



Commission for  
**Communications Regulation**

# **Response to Consultation and Final Determination regarding the Emergency Call Answering Service Call Handling Fee Review 2012/2013**

**Response to Consultation and Final Determination**

**Reference** ComReg 12/01

**Decision :** D01/12

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# 1 Introduction

- 1 The Communications Regulation Act, 2002 ("the Act ") outlines ComReg's statutory role in respect of the Emergency Call Answering Service ("ECAS") and in particular, its duties relating to the review of the maximum permitted call handling fee ("CHF") that the ECAS provider is allowed to charge for handling emergency calls.<sup>1</sup>
- 2 This response to Consultation and Determination is carried out in order to provide background and context into the review and to allow ComReg to consider the responses in full to the initial Consultation and draft Determination<sup>2</sup> ("the Consultation"). In addition, this response to Consultation and Determination contains ComReg's determination on the maximum CHF that the ECAS provider is allowed to charge for handling emergency calls for the period 12 February 2012 to 11 February 2013.
- 3 ComReg received six responses to the Consultation namely from ALTO, eircom Group ("eircom"), Hutchinson 3G Ireland ("H3GI"), Magnet Networks ("Magnet"), Telefónica O2 Ireland ("Telefónica ") and Vodafone. All of these responses have been reviewed and have been fully taken into account for the purposes of ComReg's statutory review and its final determination on the maximum permitted CHF.
- 4 It is important to note that in discharging its duties under the Act, ComReg is also doing so within the context of a contract (known as the Concession Agreement ("the CA") made between the Department for Communications, Energy and Natural Resources ("DCENR") and the ECAS provider, BT Communications (Ireland) Limited ("BT"). ComReg is not a party to this CA and in many instances, ComReg has no discretion in relation to the treatment of certain cost categories, such as depreciation, or the sinking fund. In both of these examples, the costs borne by the ECAS provider is derived directly from the manner in which the CA was agreed. Neither is it appropriate for ComReg to comment on its specifications or requirements.
- 5 The draft Determination contained in the Consultation proposed a maximum permitted CHF of €3.35. In this final Determination, that figure is unchanged. ComReg has determined a maximum permitted CHF of €3.35 for the period 12 February 2012 to 11 February 2013.

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<sup>1</sup> See section 58D of the Communications Regulation (Amendment) Act 2002, as inserted by section 16 of the Communications Regulation (Amendment) Act 2007.

<sup>2</sup> ComReg Document No 11/81.

- 6 This CHF represents the reasonable costs that the ECAS provider has incurred and is expected to incur in delivering the service and handling the expected emergency call volume. ComReg has disallowed some costs where it deemed them to be unreasonable.
- 7 While some respondents to the Consultation wished to see the precise value of the reasonable costs incurred by BT, ComReg has redacted commercially sensitive and confidential information from the review in order to respect the legitimate interests of the ECAS provider and its third-party suppliers. ComReg is satisfied that, notwithstanding these redacted values, the process relating to the review has been comprehensive, extremely detailed and rigorous and that it has provided sufficient detail for stakeholders to properly understand the basis for the Determination on the CHF.

## 2 Executive Summary

- 8 The ECAS is the means by which emergency calls made to 112 or 999 are handled by a dedicated Public Safety Answering Point ("PSAP") and forwarded to the relevant emergency service on the basis of the service required and the location of the incident.
- 9 BT provides the ECAS on a 24-hour, 365-day basis, using three PSAPs located in Ballyshannon, County Donegal, Navan, County Meath, and Eastpoint, Dublin 3. The three PSAPs act as one "virtual" centre, with emergency calls being handled on a "next available agent" basis. The ECAS also has two data centres which provide the points of interconnection between telecommunications providers and the ECAS.
- 10 Under section 58D of the Act, ComReg is required to carry out a review of the reasonable costs incurred by the ECAS provider and to determine the maximum permitted CHF on an annual basis. This Determination is made under section 58D of the Act and pursuant to the Consultation on this matter held in November 2011.
- 11 In making this Determination, ComReg has fully taken into account the responses to the Consultation and the recommendations made by its consultants, Tera Consultants ("Tera") and its partners assisted it with its conduct of the review.
- 12 Ultimately, ComReg disallowed some of the costs incurred by the ECAS provider, because they are not considered reasonable. These costs have been excluded from the CHF calculation.
- 13 In general, the responses to the Consultation agreed with most of ComReg's draft conclusions. In some cases, the respondents partially agreed with ComReg's draft conclusions. In a small number of cases, the respondents disagreed with the draft conclusions.
- 14 In responding to the preliminary views, ComReg will outline its final conclusions using each of the specific questions asked in the Consultation. Other points that were made by the respondents that are not directly related to the questions will be dealt with separately in Annex 1.

