



Response to Consultation and Decision

Scope of Premium Rate Services Regulation

Document No:	10/50
Decision No:	D07/10
Date:	9 July 2010

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1 Foreword

On behalf of the Commission for Communications Regulation (“ComReg”), I am pleased to present our Response to Consultation on the Scope of Premium Rate Services regulation, which follows Consultation 10/27. In this paper, ComReg is also publishing its Decision.

I wish to thank the fifty-three respondents, encompassing a broad range of stakeholders, including consumers, industry, the Office of the Data Protection Commissioner and the Ombudsman for Children, who provided views in relation to this paper and, thereby, informed our decisions on the range of issues.

This consultative process is ComReg’s first step in establishing a new regulatory framework for Premium Rate Services (“PRS”) and PRS providers. This new regulatory framework is aimed at providing greater protection to consumers and enabling consumers to use PRS with trust and confidence.

The Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010 (“the Act”) provides that the responsibility for the regulation of PRS will transfer from the Regulator of Premium Rate Telecommunications Services Ltd. (“RegTel”) to ComReg. The transfer date is set at 12 July, 2010. The Act defines a PRS, a PRS provider, and requires that providers of “specified” PRS must be licensed. In this Response to Consultation, ComReg outlines its positions in relation to the class, or type, of PRS to be specified having regard for the cost and nature of the service and, therefore, licensable and subject to statutory regulation.

Finally, the responses will also provide a valuable contribution as ComReg commences framing a further consultation, as required under the Act, which will examine the provisions of RegTel’s existing Code of Practice, adherence to which will be a statutory requirement for all PRS providers.

Mike Byrne
Commissioner
Commission for Communications Regulation

2 Executive Summary

- 2.1 On 1 April 2010, ComReg published a consultation (Document 10/27 “Scope of Premium Rate Services Regulation” (“the Consultation”)) seeking views on ComReg’s proposals for the scope of regulation of PRS.
- 2.2 The Act confers on ComReg the power to decide the class, or type, of PRS that is required to be licensed. The Consultation was, therefore, structured into three discrete areas, two of which related to determining the range and extent of ComReg’s regulation in the PRS market, while the third related to how a particular category of PRS should be regulated.
- 2.3 The three distinct issues that were consulted on are;
 - (1) Determining the class, or type, of Premium Rate Service that will be regulated, having regard for the cost and nature of the service,
 - (2) Directory Enquiry Services, and
 - (3) Issues concerning the promotion and operation of Mobile Subscription Services.

The Cost and Nature of Services

- 2.4 ComReg first addressed the issue of the cost of PRS, and examined the cost of voice telephony across a range of platforms, to determine if it would be possible to exempt from regulation some PRS which have a low cost relative to commonly-used, non-PRS telephony services.
- 2.5 Having carefully considered the responses received, ComReg has decided that PRS costing €0.25 cent or less will, in general, be exempted from regulation subject to certain limitations, due to the nature of the service.
- 2.6 ComReg then examined a range of individual service types and considered if they should be regulated, without reference to the €0.25 cent price threshold, as the services had the potential for greater consumer harm in terms of societal sensitivities, age-related issues or on-going costs due to recurring charges.
- 2.7 ComReg has concluded that, based on the additional potential for consumer harm, the following categories of services should be regulated irrespective as to whether they come within the €0.25 cent price threshold:
 - (i) Chatline services (Live or Virtual),
 - (ii) Sexual entertainment services,
 - (iii) Children’s services,
 - (iv) Subscription services, and
 - (v) Internet Dialler Software operated.
- 2.8 Finally, ComReg examined the issue of “on-portal” services. These are PRS that are accessed via a Mobile Network Operators (MNO) portal and may not necessarily require the use of premium rate numbers or shortcodes. To date, PRS accessed through MNO portals did not meet the definition of a PRS and, therefore, were outside RegTel’s regulatory remit. However, the definition of PRS in the Act includes PRS

accessed, or obtained, without recourse to numbers and, therefore, ComReg considered if such services should be regulated.

- 2.9 Having carefully considered the responses to the Consultation, ComReg has concluded that PRS accessed via MNOs' portals will be regulated in accordance with the framework established for PRS accessed, or obtained, through the use of premium rate numbers or shortcodes.

Directory Enquiry Services

- 2.10 ComReg examined the issue of Directory Enquiry (DQ) Services, which are defined as PRS under the definition contained in the Act. DQ services are not currently regulated by RegTel as they are not provided on premium rate numbers, as set out by ComReg in the National Numbering Conventions. ComReg was interested to obtain the views of stakeholders to assist in determining if DQ services should be subject to PRS regulation.
- 2.11 In addition to consideration of whether to include DQ services within the scope of PRS regulation, ComReg examined the issue of permitting the use of 118XX numbers for the provision of information services of a general nature, in addition to the current usage. ComReg had previously decided that the 118XX number range may be used for directory enquiry services and "relevant, value added services" only. It has been ComReg's consistent view that "relevant, value added services" are defined as services closely related to telecommunications directory services.
- 2.12 Having carefully considered the submissions, ComReg has decided that DQ services, in their current format, are to be exempt from PRS regulation, and that only DQ services, within their current remit, may be provided via an 118XX number. ComReg will seek to specify what constitutes a relevant, value added service in the next review of the National Numbering Conventions.

Mobile Subscription Services

- 2.13 In the third section of the Consultation, ComReg took a preliminary view of mobile subscription services, as mobile subscription services generate over 93% of all contacts to RegTel's Helpline and, therefore, merit close scrutiny.
- 2.14 ComReg highlighted a number of issues relating to the promotion and operation of mobile subscription services and put forward a number of measures that would provide greater consumer protection. The responses received to the questions in relation to mobile subscription services are strictly related to "how" specified PRS will be regulated and, as such, these responses are directly relevant to the Code of Practice to be adhered to by all providers of specified PRS.
- 2.15 In accordance with the provisions of section 15 of the Act, ComReg will, as soon as practicable after 12 July 2010, consult on a new Code of Practice and will use the information received in responses to the questions posed in the Consultation to inform the content of this subsequent consultation.

3 What services should be regulated?

Background

- 3.1 The Act distinguishes between PRS and “specified PRS” and provides that only specified PRS will be required to be licensed. Section 7 of the Act provides that it is ComReg’s responsibility to determine the services to be classified as specified PRS and the conditions to be attached to licences for the provision of such services.
- 3.2 Sections 7.1 and 7.2 of the Consultation set out ComReg’s view that the two main characteristics of a PRS that will determine if it should be regulated are:
 - (i) The cost of the service, and
 - (ii) The type or nature of the service.

Determining “specified PRS” by the price of the service

Summary of Consultation Issues

- 3.3 ComReg outlined the background to its proposal that specified PRS should be determined by the cost of the service.
- 3.4 ComReg noted that the new definition of a PRS, contained in the Act, includes many relatively low-cost, information-type helplines in a similar manner to high-tariff entertainment-type services such as horoscopes, tarot or betting tipster lines. Based on the view that lower-cost customer, or technical support, helplines do not hold the same potential for consumer harm as the higher-cost, entertainment-type services and taking account of ComReg’s obligation of proportionality in the exercise of its functions, ComReg proposed to exclude from regulation (that is from classification as a specified PRS) certain services below a specified monetary value.
- 3.5 ComReg’s preliminary view was that the “base price” for specified PRS should be €0.20 cent¹ and that PRS below this threshold would not, generally, be regarded as specified PRS unless the service had characteristics that carry some other potential for consumer harm. ComReg sought views on this issue with the following question:

Q. 1. Do you agree with ComReg’s preliminary view that twenty cent (€0.20) retail cost per minute/per call/per text is a reasonable price threshold below which certain services may be exempted from licensing?

Views of Respondents in relation to Q1

- 3.6 A number of respondents agreed with the general principle that certain categories of services below a certain cost should be exempted from regulation, namely 11850, 11890, ALTO, BT, DeafHear.ie, the NDA, O2, and TV3. Cable and Wireless Worldwide did not disagree with the stated preliminary view. ALTO and BT noted that “*For clarity and certainty for investment decisions it would be helpful to have a clear view either of what falls within regulation or what does not*”. O2 suggested that the nature of the service be considered initially to determine whether the particular

¹ €0.20 cent per minute/per call/per text (inclusive of VAT). For voice calls, the €0.20c threshold is relevant to call charges incurred when calling from a standard *Eircom* landline.

service is likely to cause consumer harm. O2 agreed that consumer harm occurs above the point where customer expectations of costs are exceeded but noted, “*that particular point is not clear*”.

- 3.7 A number of respondents disagreed with the general principle, namely, Eircom (which operates the 11811 service), Ericsson IPX, 3, IPPSA, Shane Mc Allister, mBlox, Meteor, Xiam and Realm. The reasons given for disagreeing included that a single amount threshold may be too blunt an instrument to apply across the various voice, data and messaging traffic types (Meteor and 3), and that the threshold could be used as a loophole for services that should be licensed (Ericsson IPX, Eircom, Meteor, RTÉ and 3). Xiam, Realm and RTÉ expressed the view that all services, irrespective of price-point, should be subject to licensing and regulation.
- 3.8 Most respondents, whether disagreeing or agreeing with the general principle, gave a view in relation to the level of the proposed threshold. A number felt that the threshold was too low and suggested a higher threshold. 11850 suggested €10, O2 suggested €0.50 cent, mBlox suggested £0.50p similar to PhonepayPlus in the UK, and UPC suggested €0.30-0.40 cent. UPC stated their belief that €0.20 cent was too low a threshold as retail mobile rates can be up to €0.30 cent to €0.40 cent. TV3 suggested £0.30p as “*20c is too low a price to put on this cut off point, as the cost to enter competitions by text is usually higher than this*” and further stated that there “*should be a distinction made between a price per call and price per minute tariff.*” Vodafone suggested €0.30 cent, as many radio and TV stations operate services that are seen as having a low risk of consumer harm (comment lines and children’s competitions) at prices between €0.25 cent and €0.30 cent. Phonovation and Cable and Wireless suggested €0.25 cent (i.e. the same as a national call from a public phone) and ALTO also noted this fact.
- 3.9 Others submitted that the proposed threshold was too high and suggested an €0.11 cent threshold. Ericsson IPX’s view was that an €0.11 cent threshold is “*more consistent with standard rates of text and less likely to cause damage*”.

ComReg’s position

- 3.10 Having carefully considered the views expressed by respondents, ComReg remains of the view that certain categories of services should be exempted from regulation when below a certain cost. ComReg considers that to regulate all services, irrespective of cost, would be unnecessary and disproportionate.
- 3.11 ComReg considers that the setting of a cost threshold (below which only certain services are regulated) is appropriate having regard to the fact that there are certain low-cost services that meet the PRS definition (and were the subject of regulation by RegTel), and where it assesses that such low-cost services do not carry risks or sensitivities or age-control issues, and for which there is no evidence of past misconduct, consumer disquiet or a high degree of consumer vulnerability. In general, low priced services have less potential to result in consumer harm and, therefore, ComReg considers it appropriate that such services are exempted from licensing, subject to the nature of the service not holding the potential for consumer harm.
- 3.12 ComReg is of the view that it is appropriate to have a single price threshold across all media and believes that both industry and consumers require a degree of certainty and that having a schedule of service types with a corresponding list of price thresholds would be unwieldy and unworkable. ComReg considers that the advantages of having

a flat rate across all media (including simplicity, ease of reference by consumers and PRS providers) outweigh any concerns in relation to the single threshold.

3.13 In setting the appropriate price point, below which PRS would not be specified unless they belong to a designated specified category, ComReg notes that there was a wide divergence of views in relation to where the price point should be. Views ranged from zero (in that all services should be licensed, irrespective of price) to €0.11 cent to €10.

3.14 It should be noted that the EU mandated €0.11 cent per text is not relevant in the context of PRS as this price relates to a price-cap, imposed by the EU Commission, in respect of personal SMS while roaming within the EU. Similarly, it should be noted that some services that cost £0.50p, or less, are not exempt from regulation in the UK. However there is a provision within PhonepayPlus' Code of Practice that states that:

“Premium rate services which do not generally cost more than 50 pence are exempt from all PhonepayPlus requirements on pricing information, unless the services are.....”

In other words, exemption from some aspects of the Code of Practice should not be confused with exemption from all regulation.

3.15 ComReg notes that Phonovation and Cable and Wireless suggested €0.25 cent (i.e. the per minute price of a local or national call from a public phone) and ALTO also suggested this figure. ComReg further notes that several respondents argued that a €0.20 cent threshold would be too low, on the basis of the low potential for consumer harm for some services that may be provided at a rate slightly above €0.20 cent. Upon consideration of these submissions, ComReg has decided to revise its preliminary view and is now of the view that €0.25 cent is the appropriate price threshold (that is, with the exception of services within specific categories). Accordingly, services costing €0.25 cent or less, retail cost per minute/per call/per text are not specified PRS and their provision, therefore, does not require a licence.

