



Commission for
Communications Regulation

Provision of Directory of Subscribers

Submissions to Consultation 14/20

Submissions to Consultation

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An Coimisiún um Rialáil Cumarsáide
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Submissions Received from Respondents

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1: Eircom

eircom Group

Response to ComReg Consultation Paper:

Provision of Directory of Subscribers

Universal service: Scope and designation

ComReg Document 14/20



15 April 2014

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The comments submitted to this consultation are those of Meteor Mobile Communications Ltd. (MMC) and eircom Ltd (eircom) collectively referred to as eircom Group.

Executive Summary

It should be noted from the outset that eircom has no desire to be Universal Service Provider (USP) for the printed directory Universal Service Obligation (USO).

The printed directory USO has been discharged by FCR Media Ltd (FCR Media) for many years through an outsource supply arrangement with eircom. FCR Media has expertise in managing the provision of printed directories in a number of countries. eircom is merely the manager of an outsource supply contract and does not have any unique capability or experience in this regard. We do not consider there is any objective justification for a printed directory USO designation to be imposed on eircom.

eircom does not consider there is sufficient justification to require the provision of a printed directory to all consumers and supports ComReg's "*preliminary view that due to the wide range of facilities available to access phone numbers there may be reasons to modify the existing obligation*".¹

We are disappointed by the absence of rigour applied by ComReg in assessing potential options to promote a more efficient solution. ComReg's analysis is nothing more than a subjective point of view. In a number of places ComReg expresses 'concern' regarding various aspects but makes no effort to substantiate or quantify its concern. ComReg also makes many references to the need to protect the most vulnerable in society but nowhere in the consultation does ComReg actually define who those vulnerable members of society are. This is a notable failing in ComReg's analysis. If ComReg was to identify the vulnerable members of society, a proper assessment could be undertaken to evaluate whether a targeted intervention may be more appropriate than an environmentally damaging, costly and inefficient blanket distribution of printed directories.

It is eircom's strong view that the primary format for the directory should be electronic, provided in the form of an online directory and potentially enhanced with an app for mobile users. We acknowledge that there may be some vulnerable members of society² who may continue to need a printed directory and we are of the view that this societal need is best met through distribution via a network of central collection points.

Should ComReg determine there is a continued need for a directory services USO, potentially with a significantly altered scope, ComReg must establish a fair and open selection process for the next USP.

¹ Paragraph 99, ComReg 14/20

² This societal group has yet to be adequately defined by ComReg

Introduction

It should be noted from the outset that eircom has no desire to be USP for the printed directory USO. We do not consider there is any objective justification for such a designation to be imposed on eircom. Should ComReg determine there is a continued need for a directory services USO, potentially with a significantly altered scope, ComReg must establish a fair and open selection process for the next USP.

We consider section 3.3 of the consultation to be misleading. In this section, titled Directory Services Costs, ComReg notes that a zero value in respect of printed directories was submitted in eircom's application for funding for FY2009/10.

Historically the provision of the printed directory had been possible on a commercially viable basis as sufficient advertising revenue was generated to offset the costs of producing and distributing the printed directory. In recent years a persistent decline in print advertising spend, reflective of market trends and the declining relevance of the printed directory, has meant that it is no longer possible to provide the printed directory within normal commercial standards. ComReg will be aware of this fact from discussions with eircom during 2012. We are therefore surprised by the vague position ComReg expresses regarding the economic nature of the printed directory USO. ComReg states it "*is aware that there is a possibility that the provision of the printed directory may become uneconomic due to falling advertising revenues and increase costs (other than because of the opt-out model) leading to a net cost.*"³ This is not a possibility but a reality and has been expressed to ComReg on a number of occasions. The net cost to eircom in 2013 was €■■■■. This will fall to a net cost of €■■■■ in 2014 as FCR Media has reflected the assumed benefits of an opt-out distribution in its commercial agreement with eircom. The agreed cost assumed a 20% opt-out rate for 2014 however this target will not be achieved and it is therefore likely that the net cost will grow in future years if a more efficient model for the provision of directory services USO is not implemented.

As ComReg will be aware, the printed directory USO has been discharged by FCR Media for many years through an outsource supply arrangement with eircom. FCR Media has expertise in managing the provision of printed directories in a number of countries.

