



Commission for  
**Communications Regulation**

# **Provision of Directory of Subscribers**

## **Universal Service: Scope and Designation**

### **Response to Consultation and Decision**

**Reference:** ComReg 14/68

**Decision** D07/14

**Version:** Final

**Date:** 07/07/2014

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# 1. Executive Summary

- 1 The Commission for Communications Regulation (“ComReg”) previously issued two consultation documents, Consultations 14/20<sup>1</sup> and 14/51<sup>2</sup> which sought the views of interested stakeholders on proposed Universal Service Obligations (“USO”) in relation to Directories of Subscribers (“directory services”) and the designation of a Universal Service Provider (“USP”) in this regard.
- 2 This Response to Consultation and Decision sets out ComReg’s views and decisions on those issues which define the ways in which the designated USP is required to provide directory services.
- 3 While ComReg maintains its view that there continues to be a requirement to provide a subscriber directory, it has decided that the obligation should be amended to allow for consumer preferences for receiving the directory to be recorded.
- 4 In light of the dynamic nature of the proposed obligation, and having carefully considered the submissions received, ComReg has decided to designate Eircom as the USP of subscriber directories for a period of 4 years.
- 5 In this Decision ComReg has decided that Eircom should continue to provide printed directories to consumers in the State. ComReg has decided that this should be in place on an opt-out basis for a period of 2 years, followed by an opt-in basis, if this approach is deemed cost effective by the USP, for a further period of 2 years. If the opt-in approach is not cost effective, then an opt-out model would remain for this period.
- 6 The conditions set out in the Decision Instrument in Annex 1 have been designed so as to ensure consumers needing to use directory services still have access to them, yet it allows for the obligation to dynamically change in line with the demand for a printed directory.
- 7 The conditions set out will ensure consumers can continue to receive the printed directory, should they so wish, yet ensure that the obligation is provided in a cost effective manner. ComReg is satisfied that these obligations will not result in any consumer detriment or unnecessary cost to the USP.

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<sup>1</sup> Consultation “Provision of Directory of Subscribers, Universal Service: Scope and Designation”, Document No. 14/20, dated March 18<sup>th</sup> 2014. “Consultation 14/20”

<sup>2</sup> Response to Consultation, Further Consultation and Draft Decision “Provision of Directory of Subscribers, Universal Service: Scope and Designation”, Document No. 14/51, dated May 27<sup>h</sup> 2014. “Consultation 14/51”

- 8 In designating Eircom as the USP, ComReg has taken into account a variety of factors, including the systems it has in place, and its experience and capability to provide this aspect of the universal service.
- 9 In making its Decision, ComReg has taken into consideration the responses received in relation to Consultation 14/20 and 14/51, information collected on foot of a number of information requests together with other relevant material. ComReg has endeavoured to summarise the key aspects of respondents' views and ComReg's views in relation to these.
- 10 ComReg is satisfied that these measures will ensure consumers can still access the printed directory, which continues to provide a basic service to many people throughout the State. Furthermore, they will not result in substantial consumer detriment.

## 2. Background

- 11 The universal service has been guaranteed by EU and national legislation since 1997. In a liberalised and competitive telecommunications market, the universal service ensures the provision of a basic telecommunications service throughout the State, particularly in areas of the State (such as rural or sparsely populated areas) where the market might not deliver these services. Thus, the universal service contributes to social and economic inclusiveness and cohesiveness in society.
- 12 Currently the regulatory requirement (Regulation 4 of the Regulations<sup>3</sup>) provides that a designated undertaking shall ensure that a comprehensive directory of subscribers is made available in an approved form, whether printed or electronic or both, and is updated at least once a year, or that a comprehensive telephone directory enquiry service (i.e. using the phone) is made available to all end-users including users of public pay telephones.
- 13 On June 29th 2012, ComReg designated Eircom as the USP with specific obligations, including the provision of directory services for a period of two (2) years<sup>4</sup>. Eircom, as the USP, is required to ensure that a comprehensive printed directory or directories of subscribers is made available to end-users and is updated at least once a year.
- 14 However, over the past number of years, due to the evolution of information and communication technologies, alternatives to the printed directory have become more widespread. Nevertheless, ComReg is of the view 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. ComReg considers that survey evidence shows that the printed directory continues to be used by consumers. It is possible that the complete withdrawal of the obligation may lead to consumer detriment due to the lack of access for all consumers to affordable directory services.

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<sup>3</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011, S.I. No. 337 of 2011 ("the Regulations").

<sup>4</sup> Response to Consultation, Decision and Decision Instrument "The provision of telephone services under Universal Service Obligations" Document 12/71 D07/12, dated June 29<sup>th</sup> 2012

- 15 Accordingly, in light of the forthcoming expiration of the current USO designation, ComReg consulted on the proposed obligations in relation to the provision of subscriber directories as a USO in Consultation 14/20 and Consultation 14/51. These consultations proposed and considered measures that would ensure the provision of subscriber directories throughout the State would continue to meet the needs of consumers. This Response to Consultation and Decision addresses the designation for the coming period commencing July 2014.
- 16 Although under the Regulations, no undertaking is excluded from being designated in relation to universal service obligations, as set out in Consultations 14/20 and 14/51, ComReg considers that an amendment is required to the legislation to ensure the definition of “operator” in the E-Privacy Regulations<sup>5</sup> is precisely aligned with the entity that is required to maintain the National Directory Database (“NDD”) under Regulation 19(4) of the Regulations. Absent this amendment, ComReg may be unable at this time to designate another undertaking or not to designate an undertaking, as appropriate, to provide this element (subscriber directories) of universal service.
- 17 ComReg agreed with the Department of Communications, Energy and Natural Resources that the matter could be resolved in a timely manner. No expressions of interest were received following Consultation 14/20; however ComReg allowed undertakings a final opportunity to express an interest in being the USP for subscriber directories for the next designation period, as part of Consultation 14/51. No expressions of interest were received.
- 18 ComReg proposed in Consultation 14/51 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. It also proposed that, Eircom should be designated as USP for a period of 4 years.
- 19 ComReg notes that providing a universal service may result in a net cost. The Regulations allow the USP(s) to seek funding to meet a net cost of the universal service if they create an unfair burden, and any such funding requirements must be met by industry. The designation method(s) adopted must ensure that the obligations are provided in a cost effective manner and may be used as a means of determining the net cost of the USO.
- 20 Consultation 14/51 sought views on topics such as:-
  - a. Is there a need for a directory services USO?

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<sup>5</sup> European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (No. 336/2011) (“E-Privacy Regulations”)

- b. Whether an opt-out model followed by an opt-in model was the correct approach.
  - c. How long should any designation be for, and which undertaking(s) should be designated.
- 21 The consultation period for Consultation 14/51 ran from 27<sup>th</sup> May 2014 to Monday June 23<sup>rd</sup> 2014. The responses to Consultation 14/51 have been considered by ComReg. These respondents are as follows:

<b>The Respondents</b>
<b>Eircom</b>
<b>UPC Ireland (UPC)</b>

- 22 A copy of all non-confidential responses received will be made available on ComReg's website and a high level discussion of general views is set out below. The views discussed below relate to the main, relevant issues. However, it is not practical for ComReg to respond to every comment made and therefore this Response to Consultation and Decision summarises the key elements of comments provided and ComReg's views in relation to these.
- 23 Having considered the views of respondents this Response to Consultation and Decision sets out ComReg's final views on those issues which define the ways in which the USO in relation to subscriber directories would be implemented.



