



Commission for  
**Communications Regulation**

# **Provision of Public Pay Telephones**

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

**Consultation**

**Reference:** ComReg 13/119

**Version:** Final

**Date:** 19/12/2013

## Additional Information

All responses to this consultation should be clearly marked:

“Reference: Submission re ComReg 13/119” as indicated above, and sent by post, facsimile, e-mail or on-line at [www.comreg.ie](http://www.comreg.ie) (current consultations), to arrive on or before 5pm on February 7<sup>th</sup> 2014, to:

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

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# 1. Executive Summary

- 1 In this consultation document the Commission for Communications Regulation (“ComReg”) seeks the views of stakeholders on proposed Universal Service Obligations (“USO”) in relation to Public Pay Telephones (“public payphones”), the designation of a Universal Service Provider (“USP”) in this regard and the Removals Policy.<sup>1</sup>
- 2 This consultation considers the various regulatory options available to ComReg in relation to payphones, and in relation to the possible designation of a USP, together with possible amendments to the Removals Policy.
- 3 ComReg is of the preliminary view that, although public payphone usage is declining, public payphones continue to provide a basic service to people throughout the state and therefore there appears to be a continued requirement to provide public payphones.
- 4 Regulation 5 of the Regulations<sup>2</sup> provides that a designated undertaking shall ensure that public payphones are provided to meet the reasonable needs of consumers in terms of the geographical coverage, the number of telephones, accessibility of such telephones to consumers with disabilities and the quality of service. The public payphones cover those located on the street and in other public areas available to the public at all times.
- 5 Universal service ensures the provision of basic telecommunications services 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 in society.

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<sup>1</sup> ComReg document 06/14 “Universal Service Obligation- Removal/Relocation of Public Pay Telephones”, March 3<sup>rd</sup> 2006, (“Removals Policy”)

<sup>2</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011, S.I. No. 337 of 2011 (“the Regulations”).

- 6 On June 29<sup>th</sup> 2012, ComReg designated Eircom as the USP with specific obligations, including in relation to the provision of public payphones<sup>3</sup>. As the end of the current designation period is approaching, it is now appropriate to address the period following expiry of the designation. In principle, no undertaking is excluded from being designated in relation to universal service obligations and this consultation invites potential providers to express an interest in being designated with respect to public payphones<sup>4</sup>. 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 universal service obligation.
- 7 In light of this and the forthcoming expiration of the current USO designation, in this consultation, ComReg has undertaken a detailed review of the current public payphones, to ascertain what the most appropriate requirements on a USP (if any) should be. ComReg has reviewed public payphones generally, to establish their continued need.
- 8 ComReg is of the view that the obligation could be maintained in its current form or it may be amended to allow for the easier removal of payphones, for example those with low usage.
- 9 This consultation extends an invitation to all undertakings to express an interest in providing the Public Pay Telephone universal service for the proposed next designation period of 3 to 4 years from July 1<sup>st</sup> 2014 to June 30<sup>th</sup> 2017/2018.
- 10 If expressions of interest are received, ComReg will consider such proposals and possible further steps, which may include further consideration of the designation of USP's and the designation period and other aspects proposed in this consultation, in the response to this consultation.
- 11 The consultation proposes that, unless expressions of interest are received, Eircom should continue to be the universal service provider of public pay telephones for a period of 3 to 4 years.
- 12 ComReg believes that the options and proposals set out in this consultation will ensure consumers can still access public payphones, which continue to provide a basic service to many people throughout the State.
- 13 ComReg looks forward to receiving responses from all stakeholders in relation to the proposals in this consultation. ComReg will review and fully take into account all responses it receives and will issue a further consultation before coming to a final decision.

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<sup>3</sup> ComReg document 12/71 "The provision of telephony services under Universal Service Obligations", June 29<sup>th</sup> 2012.

<sup>4</sup> Under Regulation 7(2) of the Regulations, ComReg may designate different undertakings or sets of undertakings to comply with the obligation in Regulation 5.

## 2. Background

- 14 On June 29<sup>th</sup> 2012 ComReg designated Eircom as the USP with specific obligations, including the provision of public payphones<sup>5</sup> for a period of two (2) years. Eircom, as the USP, is required to ensure that public payphones are provided to meet the reasonable needs of end-users.
- 15 The Regulations define a public pay telephone as:
- “ a telephone available to the general public for the use of which the means of payment may include coins, credit cards, debit cards, or prepayment cards including cards for use with dialling codes.”<sup>6</sup>*
- 16 The Regulations provide that a designated undertaking shall ensure that public payphones are provided to meet the reasonable needs of consumers in terms of the geographical coverage, the number of telephones, accessibility of such telephones to consumers with disabilities and the quality of service. Public payphones cover those located on the street and in other public areas available to the public at all times. Payphones that are placed in shopping centres or other outlets and which are not available to the public at all times are not considered to be universal service payphones.
- 17 Currently, the USP is permitted to remove/relocate public payphones, however, in effecting any reduction in the number of public payphones, the USP must ensure that the USO is met and, in this respect, the Removals Policy established in March 2006 applies<sup>7</sup>.
- 18 The USP must also ensure that it is possible to make emergency calls free of charge and that users have access to a directory enquiry service. Furthermore the USP, where possible, must ensure that all public payphones provide for a number of payment means; including coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes.
- 19 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>8</sup>. The Regulations provide that if ComReg finds that the net cost of the particular universal service obligation represents an unfair burden on the USP, the funding requirement must be met by industry<sup>9</sup>.

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<sup>5</sup> ComReg document 12/71 Decision No. 07/12

<sup>6</sup> Regulation 2(2) of the Regulations

<sup>7</sup> ComReg document 06/14 “Universal Service Obligation – Removal/Relocation of Public Pay Telephones”.

<sup>8</sup> Regulation 11(1) of the Regulations

<sup>9</sup> Regulation 12(1) of the Regulations

- 20 When designating Eircom as USP, ComReg noted it would undertake a detailed review of the current public payphones with maintenance issues, to ascertain what should be done in such circumstances<sup>10</sup>. ComReg committed to undertaking a review of the uneconomic public payphones, after assessing Eircom's 2009/2010 USF application, to establish their continued need. Based on this review, ComReg noted that it may seek to amend the USO in respect of payphones and/or the payphone Removals Policy.
- 21 Following receipt of Eircom's Universal Service Fund Application, ComReg issued a consultation document<sup>11</sup> which set out ComReg's preliminary view of the net cost of the 2009-2010 application. ComReg is of the preliminary view that the net cost (before intangible benefits) is €7,139,331. The portion of this net cost which relates to the provision of public payphones is €93,906. In addition, for the purpose of the net cost assessment for 2009-2010 it was estimated that intangible benefits of €20,437 (in marketing benefit<sup>12</sup>) was gained by Eircom's ability to advertise on public payphones.
- 22 ComReg's preliminary view is that the net cost of all the elements of the USO, of €5,095,454, after intangible benefits, does not represent an unfair burden. ComReg has received responses to this consultation, which it is currently reviewing. In addition to this, ComReg is working on the establishment of principles of suitable funding mechanism should any net cost be considered an unfair burden.
- 23 ComReg issued a number of information requests to Eircom during 2013 to collect information on public payphones which would assist with this review.
- 24 ComReg notes that public payphones continue to be used to make calls to 1800 numbers, to emergency services, to mobile numbers, to help lines and to local, national and international numbers. Furthermore, consumers also use public payphones for the reverse charge calls service and for pre-paid phone cards.

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<sup>10</sup> See paragraph 175 of Document 12/71.

<sup>11</sup> ComReg document 13/45 "Assessment of Eircom's Universal Service Fund Application for 2009-2010", May 10<sup>th</sup> 2013

<sup>12</sup> In the assessment of the marketing benefits it was noted that the benefit "should, in principle, be based on how much it would have cost Eircom to advertise itself elsewhere in the same area as those uneconomic payphones are located, rather than advertising free of charge in uneconomic payphones". It was also noted that it is unclear whether the benefit (i.e. savings in advertising costs) derived from the WIFI hotspots is included in the marketing benefit estimation. For the purpose of the 09/10 assessment, the impact is not considered material; however ComReg advises that consideration should be given to WIFI hotspots and marketing benefits in future assessments. (See Consultation document 13/45 paragraph 5.24)



- 25 This consultation document contains a detailed review of current public payphones, to ascertain what the most appropriate requirements on a USP (if any) should be.
- 26 This consultation seeks views on topics such as:-
- Is there a need for a public payphone USO obligation?
  - Does the current provision of public payphones meet or exceed the needs of consumers?
  - What should any future obligations be?
  - How long should any designation be for, and which undertaking(s) should be designated.
- 27 Under Regulation 5 of the Regulations ComReg requires the consent of the Minister in relation to the aspects of the provision of public payphones. Prior to making any decision under Regulation 5, ComReg will seek the consent of the Minister for Communications, Energy and Natural Resources.

