



## Response to Consultation and Draft Direction

### Response to Consultation addressing the impact of Mobile Number Portability on user awareness of calls to other networks.

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**Response to Consultation addressing the impact of Mobile Number  
Portability on user awareness of calls to other networks.**

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## **Response to Consultation addressing the impact of Mobile Number Portability on user awareness of calls to other networks.**

### **1 Foreword**

The introduction of Mobile Number Portability (MNP) in July 2003 has delivered a positive outcome for the Irish mobile consumer in terms of end users rights and increased competition in the mobile market. Since the launch of MNP over 48,000 mobile customers have changed networks and kept their original number. The facility to port their number between networks means that consumers and business users alike have avoided the cost and inconvenience of a number change. These costs derive from the need to advise friends, family and business contacts of a number change and for business users, there are additional potential cost savings by avoiding the need to change numbers on stationery, signage and advertising.

The launch of MNP has also enabled a period of increased competition and growth in the mobile market which has seen the third entrant to the mobile market increase its market share in the last quarter. These positive benefits reflect the fact that the MNP process that has been developed in Ireland is one of the world's most efficient, with the majority of 'ports' for single line users being completed in under an hour.

The introduction of MNP does mean that there is a risk of reduced tariff transparency for consumers, where the mobile prefix of the number dialled is no longer the definitive indicator of the network that a customer is calling. Given the current tariff differentials between on-net and off-net tariffs charged by mobile operators, it is vital that consumers are provided with clear tariff information in a meaningful format. The core objectives underlying the decisions in this paper are the continued promotion of competition through MNP and the protection of consumers. The measures proposed in this document are designed to ensure, in a balanced and proportionate manner, that consumers are protected in an increasingly competitive environment. ComReg will continue to work proactively with industry and consumer groups to achieve that end.

**John Doherty,  
Chairperson, Commission for Communications Regulation**

## Response to Consultation addressing the impact of Mobile Number Portability on user awareness of calls to other networks.

### 2 Introduction

The introduction of Mobile Number Portability (MNP) stimulates competition and brings significant consumer benefits by removing a major barrier to changing from one operator to another. The ability to change mobile networks while retaining ones mobile number, including the operator prefix, does however mean that the 08X prefix no longer automatically denotes the network to which a customer belongs. This can reduce tariff transparency, particularly in the context of mobile-to-mobile calls, since the mobile caller will no longer be sure whether a mobile number being called is *on-net* or *off-net* – situations which are currently charged at significantly different rates. As the volume of ports increases over time this issue will become more significant for customers who can no longer identify when they are making a potentially more expensive call.

ComReg is required to address the issue of tariff transparency in the context of number portability and to ensure that tariff transparency is facilitated through appropriate measures. This is highlighted in recital 41 of the Universal Services Directive (2002/22/EC)<sup>1</sup>. While the requirement to address tariff transparency in the context of MNP is not disputed by the three mobile operators O2, Vodafone or Meteor - ComReg is concerned that developments to date have not fully met the need for the timely and uniform implementation of a user friendly facility. All three mobile operators have been pro-active in their development of some form of tariff transparency measure, but these have been implemented with varying degrees of success in the market. One operator has provided a free SMS information service to consumers which allows them to query if a number is *on-net*, but not in real time. Another operator provided a real time voice announcement which became the subject of much consumer dissatisfaction and was subsequently withdrawn. The third operator has implemented a single tone alert for customers who are calling *off-net*. While each of these approaches has some merit in its own right, ComReg has identified the need for a harmonised consumer-centric solution to be implemented across all mobile networks.

In conducting this consultation process ComReg has sought opinion on the relative merits of various approaches to the tariff transparency issue. Several options have been considered, including:-

- Real time tone alert or announcement
- Tariff constraints
- Information services
- The Zero option

The responses to the consultation have informed the decisions taken in this document.

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<sup>1</sup> Full Legal Basis can be found in section 6

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**List of Respondents:**

Ten organisations and individuals responded in writing to the consultation document, as listed below:

eircom	Fixed network operator
Daphne Tearse	Consumer
David Havelin	Consumer
Energis	Fixed network operator
Meteor	Mobile network operator
Michael Johnston	Consumer
O2	Mobile network operator
Simon Nugent	Consumer
Vodafone	Mobile network operator
Zamano	Service Provider

The Commission wishes to thank everyone who contributed to the consultation. With the exception of the responses marked as confidential, their written comments are available for inspection at ComReg's offices in Dublin.

### **3 Summary of Responses to Consultation**

#### **3.1 Options to provide tariff transparency**

##### *3.1.1 Summary of the Consultation Issues*

In the consultation paper ComReg presented a variety of options for operators to provide enhanced tariff transparency services to consumers. The first option, which was advocated by ComReg, proposed a tone alert or voice announcement at the call set-up stage when the number dialled is an *off-net* number. This potentially gives the caller the option to abandon the call at no charge. This aural signal will be generated and inserted by the originating mobile network and receipt by the customer will not be dependent on the functionality of the originating customer's handset.

**Q. 1. To what extent do you consider that the provision of a tone alert/announcement at the call set-up stage for certain *off-net* calls will improve tariff transparency?**

##### *3.1.2 Views of Respondents on Question 1*

The majority of the respondents supported the view that the provision of a tone alert/announcement at the call set-up stage for certain *off-net* calls will improve tariff transparency. Three out of the four consumers who responded supported the proposal although one of these respondents also expressed disappointment that clarity had not been achieved on this issue earlier.