FCR Media operates to an established annual cycle for the printed directory. In the first half of the calendar year preparations are made including taking extracts from the National Directory Database, making advertising sales, and finalising the layout of the printed directories for each region. In the second half of the year the directories are printed and distributed. FCR Media is committed to completing the cycle for the 2014 financial year. Consequently any changes arising from this consultation process could be implemented from 2015. The fact that the 2014 distribution is guaranteed means that ComReg does not have to rush to a decision by 30th June 2014. This is particularly pertinent in light of the so-called legislative matter which cannot be held as justification to impose a further designation on eircom.

³ Paragraph 98, ComReg 14/20

Response to Consultation

Q. 1 Do you agree or disagree that there is a continued requirement to provide a directory services obligation? Please provide reasons to support your views.

While there may be limited justification for the maintenance of a directory services obligation on one or more parties, eircom does not agree there is a continued requirement to provide a **printed** directory USO. Please see our response to question 2.

Q. 2 What is your view regarding the continued requirement to provide a printed directory to all consumers? Please give reasons to support your views.

eircom does not consider there is sufficient justification to require the provision of a printed directory to all consumers and supports ComReg's "*preliminary view that due to the wide range of facilities available to access phone numbers there may be reasons to modify the existing obligation*".⁴

Article 5(1)⁵ requires: "*Member States shall ensure that:*

(a) at least one comprehensive directory is available to end-users in a form approved by the relevant authority, whether printed or electronic, or both, and is updated on a regular basis, and at least once a year".

Online (electronic) directories for business and consumer (residential) searches are already provided voluntarily by www.11890.ie, www.eircomphonebook.ie, www.118.ie, and www.goldenpages.ie. There are also commercial directory enquiry (DQ) services that can be accessed from any fixed or mobile phone in the State. Online and DQ databases are updated daily and are therefore more accurate and up to date than a printed directory.

In our view there are sufficient alternatives available that render the printed directory obsolete and unnecessary. We note ComReg's market research which ComReg considers gives clear evidence that the printed directory is utilised. We do not dispute that some people use printed directories. However, as the same market research demonstrates, a printed directory is not essential. The main sources identified for finding a non-local landline were DQ (46%) and online search / online directories (48%) relative to eircom printed phonebook (13%)⁶.

It is questionable whether the printed directory in its current form can be considered a comprehensive directory. There are approximately 670,000 residential entries in the printed directory. Only a small handful of these are mobile numbers. The printed directory is distributed to approximately 1,500,000 households of which less than 45% will have an entry in the printed directory. With over 4.5million mobile handset subscriptions alone in operation⁷ we struggle to see how the printed directories with only 670,000 entries in total can be considered comprehensive. We agree with ComReg that "*For those with internet access, the online directory has the advantage of containing all telephone numbers, unlike the printed directory which contains only*

⁴ Paragraph 99, ComReg 14/20

⁵ Universal Services Directive (as amended), USD 2009

⁶ It should be noted that the number of directories distributed in addition to the local directory represents less than 0.5% of households, consequently the survey appears to overstate reliance on the printed directory particularly in respect of searching for non local numbers.

⁷ See figure 4.1.1, ComReg 14/19

*those telephone numbers in the local area. In addition, online directories and DQ services provide access to unlisted numbers.*⁸

We do not agree with ComReg's view⁹ that *"It is apparent from the survey that printed directories continue to provide a basic service to many people throughout the State, indicating, to some extent, a continued need for printed directories."* [emphasis added] In our view the only meaningful conclusion that can be drawn is that at best 7% of those surveyed place any value on the printed directory¹⁰.

As highlighted by ComReg¹¹ *"81% of all private households in Ireland had internet access in 2012"* and therefore have access to online means to search for numbers. Universal Service should be about need rather than convenience. As set out later in this response, we strongly believe that the vast majority of consumers are able to fulfill their need for directory services from online and DQ sources. As such there is no justification for the continuance of the provision of printed directories to all households. To maintain the current printed directory USO on substantially the same terms will have negative consequences in terms of economic efficiency and environmental damage.