- 15 ComReg would note that some of these other related issues are either operational, engineering, performance or policy ones. ComReg would suggest that these issues can be dealt with further within the context of the ECAS Quarterly Forum ("the Forum") chaired by ComReg and attended by the DCENR, ComReg, and members of the telecommunications industry. ComReg believes it is appropriate that the Forum would continue to address these issues.
- 16 With regard to the appropriate cost standard being proposed for the review, all of the respondents agreed that a hybrid costing methodology, based on Historical Cost accounts ("HCA") (appropriately adjusted for reasonableness), and reflecting forward-looking cost and volume data is the most appropriate cost standard for ComReg to use in order to determine the CHF.
- 17 All of the respondents agreed with ComReg's preferred approach that "avoidable cost" is the appropriate cost principle to be used in assessing the CHF, combined with a hybrid cost model.
- 18 All of the respondents, except H3GI, agreed with ComReg's preliminary view that the costs associated with the provision of ECAS are Direct Costs, Indirect Costs, Fixed Costs and Variable Costs. H3GI considered that costs described by ComReg as "indirect" were in fact "joint and common costs" and should therefore be excluded. ComReg has excluded "joint and common costs" from the CHF calculation (as it had suggested it would do in the Consultation) and those costs described as "indirect" relate to the provision of support functions to ECAS by BT personnel who are not 100% dedicated to ECAS. Their time is recorded and charged to ECAS on a task by task basis.
- 19 In relation to the proposed reasonable hourly rate of €28.07 payable to the specialist call-centre provider by the ECAS provider, some of the respondents (ALTO, H3GI and Magnet) agreed with ComReg's preliminary view. Telefónica disagreed and eircom partially agreed, but suggested there was an insufficient breakdown of this figure to allow it to provide a full analysis.
- 20 ComReg formed the view that the staff, which is 100% dedicated to ECAS, represented the appropriate organisational structure. Magnet and H3GI disagreed with this view whilst ALTO, Telefónica and Vodafone agreed. Eircom partially agreed, but suggested that there was a lack of detail which prevented it from making a more considered response.
- 21 In terms of the approach to forecasting the emergency call volume for the coming period, ALTO and H3GI disagreed with ComReg's preliminary view. Vodafone and Telefónica agreed while eircom and Magnet partially agreed.

- 22 Regarding the use of benchmarks as a direct comparison, Telefónica disagreed with ComReg's preliminary view. Eircom, H3GI and Vodafone agreed with ALTO and Magnet partially agreed.
- 23 ComReg notes the comment made by Vodafone when it states that: "(ComReg) is *"constrained by the design of the ECAS system, the governing Concession Agreement and the relevant statutory provisions"*. ComReg agrees with this comment. These factors determine certain limits (and to a greater extent, the overall approach) to the review conducted by ComReg. Equally, however, it is clear that one of these factors, namely the CA, is vital for ensuring that the ECAS provider delivers the ECAS to the exacting standards required by the State.

## 3 Consultation Responses

- 24 As outlined in the Consultation, ComReg identified four main areas for the subject matter of its review:
- a. Relevant cost standard
  - b. Reasonable costs
  - c. Call volumes
  - d. International benchmarks

### 3.1 Relevant cost standard

25 In Section 5 of the Consultation, ComReg outlined the nature of different cost standards and explained the differences between them and the applicability of each (or not) in the context of the ECAS. This section incorporated questions 1 to 3 inclusive.

25.1 A summary of the main decision points relating to the relevant cost standard are discussed below under the following headings:

- Appropriate costing methodology
- Avoidable cost
- Costs associated with the provision of the ECAS

#### Appropriate costing methodology

25.2 The costing methodology options that ComReg considered were as follows:

- Historic costs
- Current costs
- Long run average incremental costs (“LRAIC”)
  - Top Down LRAIC
  - Bottom UP LRAIC
  - Hybrid approach

25.3 ComReg was of the preliminary view that hybrid costing methodology, based on HCA accounts (appropriately adjusted for reasonableness) and reflecting forward-looking cost and volume data is the most appropriate way to determine the CHF.



### **Avoidable cost**

25.4 ComReg was of the preliminary view that avoidable cost is the appropriate cost principle to be used in assessing the CHF, combined with a hybrid cost model.

### **Costs associated with the provision of the ECAS**

25.5 ComReg was of the preliminary view that the costs associated with the provision of the ECAS are:

- Direct costs
- Indirect costs
- Fixed costs
- Variable costs

25.6 An allocation of joint and common costs was not considered necessary for the provision of the ECAS.

### **Main issues raised by respondents**

26 In relation to *question 1*, all respondents agreed with ComReg's preliminary view that a hybrid costing methodology, based on HCA accounts (appropriately adjusted for reasonableness), and reflecting forward-looking cost and volume data is the most appropriate way to determine the CHF.