Two of the three mobile operators who responded to the consultation supported the provision of a “real time” alert at the call set up stage with one operator stating that such measures would “greatly” improve tariff transparency for consumers. However one of these operators only saw merit in a tone alert and dismissed the voice announcement as an inappropriate tool. They stated that the tone alert would not be intrusive or confusing and provided immediate information prior to connection. They also stated that the tone solution, which is found in other European markets, meets the consumers need for a clear alert that will not result in missed or terminated calls. It was noted that the voice announcement had been available in the Irish market and that there had been numerous customer complaints and calls for its removal, and also that it had accounted for the majority of all complaints received by this operator in relation to MNP in the first three months post launch.

However one mobile operator stated that it did not believe that the introduction of a tone alert / announcement would improve tariff transparency. They maintained that the issue was one of a perceived disparity between *on-net* and *off-net* tariffing and reported that due to the structure of their tariff models, this was not an issue for customers on their network. They noted that their customers had been provided with an information text service since launch and to date they had not received any complaints regarding a lack of tariff transparency. They also cited customer research data which appeared to support the claim that lack of tariff transparency was not a

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major issue for customers on their network. This view was also supported by one of the consumer respondents who was strongly opposed to the provision of a tone alert / announcement and argued that the proposal would only serve to undermine the benefits of MNP and prolong the artificial and arbitrary barriers between on and *off-net* calls.

In responding to the consultation respondents were asked to focus on the specific options outlined in the consultation questions, while the consultation process nevertheless affords the respondents the opportunity to raise issues which they feel have a related context. In its response, one fixed operator also noted that there was a parallel issue of tariff transparency in relation to the termination rates and access charges to 1800/1850 numbers which had resulted from MNP. While this issue is not within the scope of this consultation it is being addressed via a separate industry work stream.

Another fixed line respondent stated that they were fully supportive of MNP and the significant user and competitive benefits it offered, such as:-

- reducing switching costs;
- lowering customer acquisition costs for mobile operators;
- lower costs and improved services for customers;
- increased competition;

However they expressed strong concerns that distortions may exist in the mobile sector and argued that immediate regulatory intervention was required to correct this. The respondent stated that the implementation of regulatory controls and proportionate remedies in wholesale markets for mobile services could achieve the objective of ensuring effective competition in the mobile market. In the absence of satisfactory industry-initiated solutions, the respondent supported regulatory intervention to ensure the provision of a tone/announcement alert at the call set-up stage for certain *off-net* calls as an appropriate solution to provide/improve tariff transparency for mobile customers but only in the context of mobile-to-mobile calls.

### **3.1.3 Commission's Position**

ComReg is convinced that there is an overall consensus that the provision of a real time alert will improve tariff transparency for end users having considered the views of the respondents to the consultation and being cognisant of the consumer feedback to the office since the launch of MNP.

There is a clear need for a measure which will eliminate the risk that consumers may be faced with higher call charges than they anticipate when they initiate a mobile call. Any solution that is employed should at the very least inform the customer when the number being called has been ported and is no longer *on-net*. However ComReg is mindful that the provision of information alone does not go far enough to protect the rights of the consumer. The consumer must be provided with this information in a manner which will allow them to abandon the call without consequence if they wish to do so. Therefore the information must be given in real time during the call set-up



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stage. It is also very important that the message to the consumer on tariff transparency is harmonised across the industry and that a uniform solution is adopted which avoids to customer confusion when switching networks. ComReg is pleased that the industry is united in its support of a harmonised approach.

While the *on-net* and *off-net* tariff differentials may reduce or be eliminated over time, given technological, market and pricing developments, it is important that consumers are currently facilitated to make an informed choice in their mobile calls. As part of the implementation of the new legislative regime in the electronic communications sector, ComReg is continuing its market analysis of competition in the mobile sector. Operators, who are found to have significant market power, will be subject to appropriate obligations and remedies to address any identified market issue. These may include measures aimed at achieving greater transparency of cost structures, such as accounting separation and measures to control the level of prices.

Since the launch of MNP in July 2003, there has been a great deal of interest in this issue, directly from consumers and also reported in the media. As the volume of porting rises the issue affects more and more customers, as with each ported customer there is a group of associated customers who will potentially make unexpected *off-net* calls to that ported number. Therefore it is essential that industry adopts measures as soon as is practicable to address this consumer need. However this urgency must be balanced with and guided by the need to adopt a uniform solution that meets the core requirement in a convenient, discrete and user friendly format.

Finally ComReg is aware that the real success of this measure, as with all consumer initiatives, will be dependent on it being supported by an adequate customer awareness programme to facilitate uptake and to counter customer confusion. ComReg considers that this would be best achieved through operator generated initiatives e.g. for post-pay customers through bill inserts and website information or for pre-pay through a website, SMS notification, quarterly / monthly customer publication or press adverts.

<p><b>Q. 2. In the event of tone alert/announcement being introduced, which <i>off-net</i> destination traffic cases should be identified?</b></p>
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### *3.1.4 Views of Respondents on Question 2*

Two of the mobile operators who responded to the consultation supported the proposal that the traffic cases identified in Option 1 of the consultation for “unexpected” *off-net* calls were the appropriate traffic cases for a uniform tariff transparency solution. This means that only calls to ported numbers would be subject to the alert. However, one of the fixed network operators and both of the consumer respondents to this question believed that the tone alert / announcement should apply to all *off-net* national mobile calls. One of the mobile operators, which opposed to the provision of an alert, reiterated its position that the tone alert/announcement was not justified or required improved tariff transparency.