3.16 ComReg is cognisant that, even at the relatively low threshold of €0.25 cent, there is a possibility that some PRS providers may attempt to increase revenues by unnecessarily prolonging calls. Thus the €0.25 cent threshold should not be regarded as fixed in perpetuity and may, if a need is determined, be adjusted.

3.17 ComReg, in its Consultation, stated that *“For voice calls, the €0.20c threshold [now €0.25 cent] is relevant to call charges incurred when calling a standard Eircom landline”*². ComReg notes that this does not mean that only voice calls from Eircom's network will be regulated, with the result that calls from other fixed networks or from mobile networks are exempted from regulation³. For the purposes of clarity, ComReg wishes to explain the principle of a price threshold:

- Calls to access a PRS that cost in excess of €0.25 cent (other than international calls) from a standard Eircom fixed line, is the threshold at which Premium Rate Services will be regulated as licensable *specified PRS*.

² Footnote 21 on Page 29 of the Consultation Document 10/27
<http://www.comreg.ie/fileupload/publications/ComReg1027.pdf>

³ Eircom is being used as it is the designated undertaking in accordance with ComReg Document No. 10/46 *Decision Notice and Decision Instrument – Response to Consultation: The Provision of Telephony Services under Universal Services Obligation*, dated 30 June 2010.

Calls from other networks may cost more than the €0.25 cent threshold; however these will not be *specified PRS* if the equivalent rate from an *Eircom* fixed line is less than or equal to the €0.25 cent price threshold.

- PRS that are accessed via SMS, or otherwise, at a cost in excess of €0.25 cent will be regulated as *specified PRS*.
- ComReg has set out these provisions in Regulations.

ComReg’s position:

With the exception of services within specific categories, services costing twenty-five cent (€0.25 cent), or less, retail cost per minute/per call/per text are not specified PRS and, therefore, do not require a licence.

Determining specified PRS by Class or Type of Service

3.18 ComReg examined a number of categories of services and provided preliminary views in relation to the regulation of those services of a certain nature.

Live Services

Summary of Consultation Issues

3.19 Live services are those which involve live speech conversations between two or more parties. Live services include services such as chatlines, services of a sexual nature and entertainment services such as tarot or horoscope lines. Live services also include advice and information services, which can vary in range from weather information, to betting tipster services, to technical support and customer care centres.

3.20 ComReg’s preliminary view was that there is a requirement for regulation of these services to prevent:

- (i) consumers incurring excessively high charges,
- (ii) exploitation of bill-payers who may be unaware that another person is incurring charges to their account, and
- (iii) the services being accessed by children with, or without, parental permission.

ComReg sought views on this issue with the following question:

Q. 2. Do you agree with ComReg’s intention to regulate live services?

Live Services - Views of Respondents

3.21 11890, ALTO, BT, DeafHear.ie, Cable & Wireless Worldwide, Eircom, Ericsson IPX, 3, mBlox, Meteor, Modeva, the National Disabilities Authority (“NDA”) , O2, the Ombudsman for Children, Phonovation, Realm Communications, IPPSA, RTÉ, Shane McAllister, UPC, Vodafone and IPPSA agreed with ComReg’s intention.

- 3.22 Eircom noted that *“Live services are by their nature open to possible abuses. Some live services are clearly of a sexual and adult nature. These services have the potential to cause consumer harm Eircom agrees that live services should be regulated. The existing limitations on these services should, at a minimum, be retained in the new regulations”*. The NDA’s rationale for supporting ComReg’s intention was *“in order to prevent such services from charging excessively or people being unaware of charges being accrued to an account, etc.”* O2 cited as a basis for its position the *“potential consumer harm that these may cause if accessed inappropriately or abused”* and further stated that *“it should be recognised that technical support or customer care centres, which meet the definition of PRS, should be exempt from licensing by virtue of the nature of the service, which would not cause consumer harm”*. RTE based its response on the protection of consumer harm. UPC submitted that technical support services should be exempted.
- 3.23 Vodafone agreed, stating its belief that *“some thought is required to avoid the unnecessary regulation of content classes which pose no issue.”*
- 3.24 Ericsson IPX asked for the terms *“live services”* and *“regulate”* to be defined and a clearly defined framework to be established, especially where the content provider is clearly identifiable.
- 3.25 TV3 stated that it appreciated the need to regulate some live services, however, there should be some exemptions to these regulations. It stated that if costs are made clear to consumers, and the services are broadcast after 12 midnight, the regulatory requirements need not be as stringent.

Live Services – ComReg’s position

- 3.26 The submissions received, in general, supported ComReg’s preliminary intention to regulate live services. ComReg has considered TV3 and Vodafone’s views that there should be some exemptions and that there should not be unnecessary regulation in this area. ComReg, therefore, initially considered the possibility of exempting *“non-contentious”* live services such as customer care/tech support lines.
- 3.27 ComReg, and other stakeholders including the Ombudsman for Children are, however, particularly concerned at the potential harm to children who may access *“chatline”* services (i.e. *“multi-party”* chat services which enable more than two persons to simultaneously conduct a telephone conversation). The concerns centre on children’s potential lack of awareness of the implications of imparting personal details such as surnames, dates of birth, places of work, addresses or telephone numbers.
- 3.28 Having carefully considered the submissions received and the possibility of consumer harm inherent in some services (such as exploitation of bill payers and the possibility of services being accessed by children), ComReg’s position is that live PRS in excess of the €0.25 cent price threshold should be regulated as specified PRS, however, *“chatline”* services, regardless of price charged, will be regulated as specified PRS (i.e. this sub-category of live services will be regulated irrespective of the €0.25 cent price threshold).
- 3.29 In relation to Ericsson IPX’s request for a definition of *“regulate”* and a clearly defined framework of regulation, ComReg notes that *“regulation”* means that the service is a specified PRS and that, therefore, there is a requirement to have a licence and to abide by the conditions contained therein. The framework for regulation will be

clearly laid out in the “*Regulations specifying conditions attached to premium rate service licence*” (which ComReg is obliged to make, pursuant to section 7 of the Act) and the Code of Practice (provision for which is made in section 15 of the Act).

- 3.30 ComReg acknowledges the request for definitions of the term “*live services*” and adopts the definition of live services contained in RegTel’s Code of Practice namely: “*Live services are those which involve live speech conversations between two or more parties*”.

ComReg’s position:

Live PRS in excess of the €0.25 cent price threshold will be regulated as specified PRS, however, “chatline” services, will also be regulated as specified PRS regardless of the price charged, (i.e. the €0.25 cent price threshold will not apply to “chatline” services, which is a sub-category of Live Services).

Sexual Entertainment Services

Summary of Consultation Issues

- 3.31 ComReg’s preliminary view was to regulate PRS of a sexual nature (including services of a sexually-suggestive nature, a sexually-explicit nature, or services offering explicit sexual advice), irrespective of cost. ComReg based this view on issues of access by children, the desire to reflect societal concerns and a need to protect those who choose to use such services from deception and the risk of high and unmanageable bills.

ComReg sought views on this issue with the following question:

Q. 3. Do you agree with ComReg’s intention to regulate PRS services of a sexual nature, irrespective of cost?

Sexual Entertainment Services – Views of Respondents

- 3.32 11890, ALTO BT, DeafHear.ie, Eircom, Ericsson IPX, 3, mBlox, Meteor, Modeva, the NDA, O2, the Ombudsman for Children, Phonovation, Realm Communications, RTE, Shane McAllister, UPC and IPPSA responded in the affirmative to this question. BT, ALTO, Eircom and Ericsson IPX stated that this was appropriate to protect vulnerable consumer groups such as minors. O2 noted the lack of a classification framework and the possibility of minors accessing content that is not suitable through 57XXX shortcodes and indicated its view that a consultation is needed on this issue sooner rather than later. Similarly, Vodafone stated its belief that “*this could be managed by opening up the 58XXX (gambling/gaming) and 59XXX (Adult) ranges so that the public are aware of the nature of the service and it will be easier for moderators to monitor the services.*” IPPSA encouraged ComReg to undertake an examination of possible mechanisms to support an industry-wide, age verification scheme.

Sexual Entertainment Services - ComReg's position

- 3.33 The submissions received, in general, supported ComReg's preliminary intention to regulate Sexual Entertainment Services irrespective of a price threshold. Having carefully considered these submissions, and the possibility of consumer harm inherent in such services (including to vulnerable consumer groups, such as minors), ComReg's position is that Sexual Entertainment Services will be specified PRS regardless of the price charged (i.e. the €0.25 cent price threshold will not apply to those services).
- 3.34 ComReg notes the submissions from O2 and the IPPSA and, as set out in the Consultation, proposes to engage with industry to develop a content classification framework.

ComReg's position:

Sexual Entertainment Services will be specified PRS regardless of the price charged (i.e. the €0.25 cent price threshold will not apply).

Competition Services

Summary of Consultation Issues

- 3.35 ComReg noted that this is a service category where the issue of fairness is critical, and gave several examples of areas of concern, including subscription competition services and TV quiz programmes.

ComReg sought views on this issue with the following question:

Q. 4. Do you agree with ComReg's intention to regulate competition services?

Competition Services – Views of Respondents

- 3.36 11890, ALTO, BT, Cable & Wireless Worldwide, DeafHear.ie, Dialogue Communications Ltd., Eircom, Ericsson IPX, 3, mBlox, Modeva, the NDA, O2, Phonovation, Realm Communications, RTÉ, Shane McAllister, TV3, UPC and IPPSA responded in the affirmative to this question. ALTO and BT based their responses on recent customer experiences and current bad debt issues within the market concerning certain competition services. Eircom noted that; *“The potential for consumer harm is significant, through unexpectedly high bills. This in turn has led to increases in PRS related bad debt for some network operators”*. 3 said; *“there is a need to protect a minority of consumers from running up excessive bills but not at the expense of the freedom of choice for the majority of consumers”*. O2 said that; *“Competition should be specifically regulated due to the potential consumer harm that can arise as a result of the cost and potentially addictive nature of such services. There have been incidents and services in the past which could not be classed as being fair or honest in either their advertisement or operation”*. RTÉ was of the view that this will provide *“clarity to service providers or consumers alike”*. IPPSA stated that; *“any regulations should refer to external codes and regulations that apply rather than duplicating them within any PRS code”*. Ericsson IPX advocated different regulation for competitions

requiring a single entry (minimal, if any regulation) and subscription-based competition services (club-style, exclusive entry services).

- 3.37 11850 stated that rules in relation to competition services should be mindful of not unintentionally prohibiting PRS, in general, from being able to effectively run occasional marketing promotions of limited costs for their services.
- 3.38 TV3 suggested that, in order to assist commercial broadcasters in an extremely difficult economic climate, ComReg should consider allowing more teleshopping and television quiz programmes to offset the effect of declining revenue in this commercial sector.
- 3.39 DFMG Solicitors asked for confirmation that competitions using short code text numbers on standard network rates, or using ordinary texting or telephone numbers applying standard network rates, will not require authorisation from ComReg.
- 3.40 Vodafone disagreed, as it believed that there is currently no need to regulate competition services as; *“there are sufficient powers outlined in the regulations to address the situation where service providers do not issue clear and transparent pricing information”*. It stated that; *“free text shortcodes (50XXX) should not be used as an entry mechanism into subscription competitions, but should be allowed for competitions which are genuinely free to the consumer”*.

Competition Services - ComReg’s position

- 3.41 Having carefully considered the submissions, ComReg’s decision is that “one-off” Competition Services will be specified PRS, only if the price charged is in excess of the €0.25 cent price point. The effect of this decision is to relieve “low-cost” Competition Services from regulation and thereby to create a less onerous regime than currently exists. This allows for the regulation of higher cost Competition Services, thereby adequately addressing consumer harm concerns.
- 3.42 The issue of recurring costs is addressed later in this Response to Consultation and ComReg wishes all parties to note that Competition Services provided by subscription service will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).
- 3.43 ComReg considers that the absence of a requirement for lower-cost, one-off Competition Services to be licensed addresses the concerns of 11850’s and DFMG Solicitor’s.
- 3.44 In relation to the IPPSA’s contention that ComReg should refer to external regulations or codes, rather than duplicating these within any PRS Code, ComReg accepts that there may be provisions from other industry sectors that can be applied to PRS, however, the particular nature of the PRS industry, and the regulatory mandate provided to ComReg, requires that a unique regulatory framework be established.
- 3.45 ComReg notes Vodafone’s view on the issue of using free text shortcodes as an entry mechanism into subscription competitions. This is a matter for ComReg’s future consultation on the Code of Practice, ComReg will be guided by how such matters were addressed by RegTel.