## 3. Payphone trends

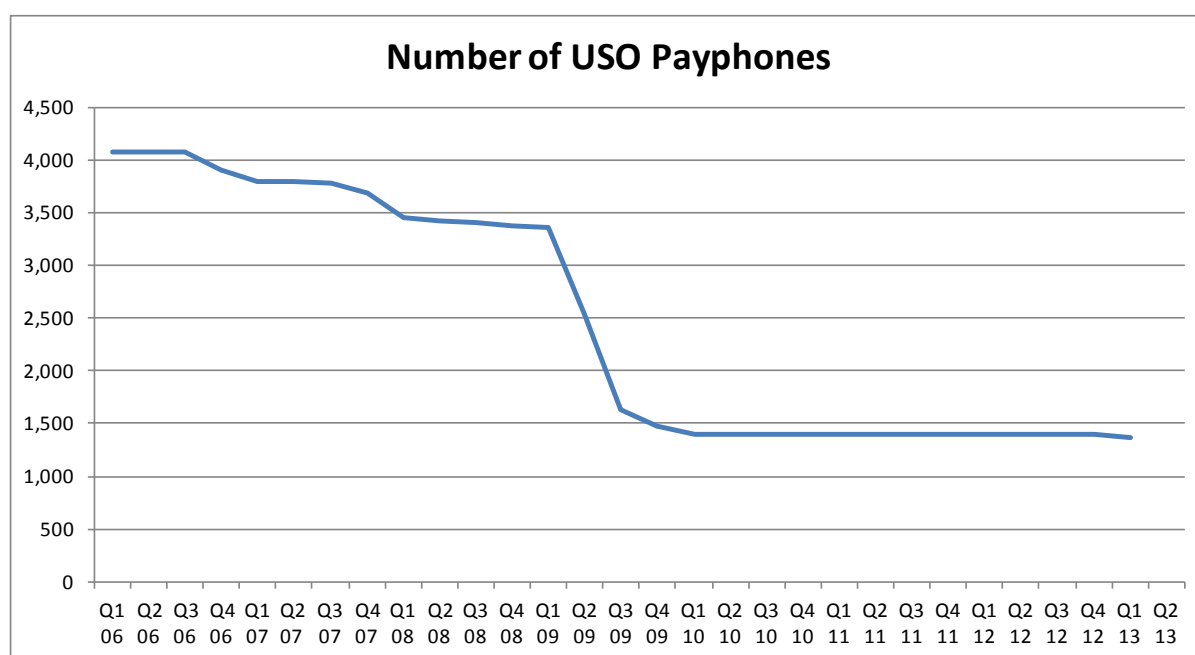
### 3.1 Payphone market in Ireland

- 28 As set out above, a public payphone for the purposes of Universal Service relates to those located on the street and in other public areas available to the general public at all times (i.e. those with unrestricted access).
- 29 This does not include payphones located in private areas which have restricted access or are typically covered by commercial arrangements between the premises owner and provider (and where the access to a payphone is dependent on the pre-existence of a commercial relationship), e.g. pubs, hotels, restaurants and shopping centres, where the payment to the premises owner may involve a fixed amount or a percentage of the revenue earned on calls made from the relevant payphone.
- 30 Generally, all revenue earned from payphones positioned in public locations goes to the service provider; additionally, the public payphone operator may earn income (actual or notional) through advertising own or third party products.
- 31 Eircom, the designated USP, is currently the only provider in the public payphone market and has public payphones in locations throughout the country. Eircom has always been the main provider of public payphones in the State.
- 32 Public payphone users can pay for calls with coins, pre paid calling cards or credit cards. Calls are generally charged on a per unit basis, and the length of time allowed per unit will vary depending on the call destination. The price of calls from USO Payphones is the same throughout the State (geographically averaged).
- 33 The price of calls from payphones has increased in recent years. On January 1<sup>st</sup> 2013, Eircom increased the minimum fee for all coin calls from payphones from €1 euro to €2 euro, the price per minute for Local/National calls was increased to €0.50 per minute (from €0.25) and to €1.00 per minute (from €0.50) for calls to mobiles. Prior to this, the last time Eircom changed payphone pricing was in May 2008.

34 Historically, there were a number of operators providing retail payphone services in Ireland, some of whom provided both public and private payphone services, while some provided services only in private locations. The primary reason consumers used a payphone was that it was convenient or it was less expensive<sup>13</sup>. When mobile phones were introduced, the cost of calls from mobiles was relatively high and therefore in some cases payphone calls were cheaper. This is no longer the case.

### Number of Payphones

35 The average number of public payphones operated, under the universal service obligation, has declined from over 4,000 in 2006 to just over 1,300 at present. This is illustrated below in Figure 1.



**Figure 1**<sup>14</sup>

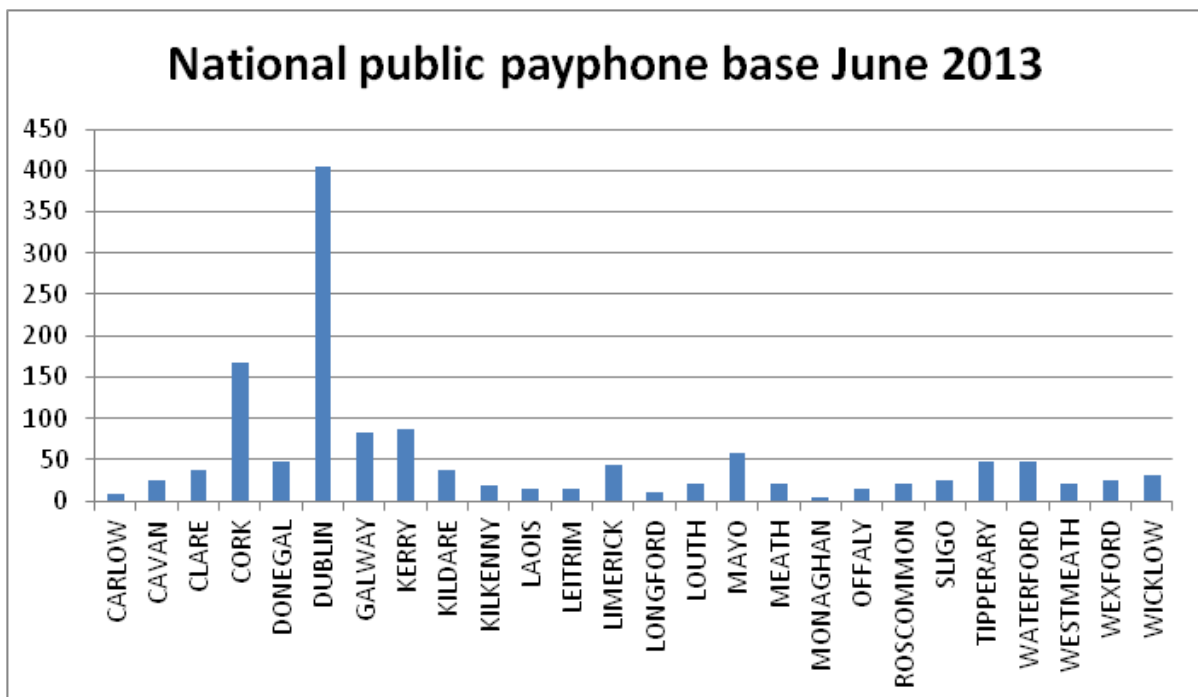
36 The largest decrease in public payphones was in 2009 when Eircom undertook a rationalisation project with the aim of reducing the number of (uneconomic) payphones. In carrying out this rationalisation project Eircom had to ensure its USO was met and therefore that it was carried out in line with the Removals Policy.

37 During the period January 2012 to December 2012 the average number of public payphones was 1,352. According to Eircom, there are currently 1,329 public payphones, of which 1,213 are considered, by Eircom, to be uneconomic.

<sup>13</sup> ComReg document 06/40 "Market Review – Retail and Wholesale Payphone Access and Calls Market, 17 August 2006

<sup>14</sup> Published in ComReg's Quarterly Information Notices regarding Eircom's USO Quality of Service

- 38 ComReg appreciates that due to the geographic spread of public payphones, where a consumer may have otherwise chosen to use a payphone, the consumer may not necessarily be near a public payphone and therefore may choose an alternative means to communicate e.g. a non-public payphone. Figure 2 below shows the number of public payphones by county; 404 (30%) of public payphones are in county Dublin, with a further 13% (168) in county Cork.
- 39 The counties of Galway and Kerry each have approximately 6% of the public payphones. The remaining 22 counties have an average of 27 public payphones per county. Counties Carlow, Monaghan and Longford have ten or less payphones.



**Figure 2**

**Decline in Payphone Usage**

- 40 ComReg notes that mobile phone penetration appears to have affected payphone usage. Mobile penetration in Ireland is currently 122.2% including mobile broadband and Machine to Machine subscriptions or 103.6% excluding mobile broadband and Machine to Machine subscriptions<sup>15</sup>. While initially price may have been a factor in choosing payphones over mobile, current reasons for using a payphone may be more likely to include:

- Consumers either could not use their mobile (e.g. they had no call credit or no mobile coverage etc), or

<sup>15</sup> ComReg document 13/120“Quarterly Report Q3 2013”, December 18<sup>th</sup> 2013

- The consumer's mobile was unavailable (for example due to no battery or lost or forgotten phone)

41 However, following recent reductions in the Telephone Allowance Scheme<sup>16</sup>, a scheme administered by the Department of Social Protection (DSP), it may be the case that some changes in traffic levels may arise.