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### *3.1.5 Commission's Position*

ComReg, having reviewed the responses to the consultation, now considers that the optimum solution will be achieved through the provision of an alert which is applied to all national mobile-to-mobile *off-net* calls, Option 2 in the consultation. While there is some merit in the provision of information for “unexpected” *off-net* calls i.e. numbers that have ported *off-net*, this does not assist consumers in the greater context of managing the tariff differentials between *on-net* and *off-net* calls. In addition, the application of the tone to just ported *off-net* numbers would require the customer to make the association between the prefix of number dialled, 08X, and the presence or absence of the tone in a particular calling situation. The presence of the tone in all *off net* calling scenarios provides an unambiguous message to the consumer. Customers, for whom tariff transparency is an issue, will benefit more from the availability of a mechanism to identify all high-cost *off-net* mobile calls. This measure must also be viewed in the context of making the facility optional, so that those who require the service can gain most from it. This point is discussed further under Question 5. The process of porting should be as seamless as possible for the consumer and ComReg is conscious that customers who port their number should not be distinguished from those who change network to a new number.

**Q. 3. In the event of tone alert/announcement identification being introduced, which method, i.e., single tone, tone bursts or recorded message, is the best solution from the mobile phone user's perspective?**

### *3.1.6 Views of Respondents on Question 3*

The majority of the respondents were supportive of the view that a tone alert was the optimal solution although there was a range of views on how the tone should be implemented i.e. a single tone or tone bursts.

One of the mobile operators in favour of the tone supported the introduction of a single tone alert as the optimal approach. Another of the mobile operators stated that while the optimum is a tone solution they were not yet in a position to comment on whether this should be implemented as a single tone or a burst of tones. They stated that further research would have to be carried out to determine what the optimum tone/tone bursts should be but that it must be an industry initiative where a particular tone becomes synonymous with a call going *off-net*. Another mobile operator, who was opposed to the need for an industry-agreed alert, maintained that research from their customer base had shown that customers wanted their calls to be connected directly with no tone or announcement.

One of the fixed network operators considered that the tone bursts might be the best solution, noting the importance of ensuring that any tone signal should comply with International Telecommunications Union (ITU) and European Telecommunications Standards Institute (ETSI) recommendations and that it should be transparent to auto-dialling equipment. They also pointed to the benefits of a harmonised solution and of providing a common experience for mobile phone users who roam in other countries. They stated that a recorded message/announcement would not be an attractive solution

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from the mobile phone user's perspective as a message would necessarily take several seconds, thus imposing a delay in the communications of the user. They also noted the additional implementation challenge of defining an announcement that was non-discriminatory and in compliance with statutory data protection requirements.

The consumer responses were varied on the nature of the alert. One consumer favoured a short tone alert and stated that they had not found the voice announcement useful. Another respondent stated that a tone burst would be the preferred option and also expressed extreme dissatisfaction with the announcement. The respondent, a business user, stated that while the announcement had been implemented by one network operator, his customers had been given the wrong impression by the announcement and assumed that his phone had been disconnected. Only one of the respondents, a consumer, supported the introduction of a voice announcement as the best solution for improved tariff transparency.

### *3.1.7 Commission's Position*

ComReg is convinced that the introduction of a tone alert is the optimal solution for tariff transparency. Many of the respondents referred to their negative experiences with the voice announcement which was introduced by one operator following launch. This was a pro-active measure at the time that went some way to meeting the needs of customers in relation to a real time solution to tariff transparency. However experience has shown that along with some positive reaction there was a more substantial negative response which resulted in the removal of the voice announcement. This reinforces the idea that those who are concerned about tariff transparency are positively affected by measures to improve it, while other consumers do not want to be inconvenienced.

Taking the tone alert as the optimum solution, ComReg has considered the further discussion and points raised in relation to the nature of the tone i.e. a single or tone bursts. There are various technical arguments on the pros and cons of one configuration or another and therefore ComReg considers that the final specification for the tonal signal i.e. a single tone or tone bursts should be defined by the mobile operators and implemented uniformly across all networks.

**Q. 4. Do you agree with ComReg's viewpoint that this solution, if adopted, should be utilised to identify *off-net*, rather than *on-net* calls and that this should be standardised for all operators?**

### *3.1.8 Views of Respondents on Question 4*

The majority of the respondents were in favour of the proposal that if a tone alert is introduced then it should apply to *off-net* rather than *on-net* calls. All three mobile operators were supportive of the need for consistency across the industry in the

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approach to tariff transparency. Similarly the majority of consumer respondents were also in favour of the proposal for *off-net* calls.

### *3.1.9 Commission's Position*

ComReg is keenly aware of the need for a harmonised approach to tariff transparency which is uniform across all networks for all mobile subscribers. The key benefit of a real time alert is in its application to calls which may incur a higher charge. While the solution, which is based on an *on-net* tone may have some merit on grounds of technical implementation, ComReg considers that this would be an unusual approach and potentially confusing for customers and that the solution should be implemented for *off-net* calls.