ComReg’s position:

Competition Services with a “one-off” cost will be specified PRS, only if the price charged is in excess of the €0.25 cent price point. Competition Services provided by subscription service will be specified PRS regardless of price charged (i.e. the €0.25 price threshold will not apply).

Children’s Services

Summary of Consultation Issues

- 3.46 ComReg defined Children’s Services as “*Services that are aimed at, or would reasonably be expected to be attractive to, children (that is, those under 18 years of age)*”. ComReg’s preliminary view was that Children’s Services, irrespective of price, should be subject to regulation.

ComReg sought views on this issue with the following question:

Q. 5. Do you agree with ComReg’s intention to regulate children’s services, irrespective of cost?

Children’s Services – Views of Respondents

- 3.47 11890, BT, ALTO, DeafHear.ie, Ericsson IPX, 3, mBlox, Meteor, Modeva, the NDA, O2, the Ombudsman for Children, Phonovation, Realm Communications, RTÉ, Shane McAllister, UPC, Vodafone and IPPSA responded in the affirmative to this question. BT and ALTO stated that this was in order to protect the welfare of this group. Eircom agreed and noted that; “*Price, particularly for services targeted at children, should not be a determining factor if a service is deemed as ‘Specified PRS’*”. O2 said that; “*The nature of such services which are specifically targeted at or could reasonably be expected to appeal to those under 18 years of age requires close scrutiny to ensure that the relevant terms and pricing are sufficient to be readily understood by those to whom it is targeted*”. Vodafone stated its belief that 16 years of age is an appropriate age threshold and one which “*while ensuring consumer safety, also recognises the nature of the market for many premium services*”. IPPSA requested that ComReg undertake further research to understand *inter alia* how such services are designated and regulated.
- 3.48 The Ombudsman for Children noted in general that “*Given the growing targeting of children as consumers in this area, it is important that a greater obligation of responsibility is placed on the service provider than the child.*”
- 3.49 DFMG Solicitors asked for some indication of the standards against which children’s services will be tested. In a similar vein, RTÉ asked for clear definitions of ‘*child*’ and ‘*children’s services*’, while mBlox asked ComReg to create greater clarity about children’s interaction with all kinds of services.

Children’s Services - ComReg’s position

- 3.50 The submissions received, in general, supported ComReg’s preliminary intention to regulate Children’s Services, without a price threshold. It is noted that the Children’s Act, 2001 (section 3) defines a “child” as a person under the age of 18 years. Having carefully considered the submissions and the possibility of consumer harm inherent in such services (including to vulnerable consumer groups, such as minors), ComReg’s position is that Children’s Services which are PRS will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg’s position:

Children’s Services, as defined, will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

Fundraising and Charitable Donations

Summary of Consultation issues

- 3.51 ComReg noted that PRS (accessed through calling, or texting, a premium rate number) can be utilised to make contributions to charitable organisations. ComReg’s preliminary view was to regulate such services to guard against unscrupulous promoters receiving donations and not transferring the stated amounts to the charitable organisation used to elicit the phone payment, or misrepresenting the charitable organisation they claim to serve.

ComReg sought views on this issue with the following question:

Q. 6. Do you agree with ComReg's intention to regulate fundraising and charitable donations made through a PRS?

Fundraising and Charitable Donations – Views of Respondents

- 3.52 11890, ALTO, BT, Cable & Wireless Worldwide, DeafHear.ie, Eircom, Ericsson IPX, 3, mBlox, Meteor, Modeva, the NDA, O2, Phonovation, Realm Communications, RTE, Shane McAllister, UPC, Vodafone and IPPSA responded in the affirmative to this question. BT and ALTO were of the view that this would; “*avoid inadvertent consumer distress and to protect against organisations that may achieve charitable status as a potential loophole to avoid regulation*”. Eircom noted that regulation of this service is “*necessary to ensure that the recipient bodies are genuine charities*”. Similarly, Meteor and UPC noted the need to ensure that campaigns relate to a *bona fide* charity. The NDA supported regulation to ensure “*public trust in such systems of making donations*”, and similar sentiments were expressed by Realm Communications. RTÉ suggested a dedicated charity SMS short code and IVR number to facilitate fundraising and charitable donations made through a PRS.
- 3.53 Several respondents raised the issue of how to handle VAT on fundraising via premium rate short messaging service (PRSMS).

Fundraising and Charitable Donations - ComReg's position

- 3.54 The submissions received, in general, supported ComReg's preliminary intention to regulate Fundraising and Charitable Donation Services. Having carefully considered the submissions received, ComReg's position is that Fundraising and Charitable Donation Services will be specified PRS where the price charged is in excess of the €0.25 cent price point. This regulation of higher-cost Fundraising and Charitable Donation Services, in ComReg's view, adequately addresses consumer harm concerns.
- 3.55 In relation to the queries in relation to VAT treatment of PRSMS, tax treatment is not a matter for ComReg.
- 3.56 ComReg notes that Fundraising and Charitable Donation Services provided by a subscription service will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).
- 3.57 ComReg is cognisant that there may be some urgency associated with the commencement of a fund-raising campaign. ComReg undertakes to facilitate the timely processing of any applications associated with a fundraising or charitable donation service.

ComReg's position:

Fundraising and Charitable Donation Services, will be specified PRS where the price charged is in excess of the €0.25 cent price threshold. However, Fundraising and Charitable Donation Services provided by subscription service will be specified PRS regardless of the price charged (i.e. the €0.25 cent price threshold will not apply).

Internet Dialler Software

Summary of Consultation issues

- 3.58 ComReg defined internet dialler software as *“software that automatically replaces the telephone number used by a consumer's computer that connects it to the internet, with a different dial-up telephone number, typically at a higher cost to the consumer”*.
- 3.59 ComReg noted the risk of *“dialler hijacking”* to consumers who receive their internet connection via a dial-up telephone number. It further said that the risk of *“malware”* may not be limited in future to landline technology and highlighted the potential for a future similar risk of software hi-jacking of mobile phones and sending costly messages, or otherwise causing consumer loss.
- 3.60 ComReg expressed the preliminary view that there was a case for retaining an explicit duty to regulate the activity as a PRS to minimise both the risk of financial loss to consumers and the damage to trust in phone-payment services, irrespective of cost.

ComReg sought views on this issue with the following question:

Q. 7. Do you agree with ComReg’s intention to regulate internet dialler software, irrespective of unit cost?

Internet Dialler Software – Views of Respondents

- 3.61 11890, ALTO, BT, Cable & Wireless Worldwide, DeafHear.ie, Eircom, Ericsson IPX, 3, mBlox Meteor, Modeva, the NDA, O2, Phonovation, Realm Communications, RTÉ, Shane McAllister, UPC, Vodafone and IPPSA responded in the affirmative to this question. BT and ALTO noted that, although the problems described are less prevalent today with the advent of broadband, issues can still arise as most computers now have built-in PSTN access ports which some customers use for fax and back-up dial-up internet services. Eircom noted that; *“Modem hijacking and similar scams have caused considerable consumer harm in the past and create bad debts difficulties for network operators”*. O2, agreeing, said that; *“Regulation of such services may help to avert future developments of services which have the potential to cause consumer harm and adversely affect the PRS industry”*. IPPSA, while agreeing, said that *“the definition should be broadened to include any application or software configuration downloaded to a consumer’s device that initiates PRS calls or messages from the device”*.

Internet Dialler Software - ComReg’s position

- 3.62 The submissions received, in general, supported ComReg’s preliminary intention to regulate PRS that are Internet Dialler Software operated, without reference to a price threshold. Having carefully considered the submissions and the possibility of consumer harm inherent in such services, ComReg’s position is that PRS that are Internet Dialler Software operated will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg’s position:

PRS that are Internet Dialler Software operated will be specified PRS, regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

Virtual Chat, Contact and Dating Services

Summary of Consultation issues

- 3.63 ComReg defined virtual chat as *“a service that enables two or more consumers to exchange separate recorded messages while connected to the service. These services do not involve live telephone conversations”* and noted that contact and dating services enable people, who were previously unacquainted, to make initial contact and arrange to meet in person, or to have contact outside the service, should they so wish.
- 3.64 ComReg proposed regulating virtual chat, contact and dating services using phone-payment on the basis of the potential harm that arises when the issues of cost, contact and content are combined through such services. It noted, in particular, the possibility of children accessing these services, the requirement for users of these services to take sensible precautions to protect their personal data, the fact that such services raise issues of privacy and the potential for misrepresentation.

ComReg sought views on this issue in the following question:

Q. 8. Do you agree with ComReg's intention to regulate virtual chat, contact and dating services, irrespective of cost?

Virtual Chat, Contact and Dating Services – Views of Respondents

- 3.65 11890 , ALTO, BT, DeafHear.ie, Eircom, Ericsson IPX, 3, mBlox, Meteor, Modeva, the NDA, O2, the Ombudsman for Children, Phonovation, Realm Communications, RTÉ, Shane McAllister, UPC, Vodafone and IPPSA responded in the affirmative to this question. O2 noted a number of reasons for regulating such services, specifically; *“the potential for children to access as well as the potential privacy concerns and the honesty required to ensure that all users are genuine participants and not moderators of the Service Provider”*. RTÉ noted that; *“honest representation at the call-to-action point and improving safeguards to protect children and the more vulnerable is welcome”*. Vodafone stated that; *“Proper conduct of the relevant providers must be regulated where there is a possibility that such services could have a negative impact on vulnerable members of society”*.
- 3.66 TV3, while appreciating the need for *“some form of regulation”*, suggested that *“a lot of responsibility should lie with the end-user”* and that *“Once the cost of the calls is clearly highlighted, and the callers are identified as being over 18, we do not feel there is much requirement for further regulation.”*

Virtual Chat, Contact and Dating Services - ComReg’s position

- 3.67 The submissions received, in general, supported ComReg’s preliminary intention to regulate Virtual Chat Services without a price threshold. Having carefully considered the submissions and the possibility of consumer harm inherent in such services, ComReg’s position is that Virtual Chat services which are PRS will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply). ComReg considers, however, that Contact and Dating Services (services that enable people previously unacquainted to make initial contact and arrange to meet in person) that are not Live Services do not hold the same potential for harm as “chatline” services, and that such services are now “mainstream” and pose no greater risks than social network sites, for example. ComReg’s position in respect of Contact and Dating Services is, therefore, that they will be specified PRS where the price charged to access the service is in excess of the €0.25 cent price threshold.

ComReg’s position:

Virtual Chat services will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

Contact and Dating Services will be specified PRS where the price charged to access the service is in excess of the €0.25 cent price threshold.

Pay-for-Product Services

Summary of Consultation issues

- 3.68 ComReg defined pay-for-product services as “*those in which the benefit to the user is either the delivery during, or consequent to, the use of the service of a product or service. (not itself being premium rate content) paid for wholly, or in part, by the user through their telephone bill or prepay account. These do not include products received as part of a subscription service*” and cited examples of services such as ticket purchases and parking payments.
- 3.69 ComReg expressed the view that it considered that a regulatory framework was required to protect consumers who make purchases and pay through their phone accounts. In support of this, it cited universal issues over the clarity of pricing and honesty in how goods are described and marketed and issues in relation to the manner of redress consumers should have access to in circumstances where the product is faulty, does not match the description used to promote it or is not delivered.

ComReg sought views on this issue with the following question;

Q. 9. Do you agree with ComReg's intention to regulate pay-for-product services?

Pay-for-Product Services – Views of Respondents

- 3.70 11890, DeafHear.ie, Eircom, Ericsson IPX, mBlox, Modeva, the NDA, Phonovation, Realm Communications, RTÉ, UPC and IPPSA responded in the affirmative to this question.
- 3.71 Eircom, agreeing, stated its view that; “*Regulation is not required when consumers make purchases from their own network operators. Network operators have a direct relationship with their customers and issues, should they arise, are easily remedied. Furthermore, network operators will be conscious to protect the image of their brands in this regard.*” IPPSA, agreeing, said that; “*such service should be regulated and made available on a non-discriminatory, transparent basis as soon as possible.*” Both ALTO and BT advocated caution in this area so as “*not to stifle the innovation of future services concerns alternative payment methods where originating service providers offer billing services to retailers*”.
- 3.72 3 disagreed with ComReg’s intention and made a similar distinction to Eircom “*given the high level of protection that is afforded by pay-for-product such as Payforit which are billed directly to customer’s accounts, licensing is not required. Any attempt to apply the same controls to such offerings would result in duplication and additional, unnecessary regulatory overhead, while potentially limiting the ability of operators to apply targeted protection which would benefit more vulnerable consumers*”. Meteor made a similar distinction, saying; “*We believe that pay-for-product such as Payforit, which are billed directly to customer’s accounts, licensing is not required*”. O2 similarly cited Payforit as an example and said that services such as text bundles, data add-ons and other exclusive MNO offerings such as handset applications “*are a direct result of an executed transaction between the customer and their MNO and should not be considered as Premium Rate Services*”.

