



Commission for
Communications Regulation

Proposed Measures in relation to Text Relay Service

Response and Further Consultation

Reference: ComReg 15/53

Version: Final

Date: 12/06/2015

Additional Information

This consultation has been made available in accessible pdf format. Alternative formats of this consultation are available on request. To request alternative formats including word, large print and Braille, please contact access@comreg.ie or phone +353-1-8049600.

All responses to this consultation should be clearly marked: -“Reference: Submission re ComReg 15/53” as indicated above, and sent by post, facsimile, e-mail or on-line at www.comreg.ie (current consultations), to arrive on or before 1pm, 26th June 2015 to:

Ms. Michelle O'Donnell
Commission for Communications Regulation
Irish Life Centre
Abbey Street
Freepost
Dublin 1
Ireland

Ph.: +353-1-8049600 Fax: +353-1-804 9680

Email: retailconsult@comreg.ie

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.

Legal Disclaimer

This consultation document is not a binding legal document and also does not contain legal, commercial, financial, technical or other advice. The Commission for Communications Regulation is not bound by it, nor does it necessarily set out the Commission's final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by it of its functions and powers, and the carrying out by it of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the Commission for Communications Regulation. Inappropriate reliance ought not therefore to be placed on the contents of this document.

Contents

Section	Page
1 Introduction.....	4
2 Responses received to Q8 ComReg 15/21 regarding the extension of measure on Eircom	6
3 Consultation Issue.....	8
4 Regulatory Impact Assessment (“RIA”).....	10
4.1 Role of the RIA.....	10
4.2 Identify the policy issue and identify the objectives;	11
4.3 Identify and describe the regulatory options;.....	12
4.4 Determine the impacts on stakeholders;.....	12
4.5 Determine the impacts on competition;.....	13
4.6 Assess the impacts and choose the best option	13
5 Submitting Comments	14
6 Draft Decision Instrument.....	15

1 Introduction

- 1 The Commission for Communications Regulation (“ComReg”) issued a decision in respect of measures to ensure equivalence in access to, and choice for, disabled end-users of telecommunications services in May 2014¹, which placed obligations on all electronic communications service providers in relation to the provision of services and information for disabled end-users.
- 2 On 7 July 2014, ComReg issued a separate decision² stipulating measures for disabled end-users to be fulfilled by the universal service provider only. Both decisions highlighted that further consultation was necessary in relation to certain measures, including Text Relay Services (“TRS”).
- 3 ComReg Decision D09/14 obliged Eircom, as the universal service provider, to provide the following:-

For users who are hearing and/or speech impaired

- A Text Relay Service (TRS) providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa.
 - A Rebate Scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.
- 4 Further to this, on 5 March 2015, ComReg issued a consultation ComReg 15/21: Electronic Communications: - Proposed Measures in relation to Text Relay Services and Text Rebate Scheme.
 - 5 In Consultation ComReg 15/21, ComReg proposed that:
 - All Undertakings providing a Publicly Available Telephone Service offer to disabled end-users a TRS that provides facilities for the receipt and translation of voice messages into text and the conveyance of that text to a recipient, and vice versa.
 - The TRS facility should be technology neutral.

¹ Decision D04/14, contained in ComReg document 14/52 “Electronic Communications: Measures to ensure equivalence in access and choice for disabled end-users – Response to Consultation and Decision.”

² Decision D09/14, contained in ComReg document 14/70 “Universal Service Obligation: Measures for Disabled End-users – Response to Consultation and Decision”.

- The rebate scheme would not apply to new users as it is intended that the proposed new TRS will be technology neutral, which should allow Undertakings to offer telecommunication bundles and packages which should not disadvantage a TRS end-user, as such the original basis for the rebate scheme will not be as relevant for new users of the proposed TRS.

6 There were seven respondents to the consultation, namely:

- BT Ireland;
- DeafHear;
- Eircom Group;
- Ms. Emma McAuley;
- Magnet Networks Limited;
- Three Ireland (Hutchison) Limited;.
- UPC Communications Ireland Limited.

7 ComReg wishes to thank the above respondents for their submissions. ComReg is now publishing the responses, listed above³.

8 ComReg will consider all the responses received and following this, ComReg intends to issue a Response to Consultation addressing the issues raised.