### Payphone Usage Patterns

42 ComReg therefore considers that there may still be reasons for making calls from a public payphone – (i) from users who make no calls from a landline or mobile and use a payphone to wholly substitute for a landline or mobile; and (ii) from users who have their own landline or mobile but use a payphone when they have no alternative means of making a call or for privacy reasons. ComReg considers that most payphone usage is likely to be of the latter type, given the landline and mobile penetration in Ireland. However usage due to no landline/mobile phone may also contribute.

43 Callers may also use payphones for 3<sup>rd</sup> party prepaid call cards. In addition, as set out below consumers may use (public) payphones for privacy reasons or necessity. Data supplied by Eircom shows that approximately 140,000 calls (excl Freephone calls) were made from public payphones in the first 6 months of 2013. Payphones minutes account for only 0.01% of total electronic communications minutes, (including fixed, mobile and payphones).<sup>17</sup>

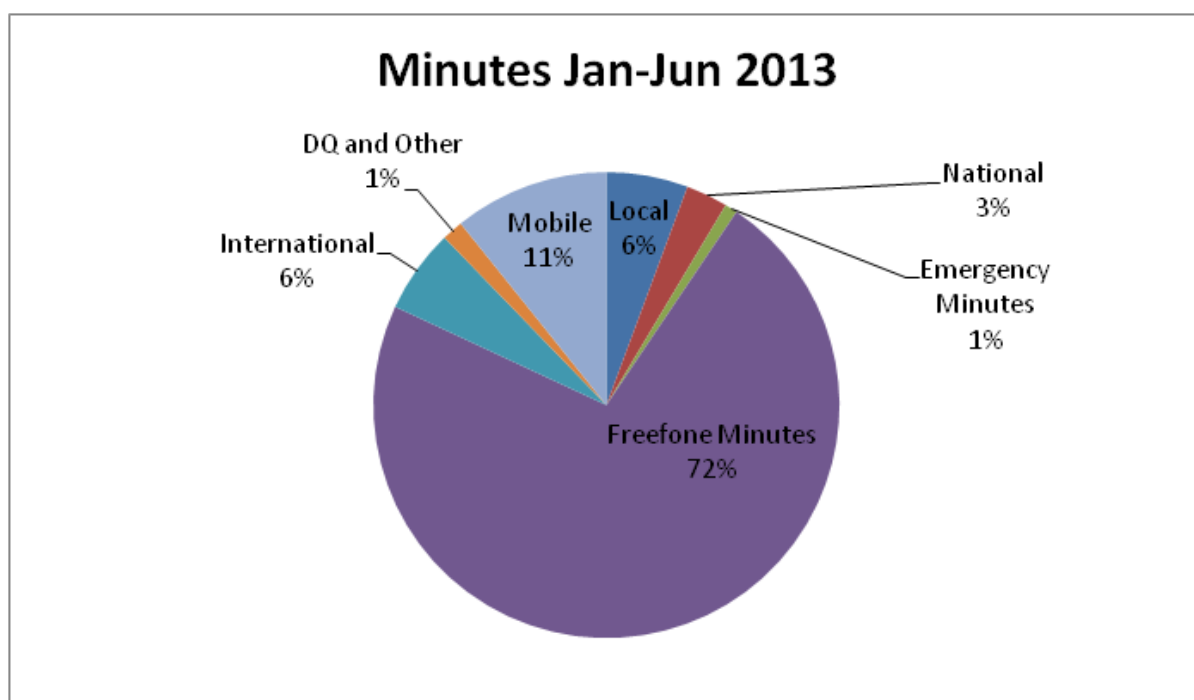
44 However, the data does not include the number of calls made to Freephone numbers as only the minutes for Freephone calls are recorded. But Eircom has provided ComReg with details of the duration (in minutes) of calls made from public payphones to Freephone numbers. Therefore, further analysis was carried out on call durations rather than the number of calls.

45 The number of minutes to Freephone numbers accounted for 72% of all minutes from public payphones in the first 6 months of 2013. Calls to mobile numbers account for 11% of minutes, local and national calls together account for approximately 9% of calls. The remaining minutes are made up of calls to international numbers, Directory Enquiries (DQ) and Emergency Call Answering Service (ECAS).

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<sup>16</sup> The monthly rate of the Telephone Allowance was reduced from €22.58 to €9.50 effective from January 1<sup>st</sup> 2013, and from January 1<sup>st</sup> 2014 will be withdrawn completely

<sup>17</sup> Quarterly Key Data Questionnaire

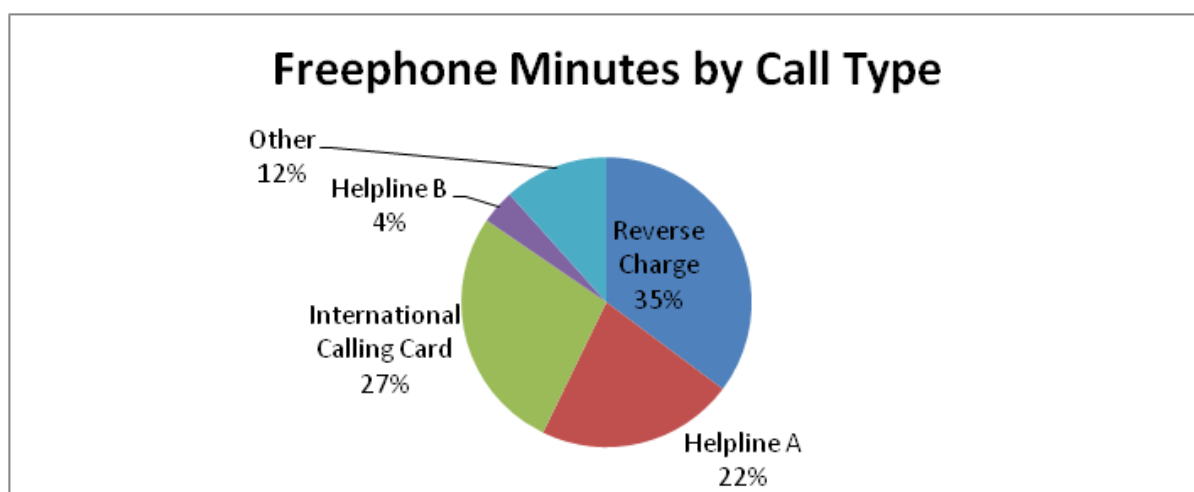


**Figure 3**

### Freephone Call Usage

- 46 The nature of calls to Freephone numbers means that the calls may be of a sensitive nature and the calling party may not want anyone to know the call has been made. ComReg recently mandated<sup>18</sup> that service providers must not itemise these types of calls on bills, irrespective of the level of itemisation or the medium of the bill provided. Nevertheless, some consumers may still prefer the privacy of using a payphone, in particular as many handsets now allow for identification of recently dialled numbers.
- 47 ComReg analysed a sample of call data as supplied by Eircom, in order to determine the reasons contributing to the high call minutes to Freephone numbers. The types of Freephone numbers are set out in Figure 4 below.

<sup>18</sup> ComReg document 13/52 "Consumer Bills and Billing Mediums", June 6<sup>th</sup> 2013

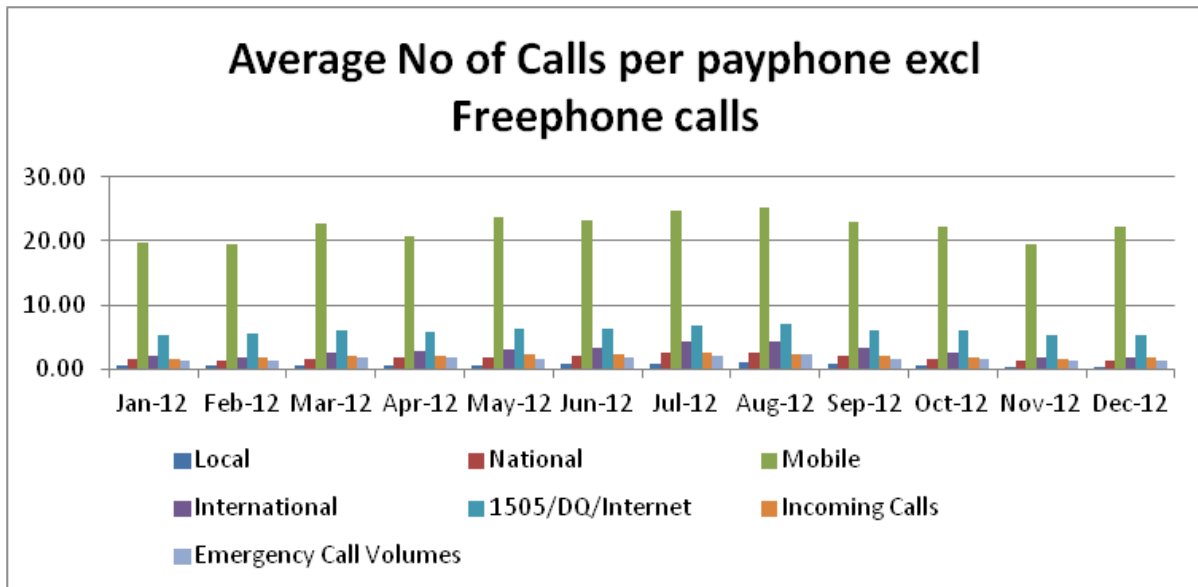


**Figure 4**

- 48 The large volume of Freephone calls is primarily as a result of reverse charge calls (35%). Furthermore, a number of providers provide prepaid calling card services via Freephone numbers. With a pre-paid calling card consumers pay a fixed amount up front, and when they make a call, the total cost of the call is calculated and the remaining value on the card is reduced by the cost of the call. Making a call using a calling card is essentially a two step process. Typically, a calling card user dial an access number, the phone card user is then prompted for a PIN before dialling a second number, the destination number they require. These 3rd party prepaid call cards operating behind 1800 numbers account for 27% of Freephone minutes from payphones.
- 49 A further 26% of Freephone calls from payphones were to a helpline. Payphones therefore provide a vital service to those vulnerable in society.