**Q. 5. Should the facility be optional for users and if so, should it be offered on an *opt-in* or *opt-out* basis?**

### *3.1.10 Views of Respondents on Question 5*

One of the mobile operators supported the proposal that any facility should be provided on an *opt-in* basis to ensure that operators were not using the tone for winback purposes. They also noted that their customer research had shown that where the network originating the call implements a tone, the presence of a tone could be perceived as an indication of a problem with the called network. One of the fixed network operators also supported the proposal for the facility to be optional and believed that it should be offered on an *opt-in* basis. They argued that consumers, who are price sensitive and desire greater tariff transparency, will activate the facility once it is available, others e.g. business users who are not minded to do so, would be inconvenienced and need not need take any action. Three of the four consumer respondents fully supported the requirement for the facility to be optional, but stated that their preference was for an *opt-out* facility.

Two of the mobile operators who responded did not support any proposal for the facility to be optional. One operator stated that this was a disproportionate and unreasonable requirement and would be deemed inappropriate to the obligations outlined within the USO Directive in recital 41.

The third mobile respondent stated that given the industry's existing expenditure on MNP, it would be a disproportionate burden to require this further expense and also claimed that an *opt-in* or *opt-out* solution would increase call set up time i.e. increase the likelihood of dead air time before the call is connected. This respondent stated that preliminary investigations had indicated that the implementation of the optional solution would require a redesign of MNP systems functionality.

### *3.1.11 Commission's Position*

ComReg has considered the views of the respondents on this issue and has looked to best practice implementations of tariff transparency solutions elsewhere. The essential facility under discussion is the provision of pricing information at the point of consumption. The provision of this information comes at a cost, not just to operators

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providing the facility but to users in the form of an intrusion. The value of the pricing information to consumers will vary widely between individuals. For users who are highly price sensitive the information will be highly valued and the audible intrusion welcomed rather than seen as a nuisance. Conversely other users who are far less price sensitive will put little if any value on the tariff information and resent the presentation of a tone if they cannot get rid of it.

As one operator pointed out in their response, consumers who are price sensitive and desire greater tariff transparency, will, in an opt-in scenario, want to activate the facility once available whilst others are not inconvenienced and need not take any action. It seems clear that to balance the needs of different consumers those consumers need to be offered the ability to control the facility being provided. For operators to impose a tone on those who do not want one greatly diminishes from the good will created by giving the information to those that value it. For these reasons ComReg considers it is essential that operators should implement a tariff transparency facility on an optional basis which consumers can choose to activate or deactivate at will.

The second issue is whether the facility, being optional for the consumer, should be provided on a default *opt-in* or *opt-out* basis. As already stated ComReg considers that the real benefit from tariff transparency is to consumers who are price sensitive and it seems reasonable that those who stand to benefit should be those who undertake the positive choice to avail of the facility. Therefore the implementation of a tariff transparency solution with default *opt-in* means that consumers who do not require the service will not be inconvenienced by having to initiate steps to remove the tone. This version of provision of the option is also congruent with the Commission's intention that distinctions should be minimised between changing operator while porting ones number and changing operator to a new number. Thus the default option should involve no change to the making of calls while the possibility of availing of real time tariff information can be chosen by those who want to do so.

ComReg has noted the operators' submissions with respect to the implementation of the *opt-in* facility and is mindful of the operators current estimated time and cost considerations associated with this development. Therefore ComReg will define the timescales for implementation to allow for a more flexible approach which will include the introduction of this facility as part of the normal network development cycles. However, given this extended implementation deadline, it is imperative that in the short term all operators provide ComReg with a detailed implementation plan containing proposals on interim measures. Interim proposals may include the extension of existing tariff transparency arrangements.

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Questions for mobile network operators: -

**Q. 6. As a mobile network operator, what would be your preferred specification for a solution using tone alert and what would be the scope of effort and timescales for implementation? What facility would you provide to subscribers to disable the tone indication?**

### *3.1.12 Views of Respondents on Question 6*

One mobile operator stated that at present they do not have the technical capability to support a tone solution at present. Another operator stated that their preferred tariff transparency mechanism is the single tone alert which they noted had been implemented in their network for calls to ported numbers since late September 2003. The third operator stated that they believed that an industry agreed tone should be chosen but that further research would have to be carried out to identify the optimum tone solution. This operator proposed that the implementation of the tone should be quite straightforward and should take approximately two weeks but noted that this would not be on an *opt-in/opt-out* solution and requested that ComReg should present further technical details to industry on the Belgian solution for industry assessment.

### *3.1.13 Commission's Position*

ComReg has reviewed the responses to the consultation and is conscious of the scope of work required. However ComReg has presented the benefits of the tone alert to the consumer and the added advantages of making that facility optional. As discussed, ComReg does not consider this requirement to be a disproportionate measure and believes that the tariff transparency information must be provided in a meaningful format to those customers that require it. Accordingly, the requirements for a real time tone alert are set out in the Draft Directions outlined below.

#### **Draft Direction No. 1**

**Mobile network operators will introduce a permanent technical solution to address the tariff transparency issue caused by the introduction of Mobile Number Portability. This solution should be in place on or before 31<sup>st</sup> December 2004.**

**The minimum tariff transparency measure should:-**

- inform the customer during call set-up that the number being called is an *off-net* mobile call ;**
- utilise a distinctive tone or tones for this purpose, with the specification for the tone or tones to be agreed by operators and implemented uniformly by all networks;**
- allow the customer to abandon the call with out charge;**
- have no discernable effect on the call set-up time;**

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- allow the customer to activate or deactivate the facility;
- be offered on an *opt-in* basis to customers;
- be supported by an adequate customer awareness programme e.g. bill inserts, website info, SMS notifications, press adverts.