## 3. Summary of Conclusions

### 3.1 Requirement for Subscriber Directory Universal Service Obligation

- 24 Consultations 14/27 and 14/51 set out a number of regulatory options available to ComReg in respect of a subscriber directory USO. ComReg was of the view that, at a high level, it could either remove or maintain an obligation in respect of directory services. In maintaining an obligation, ComReg set out that the obligation could be maintained in its current form or it could be amended.
- 25 Although there are currently a number of ways in which consumers can access telephone numbers, for example, through printed directories (either supplied by the USP or otherwise), through Directory Enquiry (DQ) services or online (through online directories or online searches), ComReg was of the preliminary view that absent a directory services obligation, consumers may not be able to access at least one directory service at an affordable price.
- 26 ComReg was concerned that if the obligation was removed, distribution of the printed directory would cease, or at a minimum cease in certain areas (likely to be rural). Online directories, although currently provided by a number of operators, may continue to be provided, however not all end-users have access<sup>6</sup>. Although a number of operators provide DQ services, calls to DQ can be expensive, and therefore the withdrawal of an affordable directory service could lead to higher telephone bills.
- 27 In Consultation 14/51 ComReg estimated, based on survey data and information provided on foot of a number of information requests, that the printed directory is referred to (for local numbers only) approximately 7million times per annum. If the obligation to provide a printed directory was removed, ComReg estimates that just under 2.5million of these referrals would be substituted with a call to DQ. ComReg therefore estimated that the full withdrawal of the printed directory could cost consumers anywhere between €1.5m and €8.9m p.a.
- 28 ComReg therefore was of the view that given the consumer need and in the context of the provisions in the Universal Service Regulations there continued to be a case to maintain this obligation. Therefore Option (1), remove the obligation was not considered appropriate at this time.
- 29 ComReg asked the following question:

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<sup>6</sup> 82% of Irish consumers currently have internet access, Source: [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/4-18122013-BP/EN/4-18122013-BP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/4-18122013-BP/EN/4-18122013-BP-EN.PDF)

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.

### **Views of Respondents**

- 30 Eircom noted that it considers *“there may be a justification for a limited obligation in respect of printed directories.”* However it also was of the view *“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.”*
- 31 Eircom noted ComReg's estimate that the withdrawal of the printed directory could cost consumers anywhere between €1.5m and €8.9m p.a. However, Eircom was of the opinion that as it was unable to replicate these figures, it has *“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.”*
- 32 UPC was of the view that the survey results *“were far from clear in justifying a continued requirement to provide a printed directory.”* Furthermore it set out its view that where a USO is maintained, the USP should be *“afforded the flexibility in how it meets its obligation and in particular that it does so via the most efficient means possible.”* UPC also *“welcomes ComReg's proposed future enablement of an “opt in” model”.*

### **ComReg's View**

- 33 ComReg has considered the responses in relation to the requirement to provide directory services and notes Eircom's view that there may be justification for a limited obligation in respect of printed directories. ComReg also notes Eircom's view that the primary format for the directory should be electronic. However as set out in Consultation14/51 many DQ operators provide online directories without a requirement to do so, and ComReg does not believe it would be appropriate to impose an obligation to provide an online directory at this time.

- 34 ComReg notes Eircom's view on the estimated cost to consumers of the full withdrawal of the printed directory. ComReg disagrees with Eircom's view that ComReg's calculation did not account for the fact that many consumers could and would avail of online directory services which are free of charge. ComReg's estimate of the cost included this analysis and therefore Eircom is incorrect to state that *"any indication of consumer detriment that could be derived from the analysis will be grossly overstated."*
- 35 ComReg disagrees with UPC that the survey results do not justify the continued requirement to provide a printed directory. ComReg remains of the view that if the obligation to provide printed directories is removed, distribution of the printed directory would cease or at a minimum cease in certain areas. The results of ComReg's consumer survey<sup>7</sup> showed that 43% of consumers continue to use the printed phonebook to find local telephone numbers, with 58% of consumers referring to it in the previous 12 months. Although 22% of consumers said they did not wish to receive the printed directory, with a further 27% not having a preference, 52% of consumers stated they would prefer to receive one, with 7% of these willing to pay for the printed directory.
- 36 Furthermore, ComReg again notes that approximately 18%<sup>8</sup> of Irish consumers do not have internet access, and therefore although online directories may continue to be provided if the obligation was removed, consumers without internet access may be unable to access directory services at an affordable price.
- 37 ComReg however agrees with UPC that the USO must be provided in the most efficient means as set out in further detail below.
- 38 For these reasons, ComReg remains concerned that if a directory services USO is removed, consumers would have few options available to them to access telephone numbers at an affordable price. ComReg therefore remains of the view that there is a need for a directory services USO, however there may be reasons to modify the precise requirements of the USO.

## 3.2 Directory Services Obligation

- 39 In Consultation 14/51 ComReg was of the view that complete withdrawal of the printed directory would not be appropriate. ComReg was of the view that the existing obligations could be maintained (Option 2(a)), or amended (Option 2(b)) once it ensures a comprehensive directory of subscribers is made available.

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<sup>7</sup> <http://www.comreg.ie/fileupload/publications/ComReg1420a.pdf>

<sup>8</sup> 82% of Irish consumers currently have internet access, Source:

[http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/4-18122013-BP/EN/4-18122013-BP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/4-18122013-BP/EN/4-18122013-BP-EN.PDF)

- 40 Consultation 14/51 set out ComReg's preliminary view that the provision of a printed directory to all consumers may no longer be required and therefore, alternatives such as opt-in /opt-out models; together with central distribution delivery models were considered.
- 41 ComReg was of the view that the consumer survey results<sup>9</sup> showed that printed directories continue to provide a basic service to many people throughout the State. Furthermore, although ComReg agreed there are alternatives to the printed directory, for some end-users it is the only available affordable way in which to access phone numbers.
- 42 ComReg was also of the preliminary view that maintaining a printed directory protects those most vulnerable<sup>10</sup> in society, and ensures they continue to be able to access the information they require at an affordable price.
- 43 ComReg noted that many consumers have stated they do not wish to receive the printed directory, yet according to Eircom, the numbers signing up to opt-out have been extremely low.
- 44 ComReg was of the preliminary view that due to the varying needs of consumers and the wide range of facilities available to access phone numbers there may be reasons to modify the existing directory services USO.
- 45 ComReg noted its preliminary view that the scope of the 196 (special free directory) service should not be extended for purposes other than those with disabilities. This is because it would be difficult to ascertain which exact individuals should have access to the service.

### 3.3 Directory Format

- 46 Consultation 14/51 considered changing the directory format from a printed directory to a DQ call or electronic format.
- 47 ComReg was of the view that although DQ is easily accessible by all users, the charge for making calls to these numbers is currently higher than standard calls and therefore, designating a USP to provide this service, would likely require a review of these charges in order to maintain affordable access to the service.

