



## Consultation

### **Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation**

<b>Document No:</b>	<b>11/78</b>
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All responses to this consultation should be clearly marked:

“Reference: Submission re ComReg 11/78” as indicated above, and sent by post, facsimile, e-mail or on-line at [www.comreg.ie](http://www.comreg.ie) (current consultations), to arrive on or before 4pm Friday 2 December 2011, to:

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Please note ComReg will publish all respondents' submissions with the Response to this Consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24.

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## 1 Executive Summary

This consultation is published by the Commission for Communications Regulation “ComReg” in order to seek the views of interested stakeholders on a number of proposed measures in relation to consumer bills.

On 1 December 2010, ComReg published a preliminary consultation document on electronic, and other itemised bill formats<sup>1</sup> (“the preliminary consultation”). Views were sought with respect to ComReg’s approach to the evolving regulatory framework and regarding the practice of some service providers of moving their customers to an electronic bill (“e-bill”) without prior consent. Inputs received were sought with a view to assisting in preparing this consultation. ComReg would like to thank the 14 respondents to the preliminary consultation for their input.

ComReg advised in the preliminary consultation that it would issue a formal consultation in 2011, subsequent to the transposition of the Citizen’s Rights Directive 2009/136/EC,<sup>2</sup> (transposed in July 2011) in relation to itemised bills and billing mediums.

ComReg recognises the cost benefits and environmental benefits of electronic billing (“e-billing”). ComReg also notes the digital agenda for e-billing 2020 initiative<sup>3</sup> and that some consumers have expressly requested to have e-bills.

However, the European Commission recognises that consumers who have limited or no access to the internet should not be left behind and that consumers must have a right to ask for and to receive a paper bill.<sup>4</sup>

In ComReg’s view, it is a basic protection to be afforded to consumers that they can access their bills. Clearly, it is also in service providers’ interests that their customers can access bills. However, ComReg notes that in the absence of uniform and specified obligations applicable to all electronic communications providers, various approaches are being used for billing mediums and in some cases charges are being imposed on consumers for paper bills.

It is because of these varying approaches and the overriding need to protect consumers’ fundamental right to receive a bill in a medium appropriate to their circumstances, that ComReg is now undertaking this consultation.

If ComReg decides to implement its proposed measures it proposes to do so by way of amendments to the General Authorisation (“**the GA**”). If implemented, the proposals in

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<sup>1</sup> See [http://www.comreg.ie/\\_fileupload/publications/ComReg1096.pdf](http://www.comreg.ie/_fileupload/publications/ComReg1096.pdf)

<sup>2</sup> Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (Text with EEA relevance).

<sup>3</sup> See: [http://ec.europa.eu/enterprise/sectors/ict/files/com712\\_en.pdf](http://ec.europa.eu/enterprise/sectors/ict/files/com712_en.pdf)

<sup>4</sup> “Benefits from e-invoicing are also expected to affect consumers, in particular with regard to the convenience aspects of e-invoices in comparison with paper invoices. It should however be ensured that consumers with limited or no access to the internet should not be left behind and that consumers should always be allowed to ask for a paper invoice.” See section 2, Page 3.

See: [http://ec.europa.eu/enterprise/sectors/ict/files/com712\\_en.pdf](http://ec.europa.eu/enterprise/sectors/ict/files/com712_en.pdf)

this consultation, would therefore apply to all undertakings authorised by the GA to provide electronic communications networks and services in Ireland.

In the interim, ComReg is of the opinion that, in the interests of consumer protection, electronic communications providers should reflect on these proposals, noting in particular how the proposals may impact any further development or implementation of e-billing initiatives.

ComReg looks forward to receiving responses from all stakeholders in relation to the proposed measures. ComReg will review and fully take into account all responses and issue its decision notice as soon as possible.

Responses to this consultation must be received by 4.00 pm on Friday 2 December 2011.

**Mike Byrne**  
**Commissioner**

## 2 Introduction

This consultation is published by ComReg in order to seek the views of stakeholders on a number of proposed measures in relation to the provision of itemised bills to consumers and billing mediums for electronic communications services. ComReg issued the preliminary consultation on this matter in December 2010 (ComReg Document No. 10/96).<sup>5</sup>

ComReg is consulting on this matter as it is of the view that the needs of all consumers in respect of itemised bills and bill mediums may not be properly met in the future by all electronic communications service providers.

New trends and behaviours have emerged in relation to consumer billing which have been enabled by the evolution in information and communication technologies. ComReg understands the potential cost savings associated with e-billing for service providers. In addition, with careful consideration and planning e-billing may, in certain circumstances, enhance the consumer's experience of interacting with their service provider. ComReg is also mindful of the environmental benefits of e-billing.

Greater numbers of consumers now have access to a personal computer with an internet, connection either at home or in the workplace. However, approximately 1 in 5 consumers still do not have access to this technology.<sup>6</sup> A small number of service providers have already moved their consumers to an e-bill. In some cases however, they have done so without consent or without verifying that the consumer can actually access and use an e-bill. ComReg is therefore concerned that the needs of some consumers are not being properly met and that they will not be met in the future.

An objective of the Commission under section 12 (1) (iii) of the Communications Regulation Act 2002<sup>7</sup> (“**the Act**”) is: “...to promote the interests of users within the Community.” ComReg is required to take all reasonable measures which are aimed at achieving this objective.

In addition, Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (“**the Framework Regulations**”)<sup>8</sup> lays down regulatory principles and policy objectives in relation to consumers, some of which are listed below and are relevant in the context of the measures proposed by ComReg in this consultation:

- Ensuring a high level of protection for consumers in their dealings with suppliers.
- Promoting the provision of clear information.
- Addressing the needs of specific social groups, in particular disabled users, elderly users, and users with special social needs.

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<sup>6</sup> [http://www.comreg.ie/fileupload/publications/ComReg\\_1062r.pdf](http://www.comreg.ie/fileupload/publications/ComReg_1062r.pdf)

<sup>6</sup> [http://www.comreg.ie/fileupload/publications/ComReg\\_1062r.pdf](http://www.comreg.ie/fileupload/publications/ComReg_1062r.pdf)

<sup>7</sup> See: <http://www.irishstatutebook.ie/2002/en/act/pub/0020/index.html>

<sup>8</sup> The European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.

- Contributing to ensuring a high level of protection of personal data and privacy.

ComReg recognises that there are existing regulatory requirements in relation to billing that affect some service providers. For example, some mobile service providers have specific licence conditions that require them to issue paper bills as their standard billing medium and to seek the agreement of their consumers if they wish to “migrate” them to e-billing. The measures proposed in this consultation are proposed in order to standardise service provider requirements and by doing so, to protect all consumers.

Service providers may have specific requirements in respect of VAT invoices, as do other suppliers. This consultation does not seek to address VAT invoices, but is solely concerned with consumer invoices or bills for the provision of electronic communications services to consumers.

The measures proposed in this consultation would apply to consumers. A consumer is defined under relevant national law<sup>9</sup> as: “*any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession.*” Accordingly, these proposed measures would apply only to consumers as defined under national legislation, and not business customers. In this consultation, references to “consumer” or “customer” should be understood in this light.

ComReg wishes to facilitate the realisation of the benefits of e-billing for consumers. However, ComReg is of the view that this should only be implemented in a manner that achieves the fundamental policy objective of promoting the interests of users. It is in this context that ComReg’s measures in this consultation are proposed.

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<sup>9</sup> See Regulation 2 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.

### 3 Proposed Measures

The measures described in this section, reflect ComReg's proposed principles below:

1. The service provider must provide consumers of post-paid services with an itemised bill, free-of-charge, unless the customer has requested not to receive an itemised bill (as provided for in the e-Privacy Regulations<sup>10</sup>).
2. The service provider must provide consumers of post-paid services with bills in paper medium, free-of-charge, unless the service provider is reasonably assured that the consumer has actual access to, and can use, an alternative billing medium.
3. If a consumer informs their service provider that they cannot access or use the alternative billing medium, the service provider must provide the consumer with a paper bill, free-of-charge.
4. Service providers must alert their customers whose bill is provided online, that the bill is available.
5. Service providers must provide consumers with disabilities with an itemised bill, free-of-charge, in a billing medium that they can access, if they so request.
6. With respect to pre-paid consumers, their service provider must provide them, free-of-charge, with an adequate facility to verify their charges, if they so request.
7. Calls that are normally free-of-charge, including calls to free-phone numbers, must not be included on an itemised bill.