Q. 3 Do you agree or disagree with the options as set out above? Please give reasons to support your view.

In section 4.3 of the consultation ComReg sets out a number of options related to format of the directory, distribution model and charging. We are disappointed by the absence of rigour applied by ComReg in assessing the options. ComReg's analysis is nothing more than a subjective point of view. In a number of places ComReg expresses 'concern' regarding various aspects but makes no effort to substantiate or quantify its concern. ComReg also makes many references to the need to protect the most vulnerable in society but nowhere in the consultation does ComReg actually define who those vulnerable members of society are. This is a notable failing in ComReg's analysis. If ComReg was to identify the vulnerable members of society, a proper assessment could be undertaken to evaluate whether a targeted intervention may be more appropriate than an environmentally damaging, costly and inefficient blanket distribution of printed directories. We note that alternative arrangements are already in place for a substantial group of vulnerable members of society with the provision of free directory enquiries (the 196 service). ComReg has failed to consider the option of extending the 196 service to address the needs of all vulnerable members of society who need access to a directory service because they cannot effectively access online or DQ directory services. This would be entirely consistent with the Regulations in which the USO obligation refers to either a comprehensive printed directory or a comprehensive directory enquiries service and, as highlighted above, it is questionable whether the printed directory could be considered to be comprehensive.

ComReg appears to suggest in section 5.3 that vulnerable members of society will reside in rural areas. Elsewhere in the consultation ComReg appears to suggest that vulnerable members of society are also those that are physically weak or have mobility issues¹², those with a low disposable income¹³, and those without internet access or with busy lives¹⁴. ComReg must clearly define that segment of society that has a real need for printed directory and quantify the size of this group.

⁸ Paragraph 43, ComReg 14/20

⁹ Paragraph 61, ComReg 14/20

¹⁰ 7% of respondents stated they would prefer a printed telephone directory and would be willing to pay for it.

Figure 4, ComReg 14/20

¹¹ Paragraph 32, ComReg 14/20

¹² Paragraph 126, ComReg 14/20

¹³ Paragraph 118, ComReg 14/20

¹⁴ Paragraph 113, ComReg 14/20

We believe that a more dynamic approach is required in respect of the provision of directory services. We do not consider that a printed directory should be the primary format. Given that at least 81% of households have access to the internet the primary format should be aligned to the state of the art. The primary format should therefore be the provision of online directories and potentially the development of an app for smart phones to enhance accessibility for mobile users if required. Such an approach is consistent with the principles of universal service and consistent with the rules established by ComReg in respect of billing.

Historically the primary medium for billing was specified as a paper bill. In Decision 08/13¹⁵ of June 2013, ComReg updated the regulatory approach in respect of billing mediums, taking into account technological advances. The regulatory construct implemented by ComReg respected the right of individuals to a paper bill whilst establishing a proportionate and efficient regime whereby the primary billing format could be electronic “*where the Authorised Person is providing broadband to a Consumer*”.¹⁶

Having established the most efficient primary format having regard to the state of the art, the next consideration is to establish an effective regime whereby those users with a preference for a printed directory can express that preference.

During the 2012 USO designation process, ComReg initially proposed¹⁷ “*that the printed directory (directories) should be provided, except for those that request not to receive it, on the basis that ComReg understands that this option would not have any significant impact on any claimed net cost of the USO, as relevant.*” ComReg stepped back from this proposal and decided¹⁸ “*In light of ComReg’s concerns about additional costs, as relevant, if the delivery model were to be altered, ComReg is of the view that Eircom should continue to be the USP based on the current delivery model i.e. no ability for the consumer to opt-in or out of receiving the directory.*”

“*ComReg did not mandate an opt-out model due to possible impact on net cost, however this option is open to Eircom to implement currently.*”¹⁹ eircom agreed to the implementation of an opt-out distribution model in 2013. eircom made this decision on the basis of advice from FCR Media demonstrating cost efficiencies that could accrue from a reasonable take-up of an opt-out model. The costs efficiencies were built into the outsource supply agreement thereby reducing eircom’s financial liability for the production of the printed directory outside of normal commercial standards.

The implementation of an opt-out distribution model commenced with a notification circulated with printed directories distributed in the second half of 2013 advising householders of the method to opt-out from future deliveries of the printed directory. FCR Media has established and maintains a website, www.phonebookoptout.ie, where householders can register their opt-out preference. The operation of the opt-out distribution model will commence with the 2014 distribution. To date only a small number of households have made the effort to register an opt-out preference which is disappointing, particularly as ComReg’s market research²⁰ indicates that 40% of respondents had not referred to the printed directory in the last 12 months and 49% of respondents had no preference to receive a printed directory²¹. The low take-up to date may be unsurprising due to human nature and inertia, where there is no direct benefit to the individual from the required action. As one respondent observed in 2012²² “*Widespread access to the internet and the increasing use*