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<sup>9</sup> <http://www.comreg.ie/fileupload/publications/ComReg1420a.pdf>

<sup>10</sup> Consultation 14/51 noted that "vulnerable users" in the context of the electronic communications Framework is likely to include, for instance, specific social groups such as, elderly users and users with special social needs and consumers on low incomes.

- 48 In doing this, consumers would be protected; however it may lead to detriment to other DQ service providers in the market, who may have to reduce prices in order to compete with the USP. Furthermore, it is possible that any mandated reduction in call charges by the USP could lead to a net cost. ComReg was therefore of the view that an obligation to provide electronic or printed directories rather than the provision of a DQ service may better achieve ComReg's objectives.
- 49 Consultation 14/51 noted that although the majority of households (82%)<sup>11</sup> have internet access, those most vulnerable in society may not be able to access electronic directories.
- 50 ComReg was of the view that in the case of an electronic format, the USP may benefit from reduced costs, for example from not having to print a large number of directories, however depending on the form chosen; the USP may not be able to obtain advertising revenue to offset the costs in the future or may incur costs in excess of those for providing a printed directory.
- 51 Therefore, ComReg was of the preliminary view that to impose a directory services obligation for an electronic format would not be appropriate at this time. ComReg noted that many DQ operators also provide online directories, and was of the opinion that as these are provided without a requirement to do so, it would not be appropriate for ComReg to impose an obligation to provide an online directory at this time.
- 52 ComReg noted that the printed directory continues to be used and that 52% of consumers would prefer to receive a printed directory. It also noted the printed directory is accessible to vulnerable users.
- 53 ComReg therefore, set out its preliminary position that a printed directory should continue to be provided. ComReg also set out its preliminary view that the USP should also provide an online directory to consumers but was of the view that there is no need to require the provision of an online directory at this time.

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<sup>11</sup> See [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/4-18122013-BP/EN/4-18122013-BP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/4-18122013-BP/EN/4-18122013-BP-EN.PDF)

### 3.4 Delivery Model

- 54 Currently the USP delivers a copy of the local printed directory to every end-user in the State. ComReg noted that if an obligation to provide a printed directory or a CD is proposed, it may be appropriate to consider amending the existing delivery model, for example to allow for a central collection point in for example, post offices or supermarkets.
- 55 ComReg was of the preliminary view that an amended delivery model is unlikely to be justified, economic or workable at this time. Although it was Eircom's view that an amended delivery model could achieve cost savings, it had not provided any evidence to support its claim.
- 56 ComReg was of the opinion that an amended distribution model would require the establishment of a comprehensive set of rules, for example to ensure collection points were spread evenly throughout the country. ComReg was of the view that a central distribution model would negatively impact on those most vulnerable in society who may be unable to collect the directory.
- 57 Although ComReg was of the view that the USP could potentially benefit from reduced costs, ComReg was of the view that engagement with and payments to businesses for use of their premises and informing end-users that the directory is available for collection may result in increased costs.
- 58 For these reasons ComReg was of the preliminary view that an amended delivery model is unlikely to be justified.

### 3.5 Consumer Preferences

- 59 Consultation 14/51 noted that not all consumers wish to receive a directory and many consumers have access to other free directory services. ComReg was of the opinion that the collection of consumer preferences by the USP could ensure only those who wish to receive a printed directory would receive one.
- 60 ComReg was of the preliminary view that collecting consumer preferences would result in a reduced requirement in terms of the number of directories which would need to be printed and therefore reduced costs for the delivery of same.
- 61 ComReg was concerned that if an opt-in model was introduced there was a risk that consumers who do want to receive the printed directory would not be aware of the need to opt-in or that the process of opt-in could be seen as onerous.

- 62 Therefore, ComReg was of the preliminary view that an opt-out model could be maintained by the USP for the first 2 years of any designation. However, after this period ComReg was of the preliminary view that it is a possibility that the USP may choose to introduce an opt-in model for the remaining years of the designation, if such a model was determined to be cost effective. If such a model was not determined to be cost effective by the USP an opt-out model would remain in place.
- 63 Consultation 14/51 set out that under both regimes consumers would benefit by being able to have their preference to receive a printed directory recorded, while the USP could benefit from reduced costs, due in part to a reduction in the volume of directories which would need to be printed and distributed. Any move to an opt-in model would have to be supported by a public awareness campaign run well in advance, in order to ensure those who wish to retain the printed directory could do so. ComReg reserved its right to approve any campaign approach.
- 64 In Consultation 14/51 ComReg was of the preliminary view that under these proposals the first set of printed directories should be delivered after the 1<sup>st</sup> July 2014, the second set would be delivered no more than a year later. These first two sets of directories would be distributed under the 'opt out' model. Subsequent distributions may be under an 'opt in' model should this be deemed by the USP to be a more cost effective approach.
- 65 ComReg was of the preliminary view that all consumers should be informed of their ability to have a printed directory and how they can avail of it. New customers could also be informed for example when entering into a contract.
- 66 ComReg was of the preliminary view that an opt-in model if properly operated, could be implemented after a period of 2 years of operating an opt-out model. ComReg was also of the view that there must be a variety of accessible, easy and free ways to opt-in. With proper consumer communication, a selection of free, easy and accessible opt-in methods and delivery to subscriber's premises/residence, any detriment in particular to those most vulnerable in society could be overcome.
- 67 Furthermore ComReg was of the preliminary view that an opt-in/opt out model, if implemented correctly, could benefit consumers and result in reduced costs to the USP. This model would be dynamic and allow for the gradual removal of blanket distribution of the printed directory.

### 3.6 Charge for directory of subscribers

- 68 The printed directory is currently provided free of charge to consumers. ComReg noted that a number of providers voluntarily provide an online directory free of charge. However the price of calls to DQ has increased in recent years and prices vary dramatically depending on the call duration, the network operator and the DQ service called.
- 69 ComReg was of the preliminary view that an affordable directory in at least one format should be provided to consumers.
- 70 ComReg asked the following question:

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.