#### 3.1 Itemised Bills

ComReg proposes that consumers of post-paid electronic communications services, i.e. services where payment is made after the service is used, should continue to receive, an itemised bill, free-of-charge prior to each payment due date – received sufficiently in advance of each payment due date. This would ensure that such consumers can continue to verify and control the charges incurred and adequately monitor their usage and expenditure, and thereby exercise a reasonable degree of control over their bills.

In accordance with conditions 18.6.1 of the GA, consumer bills must contain any references which are required by the consumer to effect switching for fixed electronic communications services. Therefore, bills are also important in providing customer references and other customer specific details, such as account numbers, charges and payment details – without the consumer having to request such information from their service provider.

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<sup>10</sup> The European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011.

The e-Privacy Regulations also confer rights and impose requirements in relation to itemised billing (see Annex B of this consultation). In particular, the e-Privacy Regulations allow consumers to request a service provider to provide them with bills that are **not** itemised. In addition, although the majority of service providers do not currently itemise free-phone numbers on their consumer's bills, ComReg is of the view that all service providers should ensure that calls to free-phone numbers are not included on itemised bills. This is due to the potentially sensitive nature of some free-phone numbers<sup>11</sup>. This would include numbers which are free to consumers, including 1800 numbers, 999/112 (emergency services access numbers) and 116 (harmonised services of social value).<sup>12</sup>

In some cases, charges for post-paid electronic communications services may not vary according to usage and amount charged from one payment period to the next. The customer may also pay by direct debit. In these cases, the service provider may be of the view that an itemised bill appears unnecessary. However, in ComReg's view, an itemised bill may be the only means available to receive information, such as consumer account numbers, references, the payment due date, number of minutes used, features such as top ups, and other information.

### *3.1.1 Bill Presentation*

For consumers to adequately verify the charges that appear on their bills, it is important that the charges and associated details are presented on the bill (whether paper or e-bill) in a transparent, consumer-friendly manner. This allows consumers to easily understand and analyse the content of their bills. To assist service providers in this objective, ComReg launched the Quality Standard for Bill Presentation<sup>13</sup>, developed by Excellence Ireland Quality Association (EIQA), in co-operation with ComReg in 2008. This voluntary standard promotes best practice in bill layout and presentation of charges, and other important details, and also includes accessibility measures. The standard can be applied to various billing mediums, including paper and e-bills. ComReg is also aware that some operators have amended their bill presentation/itemisation in line with customer feedback.

ComReg notes that some electronic service providers have obligations in respect of the level of itemised billing, while others do not. ComReg's proposed measures in this consultation also seek to address this, through the definition of an itemised bill in the GA.

In addition, ComReg encourages electronic communications service providers to adopt ComReg's Quality Standard for Bill Presentation. ComReg will continue to monitor issues raised in respect of bill itemisation and the content and presentation of consumers' bills. If ComReg considers, in the future, that a review of the minimum level of bill itemisation and/or bill presentation is required; ComReg will undertake such a review.

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<sup>11</sup> [http://www.comreg.ie/publications/national\\_numbering\\_conventions\\_v7\\_0.583.103826.p.html](http://www.comreg.ie/publications/national_numbering_conventions_v7_0.583.103826.p.html)

<sup>12</sup> This does not refer to numbers free to these consumers, because of the terms and conditions of their packages/bundles.

<sup>13</sup> See: [http://www.comreg.ie/fileupload/publications/Final\\_Bill\\_Presentation\\_Standard\\_Dec\\_08.pdf](http://www.comreg.ie/fileupload/publications/Final_Bill_Presentation_Standard_Dec_08.pdf)



**Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.**

**Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions<sup>14</sup>, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.**

### *3.1.2 Pre-paid service*

Consumers of pre-paid electronic communications services purchase credit (pay for use of the service) in advance. Because of the nature of this payment process, consumers can generally monitor and more easily control their expenditure. For this reason, pre-paid consumers do not currently receive a periodic bill. However, ComReg recognises that a pre-paid consumer may require, from time to time, a log of their transactions. This may be required for various reasons, for example, a consumer may wish to query or dispute a charge or transaction. In such cases, ComReg proposes that a pre-paid consumer should have the same benefits as post-paid consumers, the consumer should be provided with information on their transactions, either electronically, or by paper medium free-of-charge, depending on how the consumer can access the bill.

While billing records are retained by service providers for a period of time under law, ComReg understands that service providers may not have a system in place to retrieve billing information for pre-paid services that can be presented to the consumer in the form of a bill. Many consumers who have a pre-paid service may have specifically chosen this payment method to closely monitor and control their expenditure. There are also good reasons to suggest that pre-paid consumers, who may have less disposable income, should be provided with transaction history including usage and charges (within the normal period the service provider retains billing data for this purpose) free-of-charge if they need to verify the charges incurred.<sup>15</sup>

Given that post-paid customers are provided with periodic bills in order to monitor and control their charges, ComReg proposes that pre-paid customers should also be provided with a facility to monitor their charges if they so request it. Data collected for ComReg's Quarterly Report, Q2, 2011 indicates that 63.7 %<sup>16</sup> of mobile subscriptions (including mobile broadband) are pre-paid. Given that the majority of mobile consumers use pre-paid services, this in ComReg's view is a further reason why they should have a facility to assist them in ensuring that all costs incurred by them are correct and verifiable.

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<sup>14</sup> [http://www.comreg.ie/\\_fileupload/publications/ComReg1117.pdf](http://www.comreg.ie/_fileupload/publications/ComReg1117.pdf)

<sup>15</sup> From January 2011 to 20 October 2011, ComReg recorded 2,676 consumer issues in relation to disputed charges on their bills.

<sup>16</sup> [http://www.comreg.ie/publications/comreg\\_quarterly\\_report\\_q2\\_2011.583.103931.p.html](http://www.comreg.ie/publications/comreg_quarterly_report_q2_2011.583.103931.p.html)

**Q.3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant) ? Please provide reasons to support your view.**

### **3.2 The Billing Medium**

The billing medium is the method used by service providers to provide their customers with itemised bills. Historically, service providers have issued consumers with paper bills. There are also alternative billing mediums. For the purpose of this consultation, alternative billing mediums are any mediums other than paper. They include, but are not limited to, such mediums as online billing, voice, and Braille. For the most part, the discussion in this consultation contemplates online billing (e-billing) as the alternative medium, but other mediums not expressly referred to, are also included.

ComReg is concerned that while some service providers have a preference for e-billing, some consumers may not be able to actually access their bills because they do not have a personal computer (PC) or internet access or because an online system is too difficult for them to use.

The ability for consumers to access their bill is a fundamental requirement. In accordance with its consumer protection role, ComReg wishes to ensure that consumers can access a billing medium free-of-charge. Not only is this a basic consumer requirement, it is clearly in the interests of service providers.

At present, the majority of service providers continue to provide a paper bill free-of-charge in order for their customers to verify the charges associated with their service or services. However, ComReg is aware that some service providers are “migrating” their customers to an e-bill, without verifying that the consumer/account holder can in fact access, download, and use the e-bill. In ComReg’s view, this approach is not appropriate or acceptable. ComReg has also received expressions of concern from consumers, consumer bodies, and other stakeholders in relation to service providers transferring consumers to e-billing without prior consent and also in relation to charging consumers to receive a paper bill. Again, it is ComReg’s view, that these approaches are not appropriate or acceptable.

Some service providers provide paper bills as standard. Those service providers may provide an e-bill, if they obtain the customer’s agreement. However, some service providers are signalling their desire to *automatically* provide an e-bill to all their consumers, as the standard billing medium, and to charge for a paper bill, if it is requested instead. This practice firstly assumes – wrongly – that all consumers can access and use an e-bill and that the consumer has PC/internet access. ComReg is of the view that automatically switching a consumer to an alternative billing medium and/or only providing an alternative billing medium with voice only packages and charging for a paper bill is unacceptable, if the consumer cannot in fact access and use the alternative billing medium. This practice also discriminates against vulnerable consumers by charging extra for a very basic requirement, simply because they cannot access or use the alternative bill medium.