¹⁵ ComReg 13/52

¹⁶ See Condition 18.7.8 of the General Authorisation

¹⁷ Paragraph 80, ComReg 12/39

¹⁸ Paragraph 167, ComReg 12/71

¹⁹ Paragraph 21, ComReg 14/20

²⁰ Paragraph 49, ComReg 14/20

²¹ See figure 4, ComReg 14/20

²² See BT response to question 13, ComReg 12/71s

of smart phones means people will increasingly look up numbers electronically. We consider the pragmatic way forward is for people to opt-in rather than opt-out of paper directories as most people won't bother to opt-out of something that is free to them. The opt-in approach still meets the USO but saves production and distribution costs. This solution is also beneficial to the environment as less paper will be consumed." We note a number of other respondents also indicated that an opt-in model should be adopted. The low volumes of registered opt-outs will not lead to material cost savings for the 2014 distribution and unless a more efficient model is developed it is eircom's view that significant costs will be incurred by the next USP.

If an opt-out model is to be made more effective all Electronic Communications Service Providers (ECSP) should be required to participate in the collection of preferences from their retail customers.

Maintaining a register of consumer preferences carries an administrative cost. A more efficient approach would be to move to a system of collection from central points. We note ComReg's view²³ that *"If an amended distribution model is implemented, a set of rules would need to be established to ensure collection points were spread evenly throughout the country and in premises which were accessible to consumers at regular times, and which would ensure that consumers were made aware when and where the directory was available."* This can be achieved quite simply by relying on the decisions of experts providing other socially valuable services. For example printed directories could be made available through the Library services²⁴ or Post Offices²⁵. We also note ComReg's parallel consultation in respect of the public payphones USO. In the payphones consultation²⁶ *"ComReg remains of the preliminary view that the current provision of public payphones throughout the State continues to meet (if not exceed) the reasonable needs of consumers and it is not proposing to increase penetration or facilities currently available."* eircom disagrees that there is a continued need for a public payphone USO. However ComReg's views are relevant as they demonstrate that in ComReg's opinion the current public payphone estate of approximately 700 locations is more than sufficient to provide an accessible nationwide network.

ComReg raises two concerns from the consumer perspective²⁷ on the basis that a central collection point system *"negatively impacts those most vulnerable in society who are either unable to travel to the collection point or for whom the directory is too heavy/ cumbersome to bring home."* ComReg's concerns are unfounded. As noted in the preceding paragraph ComReg considers 700 locations sufficient to provide nationwide availability and has not previously raised concerns regarding the ability of vulnerable members of society to travel to a payphone location. In terms of the printed directory being too heavy / cumbersome we are surprised ComReg has made this point. The size of the printed directories has declined over time as more households have decided to go ex-directory. The 01 area code printed directory is the largest of the printed directories produced and weighs less than many household grocery items including a bag of sugar. Other local area printed directories will be lighter.

We believe the cost savings generated by this approach will by far outweigh reductions in advertising revenue which are in any event in decline.

²³ Paragraph 123, ComReg 14/20

²⁴ There are 359 branch libraries and 29.5 mobile libraries in Ireland (including a shared cross-border service). With over 14 million visits annually, libraries play an important community role as centres of knowledge, information and culture. As a result of ongoing investment in the public library service, quality of life is being improved and new opportunities for education, life-long learning, leisure and personal development have been developed through enhanced multi media and ICT services. <http://www.environ.ie/en/LocalGovernment/PublicLibraries/>

²⁵ over 1,100 Post Offices and 175 postal agents. <http://www.anpost.ie/AnPost/MainContent/About+An+Post/An+Post+at+a+glance/>

²⁶ Paragraph 4, ComReg 14/27

²⁷ Paragraph 126, ComReg 14/20

Q. 4 What in your opinion is the most appropriate format(s) for the directory? Please give reasons to support your views.

It is eircom’s strong view that the primary format for the directory should be electronic, provided in the form of an online directory and potentially enhanced with an app for mobile users. We acknowledge that there may be some vulnerable members of society²⁸ who may continue to need a printed directory and we are of the view that this societal need is best met through distribution via a network of central collection points. See response to question 3.

Q. 5 Do you agree or disagree that a central collection point is not appropriate? Please give reasons to support your views.

We disagree with ComReg and consider a central collection point to be appropriate. See response to question 3.

Q. 6 Do you agree or disagree that consumers should be afforded the opportunity to record their preference not to receive a directory? Please give reasons to support your views.