#### **Views of Respondents**

- 71 UPC agreed with the approach set out in Consultation 14/51. Eircom welcomed “ComReg’s acknowledgement that an opt-in approach can be an efficient and acceptable approach.”
- 72 Eircom noted that it 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.” Nevertheless it noted “that an opt-in model with distribution to the end-users premises may be less cost effective but may be a reasonable compromise.” However Eircom did not agree that opt-in approach should not be implemented until 2016.
- 73 Eircom is of the view that it would be appropriate to move to an opt-in model from 2015. Eircom set out its view that “*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*” and therefore proposed that it should “*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.*”



- 74 Furthermore Eircom was of the opinion that *“the opt-in model for printed directory distribution will be a cost effective and user friendly way to deliver the directory services USO”*. However, it noted that a procurement exercise would need to be undertaken by the next USP and that 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.”*
- 75 With regards to the communication of a move to an opt-in model, Eircom did not agree that it should be the sole responsibility of the USP to inform end-users. Eircom set out its view that *“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.”*
- 76 Eircom was also of the 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.”* Eircom therefore welcomed *“ComReg’s recognition that charges may be applied provided that there is no geographic differentiation in the price of printed directories.”*

### **ComReg’s View**

- 77 ComReg has considered the respondents’ views and notes Eircom’s agreement that an opt-in approach could be a cost effective solution.
- 78 ComReg notes Eircom’s view that an opt-in approach should be implemented prior to 2016, however ComReg is of the view that this approach is not appropriate at this time. Although ComReg is of the view that an opt-in approach, where implemented correctly, could lead to reduced costs, any such model cannot be introduced unless it is cost effective.
- 79 Therefore, the USP may need to undertake a procurement or tendering process in order to determine what the cost of an obligation in this regard may be (if any). Should the USP, through the procurement process, determine that an opt-in model is in fact more costly than an opt-out model, the opt-in model should not be pursued.
- 80 Therefore, ComReg is of the view that until the USP has completed a procurement process which determines the costs for both an opt-in and an opt-out model, it cannot be guaranteed that such a model is cost effective.
- 81 In response to Eircom’s view that ComReg should wait to make a decision until the procurement process is advanced, ComReg is of the view that this would not be of any benefit to consumers or the industry, and lead to uncertainty around the directory services USO.

- 82 Furthermore ComReg was, and continues to be, concerned that consumers who do want to receive the printed directory may not be aware of the need to opt-in or that the process to opt-in may be onerous. For that reason, ComReg was of the preliminary view in Consultation 14/51 that the USP must ensure that an advance communications campaign is implemented and that consumers can opt-in in a variety of ways.
- 83 ComReg has considered Eircom's suggestion that voice only households could be pre-opted onto the register of those wishing to receive the directory. However ComReg is of the view that although pre-opting voice only customers onto the register would address some of these concerns, the USP would only have this information on its own voice only customers and attaining this information from other operators may not be practical or feasible for a number of reasons. This aside, ComReg would not be opposed to Eircom pre-opting voice only households onto the register at such time as an opt in model is implemented, once this was done in a transparent and non-discriminatory manner.
- 84 ComReg notes Eircom's argument that all operators should play a role in informing consumers about the directory services USO, however as the obligation to provide the printed directory lies solely with the USP, ComReg is of the view that it is the USP's responsibility to communicate with consumers and inform them of the ways in which they can inform the USP of their preference.
- 85 ComReg is therefore of the view 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. For the avoidance of doubt, ComReg is of the view that consumers should only need to state their preference once under the applicable opt in or opt out model, i.e. consumers should not need to state their preference each year of the designation.
- 86 ComReg is of the view that any procurement process must be transparent so as to ensure there is no unnecessary impact on the net cost. ComReg notes that under the Regulations it must consider all means to ensure appropriate incentives for undertakings to provide universal service obligations cost efficiently. Furthermore, due attention is to be given to correctly assessing the costs that any designated undertaking would have chosen to avoid had there been no USO. ComReg cannot guarantee it will not result in a net cost, but such a net cost must be in line with ComReg Decision D04/11<sup>12</sup>, including being audited.

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<sup>12</sup> Report on Consultation and Decision "Decision on the costing of universal service obligations: Principles and Methodologies" Document 11/42 D04/11, dated May 31st 2011

- 87 The USP must provide consumers with a variety of accessible, easy and free ways to opt-in. Any change by the USP to an opt-in model must be supported by a substantial and adequate public awareness campaign well in advance of its implementation to ensure that end-users are well informed of their choice and can exercise that choice in good time.
- 88 ComReg was also concerned that those consumers without internet access would not be easily able to access a directory at an affordable price if the printed was withdrawn. ComReg remains of the view that an affordable directory in at least one format should be provided to consumers.

## 4. Designation of Universal Service Provider (s)

### 4.1 Designation Period and Mechanism

- 89 The Regulations require ComReg to designate one, or more, operators to guarantee the provision of the universal services to ensure the entire State is covered<sup>13</sup>. Different operators (undertakings), or sets of operators, can be designated to provide different elements of universal service, and/or to cover different parts of the State<sup>14</sup>.
- 90 In principle, no undertaking should be excluded from being designated to provide the directory services USO, in all or part of the State. In theory, other operators in Ireland may be able to provide this part of the universal service, in all or part of the State and may be able to do so at a lower cost.
- 91 ComReg notes the provision of a universal service may result in the USP(s) providing designated services at a net cost. The Regulations allow the USP(s) to seek funding to meet a net cost of the universal service, if it creates an unfair burden, and any such funding requirements must be met by industry. The Regulations provide that the designation methods adopted must ensure that the obligations are provided in a cost effective manner and that they may be used as a means of determining the net cost of the USO<sup>15</sup>.
- 92 Consultation 14/51 noted that ComReg is currently seeking to align the definition of “operator” in the E-Privacy Regulations with the definition of the entity required to maintain the NDD under Regulation 19(4) of the Regulations. ComReg agreed with the Department of Communications, Energy and Natural Resources that the matter could be resolved in a timely manner if necessary. Therefore, the consultation extended an invitation to all undertakings to express an interest in providing the Directory Services universal service for the proposed next designation period. No expressions of interest were received.
- 93 In light of the dynamic nature of the proposed obligation, which allow the obligation to adjust to users’ needs, ComReg proposed a designation period of 4 years from July 1<sup>st</sup> 2014 to June 30<sup>th</sup> 2018.
- 94 ComReg asked the following question:

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<sup>13</sup> Regulation 7(1)

<sup>14</sup> Regulation 7(2)

<sup>15</sup> Regulation 7(3)

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.

### **Views of Respondents**

- 95 UPC agreed that the provision of a directory service should be for "three or four years". However UPC also noted 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."
- 96 Eircom contended that an interim period is not necessary. Furthermore, Eircom was of the view that "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".
- 97 Eircom was of the opinion that ComReg should "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."
- 98 With regard to the draft Decision Instrument, Eircom queried the relevance of paragraph 3.1 as *"the decisions referenced are not relevant to the directory services USO."*

### **ComReg's View**

- 99 ComReg notes the respondents are broadly in agreement that the designation period should be 4 years. ComReg will naturally continue to monitor all developments at a European level which are of relevance to it.
- 100 ComReg notes Eircom's view that an interim period is not necessary. ComReg also notes Eircom's view (as set out previously) that where an opt-in model was implemented, those consumers who have a voice only package could be automatically opted in to receive the directory.
- 101 ComReg is of the view, as set out previously, that introducing an opt-in model at this time would not be in the interests of consumers and until such time as the USP has definitive information on the costs associated with such a model it cannot be guaranteed that such a model is cost effective.
- 102 In response to Eircom's view that ComReg should wait to make a decision until the procurement process is advanced, as set out previously, ComReg is of the view that this would not be of any benefit to consumers or the industry, and lead to uncertainty around the directory services USO.

103 ComReg remains of the view that where an obligation is dynamic and caters for the changing needs of consumers and addresses cost efficiency, then a 4 year designation period is appropriate.