In order to ensure that consumers are adequately protected, ComReg proposes a number of measures with respect to billing mediums, which in ComReg's view, would adequately protect consumers, while at the same time allow service providers to use alternative billing mediums for those consumers that can access them.

### *3.2.1 Minimum set of information in respect of alternative billing medium offered*

ComReg is of the view that consumers must be fully informed regarding any alternative billing medium proposed by the service provider (including details in respect of the features of the alternative billing medium and specific details of how to access the medium). ComReg therefore proposes that service providers should provide detailed information to assist consumers in making informed decisions regarding their chosen billing medium. For billing mediums that are not paper, information provided to consumers by service providers must include at a minimum details as below:

- How to access the e-bill facility (procedures for registering, signing-in to the system, passwords, etc);
- The precise electronic means (online, via e-mail, etc) offered by the service provider;
- Whether the electronic means is available while in receipt of a paper bill;
- Whether previous bills are available on request (paper or electronically);
- The systems/software/facilities that are required to access the electronic bill;
- The security features available to ensure that there is no unauthorised access to details of calling users and called customers;
- Whether or not the electronic bill facility is accessible for consumers with disabilities using screen-reader software;
- How to "download" or store the e-bill on the individual's personal computer.
- How to print the e-bill;
- The length of time any online system stores the e-bill; and
- Details of the payment methods available.

ComReg proposes that any alternative billing medium provided should be capable of being printed and/or stored by the consumer for an unlimited period for future reference. Paper bills are currently the most readily accessible billing medium and most service providers currently issue paper bills to their customers. ComReg proposes that it is appropriate and permissible for service providers to offer alternative billing mediums to their customers, **if** the service provider can ensure and verify that the customer can access and use the alternative medium. Otherwise, service providers must continue to issue paper bills. ComReg proposes that all relevant details in relation to individual operators billing mediums should be stated in the consumer contract and at point of sale. Agreement at point of sale can be made with the consumer in relation to their required billing medium.

ComReg is aware that this is generally the practice and therefore, only minimum changes would be necessary for most operators.

In addition to providing appropriate transparent information, ComReg is of the view that services providers can reasonably ensure and be reasonably assured that their customers can access and use alternative billing mediums if:

- The service provider obtains the consent of a new or existing customer to receive the alternative billing medium; or
- Internet access is a component of the service currently being provided by the service provider to the customer; or
- The customer has used the online service provided by the service provider; or
- The consumer has given the service provider their personal e-mail address for the purpose of providing a bill by e-mail.

ComReg's proposed approach to different situations is described below.

*3.2.2 The service provider obtains the consent of a new or existing customer to receive the alternative billing medium*

ComReg does not believe that service providers can be assured that their customers can access and use an alternative billing medium, such as an e-bill, by automatically providing customers with the alternative billing medium.

After providing the customer with the minimum set of information regarding the e-bill medium, ComReg proposes that service providers may seek the consent of their existing or new customers to receive an alternative billing medium.

ComReg is of the view that if consent to an alternative billing medium is requested when the customer enters a contract, and if the customer does not have access to the internet or cannot use an online bill service, the customer should not be (effectively) penalised by way of a charge for a paper bill, or be denied the possibility of having a paper bill. The customer must be provided with full details in respect of their rights in relation to billing mediums and the conditions in the customer contract must not attempt to limit or in any way obscure these rights.

Difficulties arise also when service providers do not record customer interactions. In relation to this matter, ComReg proposes that any consent given by the customer to receive an alternative billing medium must be properly recorded by the service provider, either by audio, written or, electronic means.

*3.2.2.1 Bills sent electronically by e-mail*

Where consumer bills are sent by service providers electronically by e-mail, consumers must first provide a personal e-mail address for the bill to be sent to. ComReg is of the view that if a customer provides a valid personal e-mail address to their service provider for the specific purpose of receiving a bill by e-mail, then the service provider may for Regulatory purposes and proposed condition 18.7.8 (ii) be deemed to have consent from

the customer to receive an e-bill by e-mail. For data privacy reasons, it is important that consumers are not forced to provide an e-mail address that belongs to someone else and therefore, the intended future use of the e-mail address provided must be clearly set out by the service provider.

In addition, if an e-mail address is not valid, a bill sent electronically will not be delivered. Service providers will be informed of the non-delivery of the e-mail and they should in these cases contact the customer to obtain a valid e-mail address or to send a paper bill.

*3.2.3 Internet access is a component of the service being provided by the electronic communications service provider*

ComReg is of the view that, in addition to having already provided the customer with the minimum set of information regarding the online bill service, if a service provider is providing a service that includes internet access to the customer, then the service provider can be reasonably assured that the customer can access an online bill.

*3.2.4 The customer has used the online service provided by the electronic communications provider*

ComReg is of the view that, in addition to having already provided the customer with the minimum set of information regarding online bill provision, if an existing customer has used the service provider's online service, which includes an online bill, to access their bill on a number of recent occasions, then it is reasonable to assume that the customer can access and use the online bill provided.

However, consumers' circumstances may change. Consumers who previously had access to e-mail or the internet may no longer have the access necessary to use e-billing mediums. If this occurs, consumers must be able to inform their service provider of their changed circumstances and revert to receiving a paper bill, free-of-charge.

In addition, if a consumer is unable to access their e-bill (because of internet/broadband service outage, or because the service provider's website or online billing facility is not functional, or due to a technical problem/issue) the customer's service provider must on request, provide them with a paper bill, free-of-charge for that period.

The consumer may have and use internet access provided by the service provider. However, the consumer *may not be able* to use the service provider's online billing facility. In these situations, the customer's service provider must on request, provide them with a paper bill, free-of-charge.

*3.2.5 Alerts to signal availability of an e-bill*

Where a bill is not sent directly to the customer – either electronically or by paper – the customer may not be aware that their bill is available. In this instance, ComReg considers that it is appropriate for the service provider to alert the customer to the fact that their bill is available online, the amount due on the bill, and the due date or payment. ComReg considers that service providers can alert the consumer by various means, including e-mail, SMS, telephone call, etc. This of course must still be subject to the more basic requirement that the customer has access to a PC /the internet in the first place, if the alert is by e-mail.

- Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.**
- Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.**
- Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view.**
- Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.**
- Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.**
- Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.**

### **3.3 Consumers with Disabilities**

In accordance with Regulation 17 (1) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 ("**the Universal Service Regulations**") consumers with disabilities should have equal access to and equal choice of electronic communication services.

ComReg notes the Board of European Regulators of Electronic Communications (BEREC) report on this matter.<sup>17</sup>

ComReg plans to issue a separate consultation in respect of Regulation 17 of the Universal Service Regulations. However, ComReg is of the view that it is appropriate to review billing for consumers with disabilities in this consultation.

ComReg proposes that service providers must provide free-of-charge, on request to a person with a disability, an alternative billing medium. For example, a visually impaired person may not be able to access a standard paper bill, or access the service provider's online service because of CAPTCHA<sup>18</sup> (security software), or due to the fact that the service provider's website where the e-bill is supposed to be accessed, does not facilitate the use of screen-reader software. In this case, an alternative electronic medium, Braille bill, a large print bill or an audio bill may be required.

In this respect it is important that service providers provide information for consumers on whether any e-bill facility offered (including procedures for registering, signing-in to the system) are compatible with assistive technologies and standard computer adaptations.

ComReg notes that BEREC's report on this matter proposes that it may be appropriate for consumers with disabilities to register for certain facilities so that the service provider can best meet their needs. In this context, ComReg is of the view that a consumer with a disability, may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs.

**Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view.**

**Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view.**

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<sup>17</sup> See: [http://erg.eu.int/doc/berec/bor\\_10\\_47Rev1.pdf](http://erg.eu.int/doc/berec/bor_10_47Rev1.pdf)

<sup>18</sup> Completely Automated Public Turing Test to Tell Computers and Humans Apart.

## 4 Conditions proposed to be attached to the GA

ComReg proposes to attach the following conditions to the GA.