If the approach we set out above is adopted then it would not be necessary to record and administer a preference scheme. If an opt-out scheme is to be maintained effectively there should be a requirement on ECSP to participate in raising awareness and capturing preferences from their retail customers. This should not be sole responsibility of the USP.

Q. 7 Do you agree or disagree that an affordable directory in at least one format should be provided to consumers? Please give reasons to support your views.

We agree that affordable directory services should be provided to consumers. At the very least this should be an efficient combination of printed, electronic and the 196 service formats.

We believe that electronic directories are the most accurate, efficient and effective way of providing an affordable directory. There is an arguable case, grounded on solid economic principles, that charging should be introduced for the provision of printed directories to consumers who are not considered vulnerable members of society.

Q. 8 Do you agree or disagree with ComReg’s view that the next designation period should be 3 or 4 years, if the legislative matter is addressed? Please provide reasons to support your view.

If the directory services USO is approached from the basis of an efficient combination of formats, with a targeted focus on addressing the need of vulnerable members of society, then a three or four year designation period may be appropriate. In this regard we agree with ComReg²⁹ *“that where an obligation is dynamic and appropriately flexible a longer designation period would be appropriate.”* However if ComReg is unwilling to step back from the inefficient mass distribution of printed directories then the ongoing provision of printed directories should be assessed on an annual basis.

²⁸ This societal group has yet to be adequately defined by ComReg

²⁹ Paragraph 149, ComReg 14/20

It should be noted that the printed directory production cycle operates on a calendar year basis. It may be appropriate to consider aligning the designation period(s) with calendar years if the printed directory is to remain a material component of the directory services USO.

We do not consider the legislative matter to be a relevant consideration for the reasons set out below in our response to question 10.

Q. 9 Do you agree or disagree with ComReg's proposal that, for the proposed next designation period, the required universal services should be designated for the entire State? Please provide reasons to support your view.

It is not possible to reach a view on the geographic scope of the designation without being offered a clear view on the vulnerable members of society that need to be addressed. As noted above ComReg appears to define vulnerable members of society in the consultation as those living in rural areas who do not have internet access, have low disposable income, mobility issues or physical weakness and lead busy lives. On this definition it would seem that a narrowly targeted directory services USO is required.

Q. 10 Do you agree or disagree with ComReg's proposal that where the legislative matter has not been addressed or where no expressions of interest are received, Eircom should continue to be the universal service provider for the directory of subscribers during the next designation period? Please provide reasons to support your view.

In our view the legislative matter is a red herring and is by no means a justification to impose the directory services USO on eircom.

The relevant Irish Regulations have been incorrectly drafted. It is a clear requirement of the European Regulatory Framework that *“When Member States designate undertakings in part or all of the national territory as having universal service obligations, they shall do so using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated.”*³⁰ [emphasis added]

In our view it would be unlawful to designate eircom as USP at the exclusion of consideration of others. ComReg's position on the legislative matter is confusing. At paragraphs 10 and 144 ComReg states that the legislative matter would need to be resolved by end March 2014, whereas at paragraphs 150 and 163 ComReg considers the amendment would need to take place prior to July 2014. It is possible that ComReg's confusion around dates and particularly a deadline of end March will discourage others from considering whether to express an interest when invited to do so.

We do not consider that the legislative issue is a lawful impediment to other entities being designated as directory services USP. In any event, if ComReg considers that the legislation must be addressed in advance then the actual deadline is end 2014. FCR Media is contractually committed to complete the 2014 calendar year cycle.

Setting the legislative issue to the side, it is ComReg's proposed designation process that eircom will be the de facto USP unless another entity expresses an interest in fulfilling USO associated with directory services. We do not consider this to be a fair and non-discriminatory mechanism. The proposed mechanism is fundamentally flawed because it does not provide any indication to

³⁰ Article 8(2), USD 2009

interested parties as to how they would be compensated in the event that a positive net cost is incurred by the USP for the provision of directory services.

In this regard, ComReg's recent Decision³¹ in respect of eircom's application for universal service funding for the period 2009/10 calls into serious question the ability of a USP to be compensated in the event that a significant net positive cost is incurred. It is also clear from the Decision that a net positive cost that is materially more than €300,000 to €400,000 would have to be incurred before compensation might be considered³² - and granted only if a series of very difficult cumulative hurdles have to be passed. What rational entity would express an interest in providing a loss making service without compensation?