### **Average Usage**

- 50 Clearly public payphones continue to provide a basic service to people throughout the State.
- 51 In order to further assess payphone usage, ComReg looked at the average number of calls per public payphone per month for a six month period. This excludes Freephone calls (as the available data on the number of payphone calls does not include this). This shows that on average only 1-1.5 calls were made per day from each payphone in 2012. This has decreased to less than 1 call per day per payphone for the first 6 months of 2013.
- 52 However ComReg notes that usage varies substantially by payphone; some payphones have a lot of usage whereas others have little or no usage.



**Figure 5**

- 53 However, when Freephone minutes are included the average number of minute’s usage per payphone per month in the first six months of 2013 was 79 minutes (or approx 1 hour 20 minutes). This equates to less than 3 minutes of usage per payphone per day.
- 54 As can be seen from Figure 5 above, in 2012 the number of calls (excluding Freephone calls) made from payphones peaked in the months of May-September, with 55% of International calls and 54% of local calls being made in these 5 months. This may be due to the use of payphones by tourists. However in recent years, international roaming charges have reduced substantially, which may facilitate international travellers.
- 55 ComReg also investigated the use of public payphones for calls to Emergency Call Answering Services (ECAS). On average approximately 2,300 calls were made from public payphones to ECAS each month in 2012, this has decreased to 1,800 calls (900 minutes) on average in the first 6 months of 2013, this represents approximately 8% of calls (excl Freephone calls) or 1% of minutes from payphones.
- 56 Public payphones, in certain locations, therefore appear to be a necessary resource for consumers in need of emergency assistance.



## Alternatives to Payphones

- 57 ComReg is aware that in certain areas and certain circumstances, as set out below there are alternatives to public payphones available to consumers. For example, many shopping centres now open longer and hence many non-public payphones will be available for longer periods of time, which may further contribute to the decline in usage of public payphones.
- 58 Furthermore, advances in technology and mobile phone offerings mean that when a customer is out of credit they may still be able to make a call as mobile operators offer prepay customers' facilities which allow them to use their phone without credit. These offers mean that whereas before a customer not having credit may have led to payphone usage, this is no longer the case for many prepaid customers. This may have contributed to a decline in payphone usage.
- 59 Additionally, SOS phones are also available throughout the country; however, these phones tend to be in places with a high volume of traffic, such as motorways, and can only be used to contact an emergency call centre and therefore do not act as a substitute for public payphones.

## 3.2 Public Payphones Costs

- 60 The Regulations allow the USP(s) to seek funding to meet a net cost of the universal service. Having received Eircom's application for a Universal Service Fund (USF) for the 2009-2010 financial year, ComReg issued a consultation<sup>19</sup> which set out ComReg's preliminary view that the net cost (before intangible benefits) of payphones is €93,906, the marketing benefit element of intangible benefits from payphones was estimated to be €20,437.
- 61 ComReg understands that there are a number of public payphones that continue to be vandalised and therefore, there may be difficulty maintaining them in working order (in accordance with Document 06/14). During Q2 2013 7.7% of payphones were not in full working order, this was, 8.8% in Q1 2013 and 5.8% in Q4 2012.<sup>20</sup>
- 62 ComReg notes that in an effort to decrease the net cost of payphones, Eircom increased the price of calls from payphones in 2013. At that time, this price increase was expected to increase revenue for payphones in the financial year 2012-2013.

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<sup>19</sup> ComReg document 13/45 "Consultation and Draft Determination on Assessment of Eircom's Universal Service Fund Application for 2009-2010", May 10<sup>th</sup> 2013.<sup>20</sup> ComReg documents 13/47, 13/63 and 13/91 Provision of Universal Service by Eircom

<sup>20</sup> ComReg documents 13/47, 13/63 and 13/91 Provision of Universal Service by Eircom

- 63 Early indications however are, that according to Eircom given the current costs and revenues, there will be an operating deficit.

### 3.3 European context

- 64 The existence of a USO for public payphones varies throughout the EU. In Germany, Luxembourg and Sweden there is no USO, while in Denmark and the Netherlands, for example, there is no longer a payphone USO. BIPT in Belgium proposed in February 2013 to lift the payphone obligation.<sup>21</sup> In Serbia due to the high penetration of mobile telephones (130%) the NRA does not require payphones to be provided. Estonia removed the payphone USO due to extremely low usage of payphones- less than one minute per day per payphone. In Ireland, although usage of some payphones is low, many public payphones are regularly used. Currently the average usage across all public payphones in the State is just under 3 minutes per day.
- 65 However, many countries such as France, Italy, Spain and UK impose a payphone USO. Where there is an obligation, the obligation to provide payphones has been implemented in various ways. Some countries, such as Portugal<sup>22</sup> specify the number of payphones required, whereas Croatia specifies the number of payphones per thousand inhabitants.
- 66 In Latvia, the number of public payphones has decreased, because mobile penetration is high, but the obligation remains to provide payphones.
- 67 It is clear from the above, that various approaches have been taken in respect of mandating public payphones as a universal service. While in some countries the number of payphones required is determined by population, other countries no longer require public payphones to be provided.
- 68 However, many countries, such as the UK, adopt a policy similar to that adopted in Ireland, that is, public payphones are to be provided but may be removed, subject to certain conditions.

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<sup>21</sup> Source Cullen International Cross Country Analysis May 2013

<sup>22</sup> ANACOM required 8,222 payphones- one public payphone per parish and an additional public payphone per parish with more than 1,000 inhabitants

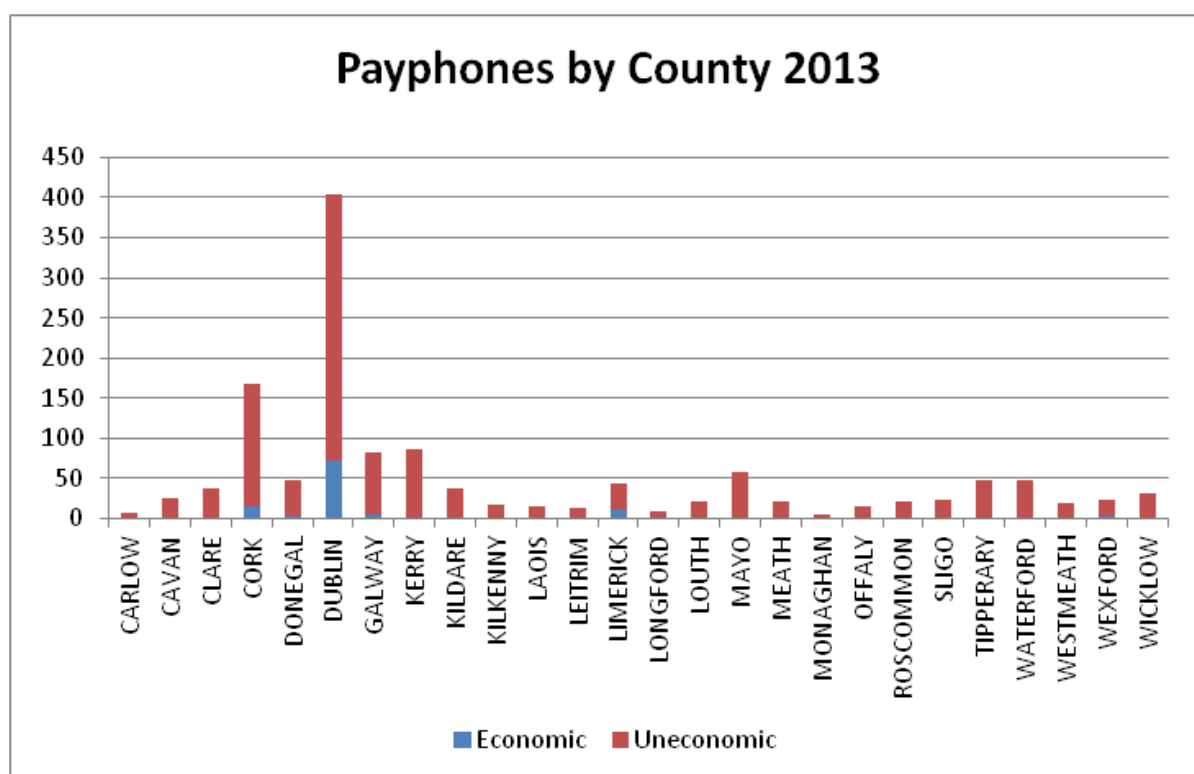
## 4. Requirement for Payphone Universal Service Obligation