The statutory basis for the proposed conditions is:

1. Sections 10 and 12 of the Communications Regulation Act 2002.
2. Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011;
3. Regulation 8 of the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011;
4. Regulation 15 of the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011;
5. Part A, No. 8 of the Schedule to the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011;
6. Regulation 24 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011;  
and
7. Part A (a), in the Schedule 1 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011.

If these proposed conditions are attached to the GA, ComReg also proposes to remove any identical conditions, where applicable, from Authorised Providers' licences which they hold separate to the GA.

The current (and only) universal service provider in the State is Eircom Limited. To the extent that it already has obligations covered by these proposed measures, they will not be duplicated in the GA. However, obligations that it does not already have in relation to these matters and which are set out in the amended conditions to the GA, will apply to universal service provider (s) including the current universal service provider, Eircom Limited.

ComReg intends to publish the revised GA and the relevant revised licences on the same day as it publishes its final decision arising from this consultation. If the proposed conditions are attached to the GA, ComReg proposes that they shall be effective two months from the date ComReg publishes its final decision arising from this consultation, until amended or revoked by ComReg. This proposal is based on ComReg's preliminary view that the measures are largely aligned with current practice and obligations applicable to certain service providers.



The text of the proposed conditions is as follows:<sup>19</sup>

### ***“18.7 Itemised Billing, Non-Itemised Billing and Billing Mediums***

*In Conditions 18.7.1 – 18.7.10, the following definitions shall apply:*

***“alternative billing medium”*** means a bill in any medium other than paper;

***“itemised bill”*** means a bill for Authorised Services, which allows consumers to verify and control their charges for using Authorised Services and which allows consumers to adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills. Without prejudice to the generality of the foregoing, an itemised bill shall contain the following items which include, but are not limited to:

- *Details of recurring charges (such as monthly subscription, line rental, package price).*
- *Details in respect of each communications transaction (such as voice call, SMS, MMS, data session, PRS etc) including the following:*
  - *Date of transaction.*
  - *Start time of transaction.*
  - *Number called, if relevant.*
  - *Duration of the transaction, if relevant.*
  - *The price of the transaction, including “0” if no charge applies.*
  - *Details of any further charge arising.*
- *Consumer References.*

***“relevant billing medium features”*** means all details relevant for the consumer in respect of the alternative billing medium, including but not limited to the following:

- *If the alternative billing medium (including procedures for registering and signing-in to the system) is compatible with assistive technologies and standard computer adaptations.*
- *How to access the alternative billing medium.*
- *How to use the alternative billing medium.*
- *How to print and store the alternative billing medium.*

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<sup>19</sup> The proposed text should be read in conjunction with the GA and the definitions contained therein.

*“valid personal e-mail address” means an e-mail address which is attributable to the individual who is the account holder/account name in respect of Authorised Services, and which when an e-mail is sent to it and does not return an unsuccessful delivery message;*

**General principle applicable to Conditions 18.7.1 – 18.7.10**

*Without prejudice to Conditions 18.7.1 – 18.7.10, the following general principles below shall be complied with:*

- 1. An Authorised Person, who provides Authorised Services to consumers, must provide those consumers with an itemised bill, free-of-charge.*
- 2. An Authorised Person, who provides Authorised Services to consumers, must provide them with itemised bills in paper medium, free-of-charge, unless the Authorised Person is reasonably assured that the consumer has actual access to, and can use (where necessary, by the provision of adequate information and instructions to the consumer) an alternative billing medium.*
- 3. In any event, if a consumer informs their service provider that they cannot access or use the alternative billing medium, the service provider, being the Authorised Person, must provide the consumer with an itemised paper bill, free-of-charge.*
- 4. The Authorised Person shall provide consumers with disabilities, an itemised bill, free-of-charge, in a billing medium that they can access, if they so request.*
- 5. With respect to consumers of pre-paid Authorised Services, their service provider must provide them, free-of-charge, with an adequate facility to verify their charges, if they so request.*
- 6. Calls that are normally free-of-charge, including calls to free-phone numbers are not to be itemised on the consumer’s bill.*
- 7. The Authorised Person shall alert their customers whose bill is provided online, that the bill is available.*

**Condition 18.7.1**

*Every Authorised Person who provides Authorised Services to consumers on a post-paid basis, shall issue itemised invoices or bills for such services free-of-charge to each consumer, a reasonable period in advance of each payment due date.*

**Note 1:** This requirement already applies to the universal service provider automatically, by virtue of Regulation 9 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011. Insofar as the universal service provider is concerned, this condition is not applicable to it, as it is obliged to do the same thing by virtue of other applicable law.

**Note 2:** Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 provides that: *“An undertaking shall comply with a request of a subscriber to that undertaking to give him or her bills that are not itemised in respect of the electronic communications service supplied by the undertaking to the subscriber.”* This legal requirement is not attached as a condition because it applies by virtue of other applicable

law. However, the Commission for Communications Regulation is responsible for monitoring and enforcing compliance with this obligation.

**Condition 18.7.2**

*Itemised bills or non itemised bills issued in accordance with Condition 18.7.1 shall be in paper medium, unless the Authorised Person has, at least one month in advance of using an alternative billing medium, verified that the consumer can access and use an alternative billing medium, and the Authorised Person has informed the consumer of any change to their billing medium.*

**Condition 18.7.3**

*Every Authorised Person who provides Authorised Services to consumers on a post-paid basis shall offer the option of a non-itemised invoices or bills for such services free-of-charge to each consumer.*

**Condition 18.7.4**

*Every Authorised Person who provides Authorised Services to consumers on a post-paid basis, shall provide each customer with details in respect of their billing options, including itemised billing, non-itemised billing, and billing mediums, when the consumer enters into a contract with the Authorised Person.*

**Condition 18.7.5**

*Calls which are normally free-of-charge to all calling consumers, including calls to help-lines, free-phone numbers, calls to emergency services, and calls to harmonised numbers for harmonised services of social value, are not to be identified in the calling consumer's itemised bill.*

**Note 3:** This requirement already applies to the universal service provider automatically by virtue of Regulation 9 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011. Insofar as the universal service provider is concerned, this condition is not applicable to it, as it is already obliged to do the same thing by virtue of other applicable law.

**Condition 18.7.6**

*Itemised bills and non-itemised bills issued in accordance with Condition 18.7.1 shall be provided in paper medium, free-of-charge, if the consumer has, since the receipt of their last bill, informed the Authorised Person who is their service provider that the consumer cannot use an online bill, or does not have internet access for an online bill, or does not have a valid personal e-mail address in the case of a bill sent electronically by e-mail.*

**Condition 18.7.7**

*Itemised bills or non-itemised bills issued in accordance with Conditions 18.7.1, to a consumer with disabilities, shall be provided free-of-charge in a medium properly accessible to that consumer (including Braille) if requested by that consumer.*

**Condition 18.7.8**

*For the purpose of Condition 18.7.2, the Authorised Person has verified that consumer can access and use an alternative billing medium if:*

- i. The Authorised Person has provided the consumer with details of the relevant billing medium features and subsequently, the consumer has agreed to receive an alternative itemised or non-itemised billing medium and the Authorised Person has recorded that agreement, either by audio, written or, electronic means; or*
- ii. In the case of an itemised bill or non-itemised bill sent electronically to the consumer (including by e-mail) the consumer has provided a valid personal e-mail address to the Authorised Person specified by the Authorised Person for this purpose; or*
- iii. In the case of an online itemised bill or non-itemised bill, the Authorised Person is currently providing Authorised Services to that consumer that includes broadband, and the Authorised Person has provided the consumer with full details of the relevant features of the online itemised or non itemised bill; or*
- iv. In the case of an online itemised bill or non-itemised bill, the Authorised Person has provided the consumer with full details of the relevant features of the online bill, and subsequently, the consumer has accessed at least two online bills provided by the Authorised Person for that service in the preceding four months.*

**Condition 18.7.9**

*An Authorised Person providing an online itemised bill or non-itemised bill, shall adequately notify the consumer, using a means separate to the online service, that the bill is available online, the amount due and the due date.*

**Condition 18.7.10**

*An Authorised Person who provides Authorised Services to consumers on a pre-paid basis, shall give the consumer access to their transaction history including usage and charges (within a reasonable timeframe) free-of-charge, on request.*

**Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.**

**Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.**

## 5 Proposed amendments to current licence schedules for mobile services and obligations on the Universal Service Provider(s) (“the USP(s)”)

### 5.1 Proposed amendments to current licences for mobile services

Pursuant to Regulation 8 (4) and Regulation 10 (3) of the Authorisation Regulations, ComReg proposes to remove any specific obligations held in current licence conditions, in order to ensure that it does not impose obligations already applicable by virtue of other law.