- 3.73 O2 agreed with establishing a regulatory framework for pay-for-product services, however its view was that this should be the responsibility of the Financial Regulator (pursuant to the Payment Services Regulations 2009 (SI 383 of 2009)), and not ComReg.
- 3.74 Ericsson IPX expressed the view that the definition of “pay-for-product” may need to be clearer due to innovations in the sector and potential consumption using two media (e.g. phone and online). Ericsson IPX also expressed a concern that, where delivery is separate from payment on the phone there is a potential risk *“that an intermediary/enabler is made wholly responsible when in fact the provider or controller of the physical goods is probably responsible for any fraud”*.
- 3.75 Phonovation agreed but stated there is a need for “product” to be clearly defined. Cable & Wireless Worldwide noted that, while it does not disagree with ComReg’s intention, its view is that such services may best be regulated by the applicability of general consumer law provisions.
- 3.76 Vodafone disagreed, stating that it did not believe that “it is appropriate or justified for ComReg to be extending its scope of regulation based purely on concerns about a particular payment mechanism and not on evidence of consumer detriment”. Vodafone stated that the required failure or material level of potential customer harm is not evident to impose such ex-ante regulation.

Pay-for-Product Services - ComReg’s position

- 3.77 Submissions received in response to this question both agreed and disagreed with ComReg’s preliminary intention to regulate pay-for-product services.
- 3.78 It should be stressed that pay-for-product services typically relate to “off-handset” purchases, or distance selling, where a product or service is delivered separately from the end user accessing the PRS. Pay-for-product services are not, as some respondents may have assumed, “Payforit” which is a WAP billing mechanism that was developed by mobile network operators in the UK to provide more uniformity and transparency in the PRS market to improve the consumer experience for mobile purchases.
- 3.79 ComReg notes O2’s submission that the Financial Regulator, pursuant to the Payment Services Regulations 2009 (SI 383 of 2009), should regulate pay-for-product services and is also cognisant that the European Directive on Distance Selling (Directive 97/7/EC), which was transposed into Irish law by the EC (Protection of Consumers in respect of contracts made by means of distance communication) Regulations 2001 (SI 207 of 2001), also has relevance in this area. Nonetheless, the definition of a PRS, as set out in the Act states that a “Premium Rate Service ” means a service having all of the following characteristics:
- (a) *it consists in the provision of the contents of communications (other than a broadcasting service) through an electronic communications network or by using an electronic communications service, which may include or allow the use of a **facility**⁴ made available to the users of the service,*
 - (b) *there is a charge for the provision of the service which exceeds the cost attributable to communications carriage alone, and*

⁴ Emphasis added

Response to Consultation – Scope of Premium Rate Services regulation

- (c) *the charge referred to in paragraph (b) is paid by the end user of the service directly or indirectly to the provider of the electronic communications network or electronic communications service used in connection with the provision of the service by means of a billing or other agreed payment mechanism.*

The Act further goes on to define a “facility” as follows:

“facility” in relation to the provision of premium rate services, includes a facility —

- (a) **for making a payment for goods or services⁵,**
- (b) for entering a competition or claiming a prize,
- (c) for registering a vote or recording a preference, or
- (d) for enabling access to a premium rate service.

3.80 It follows that the Act imposes statutory responsibilities on ComReg and that ComReg is, therefore, mandated to regulate PRS that include a facility for making a payment for goods or services. ComReg is, nevertheless, aware that there is a considerable body of legislation in this field and that other regulatory bodies may also have powers to regulate in this area. ComReg has accordingly engaged with the office of the Financial Regulator in the interests of consumers and the PRS industry.

ComReg’s position:

Pay-for-product services that meet the definition of specified PRS will be subject to regulation.

MNO “On-Portal” Services

Summary of Consultation issues

- 3.81 MNO “On-Portal” Services are handled through the MNO’s own distribution channels (Web portals), which are a unique platform for distributing mobile services, whether developed by themselves, or purchased from third-party providers. As on-portal services do not necessarily require the end-user to access a premium rate number, or use PSMS to access the service, “on-portal” services are not currently regulated by RegTel, however, they come within the definition of PRS in the Act.
- 3.82 ComReg noted that, from a cost and content perspective, there is little, if anything, to differentiate between one-off mobile content purchases from a MNO and from a regulated PRS provider. ComReg noted that the primary purpose of PRS regulation is to prevent consumer harm and to provide effective consumer redress where harm has been encountered. In this context it, asked respondents to consider various factors when commenting on whether MNO’s “On-Portal” Services should be regulated by ComReg, with the following question:

⁵ Emphasis added

Q. 10. Having due regard for the issues raised above, do you consider ComReg should regulate MNO's "on-portal" services as "specified PRS"?

MNO "On-Portal" Services – Respondent's position

- 3.83 11850, 11890, ALTO, DeafHear.ie, Ericsson IPX, mBlox, Michael Daly, Modeva, the NDA, Phonovation, RTE, Shane McAllister, the Office of the Data Protection Commissioner and IPPSA responded in the affirmative to this question.
- 3.84 mBlox agreeing, noting the; *"current confusion"* and stated that; *"All services that appear the same to a consumer should be regulated in the same way as this allows for certainty of outcome for a consumer in terms of redress for any complaints etc."* Phonovation agreed, noting their belief that *"on-portal sites carry as much risk as any other. Any consumer complaints relating to the portal go directly to the MNO so there is no real proof that on-portal sites are in any way a lower risk to consumers."*
- 3.85 IPPSA stated its belief that there is an obligation on ComReg to regulate the "on-portal" PRS business, based on section 7(2) of the Act. ALTO stated its position that there is a formal legal and regulatory obligation on ComReg to regulate the "on-portal" PRS business.
- 3.86 Xiam reiterated its view that all services that satisfy the definition of Premium Rate Service should be regulated.
- 3.87 Michael Daly noted; *"Mobile operators should have their service regulated. Why should they be allowed to do what they want based on the perception that they wouldn't do anything to harm their own brand?"*
- 3.88 BT said that it did not see a need to add further obligations above those that already exist. Cable & Wireless Worldwide stated its belief that *"these services might be more effectively regulated via general consumer law provisions and e-commerce legislation"*. Similarly, Vodafone disagreed on the basis that; *"Vodafone does not believe that there is any evidence of consumer harm which would justify ComReg regulating on-portal services"*, and further that; *"Customers choosing to purchase services by this means are protected by existing consumer legislation."* Vodafone stated that; *"As the value of this access relationship to the provider is likely to be much higher on an ongoing basis than the value of the on-portal service, there is a strong commercial incentive for providers of on-portal services to ensure that they are delivered to the highest possible standard"*.
- 3.89 Eircom disagreed with the proposal and re-iterated that it considered that regulation is not required when consumers make purchases from their own network operators. 3, O2 and Meteor made similar submissions, noting that in such circumstances, the scope for consumer harm is reduced dramatically. 3 further noted that MNO's have a contractual relationship with the subscriber, that those contracts are regulated by ComReg and that consequently, "on-portal services" are sufficiently regulated. 3 set out in detail the reasoning behind their submission and concluded that; *"Fundamentally, on-portal services present a low risk for consumer harm, consumers*

have direct access to a very effective redress mechanism, services are marketed clearly and honestly and ultimately the customer is treated fairly.”

- 3.90 O2 stated that regulation of MNO “on-portal” services was not required as; *“the nature of the direct relationship between the parties ensures that such services are delivered in a manner that satisfies customer requirements as well as providing the after-sales care and support to resolve any issues. This single point of contact for provision, support and billing dramatically minimises any potential for consumer harm.”*
- 3.91 UPC also disagreed, stating that; *“if these are not accessed via a premium rate number they should fall outside of this regulation”*.

MNO “On-Portal” Services - ComReg’s position

- 3.92 Responses received to this question both agreed and disagreed with ComReg’s preliminary position. The absence of evidence of consumer harm is not surprising as, to date, MNO “on-portal” services have been outside the remit of RegTel and, therefore, no complaints relating to such services have been recorded by RegTel.
- 3.93 MNO’s host third-party content on their portals and there is no evidence to suggest that on-portal sites are a lower risk to consumers. In addition, commercial relationships between customer and provider (i.e. the MNO) and general consumer law provisions are not considered sufficient to protect users of on-portal PRS. ComReg does not consider that the existence of a customer and provider relationship provides satisfactory grounds to exempt “on-portal” PRS from regulation as harm can still be caused and such services should be subject to the provisions of the Code and the licence. Further, ComReg is also cognisant of its obligation to regulate in a non-discriminatory manner and therefore considers it necessary to include “on-portal” specified PRS.
- 3.94 Therefore, ComReg’s position is that MNO “on-portal” PRS will be specified PRS if the price charged is in excess of the €0.25 cent price threshold. However, ComReg notes that MNO “on-portal” Services provided by subscription service will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg’s position:

Specified PRS that are accessed or obtained via MNO’s portals will be subject to PRS regulation. However, MNO portal services provided by a subscription service will be a specified PRS irrespective of the price threshold, (i.e. the €0.25 cent price threshold will not apply).

What may be exempted from licensing?

Summary of Consultation issues

- 3.95 ComReg stated its desire to reduce, where appropriate, the administrative burden on industry by exempting from regulation those services where there is no possibility of consumer harm. ComReg asked for submissions in relation to whether it could be possible to exempt from regulation any class or type of service, other than those

distinct services that ComReg had indicated its intention to regulate. Furthermore, ComReg asked for views on its proposal that certain categories of services could be exempted from regulation, provided the cost was below the proposed price threshold, with the following question:

Q. 11. Do you agree with ComReg’s proposal that certain categories of services could be exempted from regulation, provided the cost is below the proposed 20 cent (€0.20 cent) price threshold?

What may be exempted from licensing? – Respondent’s position

- 3.96 11850 agreed in principle but reiterated its view expressed in response to Q.1, that the appropriate threshold should be €10 on the basis that any proposed regulation is as light as possible and proportionate to the likelihood and magnitude of consumer harm.
- 3.97 11890, BT, ALTO, DeafHear.ie, the NDA, Phonovation, UPC and Vodafone responded in the affirmative to this question. BT, ALTO and Vodafone reiterated their response to Q.1. Cable Wireless Worldwide agreed in principle, subject to its comments outlined in response to Q1. Realm agreed, subject to their view previously outlined, that all operators within the PRS should be licensed. UPC noted that they did not necessarily agree with the list proposed and considered that technical support services could be exempt.
- 3.98 Eircom, 3, mBlox, Meteor, Modeva, Xiam and IPPSA disagreed with this proposal and reiterated the comments given in response to Q1.
- 3.99 Ericsson IPX again suggested an 11cent threshold and noted; “*Where there is clear abuse of consumer rights, then ComReg may wish to reserve its right to become involved in specific cases at lower price points*”.
- 3.100 O2 said that a greater emphasis should be placed on providing exemptions by virtue of the nature of the service. Its view is that the proposed threshold could possibly be increased to €0.30 cent, €0.40 cent or €0.50 cent before consumer harm is deemed to occur.
- 3.101 RTE disagreed, stating that it “*is not appropriate that certain categories of services could be exempt from regulation, irrespective of price point*”.