9 As ComReg D09/14 is due to expire on 30 June 2015, this short consultation is proposing to continue the obligations in respect of TRS on eircom for a further period of up to 12 months pending completion of the consultation process and other relevant steps in respect of ComReg 15/21. This question was already posed in ComReg 15/21 and thus this consultation with draft Decision Instrument is for a short period.

10 Regulation 6 of the Regulations, provides that ComReg shall, with the consent of the Minister, specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can enjoy access to and affordability of certain services.

11 Respondents are asked to submit any further views to this specific issue by 26 June 2015.

³ ComReg documents No's 15/21s and 15/21a (Accessible), available on ComReg.ie.

2 Responses received to Q8 ComReg 15/21 regarding the extension of measure on Eircom

- 1 ComReg consultation 15/21 asked the following question:
- 2 *Q.8 Do you agree with ComReg’s preliminary view that the obligation on Eircom, as the USP, to continue to provide a TRS should be extended pending introduction by all PATS Undertakings of the proposed TRS, if decided? Please provide detailed evidence and reasons to support your view.*

Respondents’ Views

- 3 BT noted that *“this is clearly required to maintain the service in the interim. There is no alternative supply readily available and we are not aware of any voluntary binding assurances to continue from Eircom”*.
- 4 DeafHear noted its *“.... agreement with ComReg’s preliminary view that a lead-in period of 6 months from the date of publication of any decision is reasonable, provided that such decision is issued prior to the expiration of the present obligation on Eircom which extends to 30th June 2015. DeafHear understands that this would mean that an effective date for the introduction of any new Text Relay Service would be 1st January 2016”*.
- 5 Eircom advised that it *“....does not disagree with the proposed extension provided that Eircom is allowed to recover the cost of providing the service in an equitable manner”*.
- 6 Magnet responded that *“Magnet believes that Eircom should continue with their TRS obligation as outlined in the USP”*.
- 7 Three stated that it *“... agrees that Eircom as the USP should be obligated to continue to provide the TRS but also Three believes that ComReg has a third option (“Option 3”) to consider which it has not addressed in the consultation document which is that Eircom as the Universal Service Provider (“USP”) continue to provide the TRS but that they update and extend the current service so that it is fit for purpose for its users across all platforms. This would therefore negate the need to mandate this unjustified requirement on all service providers.”*

- 8 UPC did not directly answer this question, but referred to a previous answer provided that stated the following: “... *UPC Ireland is of the view that the best means of facilitating TRS generally is that it remain a Universal Service Obligation (USO) for the existing Universal Service Provider (USP). This includes continuation of the existing rebate scheme*”

3 Consultation Issue

- 45 As ComReg has not yet made a decision in respect of the future of TRS, following on from its consultation on this matter(ComReg 15/21), it is necessary for ComReg to consider if the current TRS service should continue to be provided pending completion of the consultation process.
- 46 As set out in ComReg 15/21, the current TRS service and rebate scheme has low usage⁴, however, ComReg is of the preliminary view that, at least, the current TRS users should be able to continue to avail of the existing service at this time.

ComReg's Preliminary View

- 47 In light of this, having considered the responses set out in Section 2 and in light of the fact that the net cost claimed by Eircom in relation to the universal service TRS for 2013/2014 is less than €50,000,⁵ ComReg's preliminary view is that Eircom should be designated to continue to provide the current TRS services in accordance with Regulations 6 and 7 of the Universal Service Regulations⁶, as follows:-

For users who are hearing and/or speech impaired

For users who are hearing and/or speech impaired:

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

⁴ Measures for disabled end-user, take up and usage statistics - <http://www.comreg.ie/fileupload/publications/ComReg1522.pdf>

⁵ Claimed by Eircom in its 2013-2014 funding application. This application has not yet been assessed by ComReg.

⁶ S.I. No. 337 of 2011, the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011.

- 48 Before making a decision in respect of the future provision of TRS, ComReg is considering the responses to ComReg15/21. ComReg needs to allow time for this process to complete and for any future measures in respect of TRS, if decided, to be implemented. ComReg is of the preliminary view that it should allow for up to 12 months for this, however, if the process is completed sooner and the US obligation on Eircom is no longer appropriate, then ComReg could remove the obligation on Eircom proposed in this paper in advance of the 12 months.
- 49 Therefore, ComReg is of the preliminary view that in order to maintain the current TRS service pending a decision on the future of TRS and any implementation period, if relevant, Eircom should be designated to continue to provide the current TRS obligations until up to 30 June 2016.