#### 5.1.1 Hutchison 3G (ComReg 04/16)

#### Proposed deletion to Part Schedule 5, Part 3:

##### 6. Emergency Calls Free of Charge

- (a) The Licensee shall not impose a charge on the customer in respect of an emergency call.
- (b) ~~The Licensee shall not list on a customer’s itemised bill any emergency~~

#### Proposed deletions to Schedule 5, Part 4:

##### 1 (b) Customer care

##### Billing

- Payment methods
- ~~bill structure/format – itemisation, analysis~~
- ~~frequency of bills~~
- ~~bill presentation – handset, paper internet~~

Billing	Medium of billing	<del>Customers will receive bills in their preferred medium (softcopy e-mail or hardcopy by post)</del>
	Timing	Softcopy bills will be e-mailed to customers within 2 days of period end  Hardcopy bills will be posted within 5 days of period end
	Invoice accuracy	The number of invoice errors will not exceed 0.2% of the number of invoices despatched per calendar year

5.1.2 Meteor 3G (ComReg 10/13)

**Proposed deletions to Fifth Schedule, Part 3:**

6. Emergency Calls Free of Charge

(a) The Licensee shall not impose a charge on the customer in respect of an emergency call.

~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

**Proposed deletion to Fifth Schedule, Part 4:**

3. Billing

3.1 Mandatory Service Standards

Billing Aspects	Standard Requirements	Options and Alternatives
Billing Frequency	Monthly	<del>Alternative frequency or flexible frequency subject to agreement with the customer</del>
Billing Itemisation	All billable calls and services	<del>Customised bill layouts with or without summary itemisation subject to agreement with the customer</del>
Billing Medium	Paper	<del>Delivery of bills on computer media or online subject to agreement with the customer</del>

**Proposed deletion to Fifth Schedule:**

5. Customer Service

Indicator	Performance target
<del>Steps taken to optimise grade of service to end users</del>	<del>e-billing functionality available</del>

5.1.3 Meteor GSM 900, 1800 (ComReg 01/46s)

**Proposed deletion to Schedule, Part 3:**

6. Emergency Calls Free of Charge

(a) The Licensee shall not impose a charge on the customer in respect of an emergency call.

~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

#### **Proposed Deletion to Schedule, Part 4:**

##### 5. Billing

##### 5.1 Mandatory Service Standards

<b>Billing Aspects</b>	<b>Standard Requirements</b>
<del>Billing Frequency</del>	<del>Monthly</del>
<del>Billing Itemisation</del>	<del>All billable calls and services</del>
<del>Billing Medium</del>	<del>Paper</del>
<del>Billing Method</del>	<del>Per second billing</del>

~~An itemised bill shall contain, at least, the following information in respect of each billable call:~~

- ~~i) the date of the call;~~
- ~~ii) the start time of the call;~~
- ~~iii) the number called;~~
- ~~iv) the duration of the call;~~
- ~~v) the price of the call.~~

#### **Proposed deletion to Schedule, Part 7, charges to customers:**

(3) The Licensee shall, for the first year following the commencement of the provision of the Licensed Mobile Service, as a minimum, provide the following benefits as constituent parts of the service to any customer on any of the subscription plan in the above Table, without the addition of any amount in respect thereof to the amount of then monthly subscription fee specified, that is to say:

- i) directory listing;
- ii) free emergency calls;
- ~~iii) itemised billing;~~
- iv) nearest second billing;
- v) no charge for unsuccessful calls.

##### *5.1.4 O2/Telefonica 3G (ComReg 04/17)*

#### **Proposed deletion to Schedule 5, Part 3:**

##### 6. Emergency Calls Free of Charge

- (a) The Licensee shall not impose a charge on the customer in respect of an emergency call.
- ~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

#### Proposed Deletion to Schedule 5, Part 4

##### 3. Billing

##### 3.1 Mandatory Service Standards

Billing Aspects	Standard Requirements	Options and Alternatives
Billing Frequency	Monthly	<del>Alternative frequency or flexible frequency subject to agreement with customer</del>
Billing Itemisation	All billable calls and services	<del>Customised bill layouts with or without summary itemisation subject to agreement with customer</del>
Billing Medium	Paper	<del>Delivery of bills on computer media or online subject to agreement with customer</del>

5.1.5 O2/Telefonica Interim GSM 900 (ComReg 11/50a)

**Proposed deletion to Schedule 4, Part 2:**

2. Additional services

2.1. The Licensee shall be required to provide the following Services;

- (a) Fax and Data,
- (b) Short Message Service,
- (c) Voicemail,
- (d) Call Diversion,
- (e) Call waiting and Hold,
- (f) Call Barring; and
- ~~(g) Itemised Billing.~~

**Proposed deletion to Schedule 4, Part 3:**

6. Emergency Calls Free of Charge

- (a) The Licensee shall not impose a charge on the customer in respect of an emergency call; and
- ~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

**Proposed deletions to Schedule 4, Part 4:**

6. Billing

6.1 Mandatory billing Standards

Billing Aspects	Standard Requirements	Options and Alternatives
Billing Frequency	Monthly	<del>Alternative frequency or flexible frequency subject to agreement with customer</del>
Billing Itemisation	<del>All billable calls and services</del>	<del>Customised bill layouts with or without summary itemisation subject to agreement the customer</del>
Billing Medium	Paper	<del>Delivery of bills on computer media or online</del>



		<del>subject to agreement with customer</del>
Billing Method	Per second billing	At commencement of the service, calls shall attract minimum thirty second charge and charges shall increment in 10 second intervals thereafter

An itemised bill shall contain, at least, the following information in respect of each billable call;

- ~~(a) the date of the call,~~
- ~~(b) the start time of the call,~~
- ~~(c) the number called,~~
- ~~(d) the duration of the call; and~~
- ~~(e) the price of the call.~~

5.1.6 O2 GSM 1800 (ComReg 00/03s)

**Proposed deletion to Schedule, Part 2:**

2. Additional services

2.1 The Licensee shall be required to provide the following Services:-

- (i) Fax and Data.
- (ii) Short Message Service.
- (iii) Voicemail.
- (iv) Call Diversion.
- (v) Call waiting and Hold.
- (vi) Call Barring.
- ~~(vii) Itemised Billing.~~

**Proposed deletion to Schedule, Part 3:**

6. Emergency Calls Free of Charge

- (a) The Licensee shall not impose a charge on the customer in respect of an emergency call.
- ~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

**Proposed deletion to Schedule, Part 4:**

6. Billing

6.1 Mandatory Service Standards

Billing Aspects	Standard Requirements	Options and Alternatives
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Billing Frequency	Monthly	<del>Alternative frequency or flexible frequency subject to agreement with customer</del>
Billing Itemisation	<del>All billable calls and services</del>	<del>Customised bill layouts with or without summary itemisation subject to agreement with customer</del>
Billing Medium	Paper	<del>Delivery of bills on computer media or online subject to agreement with customer</del>
Billing Method	Per second billing	At commencement of the service, calls shall attract minimum thirty second charge and charges shall increment in ten second intervals thereafter

~~An itemised bill shall contain, at least, the following information in respect of each billable call:~~

- ~~1. the date of the call~~
- ~~2. the start time of the call~~
- ~~3. the number called~~
- ~~4. the duration of the call~~
- ~~5. the price of the call~~

**Proposed deletion to Schedule, Part 7, charges to Customers:**

2. The following supplementary features shall be provided as constituent parts of the service to any customer, on request, without the addition of any amount in respect thereof to the amount of the connection fee or monthly rental specified, that is to say:

- voice mail,
- call diversion,
- call waiting,
- ~~- itemised billing,~~
- short message service,
- GSM data and fax