**Draft Direction No.2**

**Mobile network operators are required to submit a detailed implementation plan on the solution to address the tariff transparency issue caused by the introduction of Mobile Number Portability on or before 31<sup>st</sup> January 2004. This plan should be submitted to ComReg with proposals on interim measures to be adopted, such as the extension of existing facilities.**

**Q. 7. As a mobile network operator, what would be your preferred specification for an announcement based solution and what would be the scope of effort and timescales for implementation? What facility would you provide to subscribers to disable the message function?**

*3.1.14 Views of Respondents on Question 7*

All three mobile operators were unanimous in the opinion that a voice announcement was not the optimum solution to improve tariff transparency. Two of the operators argued that the number of complaints levelled at the voice announcement solution, which was introduced by one operator for a time, clearly indicates that it is not an appropriate tool for the Irish market. One operator stated that while in their experience, the voice announcement indeed had merit as a tariff transparency tool, they were mindful of the negative feedback that had been received and their preference was to introduce a tone solution.

*3.1.15 Commission's Position*

ComReg has reviewed the responses to the consultation and is conscious of the negative feedback that was generated by the implementation of a voice announcement. Therefore ComReg does not consider that a voice announcement is an appropriate tool to improve tariff transparency.



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**Q. 8. As a mobile network operator, what would be your preferred solution for indicating to callers that the number address for a SMS message is *off-net*?**

### *3.1.16 Views of Respondents on Question 8*

Two of the three mobile operators indicated that it would not be technically feasible to implement a real time alert for customers who were about to send an SMS *off-net*. One operator said that a tariff transparency mechanism for SMS was neither necessary nor manageable as there is currently no difference between *on-net* and *off-net* SMS tariffs for the majority of the customer base. As such, they stated that the development of a mechanism to differentiate between *on-net* and *off-net* SMS is irrelevant and there is no technical way in which this can be done on an immediate alert basis for their customers. However one of the mobile operators supported the facility and proposed their preferred option as a text based information service which would allow customers to query a short code for free to see if a number was *off-net* or *off-net*.

### *3.1.17 Commission's Position*

ComReg has considered the responses from industry which have indicated that there is no technical solution available at present to implement a real time solution. ComReg considers that SMS does not present the same risk for consumers as the issue of tariff differentials is not so pronounced for SMS traffic when compared to voice calls. Therefore while there is no immediate requirement to implement a real time solution for *off-net* SMS messages, ComReg considers that the availability of a generic service through which customers could identify if a number was *on-net* or *off-net* may be of benefit to consumers.

## **3.2 Tariff Constraints**

### *3.2.1 Summary of the Consultation Issues*

An alternative commercial solution was proposed in the consultation paper which was based on the approach that all calls to mobile numbers with the same network prefix as that of the caller's number are charged at the *on-net* tariff to the caller, including those that have been ported to other networks. It was noted that that ComReg did not consider this solution to be a viable long term solution.

**Q. 9. Do you consider that there is merit in adopting a solution based on tariff constraints?**

### *3.2.2 Views of Respondents on Question 9*

None of the respondents from industry saw any merit in adopting a solution which was based on tariff constraints. One consumer stated that they did not support the current situation of different prices for calls to different networks.



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One mobile operator suggested that this question assumed that there was a distortion in the market place with regard to pricing. They argued that retail prices should be left to market forces as there was no requirement for regulatory intervention on this matter. Another mobile operator stated that this approach on tariff constraints would guarantee that operators increasingly lose revenues over time and stated that it was not a viable option to address tariff transparency issues on either a short or a long-term basis, recognising the threat presented for increased arbitrage. The third mobile operator stated that they did not support this initiative and argued that there was no legal basis, which would entitle ComReg to direct operators to implement such a tariff regime in the context of MNP.

One of the fixed network operators also stated that they did not consider there to be any merit in adopting a solution based on a tariff constraints. They proposed that such a solution would necessarily only be temporary and could risk distortions in the pricing of mobile-to-mobile and fixed-to-mobile calls.

### *3.2.3 Commission's Position*

Having reviewed the responses to the consultation, ComReg considers that there is no support for the introduction of tariff constraints as an appropriate measure to address tariff transparency.

## **3.3 Information Services**

### *3.3.1 Summary of the Consultation Issues*

The proposal on information services requires each mobile network operator to provide users with access to information on the status of any mobile number. The consultation outlined the possibilities for how this information could be provided to the customer and while the preferred access medium would probably be SMS, other mediums could also be considered such as offering the facility on each operator's website or a common site or via Interactive Voice Response on a well publicised Freephone number or short code. It was noted that while such services would provide a helpful supplementary service to verify frequently used numbers, they could not substitute for a real time *off-net* call indication.

**Q. 10. Do you consider it worthwhile for network operators to provide an information service solution to improve tariff transparency?**

### *3.3.2 Views of Respondents on Question 10*

Two respondents, a consumer and a mobile operator, supported the introduction of information services as a worthwhile solution to the tariff transparency issue. One operator stated that they had offered a text information service since the launch of MNP and that they hadn't received any complaints on their current facility or requests from customers to introduce any other measure.

Another of the mobile operators acknowledged that while such a solution may have some merit it does not offer the same benefits that a real time solution such as a tone would provide. The third mobile respondent stated that they did not consider an

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information service solution as an appropriately customer friendly solution for improving tariff transparency within the MNP context as it is not a substitute for real time *off-net* call indication. They noted that such a solution would establish a slow and inconvenient mechanism for customers with limited customer benefit.

