Virgin Media that where the Decision Maker accedes to a request for an in-person hearing that reasons should be provided. ComReg agrees that a decision to hold an in-person hearing, whether on request or otherwise, should generally be accompanied by a brief explanation of the reasons for that decision. However, ComReg also recognises that there may be occasions where the Decision Maker may need to maintain the privacy of matters communicated to it, that may be of a personal or sensitive nature.
- 2.45 Therefore, ComReg has amended the procedures to make provision for a brief statement of reasons to be provided to the parties by the Decision Maker explaining the decision to hold an in-person hearing or the decision not to accede to a request made for an in-person hearing to be held.

2.46 ComReg has therefore amended paragraph 6.2 of the procedures as follows:

“It shall be a matter for the Decision Maker to decide whether to accede to the request on the grounds of fairness to the parties. **The Decision Maker shall provide a brief explanation as to the decision whether or not to hold an in person hearing and will set out who is required to attend in person.** [emphasis denotes amendment]”

2.5.2 Travel expenses of witnesses

Respondents' views:

2.47 Sky submitted that ComReg should make clear in the procedures how certain reasonable travel expenses of witnesses are to be assigned among parties or indeed ComReg.

ComReg's position:

2.48 As stated above, it is envisaged that the dispute resolution process will be paper-based and that oral hearings will be the exception rather than the norm. Furthermore, oral hearings will generally be conducted remotely.

2.49 If a Decision Maker requires a person to attend an oral hearing in person, that person is entitled to reasonable travel expenses (if applicable). In terms of how such expenses would be “assigned”, if the particular circumstances referenced above apply, it would be for ComReg to discharge the reasonable travel expenses where such a claim was made and appropriate vouching of the expense incurred was provided.

2.50 For the avoidance of doubt it is only the expenses of the person(s) that the Decision Maker requires to attend in person that ComReg may consider discharging.

2.5.3 Witness attendance

Respondents' views:

2.51 Virgin sought clarification concerning the following statement in paragraph 6.8 of the proposed procedures: *“the decision maker will proceed with an oral hearing if a party doesn't attend “except in very exceptional circumstances” – in order to ensure a fair and proportionate hearing”*

2.52 Sky submitted that consideration could be given to the difficulties that some providers may have in obtaining in-person or online witness evidence from contracted partners, installers or wholesale providers. It stated that some parties may not be able or willing to attend in person to confirm facts that they might easily clarify in formal correspondence to the decision maker. Sky stated that it has found that *“the greatest challenge in replying to formal disputes has been collating network provider information from third parties, due to the nature of the network of Ireland”*.

ComReg’s position:

2.53 As previously noted, the Decision Maker will have a broad discretion as to when an oral hearing is required and how it will be conducted. Where issues such as the non-attendance of a party arises and require a procedural decision on the part of the Decision Maker, they shall exercise their discretion in accordance with the principles of procedural fairness and constitutional justice, taking into account all of the circumstances of the individual case.

2.54 It must be noted, however, that section 7.1 of the procedures states that:

“Consistent with the statutory aims that dispute resolution procedures are simple, inexpensive, and enable disputes to be settled fairly and promptly, oral hearings should, in general, be completed on the scheduled date.” The process whereby a Decision Maker may postpone or adjourn an oral hearing for any reason, including non-attendance, are set out generally in section 7 of the procedures.

2.55 It is foreseeable that there could be occasions in which documentary evidence from a third party who is unable or unwilling to attend an oral hearing may be sufficient, however ComReg considers that it would fall within the Decision Maker’s discretion to determine this. The Decision Maker will decide whether the attendance of a person is necessary in the circumstances of a specific dispute.

2.56 Generally, however, at oral hearings parties will be entitled to speak or have someone speak on their behalf; give evidence personally and have witnesses give evidence; cross-examine witnesses about their evidence and cross-examine any witness about any document or report they have produced in relation to the proceedings.⁸

⁸ These principles are fundamental to the proper exercise of constitutional and natural justice and conform to the ruling *In Re: Haughey* (1971) IR 217.

- 2.57 Virgin Media sought details of what is meant by “exceptional circumstances” that would prevent an oral hearing from proceeding when a party does not attend. ComReg does not consider it useful to attempt to exhaustively define what exceptional circumstances means. Notwithstanding, circumstances that are reasonably foreseeable, regularly occurring, avoidable and/or could have been provided for with basic planning, would not be considered to be exceptional in nature.
- 2.58 In the procedures, notification of witnesses and attendance at hearings is governed by sections 5 & 6. They provide for the method by which the oral hearing will be heard (e.g. in person, remote or a hybrid hearing involving both), the right to representation, the power of the Decision Maker to require the attendance of a person at a hearing and the protections that shall be afforded to a person who attends an oral hearing (being the same as those afforded to a witness in the High Court).
- 2.59 As such, section 6.9 of the procedures has been amended as follows:

“**Any** person who attends an oral hearing in compliance with a requirement made under **the provisions of sections 5 or 6 of these procedures, or participates in an oral hearing in any other way**, has the same protection and is subject to the same protections as a witness in proceedings in the High Court, including the right to decline to answer a question on the grounds of self-incrimination” [emphasis denotes amendment]

2.5.4 Notice period for hearings

Respondents’ views:

- 2.60 Sky submitted that the proposed minimum 15 working days’ notice period for hearings to be very short and likely to cause difficulty for operators. Sky sought a notice period of 30 days to ensure better attendance by operators and reduce unnecessary postponements.