What may be exempted from licensing? - ComReg’s position

- 3.102 ComReg refers to its response to Q1 above. Having carefully considered the submissions received and collated the views expressed by respondents to Questions 1 to 11 inclusive, ComReg has decided that the following classes or types of PRS will be required to be licensed and ComReg will make regulations accordingly:

ComReg's Decision No. 1:

A Premium Rate Service provider will be required to hold a licence if:

- (a) it provides a Premium Rate Service which is accessed by a premium rate number and where the price payable by the end user for each call exceeds €0.25 cent (inclusive of VAT)**
- (b) it provides a Premium Rate Service which is accessed other than by means of a premium rate number, but excludes a Premium Rate Service accessed by an international call, where the price that is payable by the end user for each call exceeds €0.25 cent (inclusive of VAT); or**
- (c) the Premium Rate Service provider provides any of the following types of Premium Rate Service:**
 - (i) Chatline services (Live or Virtual),**
 - (ii) Sexual entertainment services,**
 - (iii) Children's services,**
 - (iv) Subscription services, or**
 - (v) Internet Dialler Software operated.**

4 Directory Enquiry (DQ) Services

Introduction

- 4.1 The National Numbering Conventions⁶ (the Conventions) provide that the “118XX directory information access codes shall be used only for the provision of directory enquiry services and relevant valued added services”.
- 4.2 In recent times, DQ providers have asked ComReg to sanction use of their 118XX numbers for the provision of information services of a general nature, in addition to the current usage. ComReg’s consistent view has been that “relevant value added services”, has always meant services allied closely to telecommunications directory services - this was the original intention in February 2000 when the first version of the Conventions was issued and it has remained unchanged since. This issue formed a significant part of the last review⁷ of the Conventions where ComReg concluded that a change of policy was not advisable.
- 4.3 In light of similar representations made more recently by DQ providers, ComReg considered that although the original arguments against a change of policy remain, there are now developments that should be considered as follows:
- (i) The new definition of a PRS, as defined in the Act, now captures DQ services provided on 118XX DQ access codes in their current form,
 - (ii) ComReg, through the introduction of the Act, now has powers to regulate premium rate content services which may include those provided by DQ providers. This creates a strong basis for ensuring an appropriate level of consumer protection, should a broader range of services be permitted on 118 numbers, and
 - (iii) DQ providers have faced deteriorating revenue, mainly due to Internet-based competition, a decrease in DQ call volumes generally, and the current challenging economic conditions. DQ providers, therefore, wish to leverage their DQ brands by providing a broader range of services.

In light of these developments, ComReg decided to open this issue for further public consultation and specific questions were posed to obtain a range of views.

Regulate DQ as “specified PRS” or maintain the status quo?

Summary of Consultation Issues

- 4.4 DQ Services provide content, consumers incur a charge for receiving that content, and the cost to the consumer is charged via a telephone bill or prepaid account. Therefore, a DQ service has all the characteristics of a PRS as defined in the Act.

⁶ ComReg Document No. 08/02

<http://www.comreg.ie/fileupload/publications/ComReg0802.pdf>

ComReg Document No. 07/46
(<http://www.comreg.ie/fileupload/publications/ComReg0746.pdf>) and the consultation response ComReg Document 08/01.
(<http://www.comreg.ie/fileupload/publications/ComReg0801.pdf>)

- 4.5 Since DQ services meet the criteria for being considered PRS and are currently offered at prices above the threshold proposed in the Consultation Paper, ComReg sought views on any other factors that should be accounted for before deciding if DQ services should be categorised as “specified PRS”, thereby requiring DQ providers to be licensed.
- 4.6 Calls to DQ services may be offered at one price and any onward connection service (call completion) may be offered at a different price. ComReg noted the importance of pricing transparency so that consumers are empowered to make informed choices when deciding upon the merits of selecting the call completion offer. It seemed reasonable that DQ providers should be covered by the same mandatory requirements for pricing transparency as other PRS suppliers.
- 4.7 ComReg also considered if DQ providers should be, like any specified PRS provider, subject to all the provisions in the Code of Practice.
- 4.8 ComReg then set out a number of regulatory approaches through a series of questions to elicit feedback from respondents. It should be noted that 33 respondents declined to respond to the DQ-related questions directly (i.e. Questions 12 – 16).
- 4.9 ComReg sought views on these issues with the following question:

Q. 12. Do you consider that ComReg should regulate DQ services, within their current remit, as *specified PRS*?

Views of Respondents in relation to Q12

- 4.10 A number of respondents were in favour of regulating DQ services as specified PRS. These included 63336 Ltd, Cable & Wireless, DeafHear.ie, Ericsson IPX, IPPSA, Modeva, Phonovation, Realm and RTÉ. The reasons given for their respective positions included:
 - (i) DQ services meet the criteria for being considered PRS as defined in the Act,
 - (ii) To exempt DQ services in this way would be anti-competitive, commercially biased and discriminatory vis-à-vis ordinary PRS providers who offer potentially identical services on PRS numbers,
 - (iii) There is already a lack of pricing transparency for DQ services that should be addressed by PRS regulation,
 - (iv) The same issues regarding access to a redress mechanism, compliance handling, pricing transparency and fair trading equally apply to DQ services.
- 4.11 Those respondents against regulating DQ services as specified PRS included 11850, 11890, ALTO, BT Ireland, *eircom* (owner of 11811), Hutchison 3 Ireland, mBlox, Meteor, O2, UPC and Vodafone. The reasons given for their respective positions included:
 - (i) The decision to designate a particular service as specified PRS should not be triggered by the level of retail price in isolation. It must also be

demonstrated, through providing robust evidence, that the service itself is an existing, or potential, source of consumer harm. The extension of a similar level of regulation to DQ services, as is applied to other types of PRS (e.g. subscription services), would be disproportionate and burdensome.

- (ii) There is no evidence to suggest that DQ services are a significant source of consumer harm. ComReg should only intervene to regulate DQ services if and when there is some *prima facie* evidence that intervention is required.
- (iii) DQ is recognised in the Universal Services Regulations⁸ as a service that should be available to all EU consumers and is, therefore, different and should not be bundled into a PRS regulatory regime based on a single criterion or definition.
- (iv) Alternative options to regulation should be considered such as self-regulation by the industry via a voluntary Code of Practice. ComReg could retain certain statutory powers to intervene, in the event that it considers that the self-regulation of DQ services has failed.
- (v) DQ services are already subject to regulation under existing regulatory frameworks and the primary reason put forward for regulation is improved pricing transparency. ComReg already has the power to impose pricing transparency obligations on DQ providers.
- (vi) The magnitude of difference between the characteristics of the DQ market and the PRS market is such that it would be wholly inappropriate to govern them in the same regulatory framework. The association that would be created in consumers' minds could cause reputational damage for the DQ industry.

4.12 ComReg further sought views on this issue with the following question:

Q. 13. Do you consider that DQ services, within their current remit, could be exempted from regulation, provided their cost is below the recommended price threshold?

Views of Respondents in relation to Q13

4.13 11850, ALTO, BT Ireland, Cable & Wireless, Hutchison 3 Ireland, UPC and Vodafone were in favour of an exemption from regulation, however for differing reasons and thresholds. ALTO, BT Ireland and Cable & Wireless favoured an exemption provided the price is below the recommended price threshold and ALTO also noted that an exemption would be appropriate as DQ providers are already subject to existing telecommunications regulation. 11850 considered that DQ providers should continue to be exempted from PRS regulation provided average charges per text/call were below €10 and the number of complaints to regulators were at a lower rate than one per thousand calls/text.

⁸ European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2003 (S.I. 308 of 2003) as amended (the Universal Service Regulations”).

- 4.14 O2 believes that the ‘nature’ of the DQ service, within its current remit, is unlikely to generate consumer harm and, as such, an exemption may be appropriate. Vodafone concurred and reiterated its response to Question 12 by stating that there is no evidence of consumer harm relating to the current provision of DQ services as would warrant PRS regulation.
- 4.15 UPC noted that current prices for DQ services are already over the proposed price threshold and they are presently not considered premium rate.
- 4.16 63336 Ltd, Deaf Hear.ie, Eircom, Ericsson IPX, IPPSA, Meteor, Modeva, Phonovation, Realm and RTÉ were all against an exemption for DQ services from PRS regulation. 63336 Ltd stated that the regulations do not just cover cost but also advertising and operation. It also warned that an exemption based on cost alone, would cause confusion for customers who have an expectation that all PRS are being regulated and it is illogical to exempt certain companies. RTÉ agreed, stating that it does not consider it appropriate that certain categories of services could be exempt from regulation, irrespective of price threshold.
- 4.17 Eircom and Meteor stressed that DQ services, within their current remit, present a very low level of risk of harm to the consumer and that any concerns regarding pricing are fully mitigated by the level of pricing transparency in the market and should, therefore, be exempted from PRS regulation regardless of price.
- 4.18 IPPSA warned that DQ services should not be exempt on the basis that it would discriminate against other service providers and would deny consumers their legitimate expectations of having appropriate regulatory protections and standardised complaints handling processes for all services that incur a premium rate charge. Modeva also believes that it would be unfair to other PRS providers if one class of service received positive discrimination.

ComReg’s position in relation to Q12 and Q13

- 4.19 ComReg welcomes the detailed analysis and consideration given by respondents to the issues raised by Questions 12 and 13. In particular, the majority of respondents recognised the need for pricing transparency and consumer protection. The existing obligations for DQ pricing transparency are set out in ComReg’s 2004 Decision⁹ on access to tariff information for directory services. This document clearly sets out the obligations on DQ providers to provide access to pricing information, including information to be provided in-call by DQ customer service agents on the cost of the call completion service. ComReg has recently been advised that not all DQ providers in the market are providing information regarding the cost of call completion. This is a cause for concern that ComReg intends to address with industry.
- 4.20 DQ services are widely regarded as being important to citizens and this importance has been enshrined in the Universal Services Regulations, as noted by some respondents. The requirement to provide a comprehensive DQ service as a Universal Service Obligation on the designated Universal Service Provider¹⁰ was withdrawn in 2006 as ComReg was of the view that DQ services were being provided on a

⁹ ComReg Document No. 04/87 available at:
<http://www.comreg.ie/fileupload/publications/ComReg0487.pdf>

¹⁰ Eircom is the current designated Universal Service Provider.

commercial basis and that the market could fulfil this aspect of the Universal Service without an undertaking, or undertakings, being legally obliged to do so by ComReg. There are now four¹¹ DQ providers in the market providing DQ services on a competitive basis and ComReg must, therefore, be mindful of the proportionality of imposing any additional regulatory burden. DQ providers (who offer call completion services) are already required to be authorised by ComReg and are regarded as providers of electronic communications services¹². Therefore, DQ providers are already subject to the telecommunications regulatory framework, as indicated by one respondent.

- 4.21 ComReg also recognises the societal importance of DQ services to people with disabilities, as stated by the NDA and DeafHear in their responses. Similarly, ComReg must be mindful of the requirements of people with disabilities before considering any change in policy direction that could jeopardise the continued provision, or quality, of these important services.
- 4.22 Having carefully considered the views expressed by respondents, and given the observations set out above and, in particular, the level of consumer complaints involved, ComReg considers that it would be disproportionate, given the lack of evidence of consumer harm, to designate DQ services, in their current form, as specified PRS. Nevertheless, pricing transparency remains a key consumer issue for ComReg. Should the number of complaints rise in the future or if existing pricing transparency obligations are not implemented in full by existing and future DQ providers, ComReg will reconsider the appropriateness of this exemption.

ComReg’s Decision No. 2:

ComReg will exempt from PRS regulation DQ services provided on the 118XX directory information access codes¹³.

Permit a wider range of services?

Summary of Consultation Issues

- 4.23 DQ providers have approached ComReg in recent times requesting permission to provide a broader range of information services using their respective 118XX codes. ComReg has consistently rejected such requests, however, given the developments outlined above, ComReg decided that it was appropriate and timely to consult on this matter again.

¹¹ National DQ services are available on 11811, 11827, 11850 and 11890

¹² In accordance with the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2003, (S.I. 306 of 2003) as amended.

¹³ The National Numbering Conventions (ComReg Document No. 08/02) provide that the 118XX directory information access codes shall be used only for the provision of directory enquiry services and relevant value added services. Relevant value added services are currently limited to call completion services and SMS provision of the number sought. ComReg may amend the meaning of value added services from time to time.

- 4.24 ComReg’s preliminary view was that the risk of consumer harm that could arise from the provision of a broader range of services would need to be counter-balanced by requiring such services to be considered specified PRS and, therefore, required to be licensed as enhanced consumer protection would be a necessary pre-requisite for a more liberalised approach.
- 4.25 ComReg noted that permitting a wider range of services raises a number of issues. Firstly, there is a risk that public trust in DQ services and DQ service standards may deteriorate. Secondly, competition issues may arise if services typically available on PRS numbers become available on DQ numbers. Thirdly, the nature and range of more general information services would need to be carefully scoped to ensure that certain categories of services are prohibited, such as adult/sex entertainment services and competition/gaming services. Ultimately, issues would arise as to preserving the primary purpose for 118XX numbers.
- 4.26 ComReg sought views on the issue of authorising a broader range of services to be provided using 118XX DQ numbers, through the following question:

Q. 14. Do you consider that it is preferable to maintain the current clear focus of 118XX on strictly telecommunications directory services or should it be permitted to expand to allow a diverse range of “*general information services*” and, therefore, become subject to PRS regulation?

Q. 15. Do you consider that the provision of “*general information services*” by DQ Service Providers would be unfair to ‘ordinary’ Service Providers of similar services or does the option for them to provide DQ services mitigate this?