- 69 As set out above, the number of public payphones has declined in recent years, yet despite this decline, it is apparent that public payphones continue to provide a basic service to people throughout the State. ComReg has considered the impact of removing the public payphone USO.
- 70 As indicated above, ComReg considers that payphones are used by some consumers when their mobile is not available to them. They may also be used by those without a land-line or a mobile phone, or because they choose to use a payphone rather than a landline.
- 71 It is possible that the complete withdrawal of the DSP's Telephone Allowance Scheme may lead to an increase in the use of payphones.
- 72 Regulation 5 of the Regulations provides that a designated undertaking shall ensure that public payphones are provided to meet the reasonable needs of consumers in terms of geographic coverage. ComReg, therefore has two options available, it can:
1. Remove any obligation in respect of Payphones (Option 1)
  2. Maintain an obligation (Option 2)

### 4.1 Option 1: Remove the Obligation

- 73 ComReg is of the preliminary view that if the public payphone USO designation was removed, Eircom would consider removing a large amount of payphones throughout the country. ComReg is concerned that if the obligation were removed that payphones in certain geographic regions would be discontinued even if they are being used and may be economic. It is likely that all public payphones in certain geographic areas would be removed rather than individual "uneconomic" payphones.

- 74 If the obligation is removed, it is expected that, rather than removing specific uneconomic payphones removal may be on a geographic basis as the maintenance fee structure is driven by geographic location. As an example, it may not be considered economically beneficial to remove only uneconomic payphones in a county even if those located in certain urban areas were economic. This is because the requirement for cash collection, cleaning and maintenance would continue. Therefore, it may be that the public payphones in the entire county would be removed.
- 75 Figure 6 below shows the number of public payphones per county which Eircom deem to be economic in 2013.



**Figure 6**

- 76 At present, payphone usage is declining, but payphones are still required by consumers, albeit on an adhoc basis. The average number of calls from some public payphones is extremely low. This may be due to the payphone being located in an extreme rural area. If the obligation is removed, it is likely that these are the types of payphone which would be removed.
- 77 As set out above, 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.

- 78 ComReg is of the preliminary view that in comparing the cost of provision of public payphones with the benefit to consumers of their continued provision, there appears to be a case to maintain this obligation.
- 79 ComReg notes 50% of the public payphones generate 80% of the revenue<sup>23</sup>. Some payphones also generate advertising revenue for Eircom.
- 80 However, payphones which are located in more extreme rural areas may be more relied upon by vulnerable consumers. Payphones may be particularly valued in rural areas, if there is limited mobile coverage, and in both urban and rural communities, where there are disadvantaged and vulnerable consumers who rely on payphones.
- 81 In this respect, ComReg again notes that payphones continue to be used to make calls to 1800 numbers and to emergency services. Furthermore customers also use payphones for the reverse charge calls service and for prepaid phone cards.
- 82 As set out above, ComReg acknowledges that in certain areas and certain circumstances, there are alternatives to public payphones available to consumers such as mobile offerings which allow prepaid users to make calls when they are out of credit, motorway SOS phones, and non-USO payphones.
- 83 ComReg is of the preliminary view that there is no need to increase the number of public payphones in the State. Furthermore, ComReg has not received any representations prior to this consultation to suggest that the current obligations do not meet the needs of consumers.
- 84 Therefore ComReg is of the preliminary view that the current provision of public payphones throughout the State continues to meet (if not exceed) the reasonable needs of consumers and it is not proposing to increase penetration or facilities currently available.
- 85 Additionally, public payphones often use different energy sources so after natural disasters, for example, they may still be in working order. This is of particular relevance in remote rural areas.
- 86 ComReg is concerned that if the obligation were removed that certain public payphones would be discontinued even if they are being used and may be economic. ComReg also notes that many EU countries continue to impose a public payphone USO.

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<sup>23</sup> Includes coin, card, Freephone, reverse charge and advertising revenue

87 ComReg is therefore of the preliminary view that although public payphone usage is declining, public payphones continue to provide a basic service to people throughout the State, and that the complete withdrawal of the USO would lead to the removal of many public payphones in the State, which are currently used including the complete removal in certain geographic areas.

88 Based on this assessment, ComReg is of the preliminary view that there continues to be a need for a public payphones universal service obligation.

Q. 1 Do you agree or disagree that there is a continued requirement to provide public payphones to meet the reasonable needs of end-users? Please provide reasons to support your views.

## 4.2 Option 2: Maintain an Obligation

89 As set out above, ComReg is of the preliminary view that removing the obligation to provide public payphones is not appropriate at this time. ComReg is therefore of the view there are two options available to it in relation to the retention of the public payphones USO;

- Maintain the existing obligations (Option 2(a))
- Amend the existing obligations (Option 2(b))

90 Under the current obligation, the USP shall ensure that public payphones are provided to meet the reasonable needs of consumers in terms of the geographical coverage, the number of telephones, accessibility of such telephones to consumers with disabilities and the quality of service. Public payphones cover those located on the street and in other public areas available to the public at all times.

91 If it is deemed that the current obligations exceed the reasonable needs of consumers, or will do in the near future, the current obligation could be amended, which may have the impact of lessening the obligations, yet ensuring there are no significant negative impacts on consumers and, in particular, on vulnerable users.

92 Under the Removals Policy, the USP may, under certain conditions remove public payphones. ComReg is of the view that the current obligations are satisfactory. However, these obligations could be amended.

- 93 ComReg also considered possible alternatives for payphones, for example similar to the adopt a kiosk in UK<sup>24</sup>. The Adopt a Kiosk programme is an initiative launched by BT. However the phone service does not remain in the payphone box. Under this programme, where there is limited use of the public payphone service, a local authority can apply to take ownership of the telephone box(es) effectively free of charge thereby protecting the heritage of the community. For example in the UK some public payphone kiosks have been adopted for purpose of housing defibrillators.<sup>25</sup>
- 94 Mandating such an alternative is not within ComReg's remit and in any case such an alternative would not result in maintaining a telephone service in the phone box.
- 95 ComReg is of course not opposed to such public utility uses of decommissioned phone boxes.
- 96 The regulatory options are detailed below.

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

- 97 ComReg has considered the impact of not amending the obligation. In this situation, the USP would be required to ensure public payphones are provided to meet the reasonable needs of consumers. However public payphones could be removed or relocated in line with the Removals Policy. In effecting any reduction in the number of payphones, the USP must ensure that the USO is met.
- 98 In this situation, consumers who need to access a public payphone on a regular basis would be aware of the location of the payphones and would also be able to respond to the notification and consultation process under the Removals Policy.
- 99 Where the USP intended to remove public payphones in extreme rural locations, this would need to be done in accordance with the Removals Policy and hence representations could be made for the maintenance of this public payphone if consumers in the area so wished.
- 100 Although public payphones could be removed, ComReg is of the view it is unlikely that all public payphones in certain geographic areas would be removed.
- 101 There is a chance that if the obligation is not amended, and public payphone usage declines below current levels, payphones may become more uneconomic and lead to an increased net cost of the obligation.

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<sup>24</sup> [http://www.payphones.bt.com/adopt\\_a\\_kiosk/HTML/payphone/](http://www.payphones.bt.com/adopt_a_kiosk/HTML/payphone/)

<sup>25</sup> See for example <http://www.communityheartbeat.org.uk/adoptatelephonebox.php>

102 Nonetheless due to the continued decline in public payphone usage, together with the availability of other means to make calls such as mobile phones, SOS phones and non-USO payphones, there may be reason to amend the current US payphone obligation.

### **4.1.2 Amend Existing Obligation (Option 2(b))**

103 ComReg is also considering the impact of amending the obligation if it was decided that the current obligations exceed the reasonable needs of end-users. There are a number of possible ways in which the existing payphone USO could be amended, yet still meet the reasonable needs of consumers. ComReg has set out some options below.

#### **(i) Remove need for coin payment**

104 Currently Eircom as USP must ensure that all public payphones provide for a number of payment means; including coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes.

105 Eircom has set out that a large part of the cost of payphones is for maintenance of and collections from payphones. Due to thefts of coins from payphones, cash collections need to be made on a more regular basis which impacts on the maintenance contract. ComReg considered whether, in areas which are constantly subjected to vandalism, the need to allow payment by coins could be removed.

106 However, this option might require current phone boxes to be modified to not accept coins and therefore this may result in additional costs to the USP in the short term, with potential savings in the longer term.

107 ComReg analysed the payment methods used by consumers when using public payphones and found that where consumers pay for a call from a payphone, almost 100% pay using coins. (Note a large number of minutes from public payphones are to Freephone numbers which may include 3<sup>rd</sup> party call cards.)