ComReg’s position:

- 2.61 The specific difficulties for operators envisaged with the minimum 15 working days’ (21 days) notice period proposed by ComReg were not identified by Sky, save that it referred to complex cases.
- 2.62 ComReg notes that the notice period is “no less than” 15 days and could potentially be longer. Further, if there was an issue of a conflict for a party on a scheduled hearing date, the hearing could potentially be brought forward.

- 2.63 ComReg's position (per section 7.1 of the procedures) is that consistent with the statutory aims that dispute resolution procedures are simple, inexpensive, and enable disputes to be settled fairly and promptly, oral hearings should, in general, be completed on the scheduled date.
- 2.64 ComReg's position on adjournment and postponement requests is set out in section 7 of the procedures.
- 2.65 Taking account of these various factors, ComReg remains of the view that the minimum notice period of 15 working days is appropriate and that extenuating circumstances are adequately addressed through the provisions of section 7 of the procedures.

2.5.5 Software for remote hearings

Respondents' views:

- 2.66 Sky suggested that ComReg makes available any information on the intended software for remote access to oral hearings to ensure a safe, secure and reliable interface for all parties and to enable preparation for the interface by operators' various IT departments

ComReg's position:

- 2.67 All parties will be given due notice of the software to be utilised in such hearings. ComReg will utilise software that is safe, secure and reliable.

2.5.6 Monitor volume of oral hearings

Respondents' views:

- 2.68 Sky requested that ComReg monitors the volume of matters proceeding to oral hearing and that it consult with industry to ensure oral hearings are not excessively utilised.

ComReg's position:

- 2.69 ComReg will keep this process under review. However, it must be remembered that the decision to hold an oral hearing is at the discretion of the Decision Maker and is based upon principles of fairness.

Annex: 1 Legal Basis

1 It is an objective of ComReg under **section 12(1)(a)(iii) of the Communications Regulation Act 2002 (as amended)** in exercising its functions in relation to the provision of electronic communications networks, electronic communications services, and associated facilities, to promote the interests of users within the Community.

2 **Section 47 of the Act of 2023 provides as follows:**

Resolution of relevant disputes by Commission

47. (1) *An end-user may refer a dispute with a provider to the Commission and, where the Commission is satisfied that the dispute is a relevant dispute, and—*

(a) a period of at least 10 days has elapsed since the complaint giving rise to the dispute was made, or

(b) the procedures for the resolution of disputes provided for in the provider's code of practice have been completed,

the Commission, or such independent person as may be appointed by the Commission, shall, in accordance with such procedures as may be specified by the Commission under section 48, carry out a dispute resolution process and propose a resolution to the dispute referred.

(2) Where the Commission proposes a resolution under subsection (1) the end-user that referred the dispute may elect to accept the resolution proposed and where the end-user so elects the resolution shall be binding on the provider concerned.

(3) An end-user who has referred a dispute to the Commission for resolution under this section may withdraw the dispute at any stage up to the time at which the Commission, or such independent person as may be appointed by the Commission, proposes a resolution to the dispute, by notifying the Commission, or the person, in writing to that effect, or, where there is an oral hearing in relation to the dispute, by notifying the Commission, or the person, at the hearing.

3 **Section 48 of the Act of 2023 provides as follows:**

Procedure for resolution of disputes by Commission

48. (1) *The Commission may specify procedures for the resolution of disputes under section 47 and such procedures shall—*

(a) be transparent, non-discriminatory, simple, and inexpensive,

(b) enable disputes to be settled fairly and promptly, and

(c) be made publicly available by the Commission, together with any amendments to such procedures.

(2) The Commission, or such independent person as may be appointed by the Commission under section 47(1), shall, as soon as practicable after an end-user refers a dispute, inform the end-user—

(a) of his or her right under section 47(2) to elect to accept the resolution proposed,

(b) of his or her right under section 47(3) to withdraw the dispute,

(c) that the procedure is without prejudice to any other right to seek redress, including by court proceedings,

(d) that the resolution proposed may be different from an outcome determined by a court,

(e) of the legal effect of electing to accept the resolution proposed,

(f) that he or she will be given a reasonable period of time to consider whether to elect to accept the proposed solution, and

(g) that if the end-user does not elect to accept the resolution proposed within the period specified for the purposes of paragraph (f), the end-user shall be deemed to have rejected the proposed solution.

4 Section 54 of the Act of 2023 provides as follows:

Procedure under this Part without prejudice to other remedies

54. This Part is without prejudice to an end-user's right to pursue a dispute to which this section applies by other legal means or proceedings.

Appendix: 1 Procedures for Oral Hearings

A 1.1 Published as Annex 1 to ComReg Document 24/22aR1