



Commission for  
**Communications Regulation**

# **Provision of Directory of Subscribers**

## **Submissions to Consultation 14/51**

### **Submissions to Consultation**

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

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland

Telephone +353 1 804 9600 Fax +353 1 804 9680 Email [info@comreg.ie](mailto:info@comreg.ie) Web [www.comreg.ie](http://www.comreg.ie)

## Submissions Received from Respondents

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# 1: Eircom

**eircom Group**

**Response to ComReg Consultation Paper:**

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**Universal service: Scope and designation**

**ComReg Document 14/51**



**23 June 2014**

**DOCUMENT CONTROL**

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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

eircom remains concerned that ComReg's consideration of the costs and benefits of the various options is deficient. We do not believe that ComReg's analysis is of a sufficient standard to meet its statutory objectives, in particular to ensure that the directory services USO will be delivered in a cost effective manner.

Since the last consultation eircom's outsourced supplier and distributor of printed directories has served notice to terminate the supply agreement. We are concerned that ComReg appears to have ignored this very relevant and material development which was immediately drawn to its attention. As previously highlighted eircom's role in the discharge of the directory services USO has merely been as the manager of an out-source supply contract. This has a direct impact on eircom's ability to deliver a printed directory (at all or within the required timeframe) and on the cost of the obligation. We are surprised that ComReg does not consider this to be a material and relevant development.

eircom welcomes ComReg's recognition that an opt-in model can be an efficient and acceptable approach. However we do not agree that an interim period should be imposed before this model could be implemented. It should be recognised that online directory services should be the primary format. An opt-in scheme could be pre-populated with voice only fixed line households. Other end users could opt-in to the scheme should they have a need for a printed directory that cannot be met by an online directory.

It is eircom's belief that adoption of the opt-in model for printed directory distribution will be a cost effective and user friendly way to deliver the directory services USO. However the next USP will need to undertake a procurement exercise. We believe ComReg should wait until the procurement process is advanced and robust evidence of costs for the various options has been generated before reaching a conclusion on the definition of the directory services USO for the next period.

We also note and welcome ComReg's acceptance that charges may be levied for printed directories albeit subject to geographic averaging.

## Response to Consultation

eircom provided its views in response to ComReg's earlier consultation on printed directory USO in April. In our previous response we highlighted significant concerns that:

- We do not consider there is any objective justification for a printed directory USO designation to be imposed on eircom.
- ComReg's analysis suffered from an absence of rigour in assessing potential options to promote a more efficient solution.
- ComReg's analysis was nothing more than a subjective point of view.
- Taking account of the current state of the market and the widespread take-up of services with internet access, 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.
- Any residual need for printed directories 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.

In the current response to consultation and further consultation on draft Decision, ComReg introduces some additional analysis in respect of the cost of using DQ services and purports to have fully considered the views of respondents. However our fundamental concerns have not been addressed and we remain of the view that ComReg's analysis is deficient and insufficient to justify the proposed regulatory intervention.

We are concerned that ComReg appears to have ignored a very relevant and material development since the last consultation. As previously highlighted eircom's role in the discharge of the directory services USO has merely been as the manager of an out-source supply contract. On 28<sup>th</sup> April 2014 eircom served notice to terminate the printed directory supply agreement on completion of the 2014 production cycle. ComReg was advised of this development on 29<sup>th</sup> April. This has a direct impact on eircom's ability to deliver a printed directory (at all or within the required timeframe) and on the cost of the obligation. The next USP will need to undertake a procurement exercise. We are surprised that ComReg does not consider this to be a material and relevant development.

We remain concerned by the absence of a properly reasoned cost benefit analysis of the various options to deliver the directory services USO. The fact that at the next USP will need to undertake a tender process provides an opportunity for ComReg to gather robust information on costs for various options such that it could define then directory services USO in a truly cost effective manner consistent with its statutory duties.

eircom would urge ComReg to consider deferring a conclusion on specifying how the directory services USO should be delivered until after the procurement exercise has been undertaken.

eircom offers the following in response to the specific questions raised.

### **Q. 1 Do you agree with ComReg's preliminary view that there is a need for a directory services USO? Please give reasons to support your view.**

As highlighted in our previous response we consider there may be a justification for a limited obligation in respect of printed directories.