**Q. 1 Are there any further issues, (in addition to responses already received as set out in Section 2) in respect of ComReg’s preliminary view that it is appropriate to extend the current US TRS obligations on Eircom for a period of up to 12 months?
Please provide detailed reasons and supporting evidence.**

4 Regulatory Impact Assessment (“RIA”)

4.1 Role of the RIA

50 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether 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 impact of regulatory options on different stakeholders.

51 The Commission’s approach to RIA is set out in the Guidelines published in August 2007, Commission Document No. 07/56 and 07/56a. In conducting this RIA, the Commission takes account of the RIA Guidelines,⁷ adopted under the Government’s Better Regulation programme.

52 Section 13 (1) of the Communications Regulation Act 2002, as amended, requires the Commission to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings the Commission must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government’s Better Regulation programme. In conducting the RIA, the Commission also has regard to the fact that regulation by way of issuing decisions e.g. imposing obligations or specifying requirements can be quite different to regulation that arises by the enactment of primary or secondary legislation.

53 In conducting RIA, the Commission takes into account the six principles of Better Regulation. These are:

1. Necessity.
2. Effectiveness.
3. Proportionality.
4. Transparency.

⁷http://www.taoiseach.gov.ie/eng/Publications/Publications_Archive/Publications_2011/?pageNumber=2

5. Accountability.

6. Consistency.

54 To ensure that a RIA is proportionate and not overly burdensome, a common sense approach is taken. As decisions are likely to vary in terms of their impact, and if after initial investigation a decision appears to have relatively low impact, the Commission would expect to carry out a less exhaustive RIA. In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate, or, in exceptional cases, where robust, detailed, and independently verifiable data is available. This approach will be adopted when necessary.

55 ComReg's RIA Guidelines set out, amongst other things, the circumstances in which ComReg considers that a RIA might be appropriate. In summary, ComReg will generally conduct a RIA in any process that might result in the imposition of a regulatory obligation (or the amendment of an existing regulatory obligation to a significant degree), or which might otherwise significantly impact on any relevant market or on any stakeholders or consumers

56 As set out in ComReg's RIA Guidelines, there are five steps to this RIA. These steps are:

Step 1: Identify the policy issue and identify the objectives;

Step 2: Identify and describe the regulatory options;

Step 3: Determine the impacts on stakeholders;

Step 4: Determine the impacts on competition; and

Step 5: Assess the impacts and choose the best option.

4.2 Identify the policy issue and identify the objectives;

57 The Text Relay measures to be delivered by the USP, Eircom, contained in D09/14, expire at the end of June 2015.

58 This consultation proposes to continue the Text Relay measures currently delivered by the USP whilst ComReg is considering the responses to ComReg 15/21. The proposal of up to 12 months allows ComReg sufficient time to complete the process and for any future measures in respect of TRS, if decided, to be implemented.

4.3 Identify and describe the regulatory options;

59 There are currently two options open to ComReg at this time.

60 Option 1: Not to require Eircom, pursuant to Regulations 6 and 7 of the Regulations, to continue to provide a TRS service and Text Rebate scheme to disabled end-users.

61 Option 2: To specify that Eircom should be required, pursuant to Regulations 6 and 7 of the Regulations, to continue to provide TRS measures for disabled end-users from 1 July 2015 for up to 12 months.

4.4 Determine the impacts on stakeholders;

62 Should ComReg not require Eircom to continue to provide these measures, it could create detriment for those disabled end-users that rely on the Text Relay Service and the Text Rebate scheme for their fixed service communications. Details of statistics regarding usage, as per Table 1 below, indicate that there are disabled end-users using these facilities.

Text Relay Service	TRS Facilities	Details	2013	2014
For users that are hearing and / or speech impaired	National relay service (Minicom) – TRS Service	Voice to text calls per year	339	189
			average call length in seconds - 55	average call length in seconds - 56
		Text to voice calls year	1,713	1,262
			average call length in seconds - 298	average call length in seconds - 408
	Rebate Scheme	NAD ⁸ Registered Customers	75	58
		NAD Rebate paid	€3,510.61	€2,976.05

Table 1: Take Up and Usage of TRS⁹

⁸ NAD (National Association of the Deaf) rebate scheme. This provides text telephone users (minicom users) with a rebate of up to 70% on text phone call charges per bill.