104 Paragraph 3.1 of the Decision Instrument is drafted so as to ensure consistency and certainty for the purpose of all USO.

## **4.2 Designation for the Entire State**

105 Consultations 14/20 and 14/51 considered whether or not it is appropriate to continue to designate the directory services USO to cover the entire State.

106 ComReg believed that there are areas that would not be served in if the USO did not exist. ComReg was concerned that directory services might not be provided to all or some areas in the State without a USO designation.

107 ComReg was of the view that it is most appropriate and in the best interests of consumers, who need to use directory services, to designate for the entire State (whether or not it is delivered by different USP(s)), for the next designation period.

## **4.3 Universal Service Provider**

108 In Consultation 14/51 ComReg proposed that Eircom should continue to be the USP due to its ubiquity, experience and capability, during the next designation period.

109 Although, in ComReg's view, there are no significant barriers which prevent an operator from entering the market for the provision of printed directories, there are no other providers currently providing directories of residential subscribers in the same volumes in the State.

110 Before designating a USP, to ensure it complies with its regulatory obligations, ComReg requires evidence about the willingness and capability of the undertaking in question to be a USP. Consultations 14/27 and 14/51 invited potential providers to express an interest in being designated with respect to subscriber directories. No expressions of interest were received; and hence ComReg understands that currently no undertaking is willing to provide this element of the universal service.

111 However, Eircom already has begun to gather consumer preferences, and therefore has the systems in place to provide directories on an opt-out basis. In Consultation 14/51 ComReg was of the preliminary view that these systems could be adjusted to allow for an opt-in model should Eircom decide to implement this model after the expiration of the opt out period as proposed.

112 Consultation 14/51 set out the preliminary view that Eircom was the most appropriate undertaking to be designated for the directory services Universal Service for the next designation period.

113 ComReg asked the following question in respect of the designation of a USP:

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 directory services<sup>16</sup> during the next designation period? Please provide reasons to support your views.

### **Views of Respondents**

114 UPC agreed with ComReg's proposals; however UPC was also of the view that "ComReg should make clear that it does not foresee compensation of the USP for any component of directory services during this new designation period."

115 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.*" Furthermore Eircom was of the view that as it "*would only be acting in the role of a procurement agent, ..., 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.*"

116 Eircom also noted that its outsourced supplier and distributor of printed directories has served notice to terminate the supply agreement. Eircom was "*concerned that ComReg appears to have ignored this very relevant and material development which was immediately drawn to its attention.*" Eircom was of the view that "*This has a direct impact on eircom's ability to deliver a printed directory ... and on the cost of the obligation.*"

### **ComReg's View**

117 In response to UPC's view that ComReg should make clear it does not foresee compensation of the USP for any component of directory services, ComReg notes that it is not appropriate for ComReg to make such an assertion, without having considered the situation in accordance with ComReg Decision D04/11.

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<sup>16</sup> Note Question 4 in Consultation 14/51 erroneously referred to public payphones rather than directory services

- 118 The provision of a universal service may result in USP(s) providing designated services at a net cost. The Regulations allow the USP(s) to seek funding to meet a net cost of the universal service<sup>17</sup>, and where any net cost (of the particular USO) represents an unfair burden on the USP, the funding requirement must be met by industry. The Regulations provide that the designation methods adopted must ensure that the obligations are provided in a cost effective manner and that they may be used as a means of determining the net cost of the USO<sup>18</sup>.
- 119 As such, in addition to the provisions of ComReg Decision D04/11, it would not be appropriate for ComReg to pre-determine such an outcome.
- 120 This aside, the obligations, as set out during this consultation process, require that the USP must introduce the model which is deemed by the USP to be the most cost-effective.
- 121 ComReg is aware that Eircom's supplier has terminated its supply agreement, however in ComReg's view this does not have any material impact on the designation of Eircom as the USP for the next designation period. ComReg is of the view that given the changing obligations in this respect, it would have been in Eircom's best interest to have re-tendered for a supplier. Additionally, the manner in which the designated undertaking fulfils its legal requirements is a matter for the designated undertaking itself, and not ComReg.
- 122 In addition, ComReg is not aware of anything which would prevent Eircom from entering into another agreement with this supplier, if this supplier was deemed the most cost effective in the forthcoming designation period.
- 123 Eircom has already begun to record consumer preferences (on an opt-out basis) and ComReg remains of the view that Eircom is best placed to provide directory services, based on a consumer preference model. In addition to this, Eircom as the current USP, has experience in providing printed directories.
- 124 ComReg therefore remains of the view that in the absence of any expressions of interest from any other undertaking, Eircom should continue to be the USP due to its ubiquity, experience and capability, during the next designation period.

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<sup>17</sup> Regulation 11(1) of the Regulations.

<sup>18</sup> Regulation 7(3)



## 5. Regulatory Impact Assessment (RIA)

- 125 In Annex 3 of Consultation 14/51, ComReg carried out a RIA in accordance with the RIA framework, in order to identify a preferred option on the need to designate an undertaking as USP for the provision of subscriber directories following the end of the current designation in June 2014.
- 126 This section considers the submissions received on, or relevant to, ComReg's draft RIA as described in Consultation 14/51, and sets out ComReg's position on these. ComReg's final RIA can be found in Annex: 3 of this document. The changes to the RIA arise from comments received by respondents to Consultation 14/51 and due to the progression of ComReg's views.
- 127 ComReg considered the regulatory options available to it, namely to remove the obligation (Option 1), or to maintain an obligation (Option 2). In maintaining an obligation, ComReg was of the view that it has two options: it could maintain the existing obligation (Option 2(a)) or amend the existing obligation (Option 2(b)).
- 128 Furthermore, ComReg proposed that where the existing obligation was amended, there were three main formats which any directory of subscribers could take, (i) printed, (ii) electronic, (iii) DQ call. Depending on the format chosen, an amended obligation would also need to consider :
- a. the delivery/distribution model
  - b. gathering consumer preferences
  - c. allowing the USP to charge for the provision of the directory
- 129 ComReg considered, on balance, that maintaining an obligation (Option 2) was the most proportionate option. Consultation 14/51 sought stakeholder's views on ComReg's revised draft RIA and asked the following specific question:

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: 3? Please provide reasons to support your views.

### **Views of Respondents**

- 130 Eircom was 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."*

- 131 Eircom was of the view that the RIA is *“lacking in any attempt to properly assess the costs and benefits of the directory services USO.”* It was also of the opinion that *“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.”*
- 132 Furthermore, Eircom set out its view that *“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.”*
- 133 Eircom noted that ComReg has undertaken additional quantitative analysis in respect of the cost of using DQ services in the absence of a printed directory, however it is of the view that *“the analysis is not relevant to how the directory services USO is defined and therefore does not add any improvement to the RIA.”*
- 134 In its submission, Eircom also set out its 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.”*
- 135 In relation to the next designation period, Eircom was of the view that the USP will have to undertake a procurement exercise and this *“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.”*

### **ComReg’s View**

- 136 ComReg is of the opinion that the amendments to the subscriber directories USO that are made in this Decision are appropriate, proportionate and justified.
- 137 In Consultation 14/51 ComReg amended its draft RIA to take into account issues raised by respondents to Consultation 14/20 and also due to the development of its views. ComReg also requested information from the DQ operators to assist in determining the costs of each proposed amendment. In the draft RIA ComReg sought to quantify some of the costs and the benefits.
- 138 Following publication of Consultation 14/20 ComReg wrote to each of the authorised DQ operators requesting information, which it wanted to use so as to assist it in determining the costs of each proposed amendment. ComReg has analysed this information and, where appropriate, incorporated it into the RIA.