*5.1.7 Vodafone 3G (ComReg 04/18)*

**Proposed deletion to Schedule 5, Part 3:**

6. Emergency Calls Free of Charge

- (a) The Licensee shall not impose a charge on the customer in respect of an emergency call.
- ~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

**Proposed deletion to Schedule 5, Part 4:**

3. Billing
  - 3.1 Mandatory Service Standards

Billing Aspects	Standard Requirements	Options and Alternatives
Billing Frequency	Monthly	<del>Alternative frequency or flexible frequency subject to agreement customer</del>
Billing Itemisation	All billable calls and services	<del>Customised bill layouts with or without summary itemisation subject to agreement with customer</del>
Billing Medium	Paper	<del>Delivery of bills on computer media or online subject to agreement with customer</del>

5.1.8 Vodafone Interim GSM 900 ( 11/50b)

**Proposed deletion to Schedule 4, Part 2:**

2. Additional services

2.1 The Licensee shall be required to provide the following services;

- (a) Fax and data,
- (b) Short message service,
- (c) Voicemail,
- (d) Call diversion,
- (e) Call waiting,
- ~~(f) Itemised billing.~~

**Proposed deletion to Schedule 4, Part 3:**

6. Emergency Calls Free of Charge

- (a) The Licensee shall not impose a charge on the customer in respect of an emergency call; and
- ~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

**Proposed deletion to Schedule 4, Part 4:**

5. Billing

5.1 Mandatory Service Standards

Billing Aspects	Standard Requirements	Options and Alternatives
Billing Frequency	Monthly	<del>Alternative frequency or flexible frequency subject to agreement with customer</del>
Billing Itemisation	<del>All billable calls and services</del>	<del>Customised bill layouts with or without summary itemisation subject to agreement with the customer</del>
Billing Medium	Paper	<del>Delivery of bills on computer media or online subject to agreement with customer</del>
Billing Method	Per second billing	

An itemised bill shall contain, at least, the following information in respect of each billable call;

- ~~(a) the date of the call~~
- ~~(b) the start time of the call~~
- ~~(c) the number called~~
- ~~(d) the duration of the call; and~~
- ~~(e) the price of the call~~

*5.1.9 Vodafone GSM 1800 (ComReg 00/01s)*

**Proposed deletion to Schedule, Part 2:**

2. Additional services

2.1 The Licensee shall be required to provide the following services;-

- i. Fax and data
- ii. Short message service
- iii. Voicemail
- iv. Call diversion
- v. Call waiting
- ~~vi. Itemised billing~~

**Proposed deletion to Schedule, Part 3:**

6. Emergency Calls Free of Charge

- (a) The Licensee shall not impose a charge on the customer in respect of an emergency call; and
- ~~(b) The Licensee shall not list on a customer's itemised bill any emergency call.~~

**Proposed deletion to Schedule, Part 4:**

5. Billing

5.1 Mandatory Service Standards

Billing Aspects	Standard Requirements	Options and Alternatives
Billing Frequency	Monthly	<del>Alternative frequency or flexible frequency subject to agreement with the customer</del>
Billing Itemisation	<del>All billable calls and services</del>	<del>Customised bill layouts with or without summary itemisation subject to agreement with the customer</del>
Billing Medium	Paper	<del>Delivery of bills on computer media or on line subject to agreement with the customer</del>
Billing Method	Per second billing	

An itemised bill shall contain, at least, the following information in respect of each billable call:-

- ~~the date of the call~~
- ~~the start time of the call~~
- ~~the number called~~
- ~~the duration of the call~~
- ~~the price of the call~~

**Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.**

## **5.2 Proposed amendments to universal service provider's obligations**

The current universal service provider is Eircom Limited and to the extent that it already has obligations covered by these proposed measures, they will not be duplicated in the GA. However, obligations that it does not already have in relation to these matters and which are set out in the amended conditions to the GA, will apply to universal service provider (s) including the current universal service provider, Eircom Limited.

ComReg proposes to revoke Decision No D09 01 published by its predecessor, the Office of the Director of Telecommunications Regulation, which relates to itemised billing.

ComReg proposes to make the following amendments to Decision No. 06/10 (ComReg 10/46):

### **“Specific Measures for Disabled Users**

2.8 In accordance with Regulation 7 of the Regulations, eircom Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 6 of the Regulations.

2.9 The USP shall do the following:

(a) Provide a dedicated section of its website, accessible from the homepage, containing comprehensive information in relation to the services it provides which are of particular interest and relevance to people with disabilities;

(b) Maintain, operate, monitor and ensure its own compliance with a Code of Practice concerning the provision of services for people with disabilities and shall periodically review and, where appropriate, amend the Code of Practice in consultation with the NDA and other representative bodies; and

(c) The USP shall provide the following specific services:

For users who are hearing-impaired

- Inductive couplers which allow users with a hearing aid set to connect the set to their telephone in order to allow them to hear incoming speech clearly;

Amplifier phones which allow the user to increase the volume of incoming speech; and

- Teleflash Visual Alert which shows a flashing light, or makes a loud noise when the telephone rings.

For users that are hearing and/or speech impaired

- A text Relay Service providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa; and
- A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.

For users with limited dexterity or mobility

- Push button telephone sets with speed and automatic redial buttons allowing pre-programmed telephone numbers (typically the most called numbers) or last called telephone numbers to be dialled without having to re-enter the telephone number; and
- Hands free/loudspeaker phones means that the handset does not need to be used at all.

For users with restricted vision

- Restricted vision telephones which can help people with restricted vision to find other numbers more easily; and
- ~~Braille billing free of charge.~~

For users unable to use the phone book because of a disability

Special Directory Enquiry arrangements to allow the use of directory enquiry services free- of-charge.

### **Control of expenditure**

2.11 As provided for by Regulation 9 of the Regulations, eircom Ltd., as the USP, shall do the following:

(a) Provide, ~~on request, a minimum level of~~ itemised billing to customers free-of-charge **in accordance with Regulation 9 of the Universal Service Regulations 2011;**

(b) Provide selective call barring facilities for outgoing calls to national, mobile, international and premium rate numbers. The call barring facility in respect of premium rate numbers shall be provided free-of-charge to users;

(c) Maintain and publish its scheme to allow for the phased payment of connection fees; and

(d) Maintain and publish its disconnection policy in connection with non-payment of bills.”

**Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.**

## 6 Regulatory Impact Assessment (“RIA”)

### 6.1 Role of the RIA

A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate. The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders. ComReg’s approach to RIA is set out in the Guidelines published in August 2007, in Document No. 07/56 & 07/56a. In conducting the RIA, ComReg will take account of the RIA Guidelines,<sup>20</sup> adopted under the Government’s *Better Regulation* programme.

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

In conducting RIAs, ComReg takes into account the six principles of *Better Regulation*. These are:

1. Necessity.
2. Effectiveness.
3. Proportionality.
4. Transparency.
5. Accountability.
6. Consistency.

To ensure that a RIA is proportionate and does not become overly burdensome, a common sense approach will be taken towards a RIA. As decisions are likely to vary in terms of their impact, if after initial investigation a decision appears to have relatively low impact, then ComReg would expect to carry out a less exhaustive RIA in respect of those decisions. In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate, or, in exceptional cases, where robust, detailed and independently verifiable data is available. This approach will be adopted when necessary. ComReg is of the preliminary opinion that the amendments to the GA proposed by this consultation are appropriate, proportionate and justified, given the need for consumer protection in this

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<sup>20</sup>See: “RIA Guidelines: How to conduct a Regulatory Impact Analysis”, October 2005, [www.betterregulation.ie](http://www.betterregulation.ie)



area. Throughout this consultation, ComReg has set out the reasons why it considers that there is a need for the proposed amendments to the GA.

## 6.2 Preliminary assessment of the regulatory options

ComReg is of the initial view that there are two options:

**Option 1** would be to do nothing and to allow certain providers of electronic communications services not to issue an itemised bill, or to issue their customers with an alternative billing medium *without* verifying that their customers can access and use the alternative billing medium. Consumers who do not have access to the internet would be charged for the receipt of a paper bill, by some service providers in order to verify and control their charges. Some electronic communications providers would continue to have obligations in this respect for certain services, while others would not. Some customers who have a pre-paid service would be unable to verify their charges.