Consumer research undertaken for eircom<sup>1</sup> indicates:

- less than a quarter of consumers consider the printed directory to be the primary source of information when looking for a local or national telephone number.
- 81% of respondents indicated that removal of the printed directory would have little or no impact.
- 46% state they have either never used the printed directory or not used it in the last 12 months. A further 9% could not recall.
- 55% have a first choice preference for a digital form of directory versus a printed format.
- Less than 40% believe the printed directory should be delivered to all and 76% support an opt-in approach

Taking account of the current state of the market and the widespread take-up of services with internet access, 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 note ComReg's estimate "*that the withdrawal of the printed directory could cost consumers anywhere between €1.5m and €8.9m p.a.*"<sup>2</sup> We have not been able to replicate these figures. ComReg's description of the method it used<sup>3</sup> to derive the estimates is unclear as to the precise assumptions adopted. As such we have no basis from which to form a view as to the reasonableness of ComReg's estimate. In any event the estimate is made on the basis of the full withdrawal of the printed directory and as such is not relevant to the consideration as to how the directory services USO should be defined and implemented. If the printed directory was removed then many consumers could and would avail of online directory services which are free of charge. This is absent from ComReg's analysis and as such any indication of consumer detriment that could be derived from the analysis will be grossly overstated. Further analysis of the societal benefits arising from the various options to deliver the directory services USO is required.

**Q. 2 Do you agree or disagree that consumer preferences should be gathered on an opt out approach for a period of 2 years followed by an opt in approach if this is deemed cost effective? Please give reasons to support your view.**

eircom welcomes ComReg's acknowledgement that an opt in approach can be an efficient and acceptable approach. eircom had previously suggested that the residual need for printed directories could be best met through an opt-in model with distribution via a network of central collection points. We note that an opt-in model with distribution to the end-users premises may be less cost effective but may be a reasonable compromise. However we do not agree with ComReg's proposal to defer implementing this option until 2016. ComReg suggests<sup>4</sup> that an initial period would be appropriate to see if an opt-in approach might gain traction. We do not consider this to be a valid justification to maintain an initial period. Given the performance of the opt-in approach to date the initial period would be akin to flogging a dead horse.

Rather we believe it would be appropriate to move to an opt-in model from 2015. We note ComReg's definition of vulnerable users and ComReg's view<sup>5</sup> that "*it would be difficult to*

<sup>1</sup> Within a nationwide omnibus survey conducted by Millward Brown in April 2014. Results presented in Annex 1 to the this consultation response

<sup>2</sup> Paragraph 54, ComReg 14/51

<sup>3</sup> Paragraphs 52 to 54 and option 1 of the RIA at pages 43/44

<sup>4</sup> Paragraph 121, ComReg 14/51

<sup>5</sup> Paragraph 100, ComReg 14/51

*ascertain which exact individuals should have access to the service.”* We do not believe that the identification of relevant individuals will be difficult if we start from the perspective that online directory services is the primary means to meet the directory services USO. From this starting point it is reasonable to assume that it is the households without internet access, voice only households, that may have a continued need for a printed directory. We note that voice only customers tend to be more associated with the criteria that ComReg considers relevant for USO. It should therefore be possible to move rapidly to the implementation of an opt-in model if voice only customers pre-opted onto the register of households wishing to receive the printed directory. Other end users could opt-in to the scheme should they have a need for a printed directory that cannot be met by an online directory.

It is eircom’s belief that adoption of the opt-in model for printed directory distribution will be a cost effective and user friendly way to deliver the directory services USO. However, as noted earlier in this response, the next USP will need to undertake a procurement exercise. Comreg should wait until the procurement process is advanced and robust evidence of costs for the various options has been generated before reaching a conclusion on the definition of the directory services USO for the next period.

We note ComReg’s opinion that it is the sole responsibility of the USP to communicate with end-users in respect of any changes to the delivery model. As highlighted in our previous response we do not agree this is appropriate and believe all operators should have a role in communicating with their end users and as such this should be recognised by amending paragraph 2.4 of the draft Decision Instrument accordingly.

It is eircom view that the directory services USO could be maintained more efficiently if the appropriate economic incentives can be established through a charge for the printed directory. We welcome ComReg’s recognition that charges may be applied provided that there is no geographic differentiation in the price of printed directories.<sup>6</sup>

**Q. 3 Do you agree or disagree with ComReg’s preliminary view that the next designation period should be 4 years? Please give reasons to support your view.**

As noted above we do not consider that an interim period is necessary. If the directory services USO is defined in such a way that the USP has the flexibility to move to the most efficient opt-in or opt-out model at the earliest opportunity then a 4 year designation period may be appropriate.

ComReg has not sought views on the wording of the draft Decision Instrument. eircom would query the relevance of the paragraph 3.1 of the draft Instrument as the decisions referenced are not relevant to the directory services USO.

**Q. 4 Do you agree or disagree with ComReg’s proposal that where no expressions of interest are received Eircom should continue to be the universal service provider for **public payphones** during the next designation period? Please give reasons to support your view.**

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<sup>6</sup> Paragraph 2.5 of the Decision Instrument, Geographically Averaged Pricing, on page 38 of the consultation.

We assume, given the context of the consultation document, that this question relates to directory services rather than public payphones. For the avoidance of doubt our position in respect of public payphones is set out in our response to ComReg consultation 14/27.