- 139 However, ComReg acknowledged that in addition to the quantified benefits, there are other benefits which were not assessed qualitatively due to the lack of data for a quantitative assessment. ComReg notes that although Eircom is of the view that ComReg's consideration of the various options is deficient and that the RIA lacks any attempt to properly assess the costs and benefits, Eircom has not provided any information on what it believes the relevant costs to be.
- 140 ComReg is of the view that where respondents claim that the conclusions reached by ComReg are deficient then the respondents should provide information to support its view. Any such information would then be used by ComReg when formulating its view. However ComReg notes that Eircom is of the view that an opt-in model for the printed directory would be cost effective.
- 141 ComReg strongly disagrees with the view that the analysis is not relevant to how the directory services USO is defined, and as set out previously, ComReg has taken into consideration in its calculations factors such as consumers switching to online directories rather than to DQ, where the printed directory is ceased.
- 142 However, ComReg's has amended the RIA to take account responses received and the development of its views since Consultation 14/51 was published. The final RIA is set out in Annex 3.
- 143 ComReg has not received any further information suggesting that it is appropriate to amend the preferred option or to make an alternative option. Therefore, ComReg has decided to amend the obligation such that the USP must provided a printed directory with the ability of consumers to inform the USP of their preferences as set out in its revised RIA. The obligation will be amended such that a printed directory will continue to be provided, however consumer preferences will be gathered, initially on an opt-out basis for a period of two years, followed by an opt-in basis for the remaining period, where an opt-in mode is deemed cost effective.

# Annex: 1 Decision Instrument

## 1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1.1 This Decision and Decision Instrument, made by the Commission for Communications Regulation (“ComReg”), relates to the provision of universal services in the Irish telephony market and is made:

- i. Having regard to sections 10 and 12 of the Communications Regulation Act 2002, as amended;
- ii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 7(1) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (“the Regulations”);
- iii. Having regard to Regulation 4(2) of the Regulations;
- iv. Having taken account of the representations of interested parties submitted in response to ComReg documents No. 14/20<sup>19</sup> and 14/51; and
- v. Having regard to the analysis and reasoning set out in ComReg document No. 14/68.

## 2. DESIGNATION OF UNIVERSAL SERVICE PROVIDER

### Directory Services

2.1 In accordance with Regulation 7 of the Regulations, Eircom Limited and its subsidiaries, and any undertaking which it owns or controls, and any undertaking which owns or controls it and its successors and assigns (“Eircom”) is hereby designated as the Universal Service Provider (“USP”) for the purpose of complying with the following obligations, as provided for by Regulation 4 of the Regulations for a period of 4 years.

2.1.1 The USP shall ensure that a comprehensive printed directory or directories of subscribers, based on the data provided to it in accordance with Regulation 19(4) of the Regulations, and updated at least once in each year, is made available to end-users who during the period of the first two years of operation of this Decision and Decision Instrument, have not opted out of receiving that directory or directories.

2.1.2 The USP shall ensure that a comprehensive printed directory or directories of subscribers, based on the data provided to it in accordance with Regulation 19(4) of the Regulations, and updated at least once in each year,

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<sup>19</sup> Consultation on “Provision of Subscriber Directories: Universal Service: Scope and Designation”, Document No. 14/20, dated March 18<sup>th</sup> 2014.

is made available to end-users, who during the period of the final two years of operation of this Decision and Decision Instrument,

- (a) have not opted out of receiving that directory or directories, or
- (b) have opted in to receive that directory or directories,

whichever model ((a) or (b)) is demonstrated by the USP, to the satisfaction of ComReg, to be most cost-effective for the USP.

2.1.3 Cost details relating to whichever model is demonstrated by the USP, to be most cost-effective for the USP. will be made publicly available subject to confidentiality.

2.2 The USP shall ensure that any opt-in model is implemented together with an advance communications campaign, where end-users can opt-in using a variety of accessible, easy and cost-free ways. In this respect, ComReg reserves its right to approve the adopted approach.

### **Geographically Averaged Pricing**

2.3 As provided for by Regulation 8 (3) of the Regulations, Eircom, as the USP, shall apply geographically averaged prices throughout the State for the services referred to in this Decision.

## **3. CONTINUATION OF COMREG DECISIONS**

3.1 All other decisions imposed by ComReg in relation to universal service obligations, which were immediately in force prior to the effective date of this Decision and Decision Instrument, shall continue to have full force and effect. Such obligations include, without limitation, those set out in the following:

- i. ComReg Decision No. D9/05.
- ii. ComReg Decision No. D02/08.
- iii. ComReg Decision No. D04/11

## **4. EFFECTIVE DATE AND DURATION**

4.1 This Decision and Decision Instrument is effective from 7 July 2014 until 30 June 2018.

**KEVIN O'BRIEN**

**CHAIRPERSON**

**THE COMMISSION FOR COMMUNICATIONS REGULATION**

**THE 7<sup>th</sup> DAY OF JULY 2014**

## Annex: 2 Legal Basis

Regulation 4 of the European Communities (Electronic Communications Network and Services) (Universal Service and Users' Rights) Regulations 2011 ("USO Regulations") states:

*4. (1) A designated undertaking shall ensure, based on data provided to it in accordance with Regulation 19(4)-*

- a) That a comprehensive directory of subscribers is made available to all end-users in a form approved by the regulator, whether printed or electronic or both, and is updated at least once in each year, or*
- b) That a comprehensive telephone directory enquiry service is made available to all end-users, including users of public pay telephones.*

*(2) The designated undertaking concerned shall ensure that the directory or the directory enquiry service referred to in paragraph (1) comprises all subscribers of publicly available telephone services in the State (including those with fixed, mobile and personal numbers) who have not refused to have their personal particulars included in those directories. This paragraph is subject to Regulation 12 of the Privacy and Electronic Communications Regulations.*

*(3) A designated undertaking shall for the purpose of this Regulation apply the principle of non-discrimination to the treatment of information that has been provided to it by other undertakings or which it has in its possession or under its control.*

*(4) An undertaking that fails to comply with a requirement of paragraph (1), (2) or (3) commits an offence.*

## Annex: 3 Final Regulatory Impact Assessment

- A 3.1 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. It helps identify regulatory options, and should indicate whether or not a 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 probable impact of regulatory options on different stakeholders.
- A 3.2 ComReg's approach to RIA is set out in the Guidelines published in August 2007, in ComReg Document No. 07/56 & 07/56a. In conducting this RIA, ComReg takes account of the RIA Guidelines,<sup>20</sup> adopted under the Government's Better Regulation programme.
- A 3.3 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. Regulatory Impact Assessment's aim to identify areas where regulation can be reduced.
- A 3.4 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.
- A 3.5 The following sets out ComReg's RIA in relation to this matter.