63 In respect of any impact on Eircom of the proposals, ComReg notes that the net cost claimed by Eircom in relation to TRS for 2013-2014 was less than €50,000.

64 Publishing the consultation along with responses already received would provide all stakeholders with the opportunity to submit additional views in relation to the proposals to require Eircom to continue to offer the service for up to one year.

4.5 Determine the impacts on competition;

65 ComReg is of the preliminary view that extending the obligation on Eircom to continue to provide the current TRS will have no negative impact on competition, as currently there are low number of users of the service. Additionally, ComReg is proposing the extension of the obligation in order to give comprehensive consideration to the responses of ComReg consultation 15/21, which may lead to the enhancing competition by facilitating choice and switching by Deaf and Hard of Hearing end-user, if all PATs providers are obliged to provide TRS in the future.

66 Finally, in light of the net cost claimed by Eircom relating to TRS for 2013-2014 was less than €50,000, ComReg is of the preliminary view that there is no impact, of designating Eircom, on other service providers including in terms of funding of any net cost, as relevant.

4.6 Assess the impacts and choose the best option

67 In light of the possible issues arising if there was no TRS provider at this time, ComReg is of the preliminary view that it is most appropriate that Eircom continues to be designated to provide the TRS measures for a period of up to 12 months (option 2).

⁹ USO Measures for disabled end-users; Take up and usage statistics. ComReg Doc 15/22
<http://www.comreg.ie/fileupload/publications/ComReg1522.pdf>

5 Submitting Comments

- 68 The consultation period will run from 11 June 2015 to 26 June 2015 during which ComReg welcomes written comments on the question raised in this paper.
- 69 The consultation process will result in the publication of a response to consultation paper containing measures in relation to Text Relay Services to ensure equivalence in access and choice for disabled end-users.
- 70 In order to promote further openness and transparency, ComReg will publish all respondents' submissions to this consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information.¹⁰ 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.
- 71 ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful.
- 72 As it is ComReg's policy to make all responses available on its web-site and for inspection generally, respondents to consultations are requested to clearly identify confidential material and place confidential material in a separate annex to their response.
- 73 Such material will be subject to the provisions of ComReg's guidelines on the treatment of confidential information.¹¹

¹⁰ ComReg 05/24

¹¹ ComReg 05/24

6 Draft Decision Instrument

STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

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;
- 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 Regulations 6 and 8 of the Regulations;
- iv. Having taken account of the representations of interested parties submitted in response to ComReg document No. 15/21 and 15/XX.
- v. Having regard to the analysis and reasoning set out in ComReg document [-].

2. DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Specific Measures for Disabled Users

In accordance with Regulation 7 of the Regulations, Eircom Limited and its subsidiaries, and any undertaking which it owns or controls and undertaking which owns or controls it and its successors and assigns (“Eircom”) is hereby designated as the USP for the purpose of complying with the following obligations, and as provided for by Regulation 6 of the Regulations, the USP shall therefore provide the following specific services:

For users who are hearing and/or speech impaired:

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

3. GEOGRAPHICALLY AVERAGED PRICING

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

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.

5. EFFECTIVE DATE AND DURATION

This Decision and Decision Instrument is effective from 1 July 2015 until 30 June 2016.

Jeremy Godfrey
CHAIRPERSON
THE COMMISSION FOR COMMUNICATIONS REGULATION
THE [-] DAY OF [-] 2015

Annex: 1 Legal Basis

Universal Service Requirements

A 1.1 Current US obligations in relation to text relay services are set out in Decision D09/14¹², which applies from 7 July 2014 until 30 June 2015.

A 1.2 Regulation 7 of the Regulations, provides that ComReg may designate an undertaking, for such period as may be specified, to comply with a universal service obligation.

A 1.3 Regulation 6 of the Regulations, provides that ComReg shall, with the consent of the Minister, specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can enjoy access to and affordability of certain services.

A 1.4 Regulation 8 of the Regulations provides that ComReg may, with the consent of the Minister, require an undertaking designated under Regulation 7 to apply common tariffs including geographical averaging throughout the State.

¹² Contained in ComReg document 14/70 “Universal Service Obligation – Measures for Disabled End-Users – Response to Consultation and Decision”.