ComReg advises³³ that *"Any expression of interest should be included with submissions to this consultation. Detailed documentation on for example how any obligation, will be fulfilled, quality measures and timelines to commence provision are not required at this time, however they may be required in the future."* This consultation is about, inter alia, defining the scope of the directory services USO. It is illogical for ComReg to expect other potential providers to be in a position at this stage of the of the process to express an interest absent a clear definition of what is required and the compensation scheme.

ComReg states, absent expressions of interest, *"eircom, should continue to be the universal service provider due, during the next designation period, to its ubiquity, experience and capability."*³⁴ [emphasis added]. This ignores the fact that eircom's sole role in the discharge of the directory services USO is the manager of an out-source supply contract. eircom does not have any unique capability or experience in this regard. There are a number of well established operators that have the experience and capability to manage out-source supply contracts. Indeed some of the larger players which are part of international groups will have centralised procurement functions with substantially better purchasing power than eircom.

eircom is not aware of any unique advantage it has in terms of ubiquity in the context of directory services USO and requests ComReg to clarify what unique advantage ComReg considers eircom to have in this regard.

Q. 11 Do you agree or disagree with ComReg's draft assessment of the impact of the proposed options? Please set out reasons for your answer.

In order to offer a view on ComReg's assessment we will need sight of ComReg's analysis quantifying the costs and benefits of the options considered. This is absent from what is presented in the consultation paper under the heading of Regulatory Impact Assessment.

We fully agree that *"A RIA should enable ComReg to determine the impact of any regulatory change or new regulation, and should assess the alternatives to regulation- such as no intervention, self-regulation or performance based regulation amongst others. RIA's aim to identify areas where regulation can be reduced. A RIA should identify the impact of the various options on stakeholders, on competition and on consumers and also the key risks associated with each option. RIA's therefore increase transparency of decision making and ensures the best possible outcome for stakeholders, consumers and competition"*.³⁵

³¹ Decision 01/14

³² See the 'administrative test' in section 9.3 of ComReg 14/03

³³ Paragraph 164, ComReg 14/20

³⁴ Paragraph 166, ComReg 14/20

³⁵ Paragraphs 169 and 170, ComReg 14/20

The purported RIA presented by ComReg on pages 35 and part of page 36 falls well short of the mark and can in no way be held out to be an example of good practice. The RIA put forward by ComReg is nothing more than an unsubstantiated qualitative point of view which raises more questions than it purports to answer. For example, on what basis does ComReg reach the conclusion that *“Additional costs incurred if eircom re-designated are minimal”*. The net cost burden on eircom will increase year on year as the advertising revenue declines and FCR Media seeks compensation from eircom for the losses it incurs. Another example of the vague and arbitrary nature of the draft RIA is reflected in the following *“Depending on the distribution model and potential charges, consumers may be negatively/ positively impacted.”* No proper conclusions can be reached from ComReg’s draft RIA.

2: Sky Ireland



SKY IRELAND RESPONSE TO PROVISION OF DIRECTORY OF SUBSCRIBERS– UNIVERSAL SERVICE: SCOPE AND DESIGNATION

1. SUMMARY

- 1.1 Sky Ireland (“Sky”) welcomes this opportunity to respond to ComReg Document No. 14/20 entitled: *“Provision of Directory of Subscribers Universal Service: Scope and Designation– Consultation”* (the “Consultation”).
- 1.2 Since 2003, eircom has been designated on successive occasions as the universal service provider (“USP”) to fulfil the universal service obligation (the “USO”) in the State. It is appropriate that the USO and its different elements is periodically reviewed in light of market developments.
- 1.3 Sky notes that ComReg is considering certain changes to the manner in how the USP make available a directory of subscribers. In carrying out this exercise, it is important that ComReg balances the needs of consumers to have access to a comprehensive directory of subscribers, while ensuring that any measures for maintaining or amending the current regime are proportionate and evidence based. In particular, maintaining or amending the current USO should not lead to the imposition of any inappropriate costs on the USP.