### **Step 1: Describe the Policy Issue and identify the Objectives**

- A 3.6 ComReg has reviewed the current directory of subscribers USO to assess whether or not an undertaking or undertakings need to be designated as USP following the end of the current designation in June 2014.
- A 3.7 There are currently a number of ways in which consumers can access information on telephone numbers, including DQ and online. ComReg is of the view that directories of subscribers continue to provide a vital service to consumers, particularly to vulnerable users and those in remote rural areas.

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<sup>20</sup> [http://www.taoiseach.gov.ie/eng/Publications/Publications\\_2011/Revised\\_RIA\\_Guidelines\\_June\\_2009.pdf](http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf)

A 3.8 Eircom has been designated as the USP for the directory of subscribers from July 1st 2012 to June 30th 2014. As this designation nears an end, ComReg feels it is appropriate to now review the need for a directory of subscribers USO.

A 3.9 Should a directory of subscribers USO be required, the regulations require ComReg to designate one, or more operators to guarantee the provision of the service, ComReg is proposing that Eircom should continue to be the USP.

## **Step 2: Identify and Describe the Regulatory Options**

A 3.10 ComReg has identified the following regulatory options which may be adopted in order to meet the objectives set out above.

- **Option 1: Remove the Obligation**

No operator would be designated to provide a directory of subscribers. There would no longer be a requirement to distribute printed directories to each end-user in the State. Some consumers would be affected by the withdrawal of the printed directory.

- **Option 2: Maintain an Obligation**

### ***2(a) Maintain Existing Obligation***

The obligation to provide printed directories would remain. Any USP must ensure printed directories are provided to each end-user in the State. Consumers would continue to receive a printed directory delivered to their address every year.

### ***2(b) Amend the Existing Obligation***

The obligation to provide a directory of subscribers would remain, but would be amended from its current format. The directory could be printed or for example could be provided electronically. Other issues which could also be reviewed include the possibility of:

- changing the distribution model to allow for a central collections point
- allowing the USP to gather consumer preferences i.e. an opt-in or opt-out model
- allowing the USP to charge for provision of the directory

## **Steps 3 & 4: Determine the impacts on stakeholders and competition**



A 3.11 In order to determine the impact of each of the proposed measures, the measures are assessed by comparing their impact against what would happen if the measure was not implemented.

A 3.12 This is set out in the table below.

Measure Proposed	Impact on Industry		Impact on Consumer	
	Costs	Benefits	Costs	Benefits
<p><b>Option 1</b></p> <p><b>Directory of Subscribers Obligations Removed</b></p> <p><b>No USP designated to provide a directory of subscribers.</b></p>	<p>Additional costs incurred by DQ providers to deal with increased call volumes.</p>	<p>Eircom could cease distribution of the printed directory.</p> <p>No net cost claim or impact in respect of sharing of any unfair burden as relevant.</p> <p>Eircom claims the designation in its current form to cost <math>\text{€}1.5</math> million for the year 2013 and <math>\text{€}1.5</math> million in 2014. If the obligation was removed they would not incur these costs.</p> <p>DQ providers may see an increase of approx 7m calls per annum, leading to an increase in revenue.</p>	<p>It is likely that distribution of the printed directory would cease.</p> <p>Those without internet access may not have access to an affordable directory service.</p> <p>Those who previously used printed directory have alternatives to the printed directory, however these may be expensive for consumers e.g. DQ call.</p> <p>Vulnerable consumers no longer have access to service that they currently use, and may only have access to expensive alternatives.</p> <p>Based on survey data and an adult population of approx 3.4m ComReg estimates there are close to 7m referrals p.a. to the printed</p>	<p>Alternatives to the printed directory would remain, such as DQ &amp; online directories.</p>

Measure Proposed	Impact on Industry		Impact on Consumer	
	Costs	Benefits	Costs	Benefits
			<p>directory for local numbers. Should the obligation be removed survey data suggest 35% of these could potentially switch to calling DQ. With prices ranging from €0.13 (landline) to €4.26 (mobile) for a 30 second call<sup>21</sup>, the cost to consumers of switching could be in the region of €5m.</p>	
<p><b>Option 2 (a)</b></p> <p><b>Current Directory USO Remains</b></p> <p>USP designated to provide printed directories. to end-users.</p>	<p>If Eircom designated potential for net cost due to decreasing advertising revenues and low volumes of consumers opting not to receive the directory. Annual cost expected to be less than <math>\times</math> p.a.</p> <p>Eircom has previously estimated the contract costs from companies (other than that currently contracted) to be <math>\times</math> hence ComReg is of</p>	<p>USP benefits from the ability to have its company logo on the printed directory, leading to brand awareness.</p>	<p>In event there is a net cost resulting in an unfair burden, the sharing mechanism may mean that ultimately these costs are passed onto consumers through service providers.</p>	<p>Consumers have access to free directory and can access when necessary.</p> <p>Consumers can opt-out of receiving the printed directory.</p> <p>Consumers not forced to make costly calls to DQ, therefore saving approx €5m v's the situation where the printed directory is no longer</p>

<sup>21</sup> This is a conservative estimate, as the average duration of a DQ call is in fact longer than this.

Measure Proposed	Impact on Industry		Impact on Consumer	
	Costs	Benefits	Costs	Benefits
	the view that this is the approximate cost which would be incurred if an undertaking other than Eircom was designated as USP.			provided.
<p><b>Option 2(b)</b></p> <p><b>Obligation to remains but changed</b></p> <p><b><u>Change Format</u></b></p> <p>USP designated to provide directories. But Format changed from paper to electronic/DQ</p>	<p>USP would incur costs for the provision of the directory in the format required.</p> <p>Mandating free/affordable DQ would foreclose the DQ market to competing DQ providers.</p>	<p>Potential for reduction in costs depending on the format chosen.</p>	<p>If the format chosen is DQ, this could potentially lead to consumers incurring costs to access the required information.</p> <p>Electronic format would mean the 1 in 5 of the population, who have never accessed the Internet, would suffer detriment.</p> <p>In event there is a net cost resulting in an unfair burden, the sharing mechanism may</p>	<p>Consumers would continue to have access to directory of subscribers.</p> <p>Electronic formats more accessible on the move, potentially better access for internet users.</p>

Measure Proposed	Impact on Industry		Impact on Consumer	
	Costs	Benefits	Costs	Benefits
<p><b><u>Change Distribution Model</u></b></p> <p><b>Allow for central distribution</b></p>	<p>USP would incur costs for printing, distributing etc.</p> <p>Advertising revenue likely to decrease with decreased directory volumes.</p> <p>Additional costs incurred by USP due to engagement with businesses for the use of premises as distribution point.</p> <p>Increased calls to DQ may increase DQ providers costs.</p>	<p>The costs could potentially be lower than distribution to individual addresses from potentially reduced delivery and printing costs.</p> <p>DQ providers may benefit from increased revenues due to those not collecting the directory changing to use DQ.</p>	<p>mean that ultimately these costs are passed onto consumers through service providers.</p> <p>With a central distribution model consumers may be negatively affected by having to collect the directory, depending on the location of the collection points.</p> <p>In event there is a net cost resulting in an unfair burden, the sharing mechanism may mean that ultimately these costs are passed onto consumers through service providers.</p> <p>Assuming the 49% of consumers who have no preference do not collect a directory, and that these are the consumers who currently use the printed directory &lt; 4</p>	<p>Consumers would continue to have access to directory of subscribers.</p> <p>Those who do not want a directory do not have one.</p>