Q. 16. Do you consider it appropriate to delineate the additional “*general information services*” that would be acceptable on 118XX short codes where prior approval by ComReg would be required on a case-by-case basis?

Views of Respondents in relation to Q14, Q15 and Q16

- 4.27 63336 Ltd, Cable & Wireless, Eircom, Ericsson IPX, Hutchison 3 Ireland, IPPSA, Meteor, Modeva, Phonovation, Realm and UPC were in favour of maintaining the current clear focus of 118XX, whereas 11850, 11890, Vodafone, 02 and DeafHear.ie were in favour of permitting an expansion in the scope of services offered. RTÉ, ALTO and BT did not express an exact position, but, they were of the general view that if the scope of DQ services were to be expanded, then services should be defined and appropriate regulation should apply to services equivalent to existing PRS

services. IPPSA, although opposed to maintaining the clear focus, suggested that the caller could be provided with additional information directly related to the enquiry they made, such as providing opening hours, location, or a list of alternative branches/numbers.

- 4.28 11850 considered that a broader range of services is required to keep up with the evolving demands of Irish consumers for instantaneous access to an ever-expanding range of information services. 11890 stated that the ability to provide general information services is a normal evolution of the DQ service, evidenced by the growing amount of requests from callers for opening times of shops, train and bus timetables, etc. Eircom cautioned that a more liberal approach would tarnish the reputation of the 118XX brand through enabling the provision of inferior quality DQ services by “traditional PRS providers” whose sole aim is to obtain a unique 118XX short code for the provision of their core PRS offering.
- 4.29 11850 believed that Ireland is lagging behind its European counterparts as a broader range of services is now available on 118XX numbers in other countries such as France, UK and Spain. It also referred to the existence of some consumer-detrimental issues, as referenced in the Consultation , in some markets in the early stages after liberalisation of 118 in Europe. This, it claimed, was at a time when competition was fierce and the likely areas of harm were untested (for example, when the relevant market in Germany was deregulated, sexual content services became available on 118). 11850 commented, however, that these issues were quickly remedied by the relevant NRAs and are now purely historical.
- 4.30 The NDA stressed the importance of PRS and DQ services to 120,000 people who have difficulty leaving their homes. It also noted the importance of DQ services to visually-impaired and blind people, particularly call completion services. It also cautioned that, if 118XX numbers were to be permitted to be used to provide other information, there should be a system in place to ensure there is no diminution in the quality of DQ services provided and that no additional costs would be incurred by the user in accessing DQ services.
- 4.31 11850 and 11890 commented on the decline in call volumes in recent times and the threat of Internet based competition. They both referred to the significant investments they had made in developing their respective brands and their need to diversify to protect their business and they warned that failure to broaden the scope of services available will ultimately damage the provision of DQ services. 63336 Ltd rejected this view noting that this competitive threat has been in existence since the introduction of the new 118XX DQ regime and it was the responsibility of DQ providers to consider these competitive pressures when they developed their business plans. It stated that it would, therefore, be wrong for the regulator to change the regulations as a result of pressure from the DQ companies to use their 118XX numbers for the provision of services equivalent to PRS and that PRS providers had also made investment decisions in anticipation of a level playing field and in the expectation that the National Numbering Conventions would be upheld by the Regulator.
- 4.32 11850 and 11890 believed that there is no risk to the dilution of the branding associated with 118XX numbers. 11850 referred to experiences in other countries where there is no evidence that an expansion of services has undermined consumers’ perception that 118 services have DQ services at their core. 11890 stressed that it has worked tirelessly to develop its brand to represent customer service, value for money and jobs for Ireland. With this in mind, the extra services that they propose to provide

will be in the area of general information and that it is not in the interests of DQ providers to do anything that would affect the brand they have developed. 63336 Ltd disagreed, stating that the use of 118XX numbers to provide other PRS would dilute the unambiguous message that 118XX services provide telephone number information.

- 4.33 63336 Ltd advised that it is important to differentiate between companies providing the services and the number ranges those services operate on. The 118XX number range was originally reserved for DQ specific enquires and it should remain that way. The provision of general information services on 118XX short codes would be unfair to Service Providers of equivalent PRS services.
- 4.34 Eircom considered that a broader approach could lead to constant challenges, revisions, questions and complaints with respect to the definition of an acceptable “general information service” and where any boundaries to these services may be drawn. Eircom also warned that moving away from the current clear approach would cause widespread confusion as multiple services could be delivered across the 118XX, 5XXXX and 15XX number ranges. IPPSA concurred with this view.
- 4.35 11850 and 11890 further considered that ComReg’s proposal to approve general information services provided on 118XX numbers on a case-by-case basis would be bureaucratic, wasteful and would inhibit their ability to develop products and services in response to consumer demand. 11890 accepted that the scope of information services allowed needs to be addressed, as the term “general information” appears to be too broad. Both respondents suggested that a period of trial self-regulation might be an appropriate solution.
- 4.36 IPPSA, ALTO, Realm, RTÉ and BT considered that where a broader set of services are provided, these should be defined so that consumers are aware of the potential cost of the call and the service to expect. Cable & Wireless considered that such delineation was necessary to provide legal certainty. O2 considered that ComReg’s proposal of a ‘prior permission’ model was reasonable while this area is developing and that it may then be possible to develop a set of criteria for permitting certain services and define a list of class, or type, of service that is permissible for use using 118XX numbers.
- 4.37 Eircom warned that there is a risk of widespread call barring of 118XX if equivalent PRS services are offered on those numbers and if consumer harm occurs in the future. It should be noted that the other DQ providers, 11850 and 11890, were not in favour of a call barring solution.
- 4.38 O2 agreed with the classes of service outlined in the Consultation as not being suitable for provision on an 118XX number. O2 believed that such services should be limited to those of a general information nature and ‘related’ to the purpose of the customer’s initial contact.
- 4.39 IPPSA and Realm believed that there are issues whereby the use of an 118XX number has advantages over other PRS numbers. For example, a 5XXXX number cannot be voice-dialled. Vodafone agreed that there should be some delineation between DQ and general information services that would operate on 118XX codes. It was Vodafone’s view that ComReg should decide on what it determines to be a core DQ business or general information offering to the consumer and should classify the two distinct services.

ComReg’s position in relation to Q14, Q15 and Q16

- 4.40 ComReg has carefully considered the submissions made in response to Questions 14, 15 and 16; notes the views on all sides and acknowledges that the matter is multi-dimensional and is closely linked to the decisions taken in relation to Questions 12 and 13.
- 4.41 As stated earlier, ComReg recognises the societal importance of DQ services and that the Universal Service Regulations require that “*a comprehensive telephone directory enquiry service is made available to all end-users*”. It is noted that DQ services may be particularly important to certain groups of people with disabilities, as highlighted by the NDA and DeafHear.ie in their submissions. ComReg, therefore, must ensure that these services continue to be provided and that the quality of these services does not deteriorate in any way.
- 4.42 ComReg notes that, while some respondents consider that the provision of a broader range of services on 118XX need not dilute the association that consumers make between 118XX and DQ services, there is a general consensus that a clear delineation would be necessary if a broader range of services were permitted to avoid widespread confusion. In ComReg's view, a delineation between ‘general information content associated with DQ services’ and ‘other information content’ is problematic or that a delineation can be made between information provided by 15XX or 5XXXX PRS services and such ‘DQ-associated’ information. Such demarcations would be the subject matter of constant challenge, complaints, revisions and clarifications. ComReg notes the views of Eircom, an existing DQ provider, and IPPSA who expressed a similar sentiment.
- 4.43 Other viewpoints suggest that DQ providers are already free to offer more general information services using the numbers available to PRS providers, thereby competing fairly. ComReg is aware of the risk of conferring a special market position for this purpose to DQ providers, through providing a special short code (118XX), given for a different purpose and does not consider that the Consultation responses provide convincing reasons for a change to this policy.
- 4.44 In a European context, ComReg is aware that more general information services are available in certain European countries and also understands that consumer-detriment issues have arisen in Switzerland and Austria. Indeed, Austria and Germany re-affirmed their positions that DQ numbers are strictly for a DQ service in 2008 and 2009 respectively. Were ComReg’s policy to change, it would be obliged to accept the bona fides of any applicants who claim that they will set up a full DQ service and meet minimum information requirements. In these circumstances there is the potential for multiple new competitors seeking 118XX codes to gain the advantage of a short code, bypass specified PRS regulation and benefit from the brand recognition that has carefully been built up on 118 numbers.
- 4.45 Respondents will have noted Question 21 of the Consultation concerning the option of providing a barring service for PRS numbers on mobile networks. DQ services are already available via SMS on 118XX and it is considered that the provision of any additional PRS services on the same 118XX number could create issues for users who wish to bar PRS but, wish to continue to have access to DQ. ComReg is particularly mindful of the impact of this development for persons with disabilities and their ability to communicate with these important services.

- 4.46 In conclusion, after careful consideration of the views expressed, ComReg is unpersuaded that a policy change is advisable at this time. It is ComReg’s view that there is potential risk of consumer harm in permitting more general information content on 118XX; potential consumer confusion between DQ and general information services already available on PRS numbers; potential risks to brand recognition and issues around call barring. In addition, ComReg’s notes that its proposed approach is consistent with similar policies in the majority of European countries.
- 4.47 Finally, ComReg wishes to emphasise that the practical significance of this decision is that the term “relevant value added services”, as used in the National Numbering Conventions, continues to mean value added services of a telecommunications nature. For clarity, ComReg intends to clearly specify the “relevant value added services” that are permitted in the next review of the National Numbering Conventions, to be published in 2010.

ComReg’s Decision No 3:

ComReg has decided to maintain the current clear focus of DQ services on the 118XX number range . The 118XX directory information access codes shall continue to be assigned only for the provision of directory enquiry services and relevant value added services. ComReg will specify what constitutes a relevant value added service in the next review of the National Numbering Conventions.

5 Mobile Subscription Services

- 5.1 ComReg’s Decision No 1 stated that a PRS provider will be required to hold a licence if it provides a subscription service.
- 5.2 Chapter 9 of ComReg’s Consultation raises a number of issues relating to the promotion and operation of mobile subscription services (i.e. PRS with a recurring charge which are accessed via a mobile handset). ComReg proposed a number of measures that would provide greater consumer protection for subscribers to mobile PRS. The responses received to Questions 17 to 23, inclusive, are strictly related to “how” specified PRS will be regulated. As such, these responses are relevant to the Code of Practice to be observed by all providers of specified PRS.
- 5.3 Section 15 of the Act, provides that RegTel’s Code of Practice (published on 1 October 2008) continues until a new Code of Practice is prepared and published by ComReg “as soon as practicable after the appointed day” (that is 12 July, 2010). Before publishing a Code of Practice, the Act requires ComReg to first consult with PRS providers, other interested persons and other regulatory bodies in the State.
- 5.4 In accordance with the provisions of section 15 of the Act, ComReg will, as soon as practicable after the appointed day, consult on a new Code of Practice and will use the information received in responses to Questions 17 to 23, inclusive, to inform the contents of that Consultation.

6 Regulatory Matters

Licensing

- 6.1 On the basis of the responses received to this Consultation, ComReg has decided on the class, or type, of service that will be a specified PRS and, therefore, are required to be licensed. As set out earlier, ComReg has removed from regulation low-cost PRS, where it is considered there is low potential for consumer harm.
- 6.2 In accordance with its obligations under section 7(4) of the Act, ComReg consulted with the Broadcasting Authority of Ireland in relation to the issue of on-demand audiovisual media (“ODAM”) services. ComReg has decided to exclude, at this point, O DAM services, as defined in the European Communities (Audiovisual Media Services) Regulations 2010, from its regulatory framework.
- 6.3 In accordance with section 6 of the Act, providers of specified PRS are required to obtain a PRS licence, the application form for which can be found on ComReg’s website www.comreg.ie.
- 6.4 It is ComReg’s intention to minimise the administrative burden on PRS providers, while balancing the requirement to pre-empt and prevent consumer harm. Ideally, after obtaining a license, PRS providers should require no further permissions from ComReg, however it is currently ComReg’s belief, that there are some PRS, which hold a higher potential for consumer harm and therefore require closer scrutiny in advance of the services being launched. For this reason, ComReg has set out in the Regulations that, in respect of certain specific categories of PRS, a licensed PRS provider must first be issued with a Certificate from ComReg, thereby permitting the provision of the individual service. Those categories of specified PRS the provision of which requires a Certificate are referred to as “authorised services”.
- 6.5 Section 3.2.1 of RegTel’s Code of Practice requires Service Providers to notify RegTel by completing the application process before providing any PRS. ComReg’s provisions will, therefore, require less administration by PRS providers than currently exists.