2. THE USO FOR A DIRECTORY OF SUBSCRIBERS SHOULD BE EFFICIENTLY DELIVERED

- 2.1 As ComReg recognises, the USO should be delivered in an efficient and cost effective manner. ComReg notes that eircom has stated that the provision of printed directories is economic and that eircom did not claim a net cost in respect of providing them in its application to ComReg for USO funding for the period 2009/2010. ComReg also suggests however that the provision of printed directories could become uneconomic, if associated advertising revenues were to decline sufficiently.
- 2.2 Sky notes that ComReg is considering the following possible amendments to eircom’s USO for making the directory of subscribers available:
- The provision of directories in a non-print medium, e.g. online to fulfil the USO. eircom already uses the online medium (and 81% of customers have internet access) and ComReg suggests that eircom is likely to continue to do so (absent a USO obligation).
 - An “opt-in” requirement for consumers who wish to receive a printed telephone directory, instead of the current “opt out” requirement.
 - A change to the delivery method i.e. rather than door-to-door delivery, it might be possible for customers to collect the printed directory at their local post office.
 - Charging for directory of subscribers.

- 2.3 It is important that ComReg balances the needs of consumers and industry in determining how the USO is delivered. ComReg needs to ensure, as far as possible, that the USO for directory subscriber services (whether maintained as is, or amended) does not impose inappropriate or disproportionate costs on the USP.
- 2.4 Accordingly, ComReg needs to conduct a rigorous regulatory impact assessment of all relevant options, that takes due account of all relevant costs and benefits, based on the best available evidence, before it makes a final decision.
- 2.5 Finally, Sky notes that ComReg intends to publish a further consultation on this matter. Sky looks forward to responding to this further consultation once it is published.

Sky

15 April 2014

3: UPC Ireland



**UPC Ireland Response to: ComReg 14/20;
Consultation on Provision of Directory of
Subscribers. Universal Service: Scope and
Designation**



Introduction

UPC Communications Ireland Limited (“UPC”) welcomes the opportunity to provide its response to ComReg on its Consultation (“the consultation”) on the Provision of Directory of Subscribers, Universal Service: Scope and Designation (ComReg 14/20).

In common with other aspects of Universal Service, UPC Ireland believes that where services are justifiably designated for provision by a Universal Service Provider (USP) it is imperative that such services are provided using the most efficient delivery method.

Responses to ComReg Questions

Q. 1 Do you agree or disagree that there is a continued requirement to provide a directory services obligation? Please provide reasons to support your views.

The survey results presented by ComReg are far from clear in justifying a continued requirement to provide a *printed* directory. On the one hand the survey shows a level of use that could warrant the continued requirement to provide a *printed* directory service obligation at the local level, i.e. directory in the same area code¹. However, on the other hand, ComReg’s survey results also show that those surveyed place little actual value in having a *printed* directory²:

- 22% would prefer not to receive a *printed* directory.
- 27% have no particular preference as to whether they receive a *printed* directory or not.
- 45% would not be willing to pay to receive a *printed* directory.

In addition, when the survey results for local and non-local use are combined, it is clear that the majority of those surveyed use *means other than a printed directory* to find a phone number, i.e. Directory Enquiry service (35% for local and 46% for non-local) or online search (28% for local and 34% for non-local).

Given these seemingly conflicting results, it is imperative that if ComReg intends on maintaining the requirement on the USP to provide a *printed* directory, that the latter is afforded flexibility in how it meets this obligation and in particular that it does so via the most efficient means possible.

¹ ComReg 14/20 p. 12 paragraph 45; 43% of those surveyed cited the Eircom phonebook as one of the top two ways they most often find a local phone number.

² ComReg 1420a



Q. 2 What is your view regarding the continued requirement to provide a printed directory to all consumers? Please give reasons to support your views.

As stated above, UPC Ireland believes that it is far from clear that there is a real need or desire on behalf of consumers to continue the requirement “*to provide a printed directory to all consumers*”. In fact it is possible that a significant proportion of those surveyed might actually view receipt of a *printed* directory as a nuisance or an unnecessary service offered by the USP. This is supported by the 22% that indicated they would prefer not to receive a *printed* directory and a further 27% that were ambivalent about having a *printed* directory at all.

Given the mixed results from ComReg’s survey, it is imperative that any continued requirement imposed by ComReg is not too onerous on the USP and crucially enables delivery by the most efficient means possible, so as to avoid triggering an unfair burden on the USP. Specifically, consumers should be made more aware by ComReg and Eircom of the option to opt out of receiving a *printed* directory which Eircom began offering in August 2013.