108 Therefore, ComReg is of the view that should the ability to pay by coin be removed, this could lead to large decrease call volumes. Although some consumers may begin to pay by card, it is unlikely that these consumers would represent the majority of consumers.

109 This option may lead to more payphones becoming uneconomic. However the USP could be allowed to provide payphones which do not allow for coin payment in certain conditions.



**(ii) Define payphones which would be retained**

110 ComReg is considering the option whereby it could define payphones which would be retained. Under this option ComReg could designate particular payphones which would be provided. Other payphones could be provided, at the discretion of the USP.

111 It may be appropriate to amend the existing obligation, to allow the easier removal of some payphones, but protect particular geographic areas, such as rural areas where alternatives to public payphones are not available.

112 Should Eircom be designated as USP, this would allow it to remove some payphones, while maintaining those which are necessary to meet the reasonable needs of consumers in terms of the geographical coverage. The Removals Policy would therefore no longer apply.

113 A set of rules would need to be established in order to define which payphones would be protected from removal. The factors included could include the population in the vicinity, the presence of other payphones, incidences of vandalism, call volumes and/or call types made from the payphone.

114 The benefit of this from a consumer perspective is that the payphones maintained would be chosen to ensure their reasonable needs. The USP may benefit from reduced costs, due to a reduced number of payphones and reduced costs from not having to consult on the removal of individual payphones.

115 However, defining the public payphones which need to be maintained does not allow for the easier removal of payphones, which in the future may be suitable for removal.

116 In ComReg's preliminary view this option would not allow for changing needs of consumers and would be static for the duration of the designation.

**(iii) Re-define the Conditions for public payphone removals**

117 As set out above, as a consequence primarily of the growth in mobile telephony, reductions in the number of payphones in both urban and rural areas may be unavoidable due to a continuing fall in demand for public payphones.

118 It may be appropriate to amend the existing obligation, to allow for the further removal of some public payphones, if justified.

119 Rather than defining payphones which must be retained, conditions could be set which would allow for the easier removal of existing payphones. This could allow uneconomic payphones which satisfy certain low usage criteria to be removed without the current process of community representation. This is dynamic and would reflect actual payphone usage.

120 Currently in effecting any reduction in the number of public payphones, the USP must ensure that the USO is met and, in this respect, the Removals Policy sets out the process to be adopted by the USP. Full details of the existing Removals Policy are set out in Annex 2.

121 In some instances removal of payphones under the Removals Policy may be unnecessarily onerous. For example, where usage has been low over the previous 12 months the payphone may be removed, but only in the absence of any community feedback.

122 Eircom has indicated to ComReg that they have reached a point where individual payphone removals under this process are no longer cost effective, due to the reduced number of payphones, fixed costs are now borne by fewer payphones and thus average costs increased. The current Removals Policy necessitates each site being visited a number of times for example to post a notice on the payphone and this process can take up to 3 months to complete.

123 Taking this and declining usage of public payphones into consideration, ComReg considers that an amended Removals Policy could allow the USP to more readily remove payphones, if justified.

124 An amended Removals Policy could address the issues set out above, while also ensuring that public payphones are provided to meet the reasonable needs of consumers in terms of the geographical coverage, the number of telephones, accessibility of such telephones to consumers with disabilities and the quality of service.

125 The USP may benefit from reduced costs, for example from not having to consult on an individual basis for the removal of individual payphones and from reduced maintenance costs in the future.

126 The basis of an amended Removals Policy could be on public payphone usage rather than community representation. For example, it could

- Allow for the removal of public payphones where it is a focus of anti-social behaviour.
- No longer require relocation of a regularly vandalised payphones

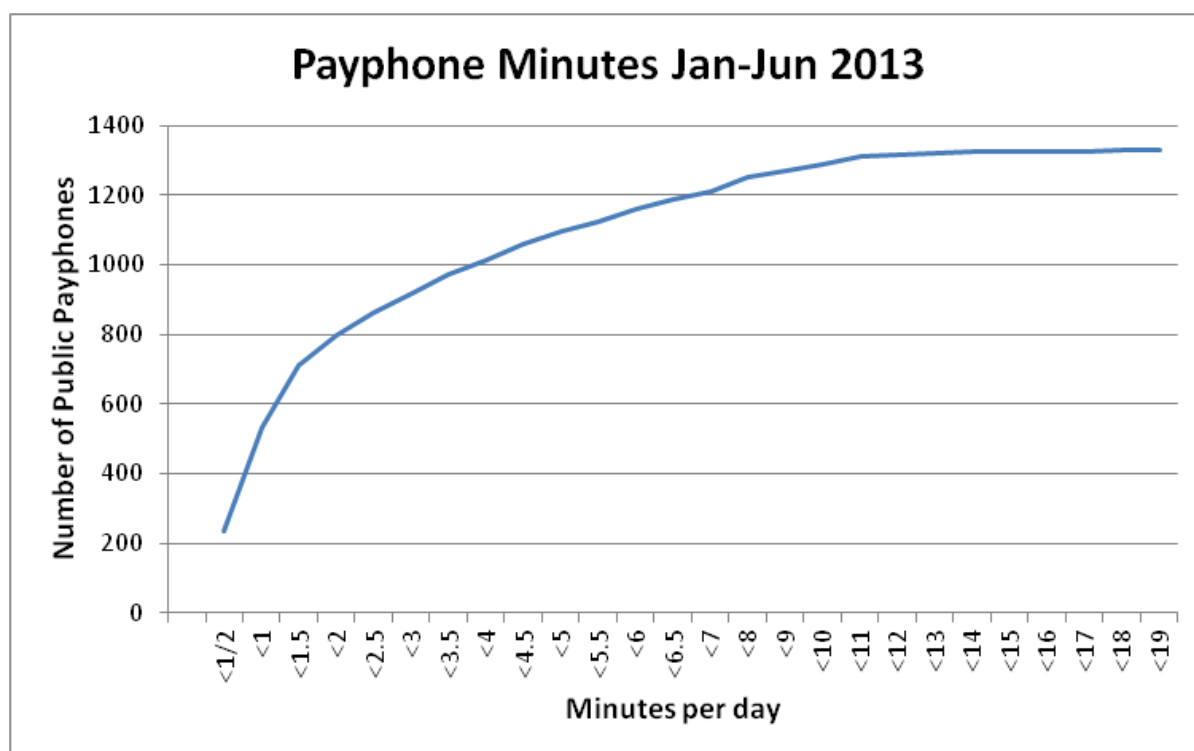
- Permit the removal of a payphone where it is uneconomic, where usage (while in reasonable working order) has been below a certain number of minutes AND where the payphone has not been used regularly to make calls to helplines (or similar numbers) taking into consideration other public payphones located nearby.
- No longer require community agreement for the removal of a public payphone where usage meets the requirements above.

127 This could mean that whereas to date, community representation could have prevented the removal of the payphone, even though usage was low or none, in the future should such amendments be made, where the usage was low, the USP could remove public payphones without necessarily consulting with the community.

128 However, ComReg is of the preliminary view that although some payphones have low usage, the USP may choose to maintain these payphones as it may be able to obtain advertising revenue from these payphones.

129 ComReg is of the preliminary view that with respect to public payphones, low usage could be considered to be less than a certain number of minutes per day (X) in the preceding 6 months. The X value would be determined taking into consideration payphone usage and the number of payphones which could potentially be removed for any given value of X. Initially the value could be set using international benchmarks, or set to ensure that a certain percentage of payphones could/could not be removed.

130 The following graph outlines the usage levels for the 6 month period January to June 2013. This shows that the vast majority of public payphones are used for less than 7 minutes per day.



**Figure 7**

131 However, other criteria, such as usage for helpline calls and calls to Emergency Services could be considered as could the ability of the payphone to attract advertising revenue.

132 ComReg is of the view that the USP could identify such public payphones twice annually; based on January- June usage and July to December usage. This information should be reported to ComReg prior to the removal of any public payphones.

133 However, the amended Removals Policy would ensure that public payphones are provided to meet the reasonable needs of consumers in terms of the geographical coverage, the number of telephones, accessibility of such telephones to consumers with disabilities and the quality of service.

Q. 2 Do you agree or disagree with the regulatory options as set out above? Are there other options that ComReg should consider? Please give reasons to support your view.

Q. 3 Which of the above options, in your opinion, would best ensure that public payphones continue to meet the reasonable needs of consumers? Please give reasons to support your view.

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

### 5.1 Designation Mechanism

134 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>26</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>27</sup>.

135 In principle, no undertaking should be excluded from being designated to provide the public payphone universal service, in all or part of the State. In the majority of Member States, the incumbent operator provides universal services. In theory, other operators in Ireland may be able and willing 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.

136 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 universal service obligation<sup>28</sup>. Other providers in the State may be in a position to provide this part of the universal service, but in order to decide if they are willing and able to do so, they will need specific information about the universal services to be delivered. For example, they may need to know which public payphones are uneconomic.