Authorised Services

- 6.6 In order to minimise the administrative burden on PRS providers and to pre-empt and prevent consumer harm, ComReg has determined, after considering the consultation responses in general and the market information available, that only the following categories of specified PRS will be considered “authorised services”, thereby requiring that licensed PRS providers wishing to provide such services must first obtain a Certificate from ComReg;
 - (i) Chatline services (Live and Virtual),
 - (ii) Services advertised as being for the benefit of a charitable organisation or other non-profit organisation,
 - (iii) Sexual entertainment services,
 - (iv) Subscription services,
 - (v) Internet Dialler Software operated, or
 - (vi) Quiz television services.

- 6.7 It is ComReg’s intention to monitor market behaviours on an ongoing basis and to amend this schedule from time to time, as appropriate.

Special Conditions

- 6.8 ComReg has made provisions in the Regulations whereby it may impose a special condition on a PRS provider, who has had a licence amended, suspended, or revoked¹⁴ following an investigation¹⁵, such that the PRS provider must obtain a Certificate for the provision of any specified Premium Rate Services, and not only the authorised services set out in paragraph 6.6 above. This provision is similar to those set out in Section 13.8 (iii) of RegTel’s Code of Practice.
- 6.9 ComReg has made provision in the Regulations to permit the imposition of special conditions on a PRS provider who has had a licence amended, suspended, or revoked following an investigation, requiring it to post a performance bond with ComReg. This bond would be released to ComReg, pursuant to an investigation, in the event of a finding that the PRS provider had not complied with, or had breached, a condition attached to its licence for the purposes of effecting any necessary refunds.
- 6.10 The purpose of the imposition of special conditions is to allow ComReg to increase the regulatory focus on those PRS providers who have demonstrably breached licence conditions. It is ComReg’s intention that any special conditions will be fair, reasonable and proportionate and may be amended, or removed, as appropriate.

Refunds

- 6.11 ComReg has statutory powers under section 9(1) of the Act to require PRS providers who have been found to be in breach of their licence conditions following an investigation, to refund those consumers affected by the breach. ComReg considers that the timely and effective refund of end users is a fundamental requirement to provide and enhance consumer confidence in PRS.
- 6.12 ComReg intends to conduct a consultation on the discrete issue of refunds in order to examine in greater detail, the basis and circumstances by which refunds are made to consumers. ComReg will invite the views of industry and other interested parties that will assist in determining the manner and means by which end users may receive refunds.

Consumer Complaints Handling Policy

- 6.13 ComReg considers it imperative that all PRS providers maintain appropriate standards of customer care. A fundamental tenet of any customer care regime is the establishment and implementation of a policy for handling complaints from end-users. ComReg will, therefore, make provisions in Regulations requiring that such policies should be readily available to members of the public.

¹⁴ Subject to section 10 of the Act.

¹⁵ Subject to section 9 of the Act.

- 6.14 PRS providers will also be required to inform end users that they may lodge a complaint with ComReg, should a complaint previously lodged with the PRS provider not be resolved to the end user's satisfaction.
- 6.15 These two provisions are intended to enhance consumer confidence in PRS by making available a clear route to the public by which a complaint can be lodged and progressed.

Industry Levy

- 6.16 Section 16 of the Act amends section 30 of the Communications Regulation Act 2002, as amended and provides that ComReg may impose a levy on PRS providers for the purpose of meeting expenses incurred by ComReg in the discharge of its functions to regulate PRS. It is standard policy for ComReg to consult on any Levy Order that it issues, however it is also reasonable that ComReg would not wish to allow for a "levy holiday" during the period in which that consultation is being conducted. For this reason, ComReg intends to continue the levy framework currently operated by RegTel until such time as a consultation on the levy can be completed.
- 6.17 ComReg will, therefore, issue an Interim Levy Order that will maintain the existing levy mechanism with the following exceptions;
- those PRS that are currently subject to RegTel's levy, but will be exempted from regulation, based on ComReg's definition of specified PRS.
 - those PRS that will be subject to PRS regulation based on ComReg's definition of specified PRS but are not currently subject to RegTel's levy, will also not be subject to the Interim Levy Order.
- 6.18 ComReg considers that it is fair and proportionate that services that do not meet the definition of specified PRS should not be subject to ComReg's PRS levy. ComReg also considers it fair and proportionate that "new" services that will become subject to regulation as a result of a change in the regulatory regime, based on ComReg's definition of specified PRS, should not be subject to a PRS levy until such time as a consultation has been concluded.
- 6.19 In summary, those PRS set out in sub-para (i) above will not be subject to the "final" Levy Order to be published following a levy consultation, however those PRS set out in sub-para (ii) above will, in time, be subject to the "final" Levy Order.

7 Regulatory Impact Assessment (RIA)

ComReg’s approach to conducting RIA

- 7.1 This section sets out ComReg’s RIA, prepared in accordance with ComReg’s RIA Guidelines (as set out in ComReg Document 07/56a) (“ComReg Guidelines”) and having regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009 (“the Department’s RIA Guidelines”), and the Policy Directions issued to ComReg by the then Minister for Communications, Marine and Natural Resources to ComReg under section 13 of the Communications Regulation Act 2002, as amended, on 21 February 2003 (the “Policy Directions”).
- 7.2 According to the Department’s RIA Guidelines, a RIA is a tool used for the structured exploration of different options to address particular policy issues. It is used where one or more of these options is new regulation or a regulatory change and facilitates the active consideration of alternatives to regulation or lighter forms of regulation. It involves:
- 1) analysis to ascertain whether or not different options, including regulatory option, would have the desired impact,
 - 2) identifying any possible side-effects, or hidden costs, associated with regulation,
 - 3) quantifying the likely costs of compliance on the individual citizen or business, and
 - 4) clarifying the costs of enforcement for the State.
- 7.3 ComReg issued Guidelines on its approach to RIAs in August 2007. ComReg’s RIA Guidelines set out, amongst other things, the circumstances in which ComReg considers that the conduct of a RIA would be appropriate. In summary, ComReg indicated that it would conduct a RIA in any process that may result in the imposition of a regulatory obligation (or the amendment of an existing regulatory obligation to a significant degree), or which may otherwise significantly impact on any relevant market or on any stakeholders or consumers.
- 7.4 Although there is no strict obligation on ComReg to conduct a RIA in relation to certain issues, ComReg has nevertheless done so, for this project, in the interests of continuing to ensure transparency of its processes and as the outcomes of this project may have an impact on the telecommunications sector in Ireland, particularly in relation to the consumers of mobile voice and broadband services. The conduct of a RIA in this context is also in line with the Ministerial Direction to ComReg made on 21 February, 2003.
- 7.5 As set out in ComReg’s RIA Guidelines, there are five steps to this RIA. These steps are:

Step 1: Describe the policy issue and identify the objectives,

Step 2: Identify and describe the regulatory options,

Step 3: Determine the impact on stakeholders,

Step 4: Determine the impacts on competition,

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

These steps are dealt with in turn below.

Describe the policy issue and identify the objectives.

- 7.6 There is a concern that consumers, in consuming Premium Rate Services (PRS), are inadvertently running up unexpectedly large bills when they call premium rate numbers or access PRS via a mobile handset. This concern is particularly marked in relation to children who do not understand, or are unaware of, the terms and conditions governing this process.
- 7.7 Of concern is the fact that payment for a service through an ECNS provider exposes the consumer to making payments without the normal payment controls. Firstly, there is (often) no direct relationship between the Service Provider and the consumer. Payments are made at the initiation of the non-communications Service Provider and are effected by the communications Service Provider. The consumer is in a much weaker position, as payment is drawn down by the communications Service Provider as an intermediary of the Service Provider. Consumers are unlikely to place in jeopardy their whole communications service, due to a higher-than-expected bill on one item. Furthermore, opportunistic behaviour may not be noticed directly by pre-paid consumers, who are the majority of mobile phones subscribers.
- 7.8 Consumer harm can also occur where consumers inadvertently (or carelessly) enter into a subscription contract-for-service. Given the payments relationships, subscriptions can lead to large bills accumulating in a short period of time, with a delay before this can be rectified by a post-paid customer and a continual fast/immediate consumption of phone credit for pre-paid consumers.
- 7.9 Many PRS have an interactive real-time quality. This, in turn, leads to the possibility of vulnerable users being engrossed in the activity without regard, at the time of consumption, to the charge being occurred. This may lead to regrets about the purchase later. In addition, there are the concerns about access to inappropriate and/or damaging content for these age-groups. As mentioned earlier, the Ombudsman for Children noted, in general, that *“Given the growing targeting of children as consumers in this area, it is important that a greater obligation of responsibility is placed on the service provider than the child.”*
- 7.10 The Minister in outlining his desire to address these issues in legislation, stated that *“There is right and real anger from the public in relation to premium rate text and phone services. This is a significant issue of consumer concern as children, especially, are inadvertently running up large bills on their mobile phones. Essentially, they are subject to a scam. Tighter regulation of this sector is required in order to ensure the Irish consumer is not exploited.”* The objective set in legislation for ComReg is to protect the interests of end-users of PRS.
- 7.11 ComReg also has the function of managing the national numbering resource, in accordance with a Ministerial direction. In undertaking this function, the Framework Directive asks, *inter alia*, that NRAs shall promote the interests of citizens as end

users. To the degree that PRS are delivered using numbers from the national numbering scheme, ComReg is also conscious of the objective it is trying to achieve in that context.

7.12 ComReg has made the following decisions.

(i) Decision 1:

ComReg's Decision No. 1:

A Premium Rate Service provider will be required to hold a licence if;

- (a) it provides a Premium Rate Service which is accessed by a premium rate number and where the price payable by the end-user for each call exceeds €0.25 cent (inclusive of VAT),**
- (b) it provides a Premium Rate Service which is accessed other than by means of a premium rate number, but excludes a Premium Rate Service accessed by an international call, where the price that is payable by the end user for each call exceeds €0.25 cent (inclusive of VAT), or**
- (c) the Premium Rate Service provider provides any of the following types of premium rate service:**
 - (i) Chatline services (Live or Virtual),**
 - (ii) Sexual entertainment services,**
 - (iii) Children's services,**
 - (iv) Subscription services, or**
 - (v) Internet Dialler Software operated.**

(ii) Decisions 2 and 3:

ComReg's Decision No 2:

ComReg will exempt from PRS regulation DQ services provided on the 118XX directory information access codes¹⁶.

¹⁶ The National Numbering Conventions (ComReg Document No. 08/02) provide that the 118XX directory information access codes may shall be used only for the provision of directory enquiry services and relevant value added services. Relevant value added services are currently limited to call completion services and SMS provision of the number sought. ComReg may amend the meaning of value added services from time to time.

ComReg’s Decision No 3:

ComReg has decided to maintain the current clear focus of DQ services on the 118XX number range. The 118XX directory information access codes shall continue to be assigned only for the provision of directory enquiry services and relevant value added services. ComReg will specify what constitutes a relevant value added service in the next review of the National Numbering Conventions.

Identify and describe the regulatory options for Decision 1 (cost threshold)

- 7.13 The options are to set no price threshold and regulate all PRS without regard to price or to set a reasonable threshold, below which there will not be regulation in general. A final option is not to regulate such services in general.

Determine the impact on stakeholders

- 7.14 Given the purpose of the legislation, the primary stakeholders are consumers. In particular, vulnerable consumers, including minors, are to be protected. Other stakeholders are Network Providers and current and potential PRS service providers.
- 7.15 For one-off services, consumers require confidence that their interests are being protected, particularly when Service Providers are using numbers from the national numbering range. Consumers should have confidence that such services have a degree of protection in excess of that normally provided by consumer legislation, not least due to the role that the communications Service Provider takes on as an intermediary.
- 7.16 These services may be consumed more than once in a manner that raises concerns for consumers. Firstly, there may be repeated consumption between billing periods for bill-pay consumers or it may take a pre-paid consumer a number of events to make the link between the consumption of the new service and credit disappearing faster than normal. So, although each charge is initiated by the consumer, there may not be a clear link in the consumer’s mind between the purchase and the payment.
- 7.17 Network providers bill on behalf of the PRS provider. They benefit from the consumption of PRS. However, they also like to maintain a good relationship with their customer on an ongoing basis. This is more clearly seen in respect of post-pay consumers; however it is also true of pre-paid customers. Network Providers would not have an interest in consumers becoming wary of using their phone service to purchase other services as this may reduce their consumption of other services from them. They would like to see a balance being struck between consumer protection in one-off circumstances and their ability to offer their services to PRS providers. These issues would not arise in the case of MNO “on-portal” services that compete with other services.
- 7.18 Current providers of PRS would more than likely prefer to have lighter regulation. However, firms in the industry and those contemplating entering the industry, might like there also to be some form of regulation to create wider consumer acceptance and trust of PRS.