In the context of directory services eircom does not believe that a mechanism whereby only operators (other than eircom) who express an interest in being designated can be considered for designation is a mechanism that is consistent with the Universal Service Regulations. Given the fact that eircom would only be acting in the role of a procurement agent should it be designated with the printed directory USO, proper consideration of the ability of all operators to bear the burden must be undertaken, with more profitable operators given an appropriate share of the burden.

**Q. 5 Do you agree with ComReg’s revised draft assessment of the impact of the proposed options as set out here and in Annex 2? Please give detailed reasons, including details on costs and benefits to support your view.**

We note that ComReg has undertaken additional quantitative analysis in respect of the cost of using DQ services in the absence of a printed directory, however as mentioned earlier in this response the analysis is not relevant to how the directory services USO is defined and therefore does not add any improvement to the RIA.

The RIA is sadly lacking in any attempt to properly assess the costs and benefits of the directory services USO. As acknowledged by ComReg<sup>7</sup>, ComReg has only “endeavoured to quantify some of the costs and the benefits.” ComReg also appears to consider that the onus is on respondents to develop ComReg’s RIA and deficiencies in the RIA will only be addressed if respondents “quantified the costs or benefits associated with the various regulatory options set out therein”.<sup>8</sup>

Article 3(2) of the Universal Services Directive requires “Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality.” ComReg is obliged under Regulation 7(3) of SI 337 of 2011 to ensure “The designation methods adopted shall ensure that the obligations referred to in paragraph (1) are provided in a cost effective manner and may be used as a means of determining the net cost of the universal service obligation in accordance with Regulation 11”.

The onus is on ComReg to demonstrate that its proposed approach is the most cost effective. ComReg has failed to meet the necessary requirements in this regard and no proper conclusions can be drawn from the RIA which is nothing more than a substantive point of view.

The USP for the next designation period will have to undertake a procurement exercise and this exercise should be used by ComReg as a means to gather robust information on costs of provision under the various options in order to inform a proper and rigorous assessment.

eircom would urge ComReg to consider deferring a conclusion on specifying how the directory services USO should be delivered until after the procurement exercise has been undertaken and a fully reasoned assessment completed.

<sup>7</sup> Paragraph 180, ComReg 14/51, emphasis added

<sup>8</sup> Paragraph 181, ComReg 14/51

## **2: UPC Ireland**



**UPC Ireland Response to: ComReg 14/51;  
Consultation on Provision of Directory of  
Subscribers. Universal Service: Scope and  
Designation**



## Introduction

UPC Communications Ireland Limited (“UPC Ireland”) 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 14/51).

As stated in our previous submission to 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

Question 1 Do you agree with ComReg’s preliminary view that there is a need for a directory services USO? Please give reasons to support your view.

UPC Ireland maintains its view that the survey results presented by ComReg in ComReg 14/20 were far from clear in justifying a continued requirement to provide a printed directory.

UPC Ireland also remains of the view that it is imperative where 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. With this in mind UPC Ireland welcomes ComReg’s proposed future enablement of an “opt in” model for consumers preference i.e. whether the consumer wishes to receive the directory in a given format or not.

However, UPC Ireland believes that ComReg should also keep open the possibility of further efficiencies and cost savings, in particular Eircom should be afforded the opportunity to provide evidence to support its claim that implementation of central distribution points “could achieve cost savings”.<sup>1</sup>

Question 2 Do you agree or disagree that consumer preferences should be gathered on an opt out approach for a period of 2 years followed by an opt in approach if this is deemed cost effective? Please give reasons to support your view.

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<sup>1</sup> ComReg 14/51 page 24.



UPC Ireland agrees that consumer preferences should be gathered on an opt out approach for a period of 2 years followed by an opt in approach if this is deemed cost effective.

Question 3 Do you agree or disagree with ComReg's preliminary view that the next designation period should be 4 years? Please give reasons to support your view.

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.

Question 4 Do you agree or disagree with ComReg's proposal that where no expressions of interest are received Eircom should continue to be the universal service provider for public payphones during the next designation period? Please give reasons to support your view.

UPC Ireland assumes that question 4 above should read "Directory services" and not "Public Payphones". UPC Ireland agrees with ComReg's proposal that where no expressions of interest are received, Eircom should continue to be the universal service provider for Directory services during the next designation period.

However as pointed out in UPC Ireland's response to ComReg 14/20, ComReg should make clear that it does not foresee compensation of the USP for any component of directory services during this new designation period.

Question 5 Do you agree with ComReg's revised draft assessment of the impact of the proposed options as set out here and in Annex 2? Please give detailed reasons, including details on costs and benefits to support your view.

No comment. Please see answers above and also UPC Ireland response to ComReg 14/20.