Q. 3 Do you agree or disagree with the options as set out above? Please give reasons to support your view.

UPC Ireland notes ComReg’s statement that “*although the provision of an electronic directory is not currently mandated, ComReg is of the view that as this facility is already provided by Eircom, it would appear Eircom consider it viable and hence it is unlikely to be ceased*”³. UPC Ireland believes that ComReg should confirm Eircom’s intentions regarding the “*electronic directory*” and also confirm that there is no net cost to Eircom of providing this “*electronic directory*” now and for the period of the proposed designation of the USP for the purposes of directory services.

If Eircom confirms that it intends to continue the “*electronic directory*” service and also that there is no likely net cost today or for the period of the proposed designation of the USP (with respect to the provision of a directory service), UPC Ireland believes this mode of delivery may provide a viable alternative to the current requirement to provide a “*printed directory for all consumers*”.

For those consumers that may wish to continue to receive a *printed* directory, this could be made available at a delivery point such as a post office or a supermarket. Consumer preference to continue to receive a *printed* directory could be verified each year by those consumers returning a confirmation card (which could be included as part of the directory) to the USP.

³ Paragraph 81 page 20.



An *electronic* directory would also have the added benefit that it would provide consumers with information on more than one area code, whereas currently consumers get a local *printed* directory (additional areas are only provided on request).

For those choosing the *printed* directory option, UPC Ireland believes that the potential cost savings in achieving *printed* directory distribution through “central distribution points” should be further investigated by ComReg. Indeed, the consultation document is unusually brief in dismissing this as an option, whereas *prima facie* it appears to us to be a very logical option.

UPC Ireland recognises that the measures described above could enable the USP to benefit from reduced costs of not having to print a large volume of directories, or having to distribute these throughout the Republic.

Finally, before adoption of any of the above measures, UPC Ireland believes that it is imperative that ComReg confirm that the alternative proposals referenced above, if adopted, would not result in a net cost for the provision of any component of directory services for the period of the proposed designation of the USP.

Q. 4 What in your opinion is the most appropriate format(s) for the directory? Please give reasons to support your views.

Please see answer to Q3 above.

Q. 5 Do you agree or disagree that a central collection point is not appropriate? Please give reasons to support your views.

As per our response to Q3 above, UPC Ireland believes that the potential cost savings in *printed* directory distribution through “central distribution points” should be further investigated by ComReg. However, before adoption of any such measure, UPC Ireland believes that it is imperative that ComReg confirm that alternative measures, if adopted, would not result in a net cost for the provision of any component of directory services for the period of the proposed designation of the USP.

Q. 6 Do you agree or disagree that consumers should be afforded the opportunity to record their preference not to receive a directory? Please give reasons to support your views.



UPC Ireland agrees that consumers should be afforded the opportunity to record their preference not to receive a *printed* directory in the first instance. ComReg rightly aims to minimise consumer detriment where appropriate. It is conceivable that the 22% of respondents that stated they would prefer not to receive a printed directory view the receipt of a *printed* directory as a nuisance and inconvenience.

Q. 7 Do you agree or disagree that an affordable directory in at least one format should be provided to consumers? Please give reasons to support your views.

Where there is a clear consumer want and need, UPC Ireland believes that an affordable directory in at least one format should be provided to consumers. *Electronic* or *printed* format subject to the conditions outlined in answer to Q3 above.

Q. 8 Do you agree or disagree with ComReg's view that the next designation period should be 3 or 4 years, if the legislative matter is addressed? Please provide reasons to support your view.

On the basis that if the legislative matter is addressed, UPC Ireland agrees that the next designation period for the provision of a directory service should be for three or four years, However UPC Ireland also notes that the scope of Universal Service is also currently under review by the European Commission and developments at a European level will need to be monitored.

Q. 9 Do you agree or disagree with ComReg's proposal that, for the proposed next designation period, the required universal services should be designated for the entire State? Please provide reasons to support your view.

As UPC Ireland has no information on which to assess the requirement of a directory on a sub-national basis, UPC Ireland agrees that, for the proposed next designation period, the universal services deemed to be required should be designated for the entire State.



Q. 10 Do you agree or disagree with ComReg's proposal that where the legislative matter has not been addressed or where no expressions of interest are received, Eircom should continue to be the universal service provider for the directory of subscribers during the next designation period? Please provide reasons to support your view.

Assuming that the legislative matter will be addressed, ComReg should make clear that it does not foresee compensation of the USP for any component of directory services, and await expressions of interest.

Q. 11 Do you agree or disagree with ComReg's draft assessment of the impact of the proposed options? Please set out reasons for your answer.

No, please see details in answers above.