**Option 2** would be to attach conditions to the GA in relation to bill itemisation, charges for paper bills and billing mediums in the manner detailed in this consultation. These proposed conditions would apply to all electronic communications service providers and would therefore be consistent and transparent. ComReg would seek to remove any existing identical conditions, as appropriate, in licences (which are held separate to the GA) to ensure that the new conditions do not duplicate any existing laws. Eircom as the current universal service provider has some obligations that are covered by these proposed measures. However, it is proposed that any obligations that are not imposed by virtue of Eircom's status as the universal service provider, would be imposed and applicable to it (and any other universal service provider (s)) through the conditions proposed to be attached to the GA – and not in its capacity as the universal service provider.

Section 6.4 below, sets out ComReg's preliminary views on the potential regulatory impact of the proposed amendments to the GA on industry. ComReg believes that if the proposed conditions are attached to the GA that they would cater for an evolving environment where more consumers will have access to alternative billing mediums. However, ComReg will monitor and may review the measures given that alternative billing methods, including e-billing are still evolving. ComReg wishes to obtain the views of interested parties in this regard, in order to complete its RIA.

## 6.3 RIA Context

During ComReg's consultation on interim licences for the 900 MHz bands,<sup>21</sup> some respondents raised the point that obligations on electronic communications service providers in respect of itemised bills and billing mediums are inconsistent. ComReg is of the preliminary view that mandating the issue of an itemised bill and measures in respect of billing mediums is generally in accordance with current practice and that both measures are reasonable, proportionate, and consistent. ComReg considers that they are also in accordance with its statutory objectives to protect consumers and to promote competition pursuant to the Act. ComReg considers the conditions being proposed largely reflect current practice. However, ComReg notes that absent specific obligations, this situation could and has begun to change and ComReg is of the view that this would have a significant impact on vulnerable consumers in particular. ComReg is of the view that it

<sup>21</sup>[http://www.comreg.ie/publications/interim\\_licences\\_for\\_the\\_900\\_mhz\\_band\\_-\\_response\\_to\\_consultation\\_and\\_correspondence.583.103846.p.html](http://www.comreg.ie/publications/interim_licences_for_the_900_mhz_band_-_response_to_consultation_and_correspondence.583.103846.p.html)

must protect consumers who do not have access to the new technologies that are being used to provide their bills, in a changing technological environment. ComReg also understands that operators need flexibility to define and implement billing mediums based on customer needs.

Because the measures are largely in line with current practice, these measures should not require any significant changes to billing systems, or any unreasonable costs to be incurred. ComReg is of the view that this is a matter of *need* rather than preference: the measures that ComReg is proposing are based on consumer needs. Any (minor) costs to electronic communications providers of the proposed measures are likely to be far outweighed by savings made by service providers where paper bills are not issued to their customers.

ComReg is of the view that the proposed measures enhance competition by placing this as a condition of the GA will ensure that no one service provider is able to induce the industry to move back to a different norm that will increase the cost of switching and, hence, undermine the competitive dynamic of the market. In addition, consumers can be assured of the minimum standards in relation to billing provided by all service providers and are therefore more likely to consider switching.

As against this, ComReg is of the initial view that the benefits are likely to be significant and long-lasting. Due to the proposed amendments, consumers contacting a potential new supplier of Electronic Communications Services should more easily be able to access their required bill medium. The amendments will promote consumer protection by ensuring that consumers do not face unreasonable difficulties or costs when seeking to obtain a paper bill (if needed) from current or new providers.

ComReg considers that overall consumer protection would also be enhanced by potential reductions in the cost of switching. Economic analysis generally predicts that reducing switching-costs can significantly increase competition and lead to lower prices for consumers. There are a number of reasons for this, which include (i) people who were likely to switch anyway will be able to do so at a lower cost, (ii) a reduction in switching costs should have an effect on supply and demand conditions in the market and act to reduce any remaining market power. This effect can be particularly strong in markets where there are large service providers with high market share.

Economic analysis generally shows that in markets with switching costs, firms with larger market shares can charge higher prices than their rivals. Firms with large numbers of “locked-in” customers are able to increase their prices to these customers, rather than lowering their prices to attract new and/or uncommitted customers.

### *6.3.1 Identification, description and preliminary assessment of the Regulatory Options*

ComReg is of the initial view that there are two options. Option 1 would be to do nothing and in effect, allow the *status quo* to change, without a consistent regulatory framework – to the detriment of vulnerable consumers. Option 2 is to attach conditions to the GA, for the reasons set out above and as explained throughout this consultation.

### *6.3.2 Reasoning for the proposals outlined in this consultation by ComReg*

The proposed principles in this document and the conditions proposed to be attached to the GA are intended to protect consumers from not being able to access a bill supplied to them by their electronic communications service provider by ensuring that regulatory requirements in the area of consumer billing are transparent and consistent.

### *6.3.3 Main issues*

#### *Service providers transferring consumers from a paper bill to an e-bill without verifying that the consumer can access and use the e-bill.*

The majority of post paid consumers are still receiving a paper bill from their service provider and the majority of consumers find this method convenient and transparent. However, there is a trend developing where service providers are contemplating changing this arrangement and transferring their customers to an electronic bill without getting consent from their customers. If ComReg's proposed measures are implemented following consultation it will in the future be necessary for service providers to first establish if their customers have access to the new medium of billing the service provider is contemplating.

#### *Service providers charging consumers for a paper bill*

Historically, all consumers of post-paid telecommunications services received a paper bill from their service provider and no charges were levied for the receipt of the bill as the consumer required the bill to verify the costs, and in some cases they needed a copy of the bill in order to pay the bill. Some service providers may be of the view that the bill medium they offer is a component of the service that they should be able to differentiate and compete in respect of. ComReg of the view that for some customers paper bills are entirely necessary and therefore, a charge should not apply.

#### *Free-phone and other specific numbers appearing on consumer bills*

ComReg has received queries in the past from some organisations in relation to whether or not their free-phone number would appear on a consumer's bill. This was primarily due to the sensitive nature of the services they are sometimes providing to the public.

ComReg is aware that the majority of service providers do not itemise free-phone numbers (1800 XXX XXX) on the consumer's bill, as there is not a charge associated with the call and in some cases, due to the sensitive nature of some services attached to this number range. ComReg is also aware that some service providers may wish to provide customers with a bill with all calls itemised – including calls that do not have a charge associated with the number – for transparency purposes. However, ComReg is concerned that without specific obligations in relation to this, that there is a risk that the printing of a freephone number on a bill may cause distress or inconvenience for some consumers. ComReg also believes that it is best practice to not identify the following numbers on the consumers itemised bills 999,112 (emergency services access numbers) and 116 XXX numbers (harmonised services of social value).

The following table presents what in ComReg’s preliminary view would be the regulatory impact of its proposed measures:

Main Measure proposed	Impact on Service provider	Costs	Impact on Consumer
<p>Provision of an itemised or non-itemised bill free-of-charge to post-paid consumers as required, (paper or electronic).</p>	<p>Service providers can now provide alternative bill mediums including electronic bills to certain customers.</p> <p>Service providers must continue to provide paper bills to their customers, in order for their customers to verify the charges and control their bill, unless they have verified that the customer can access and use an alternative bill.</p> <p>All service providers will have the same obligations in respect of billing mediums and itemisation promoting consistency and competition.</p>	<p>Service providers can realise the potential savings of moving certain customers to an electronic bill.</p> <p>Service providers will need to maintain a paper bill for certain customers.</p> <p>The savings associated with the alternative bill medium will exceed any costs associated with maintaining a paper bill for vulnerable consumers.</p>	<p>Consumers that can access and use an alternative bill medium can avail of it from their service provider.</p> <p>Consumers who cannot access the internet or do not have a Personal Computer to access an alternative bill medium will not be charged for the receipt of a paper bill.</p> <p>Assured of minimum standards in relation to billing, consumers can choose between service providers knowing that they will receive a bill in a medium they can access, free-of-charge.</p>
<p>Calls which are normally free-of-charge to all calling consumers, should <b>not</b> be itemised on the consumer’s bill.</p>	<p>Service providers who currently itemise freephone numbers on consumer bills will be required to amend their billing systems.</p>	<p>Most service providers already provide this feature. There may be minor costs for a small number of service providers who currently itemise these numbers on consumers’ bills.</p>	<p>All consumers’ data privacy will be assured irrespective of the service provider.</p>