A fixed network operator stated that they did not believe that users could derive any benefit from this solution and that the sufficiency of primary solutions, such as the tone/announcement alert, should be assessed before supplementary solutions like information services are imposed.

### *3.3.3 Commission's Position*

Having reviewed the responses to the consultation ComReg considers that it may be worthwhile for operators to introduce a service to verify frequently used numbers. While this could be a helpful supplementary service for consumers e.g. when querying itemised bills, ComReg does not consider that an information service meets the key criteria for the primary consumer-centric solution, where superior technical options are available. While the provision of such information services should be given due consideration by all operators as a beneficial service for customers, ComReg considers that operators should focus on the development of a real time tone solution as specified in Direction 1.

**Q. 11. In the event of an information service solution being provided, should it be provided as the primary solution or supplementary to an aural signal/message based solution?**

### *3.3.4 Views of Respondents on Question 11*

As per Q. 10 only one of the consumers and one of the industry respondents considered that the provision of information services was sufficient as the primary tariff transparency facility. The other industry respondents noted such disadvantages as the limited use with implicit delays and inconvenience to consumers and concluded that if an information service was deemed necessary and proven to be of benefit, then it should be supplementary to a real time solution.

### *3.3.5 Commission's Position*

ComReg considers that the provision of an information service for tariff transparency can only be seen as a supplementary tariff transparency measure as it does not afford the same benefits as a real time *off-net* call indication. As discussed, this solution is limited by the need for callers to query number allocations before making a call which could be regarded as slow and inconvenient by many people when compared with the proposed aural signal solution.

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**Q. 12. In the event of an information service solution being introduced, which access medium(s) would you prefer?**

*3.3.6 Views of Respondents on Question 12*

Two respondents, one from industry and one consumer, recommended that an industry agreed short code would be the best medium. Another mobile respondent suggested that while an information service solution could be put in place, it would require an interface to the networks Signalling Relay Function (SRF) which is updated throughout the day and would have to be made accessible to customers via the web or via SMS. They noted that this would have significant cost, systems redesign and resource implications for a solution which might only have limited usage and provides only limited benefits to customers. Another respondent suggested that although they did not have a strong preference a free phone number call or Internet website could be considered.

*3.3.7 Commission's Position*

ComReg considers that the preferred access medium for a supplementary tariff transparency information service would be a free SMS service, where the customer sends a text to a free shortcode and receives information on the current network status of the number in question. However ComReg also notes the merits of a website or Interactive Voice Response service, which would also be of benefit to customers on fixed networks making calls to mobiles but as stated this should only be considered in the context of a supplementary solution.

Questions for mobile network operators: -

**Q. 13. As a mobile network operator, what is the scope of effort required to implement an information service solution using your preferred access medium and what are the expected implementation time scales?**

*3.3.8 Views of Respondents on Question 13*

There were conflicting reports from the respondents on the scope of effort required to implement an information service to improve tariff transparency. One operator suggested that the information based service had been implemented at very little additional cost in time for the launch of MNP. However the other two respondents stated that such a development would have significant cost. They also noted that the required development could be in excess of 6 months as the MNP project had meant that other key business projects have been de-prioritised for MNP and are now in the process of development and implementation. Another respondent proposed that there was a role for a network independent service provider who could provide this service via SMS, IVR, and the web for all Irish consumers. They proposed that this could be implemented via access to the national MNP database and could be managed on behalf of each mobile operator or on behalf of ComReg.

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### *3.3.9 Commission's Position*

As stated ComReg does consider that there may be some merit in developing a freely available information service to address tariff transparency which would act as a supplementary service the primary real time tone solution. However operators should immediately focus on a real time solution as specified in Direction 1.

## **3.4 The Zero Option**

### *3.4.1 Summary of the Consultation Issues*

This approach proposes taking no immediate technical or commercial action to improve tariff transparency but to retain the status quo. Proponents of this approach suggest that, in the first instance, callers tend to know whether frequently called numbers are *off-net* or *on-net* but also that in the medium term, *on-net* and *off-net* tariffs will converge and the differential will become insignificant due to competitive market forces. Also, there have been suggestions in the media that there is an inherent transparency issue in terms of the range of operators' tariff packages which reduces users' ability to distinguish between the charging significance of *on-net* versus *off-net* as much, if not more, than the impact of MNP.

**Q. 14. Do you consider that there is any merit in adopting the Zero option approach, taking no actions to improve tariff transparency in the medium term?**

### *3.4.2 Views of Respondents on Question 14*

None of the respondents saw any merit in the adoption of the zero option. One mobile operator acknowledged that there was a need for some tariff transparency measures to be in place and that the information must be available to the consumer in an accessible and efficient manner. However they also noted that while they considered the proposed tone notification to be an unnecessary annoyance to the consumer, they supported the introduction of information services at an industry level but that additional service provision should be operator specific. Another mobile operator stated that the zero option would not discharge the Universal Service Directive's stated obligations on a market to introduce a tariff transparency mechanism for consumers within the context of MNP. They also stated that they were cognisant that tariff transparency information must be available to users through an efficient mechanism. The third mobile respondent stated that they believed that customers are entitled to be informed that the number they think is *on-net* is no longer *on-net*. They also stated that in the absence of an agreed industry position, they would proceed with a tone solution in order to ensure that their customers are alerted to the fact that their call may cost more than may have been expected.