26.1 Both Magnet and ALTO considered that the only data which should be used is current data, as opposed to the historical data of the previous ECAS provider (eircom).

26.2 In relation to *question 2*, all respondents agreed with ComReg's preliminary view that avoidable cost is the appropriate costing principle for reviewing the maximum permitted CHF.

26.3 In relation to *question 3*, all respondents (except for H3GI) agreed with ComReg's preliminary view that the costs associated with the provision of ECAS are: Direct Costs, Indirect Costs, Fixed Costs and Variable Costs.

26.4 H3GI considered that costs described by ComReg as "indirect" were in fact "joint and common" and should therefore be excluded.

## ComReg's conclusions

- 26.5 In relation to Magnet and ALTO's comments regarding the use of historical data, ComReg confirms that it based its forecast volumes on actual call data since the Go-Live date of 14 July 2010 and not on the historical call data of Eircom. In addition (and as noted in Section 7 of the Consultation) ComReg has assessed the trend in actual call volumes since this date, reviewed the forecast assumptions made by the ECAS provider and requested information from network providers as to possible remediation plans over the next 1 to 4 years. Each of these elements has been factored into the call volume forecast calculations.
- 26.6 With regards to H3GI's comments, in reviewing the costs incurred by the ECAS provider in the Consultation, ComReg has excluded Joint and Common costs (as it had proposed to do in the Consultation). Costs described as indirect relate to the provision of support functions to the ECAS by BT personnel who are not 100% dedicated to the ECAS (i.e. specialist engineering, senior management, financial and regulatory). However, they charge their time to the ECAS on a case by case basis.
- 26.7 ComReg is of the view that:
- 26.7.1 a hybrid costing methodology, based on HCA accounts (appropriately adjusted for reasonableness) and reflecting forward-looking cost and volume data is the most appropriate way to determine the CHF;
- 26.7.2 avoidable cost is the appropriate cost principle to be used in assessing the CHF, combined with a hybrid cost model;
- 26.7.3 the costs associated with the provision of the ECAS are:
- Direct costs
  - Indirect costs
  - Fixed costs
  - Variable costs

## 3.2 Reasonable costs

27 In Section 6 of the Consultation, ComReg described the various costs which are charged by the ECAS provider in running the ECAS operation. Within each category, ComReg provided an overview of how the cost is derived and whether or not it considers it to be reasonable. Due to the commercial sensitivity and confidential nature of the data to the ECAS provider and its suppliers, many of the specific values could not be published in the Consultation. This section incorporated questions 4 and 5 inclusive.

28 The main conclusions are summarised below under the following headings:

- Reasonable hourly rate payable to specialist call-centre company.
- ECAS organisational structure.

### **Reasonable hourly rate payable to specialist call-centre company**

28.1 ComReg was of the preliminary view that €28.07 was a reasonable hourly rate to pay to the specialist call-centre company.

### **ECAS organisational structure:**

28.2 ComReg was of the preliminary view that the following represented the appropriate organisational structure for the ECAS operation:

- One Head of Operations.
- Six first line managers ("FLMs").
- Three support engineers.
- Two support/ administration staff (part time).

### **Main issues raised by respondents**

28.3 In relation to *question 4*, the following summarises the responses to ComReg's preliminary view that €28.07 was a reasonable hourly rate payable to the specialist call-centre company for the provision of Customer Service Representatives ("CSRs"):

- ALTO, H3GI, and Magnet agreed with ComReg's preliminary view (Magnet also noted that the applicable hourly rate should include a rate of return for the specialist call-centre company);
- Eircom partially agreed with ComReg's preliminary view (but cited a lack of visibility prevented it from making a full response);
- Telefónica disagreed with ComReg's preliminary view;

- Vodafone did not provide a specific response.
- 28.4 Eircom also considered that it had expected that the "pay" element of the hourly rate payable to the specialist call-centre company would have been higher than the "non pay" element. Vodafone also stated that it would also expect churn levels to be low.
- 28.5 Telefónica was also of the view that the hourly rate payable to the specialist call-centre company should not include a rate of return to them, as the decision to outsource CSRs was a commercial decision of the ECAS provider.
- 28.6 In relation to *question 5*, the following summarises the responses to ComReg's preliminary view that the staff, which is 100% dedicated to ECAS, represents the appropriate organisational structure:
- ALTO, Telefónica, and Vodafone agreed with ComReg's preliminary view;
  - Eircom partially agreed, but suggested that there was a lack of detail which prevented it from making a full response;
  - Magnet and H3GI disagreed with ComReg's preliminary view.
- 28.7 Eircom considered that there was potential over-capacity in the staff planning of the PSAPs and noted that the average speed of answer specified in the performance metrics of 1.3 seconds has been exceeded by about 50%. It also noted TERA's comments that "*the number of hours requested by BT for ECAS is too high*".
- 28.8 Magnet disagreed with the ECAS organisational structure as proposed by ComReg and considered that other services could be included alongside the ECAS operation, thereby reducing the CHF. Magnet also suggests that having 100% dedicated staff to ECAS is not the most appropriate organisational structure.
- 28.9 H3GI also considered that the ECAS operation was overstaffed. It referred to the HBC<sup>3</sup> report (from 2010/2011) proposing 49 Full Time Equivalents ("FTE") based on 4.8m calls, whereas the current model has 80 CSRs and declining call volumes. It also considered that the number of CSRs could be reduced without impacting on the service.
- 28.10 H3GI noted that Administration staff and FLMS both monitored call quality and that these roles were possibly duplicated.