<b>Main Measure proposed</b>	<b>Impact on Service provider</b>	<b>Costs</b>	<b>Impact on Consumer</b>
Bills issued to a consumer with disabilities shall be in a medium that is accessible to that consumer free-of-charge, if requested.	Service providers, on request, will be required to provide an accessible billing medium to consumers with disabilities.	Minor costs to service providers to provide an alternative billing medium on request to their customers with disabilities.	Consumers with disabilities will be able to benefit from the same consumer protection measures in relation to of billing as other consumers, insuring equivalence.
Service providers who provide pre-paid services to consumers shall give their consumer access to their current bill and call history (within a reasonable timeframe) free-of-charge on request.	Service providers currently provide bill charge details to consumers that wish to query or verify their usage and associated charges.	No foreseeable additional cost.	Pre-paid consumers will continue to be able to monitor and control their charges especially if they are in dispute with their service provider in relation to their bill.
Service providers who provide bills in a medium not sent directly to the customer (by post or email) to provide an alert to the customer that their bill is available.	This is the current practice of most service providers providing alternative bill mediums not sent directly to their customers.  The practice will benefit service providers as it will assist in ensuring their customers have the opportunity to verify their charges and pay their bills on-time.	No foreseeable additional cost.	Consumers who do not receive their bill directly will be alerted that their bill is available, the amount and the due date. This is assist consumers in verifying their charges in a timely manner and paying their bill on-time.

**Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA.**

**Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here.**

## 7 Submitting Comments

The consultation period will run from Friday 28 October 2011 to Friday 2 December 2011, during which time ComReg welcomes written comments on any of the issues raised in this paper. It is requested that comments be referenced to the relevant question numbers from this document.

Having analysed and considered the comments received, ComReg will publish a response to consultation and decision. In order to promote further openness and transparency, ComReg will publish all respondent's submissions to this consultation, subject to the provisions of ComReg's Guidelines on the Treatment of Confidential Information – ComReg 05/24. We would request that electronic submissions be submitted in an unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.

### *Please note*

ComReg appreciates that some of the issues raised in this paper may possibly require respondents to provide confidential information if their comments are to be meaningful.

As it is ComReg's policy to make all responses available on its web-site, and for inspection generally, respondents are requested to clearly identify confidential material and place such material in a separate Annex to their response.

Such information will be treated subject to the provisions of ComReg's Guidelines on the Treatment of Confidential Information – ComReg 05/24.

## 8 List of Questions

Q. 1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view. .... 8

Q. 2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view. .... 8

Q. 3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request, in paper format or electronically (as relevant)? Please provide reasons to support your view. .... 9

Q. 4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view. .... 13

Q. 5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view. . 13

Q. 6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view. .... 13

Q. 7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view. .... 13

Q. 8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view. .... 13

Q. 9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view. .... 13

Q. 10. Do you agree or disagree that a consumer with a disability should be provided with a billing medium that they can access free-of-charge, if requested? Please provide reasons to support your view. .... 14

Q. 11. Do you agree or disagree that a consumer with a disability may need to register their alternative billing medium requirement with their service provider in order to ensure that their service provider can best meet their billing needs? Please provide reasons to support your view. .... 14

- Q. 12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view. .... 19*
- Q. 13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view. .... 19*
- Q. 14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.. 28*
- Q. 15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view..... 30*
- Q. 16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA..... 36*
- Q. 17. If you wish to submit further comments in relation to the conditions proposed for attachment to the GA, please do so here..... 36*



## 9 Statutory powers and objectives

Regulation 8 of the European Communities (Electronic Communications Network and Services (Authorisation) Regulations 2011 (“**the Authorisation Regulations**”))<sup>22</sup> provides a legal basis for ComReg to attach consumer protection rules to the GA:

*“as soon as practicable after the commencement of these Regulations, specify conditions to be attached to a general authorisation only as are listed in Part A of the Schedule.”*

Part A, No. 8 of the Schedule to the Authorisation Regulations lists as one of the conditions that may be attached to the GA as:

*“Consumer protection rules specific to the electronic communications sector including conditions in conformity with the Universal Service Regulations and conditions on accessibility for users with disabilities in accordance with Regulation 6 of those Regulations.”*

In addition, in relation to itemised billing, Regulation 24 of the Universal Service Regulations<sup>23</sup> provides as follows:

***“Provision of additional facilities***

*(1) Without prejudice to Regulation 9(2) and subject to paragraph (3), the Regulator may specify that all undertakings providing publicly available telephone services or access to public communications networks are required to make available —*

*(a) all or part of the additional facilities listed in Schedule 1, Part B, subject to technical feasibility and economic viability, and*

*(b) all or part of the additional facilities and services listed in Schedule 1, Part A.”*

Schedule 1 Part A of the Universal Service Regulations sets out the obligations automatically applicable to a universal service provider by virtue of Regulation 9 of the Universal Service Regulations, and those obligations that may be imposed under Regulation 24 of the Universal Service Regulations (referred to above). Itemised billing is included as follows:

***“SCHEDULE 1***

***DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN REGULATIONS 9 AND 24***

***Part A: Facilities and services referred to in Regulation 9:***

***(a) Itemised Billing***

*The Regulator may, subject to the requirements of relevant legislation on the protection of personal data and privacy, lay down the basic level of itemised*

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<sup>22</sup>The European Communities (Electronic Communications Network and Services (Authorisation) Regulations 2011.

<sup>23</sup>The European Communities (Electronic Communications Networks and Services) (Universal Service and User’s Rights) Regulations 2011.

*bills which are to be provided by undertakings to subscribers free of charge in order that they can —*

*(i) allow verification and control of the charges incurred in using the public communications network at a fixed location or related publicly available telephone services, and*

*(ii) adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills. Where appropriate, additional levels of detail may be offered to subscribers at reasonable tariffs or at no charge.*

*Calls which are free of charge to the calling subscriber, including calls to helplines, are not to be identified in the calling subscriber's itemised bill."*

With regard to the insertion or amendment of conditions in the GA by ComReg, this is provided for by Regulation 8 of the Authorisation Regulations. Regulation 10 (3) of the Authorisation Regulations requires that conditions of licences shall not be specified as a condition attached to the GA. Regulation 15 of the Authorisation Regulations allows ComReg to amend the conditions of the GA or licences.

Regulation 7 of the e-Privacy Regulations provides as follows in relation to the entitlement to receive bills that are not itemised:

***"Itemised billing***

*7. (1) An undertaking shall comply with a request of a subscriber to that undertaking to give him or her bills that are not itemised in respect of the electronic communications service supplied by the undertaking to the subscriber.*

*(2) The Regulator and the Commissioner shall, in the performance of their functions, have regard to the need to reconcile the rights of subscribers to receive itemised bills with the right to privacy of calling users and called subscribers"*

In relation to disabled end-users, Regulation 17 (1) of the Universal Service Regulations provides as follows:

***"Ensuring equivalence in access and choice for disabled end-users***

*17. (1) The Regulator may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services in order to ensure that disabled end-users —*

*(a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users, and*

*(b) benefit from the choice of undertakings and services available to the majority of end-users."*

ComReg has several statutory objectives under section 12 (1) of the Act. ComReg is required to promote the interests of users and to promote competition, and to take all reasonable measures which are aimed at achieving those objectives, including those measures identified in section 12 (2) of the Act. ComReg has taken account of the attainment of these objectives in the measures proposed in this consultation. ComReg's statutory objectives are also augmented by Regulation 16 of the Framework Regulations.

Under that provision, ComReg is amongst other things, required in so far as the promotion of competition is concerned, to ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality. Insofar as promotion of the interests of users is concerned, ComReg is required to address the needs of specific social groups, in particular, elderly users and users with special social needs, and to promote the ability of end-users to access and distribute information or use applications and services of their choice.