137 Such relevant information has been provided to ComReg in the course of Eircom's application for universal service funding for the period 2009/2010 and through information requests issued in 2013. ComReg's assessment of Eircom's funding application has come to the preliminary view that although there is a net cost to Eircom for the provision of the USO, an unfair burden does not exist for the period 2009/2010.

138 Eircom has also provided ComReg with information in response to a number of information requests in 2013. This information has been analysed in Section 3 above.

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<sup>26</sup> Regulation 7(1)

<sup>27</sup> Regulation 7(2)

<sup>28</sup> Regulation 7(3)

## 5.2 Designation Period

139 Given the declining usage patterns, ComReg is of the preliminary view that a designation period of 3 or 4 years is most appropriate for the designation in relation to the public payphones universal service obligation.

140 The designation period chosen will depend on the nature of the obligation imposed; ComReg believes that where an obligation is dynamic a longer designation period would be appropriate.

141 ComReg is of the preliminary view that the next designation period should be for a period of 3 to 4 years, unless expressions of interest in providing the service are received or representations are made which substantially alter ComReg's view.

142 In the circumstance where Eircom is proposed as USP, ComReg is of the view that a period which aligns with its financial year is most appropriate for now. It may be necessary to align with financial years of other potential USP(s) should any expressions of interest be received.

143 It may in the future be necessary to extend or shorten designation periods to align with the financial years of other potential USP(s). However, for the time being, ComReg proposes to maintain its practice of designating for whole years.

144 Accordingly, ComReg is proposing a designation period of 3 to 4 years, from July 1<sup>st</sup> 2014 to June 30<sup>th</sup> 2017/2018.

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

## 5.3 Designation for the Entire State

145 ComReg has considered whether or not it is appropriate to continue to designate universal service obligations to cover the entire State.

146 The relevant geographic market comprises an area in which the undertaking(s) concerned are involved in the supply and demand of the relevant products or services, in which area the conditions of competition are similar or sufficiently homogeneous and which can be distinguished from neighbouring areas in which the prevailing conditions of competition are appreciably different.

147 In order for ComReg to fully consider designation for specific areas or payphones—rather than on a national basis—ComReg has reviewed those public payphones which Eircom deem to be uneconomic and believes there are areas that would not be served by the market if the USO did not exist. As the universal service provider for many years, Eircom provided this information in response to a number of information requests in 2013.

148 Prices and tariff structure for payphone access and calls are homogeneous nationally (geographically averaged). ComReg recognises that on a general basis there is higher payphone penetration in more urban areas due to a greater concentration of demand.

149 ComReg recognises that there are differences in the provision and availability of services between urban and rural areas and that these are important considerations for a universal service designation for the entire State or for specific areas.

150 In urban areas, where historically there was competition in the payphone market, this is no longer the case. ComReg is of the view that if the obligation was removed in these areas most public payphones would be removed. Therefore ComReg is of the view that it is not appropriate at this time to remove the obligation in urban areas.

151 ComReg remains concerned that the payphones might not be provided to all or some areas in the State without a universal service obligation. Figure 6 above, shows the split of economic/uneconomic (as per Eircom) by county.

152 ComReg is concerned that absent a universal service obligation, public payphones would be completely removed from many counties throughout the State.

153 Therefore, unless expressions of interest are received from undertakings for different geographic areas, ComReg is of the preliminary view that a universal service for the entire State, (whether or not it is delivered by different USP(s)), remains a requirement for the proposed next designation period.

154 However, ComReg will consider whether separate designations for separate areas are necessary if expressions of interest are received for separate geographic areas.

Q. 5 Do you agree or disagree with ComReg's proposal that, for the proposed next designation period, the required universal services should be designated for the entire State and that prices should be geographically averaged? Please provide reasons to support your view.

## 5.4 Universal Service Provider

155 Payphone services are provided to consumers over equipment and access lines that do not belong to that consumer and are not rented to it by a service provider. This is a bundled service where the charge covers both access and calls.

156 The service can be provided directly to the consumer via a payphone on the street (public payphone) or indirectly via a payphone installed in privately owned premises. To provide payphone services an operator can provide services over its own network (as Eircom does). Alternatively, they can purchase wholesale access products from the access provider (typically Eircom).

157 Although, in ComReg's view, there are no significant barriers which prevent an operator from entering the market for the provision of retail payphone services, there are no other providers currently providing payphones in the State. Following liberalisation of the market a sufficient number of operators entered the market to compete with Eircom. Providers may be able to provide retail services using indirect access products. This would significantly lower entry barriers and facilitate admission into the payphone market.

158 This consultation extends an invitation to all undertakings to express an interest in providing the Public Pay Telephone universal service for the proposed next designation period of 3 to 4 years from July 1<sup>st</sup> 2014 to June 30<sup>th</sup> 2017/2018. Any expressions of interest should be accompanied by the following:

- An outline of technical competence and expertise in providing the element service concerned
- An outline as to how any proposed obligation, will be fulfilled, including a full description as to how the service(s) will be provided, and
- Guaranteed level of service and other relevant quality measures
- Relevant retail prices
- Indicative timelines to commence provision of payphones
- Indicative costs to provide the element of the service concerned, as relevant.

159 If expressions of interest are received, ComReg will consider such proposals and possible further steps, which may include further consideration of the designation of USP's and the designation period and other aspects proposed in this consultation, in the response to this consultation.



160 In the event that expressions of interest are received, ComReg will publish appropriate details in respect of these.

161 It is also ComReg's preliminary view that the current universal service provider, Eircom, should continue to be the universal service provider due to its ubiquity, experience and capability, during the next designation period, **unless** ComReg receives suitable expressions of interest from other providers.

Q. 6 Do you agree or disagree with ComReg's proposal that Eircom should continue to be the universal service provider for public payphones during the next designation period, unless there are expressions of interest from other providers? Please provide reasons to support your view.

## 6. DRAFT Regulatory Impact Assessment (RIA)

162A 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.

163 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>29</sup> adopted under the Government's *Better Regulation* programme.

164A RIA should enable ComReg to determine the impact of any regulatory change or new regulation, and should assess the alternatives to regulation- such as no intervention, self-regulation or performance based regulation amongst others. RIA's aim to identify areas where regulation can be reduced.

165A 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.

166 The following sets out ComReg's RIA.

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

167 ComReg is proposing to review the current public payphone 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.

168 Payphone numbers have declined in recent years, as have the volumes of calls. However ComReg is of the view that payphones continue to provide a vital service to consumers, particularly to vulnerable users and in remote rural areas.

169 Eircom has been designated as the USP for public payphones from June 2012 to June 2014. As this designation nears an end, ComReg feels it is appropriate to now review the need for a public payphone USO.

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<sup>29</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)

## Step 2: Identify and Describe the Regulatory Options

170ComReg has identified the following three regulatory options which may be adopted in order to meet the objectives set out above.

- **Option 1: Remove the Obligation**
  - i. No operator would be designated to provide payphone services. Current payphones throughout the State can be removed without consultation. Consumers would be affected by the removal of all payphones in certain geographic areas.

- **Option 2: Maintain an Obligation**

### 2(a) Maintain Existing Obligation

Under this option the obligation to provide payphones would remain.

- i. Any USP must ensure payphones meet reasonable needs of consumers. The USP may remove/relocate payphones subject to conditions in 06/14. The USP must ensure that, where possible, all public payphones provide for a number of payment means. In addition, it must be possible to make emergency calls free-of-charge from all public payphones

### 2(b) Amend the Existing Obligation

Under this option the obligation to provide payphones would remain, but would be amended from its current form. There are a number of sub-options, should this option be chosen. The designated USP would have some obligations in respect of the provision of payphones, however the obligations may be lessened, depending on which of the sub-options are selected. Consumers who depend on payphones, whether in an emergency situation or for general day to day usage, would still be able to access public payphones. There are 3 sub-options, one or all of which could be implemented.