A fixed network operator stated that they did not consider that there was any merit in adopting the zero option approach and proposed that ComReg should intervene in the absence of timely and appropriate solutions from industry.

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### *3.4.3 Commission's Position*

MNP is a key competitive tool in promoting competition and users' rights and as such consumers must be facilitated to port freely between networks without consequence. ComReg is mindful of the needs of consumers to have meaningful tariff information made available to them in a clear, user friendly and unobtrusive manner. Therefore, having considered the views of the respondents and also taking into account the complaints and queries received by the office and the recent commentary in the media on this issue, ComReg does not consider that there is any merit in the zero option. Through the implementation of the directions contained herein, ComReg will ensure a user friendly technical solution to the issue of tariff transparency is made available to all mobile customers for use at their discretion.

## **3.5 Other Approaches**

**Q. 15. If you do not support any of the solutions set out in this paper for improving tariff transparency or the Zero option, please set out your alternative solution to address the tariff transparency deficit identified by ComReg?**

### *3.5.1 Views of Respondents on Question 15*

As discussed in the previous sections, the majority of the respondents were in favour of a permanent technical solution to the issue of tariff transparency and none of the respondents were in favour of the zero option. However one consumer proposed the alternative as an immediate move to uniform call pricing across all networks while simultaneously requiring price transparency by forbidding *on-net/off-net* distinctions, which they stated would force down call charges. This view was supported by a fixed network operator who proposed that ComReg should focus on mobile retail tariffs and what they considered to be a distortion on the mobile market.

### *3.5.2 Commission's Position*

As stated ComReg is conducting a comprehensive programme of market analysis which will identify operators with significant market power who will be subject to appropriate obligations and remedies to address any identified market issue. This issue is being tackled as part of a separate work stream

## **4 List of Draft Directions**

### **Draft Direction No. 1**

**Mobile network operators will introduce a permanent technical solution to address the tariff transparency issue caused by the introduction of Mobile Number Portability. This solution should be in place on or before 31<sup>st</sup> December 2004.**

**The minimum tariff transparency measure should:-**

- inform the customer during call set-up that the number being called is an *off-net* mobile call ;**
- utilise a distinctive tone or tones for this purpose, with the specification for the tone or tones to be agreed by operators and implemented uniformly by all networks;**
- allow the customer to abandon the call with out charge;**
- have no discernable effect on the call set-up time;**
- allow the customer to activate of deactivate the facility;**
- be offered on an *opt-in* basis to customers;**
- be supported by an adequate customer awareness programme e.g. bill inserts, website info, SMS notification, press adverts.**

### **Draft Direction No. 2**

**Mobile network operators are required to submit a detailed implementation plan on the solution to address the tariff transparency issue caused by the introduction of Mobile Number Portability on or before 31<sup>st</sup> January 2004. This plan should be submitted to ComReg with proposals on interim measures to be adopted, such as the extension of existing facilities.**

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## **5 Next Steps**

1. Comments on the draft direction should be received by ComReg on or before 8<sup>th</sup> January 2004.
2. ComReg, after consideration of these comments, will make its decision and issue a final direction, with amendments if appropriate.
3. Detailed implementation plan and interim proposals should be received on or before ComReg by 31<sup>st</sup> January 2004.
4. Implementation of the real time tone alert tariff transparency solution, as specified, to be completed on or before 31<sup>st</sup> December 2004.

## **6 Legislative background and Statutory Powers Giving Rise to Draft Direction**

Mobile Number Portability is an obligation under Regulation 26 the Universal Service and Users' Rights Regulations 2003 (S.I. No. 308 of 2003) (hereinafter "the 2003 Regulations") which came into force on the 25th July 2003. These Regulations transpose Directive No. 2002/22/EC of the European Parliament and of the Council on universal service and users' rights relating to electronic communications networks and services, (hereinafter "the US Directive").

The need for ComReg to address the issue of tariff transparency in the context of mobile number portability is highlighted in Recital 41 of the US Directive which provides, amongst other things, that National Regulatory Authorities should, where feasible, facilitate appropriate tariff transparency as part of the implementation of number portability.

Regulation 31 of the 2003 Regulations permits ComReg to issue Directions for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under the 2003 Regulations. Regulation 31 is the statutory power which may give rise to the proposed measures, if adopted. There are a number of relevant obligations by or under the 2003 Regulations. Regulation 26(1) of the 2003 Regulations places an obligation on undertakings providing a publicly available telephone service, including a mobile service, in respect of number portability. This transposes the obligation to provide number portability under Article 30 of the US Directive.

Further and in the alternative, Regulation 18(3) of the 2003 Regulations obliges ComReg to encourage the provision of information to enable end-users, as far as appropriate, and consumers to make an independent evaluation of the cost of alternative usage patterns. This transposes Article 21(2) of the US Directive.

ComReg is mindful of its statutory obligations under Section 12(2)(c)(iv) of the Communications Act 2002 which obliges ComReg, amongst other things, to take all reasonable measures to promote the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services.



## **7 Regulatory Impact Assessment (RIA)**

This section of the document considers the impact of the proposed direction relating to the introduction of measures to improve tariff transparency for the consumer following the introduction of Mobile Number Portability (MNP). The proposed directions are examined in terms of their contribution to ComReg's statutory objectives – that is the promotion of competition, the completion of the single market, and the promotion of users' interests, all in proportionate and a technology-neutral manner. An overall evaluation is carried out of the potential impact of the decision on competition.