Measure Proposed	Impact on Industry		Impact on Consumer	
	Costs	Benefits	Costs	Benefits
<p><b><u>Change Preferences</u></b></p> <p><b>Allow collection of consumer preferences on opt-in/opt-out basis</b></p>	<p>Eircom, as current USP has indicated that an opt-out model where 20% of consumer opt-out would lead to reduced costs. Therefore ComReg is of the opinion an opt-out model, once certain thresholds are reached would be more cost efficient than a blanket distribution model.</p> <p>After a period of 2 years should the USP deem an opt-in/opt in model with public awareness campaign to be more cost effective this model could be implemented.</p> <p>Costs involved would include for example maintenance of</p>	<p>USP has the ability to reduce the number of printed directories distributed each year by encouraging those who do not want to receive the directory to state this preference.</p>	<p>times per annum, this could lead to additional costs to consumers of calling DQ of approx €0.5m p.a.</p> <p>In event there is a net cost resulting in an unfair burden, the sharing mechanism may mean that ultimately these costs are passed onto consumers through service providers.</p> <p>Assuming the 49% of consumers who have no preference do not opt-in to a directory, and that these are the consumers who currently use the printed directory &lt; 4times per annum, this could lead to additional costs to consumers of calling DQ of approx €0.5m p.a.</p>	<p>Consumers would continue to have access to directory of subscribers</p> <p>Consumers who opt to have a printed directory can access when necessary.</p> <p>Those customers who do not wish to receive a printed directory can inform the USP of this. Once opt-in model is introduced a public awareness campaign will ensure that those who wish to receive a directory are aware they need to notify the USP</p>

Measure Proposed	Impact on Industry		Impact on Consumer	
	Costs	Benefits	Costs	Benefits
<u>Charge for directory</u>	<p>database of preferences</p> <p>Costs incurred in collecting the revenue.</p> <p>Increased calls to DQ may mean DQ providers incur extra costs.</p>	<p>Would ensure no net cost to the USP. Therefore other undertakings would not need to contribute to sharing mechanism.</p> <p>DQ calls may increase, leading to increased revenue.</p>	<p>Each consumer wishing to access the directory would have to pay to gain access to it.</p> <p>Those not wishing to pay may incur other costs to access the numbers they require for example through calling DQ.</p>	<p>Charge only incurred by those who wish to pay for access to the directory.</p>

**Step 5: Assess the Impacts and choose the best option.**

- A 3.13 ComReg is of the view that removing the USO (option 1) in relation to directories at this time would be premature. Directory Enquiry services together with advances in technology mean there are other ways in which consumers can access this information; however ComReg's survey has shown that many consumers continue to rely on the printed directory.
- A 3.14 In the absence of a USO, ComReg is of that view that printed directories would be removed, leading to detriment to consumers who rely on these as their primary/sole access to directory information. It would also result in potential significant costs to consumers who switch to DQ to find the required phone number.
- A 3.15 Survey data shows that consumers continue to use directory services. Furthermore, ComReg is concerned that those without internet access would not have access to an affordable directory service.
- A 3.16 For these reasons, ComReg is of the preliminary view that a USO for provision of a directory of subscribers should continue. However, ComReg is of the view that the current obligations could be maintained or amended and still meet the needs of consumers.
- A 3.17 Any amendments would protect consumers from a blanket removal of directories, yet could allow changes to the distribution model or allow for consumer preferences to be recorded for example.
- A 3.18 ComReg is of the view that the designation of a USP for directory services, is unlikely to result in a disproportionate cost burden and for the reasons set out above and as the benefits to consumers are likely to be significant. In contrast, if the obligation was removed no such benefits would follow.
- A 3.19 Although alternatives to the printed directory would remain, e.g. DQ and online directories, DQ calls may be expensive and not all consumers have internet access.
- A 3.20 For these reasons, ComReg is of the view that the USO for directory services should continue. However, ComReg is of the view that maintaining the obligations in its current format (Option 2(a)) would not achieve its objectives, because although not all consumers wish to receive a printed directory, the majority would still receive it, and hence the potential necessary cost to the USP may increase.
- A 3.21 Any amendment to the obligation would protect consumers from the complete withdrawal of affordable directory services yet could still meet the needs of consumers.(Option 2(b))



- A 3.22 ComReg is of the view that amending the obligation to change the format of the directory from paper to electronic or DQ could lead to consumer detriment due to the costs incurred to access the information. Additionally mandating a free/affordable DQ service may foreclose the DQ market to competing DQ operators. Therefore ComReg is of the view that the provision of a printed directory would best achieve ComReg's objectives.
- A 3.23 Changing the distribution model, i.e. the way in which directories are delivered to consumers would potentially allow for the reduction in distribution costs; however, engagement with businesses to select a distribution point may result in additional costs. However if a large number of consumers do not collect a directory and instead revert to calling DQ to access this information, this could lead to additional costs for consumers. For these reasons, ComReg is of the view that other options set out would best achieve ComReg's objectives.
- A 3.24 The benefit of gathering consumer preferences from a consumer perspective is that consumers would continue to have access to a directory of subscribers, those who opt to have a printed directory continue to receive it. Additionally, with this amendment the USP could benefit from reduced printing and distribution costs.
- A 3.25 In order to gather consumer preferences, a database of consumer preferences would need to be maintained. However, Eircom, as the current USP, has already begun to implement such a model.
- A 3.26 ComReg remains of the view that an affordable directory in at least one format should be provided to consumers.
- A 3.27 ComReg, therefore, remains of the view that the measures are unlikely to result in a disproportionate cost burden and for the reasons set out above the benefits of maintaining the USO are likely to be significant.
- A 3.28 ComReg is of the view that the provision of a printed directory, with the ability of consumers to inform the USP of their preferences would best achieve ComReg's objectives. In contrast if Option 1 were chosen no such benefits would follow. Therefore, ComReg considers that the provision of a printed directory, with the ability of consumers to inform the USP of their preferences is the best option.

- A 3.29 For regulation to be effective, ComReg must ensure that compliance with its obligations can be monitored and, where necessary, enforced. ComReg's compliance functions include monitoring ongoing compliance with obligations, enforcing existing obligations, and handling formal disputes. ComReg will monitor and enforce compliance with any directory service obligations in line with these functions.
- A 3.30 ComReg, is of the view that the designation of a USP for directory services, is unlikely to result in a disproportionate cost burden and for the reasons set out above, the benefits to consumers are likely to be significant. In contrast, if the obligation was removed no such benefits would follow and would lead to detriment to consumers who rely on these as their primary/sole access to directory information.