- i. Amend to remove the need for coin payments: to allow for payphones which are remote or potential targets for robberies to use card only payment methods (i.e. calling card, debit/credit card)

- ii. Amend by defining specific payphones which must be maintained for example define a number of payphones in each county, which must be maintained, allowing for a reduced number of payphones
- iii. Amend by setting usage criteria by means of changing the Removals Policy, to allow for easier removal of payphones, in particular where usage is low or the payphone is regularly vandalised

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

171 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. This is set out below

Measure Proposed	Impact on Industry	Impact on Consumer
<p><b>Option 1</b></p> <p><b>Payphone US Obligations Removed</b></p>	<p>No USP designated to provide public payphones; No net cost claim or impact in respect of sharing of any unfair burden as relevant.</p> <p>Eircom could remove all public payphones</p>	<p>Some payphones may remain, however it is likely that all public payphones in certain geographic areas would be removed.</p> <p>Vulnerable consumers and consumers in remote rural areas no longer have access to service that they currently use.</p>
<p><b>Option 2 (a)</b></p> <p><b>Current Payphone USO Remains</b></p>	<p>USP designated to provide payphones.</p> <p>Additional costs incurred if Eircom re-designated are minimal. Recent price increase will assist to minimise net cost but there is likely to be a net cost.</p> <p>Payphones can be removed subject to Removals Policy, however removal may be difficult even where usage is low.</p> <p>Where expression of interest received, may be further costs involved, should another</p>	<p>Payphones still provided to meet reasonable needs of end users.</p> <p>Consumers aware of payphone locations and can use when necessary.</p> <p>Payphones may be removed from individual locations subject to Removals Policy</p> <p>Obligation may exceed reasonable need and the benefit of some payphones is in doubt due to low usage.</p>

	undertaking be designated as USP	
<p><b>Option 2(b)(i)</b></p> <p><b>Obligation to provide Public Payphones Remains, but in certain circumstances requirement to provide for payment by means of coins is removed</b></p>	<p>USP designated to provide payphones.</p> <p>Costs incurred if Eircom re-designated minimal. Recent price increase expected to mean payphone net cost is minimised.</p> <p>Reduced costs from reduction in maintenance of payphones, due to removal of need to collect coins.</p> <p>Where expression of interest received, may be costs involved, should another undertaking be designated as USP, however undertaking must now provide particular identified payphones</p>	<p>Consumers may not be able to use payphone if they do not have access to other payment means.</p>
<p><b>Option 2(b)(ii)</b></p> <p><b>Obligation to provide Public Payphones Remains but certain payphones identified as necessary</b></p>	<p>USP designated to provide payphones.</p> <p>Costs incurred if Eircom re-designated minimal. Recent price increase expected to mean payphone net cost is minimised.</p> <p>Payphones may be removed but specified payphones may not.</p> <p>Where expression of interest received, may be costs involved, should another undertaking be designated as USP,</p>	<p>Payphones still provided to meet reasonable needs of end users.</p> <p>Some payphones may be removed, as only requirement is to provide payphones in particular areas.</p> <p>Where payphones are removed, consumers needing to make calls in certain locations may now need to find alternative payphone location.</p>

	<p>however undertaking must now provide particular identified payphones</p>	
<p><b>Option 2(b)(iii)</b>  <b>Obligation to provide Public Payphones Remains, Removals Policy is amended</b></p>	<p>USP designated to provide payphones.</p> <p>Costs incurred if Eircom re-designated minimal. Recent price increase expected to mean payphone net cost is minimised.</p> <p>Payphones can be removed subject to less onerous Removals Policy</p> <p>Where expression of interest received, may be costs involved, should another undertaking be designated as USP, however undertaking may now provide lesser amount of payphones</p>	<p>Payphones still provided to meet reasonable needs of end users in terms of usage.</p> <p>Consumers aware of payphone locations and can use when necessary.</p> <p>Payphones may be removed, subject to less onerous Removals Policy. However, the number of calls made from these payphones is extremely low and so consumer impact minimal</p> <p>Where payphones are removed, consumers needing to make calls in certain locations may now need to find alternative payphone location.</p>

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

172 ComReg is of the preliminary view that removing the USO (option 1) in relation to payphones at this time would be premature. Usage data as supplied by Eircom shows that calls continue to be made from payphones. Of those payphones with low usage, Eircom can remove these, should it so choose, in accordance with the Removals Policy.

173 Consumers continue to rely on USO payphones to make calls and in the absence of a USO, ComReg is of that view that these payphones would be removed, leading to detriment to consumers who continue to use these payphones.

174 Payphones are primarily used by consumers to make Freephone calls many of which are to helplines. ComReg is of the view that if the obligation to provide public payphones was removed, a large number of public payphones throughout the State would be removed. This could lead to detriment particularly for vulnerable consumers and those in rural locations.

175 For these reasons, ComReg is of the preliminary view that the USO for payphones should continue. However, ComReg is of the view that the current obligations could be maintained or they could be amended yet still meet the reasonable needs of consumers.

176 Any amendments would protect consumers from a blanket removal of payphones, yet could allow the easier removal of some payphones if considered necessary. Removal of payphones could be determined by usage rather than community representations.

177 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 public payphone obligations in line with these functions.

178 ComReg, is of the view that the designation of a USP for payphones, 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 to provide payphones was removed no such benefits would follow.

<p>Q. 7 Do you agree or disagree with ComReg's draft assessment of the impact of the proposed options? Please set out reasons for your answer.</p>
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## 7. Submitting Comments

179 The consultation period will run from Thursday December 19<sup>th</sup> 2013 to Friday February 7<sup>th</sup> 2014, during which time ComReg welcomes written comments on any of the issues raised in this paper. It is requested that comments be referenced to the relevant question numbers from this document.

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

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

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

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

## Annex: 1 Legal Basis

- 1 Regulation 5 of the European Communities (Electronic Communications Network and Services) (Universal Service and Users' Rights) Regulations 2011 ("USO Regulations") states:

*5. (1) A designated undertaking shall ensure that public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services.*

*(2) The Regulator may, with the consent of the Minister, specify terms and conditions applicable to the provision of public pay telephones or other public voice telephony access points for the purpose of ensuring that the requirements specified in paragraph (1) are met.*

*(3) Where the Regulator determines, after consultation with the Minister and having regard to views expressed to it under a public consultation carried out in accordance with Regulation 26, that there exists a sufficient number of public pay telephones or other public voice telephony access points in any geographic area to satisfy the reasonable needs for such service in that area, taking into account the population density in such geographic area and the state of development of the communications market in that area, the Regulator may decide not to designate an undertaking under Regulation 7 for the purpose of paragraph (1) in relation to that area or a specified part of that area, as the case may be.*

*(4) (a) The Regulator shall conduct a review of any decision it makes under paragraph (3) as and when it considers appropriate.*

*(b) Where the Regulator makes a decision that the number of public pay telephones or other public voice telephony access points is no longer sufficient to serve the reasonable needs for such services in that area, the Regulator may designate an undertaking under Regulation 7 as having an obligation under paragraph (1) in respect of public pay telephones or other public voice telephony access points in that area.*

*(5) An undertaking providing public pay telephones shall ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number "112" and any national emergency call number that may be specified by the Regulator, in each case, free of charge and without the necessity to use coins or cards or any other means of payment.*

*(6) Any undertaking providing public pay telephones shall ensure that the users of those telephones have access to a directory enquiry service referred to in Regulation 4.*

*(7) An undertaking that fails to comply with—  
(a) a requirement of paragraph (1), (5) or (6), or  
(b) a term or condition specified under paragraph (2),  
commits an offence.*

*(8) In proceedings for an offence under paragraph (7) it is a defence to establish that—  
(a) reasonable steps were taken to comply with the relevant requirement, term or condition, or  
(b) it was not possible to comply with the relevant requirement, term or condition.*

# Annex: 2 Removals Policy

## Removal/Relocation of Public Pay Telephones (ComReg 06/14)

The criteria and procedures for the removal/relocation of public pay telephones are based on the following factors:

- Public pay telephones may be rationalised on commercial grounds provided there is no total removal from the location unless the factors relevant to single site locations apply. For this purpose, a location will be regarded as being a single site if there is no additional public pay telephone within a reasonable proximity such as 100 metres or line of sight e.g. either side of a road or on adjacent roads.

### Procedures for single site locations

- Removal will be permissible where there is demonstrable evidence and community agreement that the removal of the public pay telephone is required as it is a focus for anti-social behaviour.
- In the absence of community pressure, where a public pay telephone has been repeatedly vandalised, relocation should be considered unless alternative sites are not available.
- Where the usage of the public pay telephone over the previous 12 months (while in reasonable working order) has been low therefore indicating an absence of “reasonable need” in that location, removal will be permissible but only in the absence of community feedback for retention of the public pay telephone.
- Removal will be permissible where required by a local authority but relocation as above should be considered.
- There should be demonstrative evidence that the public pay telephone was in full working order, i.e. within reasonable repair standards, for 6 months prior to its removal except in cases where it has been repeatedly vandalised.
- Eircom must post a notice on the public pay telephone for a minimum period of 6 weeks to clearly inform users of the intention to remove a public pay telephone and to allow for the making of comments. Notice should be sent to the relevant department of the local authority within whose functional area the public pay telephone is located and also posted on the Eircom website. The notice should contain at a minimum:
  - Details of the proposed public pay telephone to be removed
  - Proposed date of cessation of service/removal of public pay telephone
  - Location of alternative public pay telephone(s)
  - Eircom’s contact details
  - The timeframe within which comments are to be received

Eircom shall take full account of all comments received and reconsider the proposals accordingly.

# **Annex: 3 The provision of telephony services under Universal Service Obligations, ComReg 12/71, D07/12**

## **Public Pay Telephones**

2.6 In accordance with Regulation 7 of the Regulations, Eircom Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 5 of the Regulations.

2.7 The USP shall do the following:

- i. Ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services.
- ii. Ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number “112” and any national emergency call number that may be specified by ComReg, in each case free of charge and without the necessity to use coins or cards or any other means of payment.
- iii. Ensure that users of its public pay telephones have access to a directory enquiry service.
- iv. Where possible, ensure that all public pay telephones provide for a number of payment means; including coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes.
- v. Adhere to the processes for the removal/relocation of public pay telephones as set out in ComReg 06/14 as may be amended by ComReg from time to time.

## Annex: 4 List of Questions

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