Determine the impact on competition

- 7.19 The impact of setting a price threshold for one-off services would not have an impact on competition in the short run. If regulation led to greater consumer acceptance of PRS and higher consumption of these services, this would encourage entry of new firms into the sector. This would, in turn, lead to increased competition.
- 7.20 The other potential impact on competition would come from a decision not to regulate MNO's "on-portal" services. This might be justified on the basis that there is one less link in the chain in that the MNO does not act as an intermediary for another Service Provider. However, from a consumer perspective, similar forms of potential harms can occur.

Assess the impacts and choose the best option

- 7.21 Even with one-off purchases, there is a risk of consumers, particularly vulnerable consumers, experiencing some harm absent regulation. Thus, the option of not regulating in general would not be in line with the objective set under legislation. At the same time, the interests of all stakeholders can be balanced by the setting of a price threshold for general one-off services at €0.25 cent. This ensures regulation will be focused on the areas which have the greatest potential for consumer harm, in a proportionate manner consistent with the objective of protecting the interests of end users. This option would protect consumers, whilst at the same time being more proportionate than the option of regulating all services without regard to price.
- 7.22 MNO "on-portal" services should also be regulated as consumer harm can still occur regardless of a more direct consumer and provider relationship. Moreover not to do so, would distort competition between MNOs and other Service Providers. The reduction in the complexity of the relationship between consumer and providers may, however, warrant consideration of a lighter regulatory regime in the future. ComReg intends to keep this under review.

Identify and describe the regulatory options (nature of service)

- 7.23 Some services are considered to have characteristics such that they may require regulation without regard to a price threshold. The regulatory options here are to not have such a category of services (and, hence, regulate them in the same manner as other PRS) or to set threshold below the €0.25 cent standard.
- 7.24 The following services are proposed to be licensed without regard to a price threshold:
- (i) Chat services (Live or Virtual),
 - (ii) Sexual entertainment services,
 - (iii) Children's services,
 - (iv) Subscription services, or
 - (v) Internet Dialler Software operated.

Determine the impact on stakeholders

- 7.25 Given the purpose of the legislation, the primary stakeholders are consumers. In particular, vulnerable consumers, including minors, are to be protected. Other stakeholders are Network Providers and current and potential PRS Service Providers.
- 7.26 All of the considerations relating to general services apply. However, such services have characteristics such that they have the potential to cause harm well below the €0.25 cent threshold. This could be due to the compulsive nature of some of these services. In other cases, the consumer may sign up to subscription services for which the rate of consumption is outside the control of the consumer. This adds an additional exposure to consumers. This is particularly so for services aimed at minors or other vulnerable groups. For this reasons, consumer's interests would be better protected by extending regulation to all such services without regard to price point.
- 7.27 From the perspective of communications network operators, many of the same considerations apply as for PRS in general. However, subscription services may lead to pre-paid consumers never having a viable amount of credit to make calls. This may lead to consumers, particularly minors, abandoning the use of the SIM and the number. This, in turn, is a cost that operators would prefer to avoid.
- 7.28 Current PRS providers would prefer that such services would be treated in the normal manner, allowing other legislation to deal with child protection issues etc.

Determine the impact on competition

There are no impacts on competition to consider.

Assess the impacts and choose the best option

- 7.29 Given the clear objective of protecting the interests of consumers of these services, the best option is to create a set of services, the characteristics of which warrant regulation without regard to price. This would better fulfil the objectives set in legislation. The potentially compulsive nature of some of these services and the sensitivity of others call naturally for treatment different to the norm. Subscription services present significant additional dangers. Hence, the best option is to create a set of services the nature of which requires regulation without regard to a price threshold.

Identify and describe the regulatory options for Decision 2 and 3

ComReg's Decision No 2:

ComReg will exempt from PRS regulation DQ services provided on the 118XX directory information access codes¹⁷.

¹⁷ The National Numbering Conventions (ComReg Document No. 08/02) provide that the 118XX directory information access codes shall be used only for the provision of directory enquiry services and relevant value added services. Relevant value added services are currently limited to call completion services and SMS provision of the number sought. ComReg may amend the meaning of value added services from time to time.

ComReg’s Decision No 3:

ComReg has decided to maintain the current clear focus of DQ services on the 118XX number range. The 118XX directory information access codes shall continue to be assigned only for the provision of directory enquiry services and relevant value added services. ComReg will specify what constitutes a relevant value added service in the next review of the National Numbering Conventions.

- 7.30 Two issues need to be considered in relation to DQ services assigned 118XX numbers from the numbering range. Firstly, there is the issue of whether DQ services should be exempted from the general rule relating to PRS. Secondly, is the issue of whether to allow 118XX numbers to provide services in addition to DQ services?
- 7.31 Current evidence indicates that few consumer concerns have been expressed with respect to 118XX number services. Competition is keeping prices keen and consumers seem satisfied with the service as it is. For that reason, there are currently insufficient grounds to consider extending the regulation of PRS to DQ services. This remains an option, should evidence of consumer harm emerge. As there is, at present, no issue to address in this regard, no further consideration is warranted.
- 7.32 However, this is linked to the notion of extending the 118XX rules to enable DQ providers to provide non-DQ services. If this expansion of the DQ services was permitted, then PRS services would by consideration of leverage off the DQ services and bring the combined services within the umbrella of regulated PRS.

Determine the impact on stakeholders

- 7.33 Given the purpose of the legislation, the primary stakeholders are consumers. In particular, vulnerable consumers, including minors, are to be protected. Other stakeholders are Network Providers and current and potential PRS providers.
- 7.34 Consumers are well aware that DQ services are available on the various 118XX numbers. Service Providers aggressively market their services and this, in turn, creates a consumer expectation. Heretofore, this expectation has been met and consumers seem willing to avail of DQ services without concerns. This is a benefit for consumers. Such numbers are not barred by bill payers as they are seen as providing a necessary service without any of the concerns that often lead to call barring of other premium service numbers. Consumers may benefit from other services being available but this may well be at the cost of their trust in the existing services.
- 7.35 Industry stakeholders would have mixed views. Some would like to extend their service into other areas whilst others see the potential for linking other services to 118xx numbers as harming the sector and their brand.

Determine the impact on competition

- 7.36 The provision of other services by DQ providers would intensify competition in these services. This should assist in providing a better service in these markets. However, the impact of selling non-DQ services alongside DQ services may weaken competition in the DQ market as firms would likely offer bundles of services that would no longer be directly comparable, etc.

Assess the impacts and choose the best option

- 7.37 Bearing in mind the requirement that comes from the Directives for ComReg to ensure that consumers have at least one DQ service that protects the interests of citizens as end users, it would not appear appropriate to lift the restrictions on the use of 118XX numbers. This might lead to a reduction in the quality of service experienced by end users in such an important area. It would also be likely to undermine the brand value in the 118XX number range with a consequent loss of consumer confidence. This may be difficult to regain. For these reasons, and ComReg's objectives both to provide DQ services and protect consumers, the best option is not to extend the usage rights attaching to 118XX numbers.

Annex A – List of ComReg’s Positions

ComReg’s position:

With the exception of services within specific categories, services costing less than twenty five cent, or less, (€0.25 cent) retail cost per minute/per call/per text are not specified PRS and therefore do not require a licence

ComReg’s position:

Live PRS in excess of the €0.25 cent price threshold will be regulated as specified PRS, however, “chatline” services, will also be regulated as specified PRS regardless of the price charged, (i.e. the €0.25 cent price threshold will not apply to “chatline” services, which is a sub-category of Live Services).

ComReg’s position:

Sexual Entertainment Services will be specified PRS regardless of the price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg’s position:

Competition Services with a “one-off” cost will be specified PRS, only if the price charged is in excess of the €0.25 cent price point. Competition Services provided by subscription service, will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg’s position:

Children’s Services will be specified PRS regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg’s position:

Fundraising and Charitable Donation Services, will be specified PRS where the price charged is in excess of the €0.25 cent price threshold. However, Fundraising and Charitable Donation Services provided by subscription service will be specified PRS regardless of the price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg’s position:

PRS that are Internet Dialler Software operated will be specified PRS, regardless of price charged (i.e. the €0.25 cent price threshold will not apply).

ComReg's position:

Virtual Chat will be specified PRS regardless of price charged (i.e. the €0.25 price threshold will not apply).

Contact and Dating Services will be specified PRS, where the price charged to access the service is in excess of the €0.25 cent price threshold.

ComReg's position:

Pay-for-product surveys that meet the definition of specified PRS will be subject to regulation.

ComReg's position:

Specified PRS that are accessed or obtained via MNO's portals will be subject to PRS regulation. However, MNO portal services provided by a subscription service will be a specified PRS irrespective of the price threshold, (i.e. the €0.25 cent price threshold will not apply).

ComReg's Decision No. 1:

A Premium Rate Service provider will be required to hold a licence if;

- (a) it provides a Premium Rate Service which is accessed by a premium rate number and where the price payable by the end-user for each call exceeds €0.25 cent (inclusive of VAT),**
- (b) it provides a Premium Rate Service which is accessed other than by means of a premium rate number, but excludes a Premium Rate Service accessed by an international call, where the price that is payable by the end user for each call exceeds €0.25 cent (inclusive of VAT), or**
- (c) the Premium Rate Service provider provides any of the following types of Premium Rate Service:**
 - (i) Chatline services (Live or Virtual),**
 - (ii) Sexual entertainment services,**
 - (iii) Children's services,**
 - (iv) Subscription services, or**
 - (v) Internet Dialler Software operated.**

ComReg's Decision No. 2:

ComReg will exempt from PRS regulation DQ services provided on the 118XX directory information access codes¹⁸.

ComReg's Decision No. 3:

ComReg has decided to maintain the current clear focus of DQ services on the 118XX number range . The 118XX directory information access codes shall continue to be assigned only for the provision of directory enquiry services and relevant value added services. ComReg will specify what constitutes a relevant value added service in the next review of the National Numbering Conventions..

¹⁸ The National Numbering Conventions (ComReg Document No. 08/02) provide that the 118XX directory information access codes shall be used only for the provision of directory enquiry services and relevant value added services. Relevant value added services are currently limited to call completion services and SMS provision of the number sought. ComReg may amend the meaning of value added services from time to time.

Annex B – Respondents

- 1) 11850
- 2) 11890
- 3) 63336 Limited (“63336”)
- 4) Advanced Telecom Services (UK) Ltd. (“Advanced Telecom”)
- 5) Advertising Practitioners in Ireland (“IAPI”)
- 6) Aegis Media
- 7) Alternative Operators in the Communications Market (“Alto”)
- 8) Associated Newspapers Ireland
- 9) Association for Interactive Media & Entertainment (“AIME”)
- 10) Autofreefone
- 11) Boltblue
- 12) Bongo
- 13) BT Communications Ireland Ltd.(“BT”)
- 14) Cable & Wireless Worldwide
- 15) Claire Tully*
- 16) Dan McCaffrey
- 17) The Office of the Data Protection Commissioner
- 18) DeafHear.ie
- 19) DFMG Solicitors
- 20) Dialogue Communications Ltd.
- 21) Donal McGarry
- 22) Eircom Ltd. (“Eircom”)
- 23) Electric Media Sales
- 24) Enda Farrell
- 25) Ericsson IPX Western & Central Europe (“Ericsson IPX”)
- 26) Hutchison 3G Ireland Ltd. (“3”)
- 27) Irish Phone Paid Services Association (“IPPSA”)
- 28) Magnum Services
- 29) Maithú Limited
- 30) mBlox
- 31) Meteor Mobile Communications Ltd. (“Meteor”)

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- 32) Michael Daly
- 33) MM Networks Ltd (Phonepaid)
- 34) Mobile Marketing Association of Ireland
- 35) Modeva
- 36) National Disability Authority (“NDA”)
- 37) Neill Roche
- 38) News International Advertisement (Ireland) Limited
- 39) Telefonica O2 (Ireland) Limited (“O2”)
- 40) Old Lane Ltd.
- 41) Ombudsman for Children
- 42) Phonovation Ltd. (“Phonovation”)
- 43) Prism Fax Services Ltd.
- 44) Qualcomm Services EMEA and Xiam Technologies Ltd. (“Xiam”)
- 45) Realm Communications Ltd. (“Realm”)
- 46) RTÉ
- 47) Shane McAlister
- 48) Starlight Networks Ltd
- 49) The Star Newspaper Group
- 50) Sunrise Industries
- 51) TV3 Television Network Limited (“TV3”)
- 52) UPC Communications Ireland Limited (“UPC”)
- 53) Vodafone Ireland Limited (“Vodafone”)