This analysis looks at the impact of proposals and decisions made by ComReg, and therefore considers the impact of change to the status quo whether of incremental or decremental effect. It should be noted that this is not an analysis of the principles of MNP. ComReg was obliged to implement MNP under the Universal Service and Users' Rights Regulations (S.I. No. 308 of 2003). Directive No. 2002/22/EC also highlights that the impact of MNP is considerably strengthened when there is transparent tariff information, and charges ComReg to facilitate appropriate tariff transparency, where feasible, as part of the implementation of MNP. This paper, therefore, only considers the impact of the specific implementation of a tariff transparency solution and does not question the requirement to do so.

The measure which is assessed below is to introduce an optional real time tone alert, as set out in the consultation, as the most appropriate tariff transparency solution. Since the launch of MNP all three mobile operators have introduced various measures to address tariff transparency with varying degrees of success and customer satisfaction. ComReg issued a consultation to seek the views of industry and consumers on the optimal approach to tariff transparency and on the basis of the responses received agree that there is a requirement for an optional, real time tone based solution which is implemented uniformly across all three networks.

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### **Contribution to regulatory objectives**

#### *Promotion of competition*

The regulatory objectives designed to promote competition address user benefits; the absence of distortion; and the encouragement of investment and innovation. MNP actively supports competition in the mobile market as it removes one of the barriers to changing mobile network operator and this benefit is enhanced by measures which support tariff transparency. The direct impacts of this measure for end users, both those who port and those who make calls to ported numbers, are that it will facilitate engagement in the MNP process without consequence.

#### *Development of the Internal Market*

The development of the internal market requires the regulator to ensure that there is no discrimination in the treatment of undertakings providing electronic communications networks and services. The proposed measure does not discriminate in terms of treatment, in that all mobile operators will be on a level playing field in relation to the manner in which they are required to provide this information. The potential impact of the measure will vary according to the market position of the operator, but this is to do with the structure of the market and not with the measure proposed.

#### *Promotion of Users Interests*

The main element of the regulatory objective to promote user interests is the need to ensure the provision of clear information to users, particularly in the transparency of tariffs. However, it is clear that to balance the needs of different consumers, those consumers need to be enabled to control the facility being provided. The proposed measure, as specified, is a clear illustration of this objective, facilitating tariff transparency when it is required. From the point of view of the end user, this will mean a more transparent service offering with longer term benefits from increased competition in the industry.

#### *Proportionality*

ComReg believes that the measure is proportionate, should be reasonably easily implemented in line with periodic network developments and will deliver benefits to the consumer sufficient to warrant implementation. In consultation none of the mobile operators have questioned the technical viability of this proposal but have highlighted specific implementation issues with respect to time and cost. The question of proportionality is diminished by the long lead time for implementation which is catered for under the draft direction.

#### *Technology Neutrality*

The proposed decision has no implications for technology neutrality.

#### *Overall Impact on Competition*

In assessing the overall impact on competition ComReg reviewed the market structure and dynamics from the perspectives of the end user, the service provider and the

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network operator. The main areas of impact are in ease of market entry and exit, and in the changing strength of more established players and new entrants relative to each other. Efficient entry, of a new entrant operator, MVNO or service provider, should be encouraged by greater opportunity to acquire new customers without the inherent barrier of a customer number change. The impact on users is positive as the increased ease of customer flux offers incentives to provide competitive offerings.

### *Regulatory Risk*

ComReg have identified two areas of secondary risk to existing regulatory objectives:

- That the existing *on-net* / *off-net* tariff disparity is a short to medium term issue, which would diminish the requirement for such a specific and robust tariff transparency solution.
- That the implementation of other regulatory initiatives may be impacted - it has been suggested that the obligation to provide further enhancements to the MNP product could prolong the disruption to existing resources and work schedules caused by the introduction of MNP

Firstly ComReg has considered the merits of the null option in consultation and on the basis of the responses ComReg has identified the need to address this issue in the short term. ComReg is also continuing its market analysis of competition in the mobile sector and operators, who are found to have significant market power, will be subject to appropriate obligations and remedies to address any identified market issue. However, while this may offer positive impacts on *on-net* / *off-net* mobile tariff differentials; this work stream is subject to a different timescale which does not address the current requirement for a tariff transparency solution. ComReg cannot prejudge the impact or outcome of these investigations and in choosing this implementation of tariff transparency ComReg suggests that MNP should not impose even a short to medium term burden on the consumer.

Turning to the second of these issues which addresses the impacts of the measure on other projects, ComReg initiated the MNP project almost two years in advance of the final regulatory deadline, therefore, despite the scale of implementation, decisive internal planning should have enabled operators to minimise disruption. The proposed measure, which is an enhancement to an existing service, requires operators to introduce this solution in a defined timescale. However it also offers the flexibility for each operator to plan for implementation at a time which is convenient to the individual network and continuing internal developments.

### *Cost of Implementation*

The mobile operators will have to introduce a facility to implement a tone alert, the nature of which is to be specified by the operators, at the call set-up stage which can be activated or deactivated at will by the customer. However two out of three of the operators have already made significant developments towards this implementation

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and the defined timeframe for implementation will cater for further and final developments to be scheduled in line with normal network development upgrades.

*Conclusions*

Overall the measure to implement an optional tone alert to will mitigate against the loss of tariff information which is experienced in the context of MNP. End users who port their numbers and those who call ported numbers, will benefit from increased competition arising from MNP, will be facilitated to do so without consequence.