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<sup>3</sup> Horwarth Bastow Charleton ("HBC") Call Handling Fee Review, 17 December 2010.

28.11 While Telefónica agreed with ComReg's preliminary view with regard to the ECAS organisational structure, it commented that no benchmarking exercise had been undertaken. Telefónica suggested that no analysis of staff numbers of CSRs had been done. Telefónica also suggested that ComReg had admitted that CSR hours "*were excessive*".

### **ComReg's conclusions**

- 29 In carrying out this review and making the Determination, ComReg has reviewed the actual costs incurred by BT for the period 1 April 2010 to 30 March 2011<sup>4</sup> and has considered whether they are reasonable or not. In the Consultation certain costs were proposed as being unreasonable. It was proposed to disallow these costs when determining the maximum permitted CHF. PwC also audited the financial statements for the year ended 31 March 2011. ComReg has also reviewed the Quarterly Management Accounts ("QMAs") and the underlying cost categories for the two quarters up to the end of September 2011 and the forecasted costs for the remaining quarters up to the end of March 2012 for reasonableness. The cost savings identified by ComReg in the Consultation have been reflected in these forecasted costs.<sup>5</sup>
- 30 As noted in the Consultation, the level of fixed costs associated with the ECAS operation is high.<sup>6</sup> These have been reviewed for reasonableness and where considered necessary, costs have been disallowed. Where cost inflation is part of a fixed price contract, it has been reviewed and where considered reasonable, it has been included in the calculation of the maximum permitted CHF. ComReg has also assessed the impact of inflation and deflation on variable costs by reference to external data sources.
- 31 ComReg notes Eircom's and Vodafone's comments regarding the composition of the hourly rate payable to the specialist call-centre company. As discussed in the Consultation,<sup>7</sup> within the calculation of the hourly rate payable to the specialist call-centre company, there is an allocation for the cost of staff being unavailable due to holidays, training or other absences. While full-time staff work approximately 220 days per annum, the ECAS operation must be staffed 365 days per annum and the hourly rate reflects this requirement. ComReg's calculation also notes that the churn rates have fallen since the ECAS operation went live.

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<sup>4</sup> Paragraph 4.7 of the Consultation.

<sup>5</sup> Paragraph 2.2 of the Consultation.

<sup>6</sup> Paragraph 7.13 of the Consultation.

<sup>7</sup> Paragraph 6.18 of the Consultation.

- 32 While Telefónica disagreed with ComReg's conclusions on the hourly rate, it did not provide an alternative proposal. Its disagreement appeared to be based more on that it considered that the number of CSRs and associated hours was not assessed against international norms or the decline in call volumes – rather than the hourly rate payable to the specialist call-centre company.
- 33 As the main driver in the CHF is call volumes, a slight decline in CSR hours will only have a marginal impact on the CHF. ComReg also reiterates that any reduction in the CSR hours by amendments made to the rostering methodology should be done so cautiously and prudently so as to ensure that the service to consumers is protected as much as possible. Such a decline in CSR hours has been reflected in the current rate of €3.35 for 2012/2013. This is discussed further in paragraph 46 in Annex 1 entitled: “*Suggested requirement for a third PSAP.*”
- 34 In assessing the required number of CSRs and CSR hours, ComReg and its consultants, based its analysis on its experiences of reviewing call-centre operations abroad. This included an assessment of the CSR hours required against the application of the performance metrics from the CA and the consideration of falling call volumes as applied to the Erlang forecasting model. This resulted in what ComReg considers to be the most effective scheduling of CSRs. Erlang forecasting models are commonly used worldwide as a primary method of scheduling CSRs by the call-centre and shared services industry. The Erlang forecasting model reflects the effective implementation of the performance metrics and does not provide further guarantees to the ECAS provider.

- 35 With regard to Telefónica's comments on excluding a rate of return to the specialist call-centre company ComReg is of the view that it is appropriate to include a reasonable rate of return on the hourly rate payable to the specialist call-centre company. If the ECAS provider had not outsourced the requirement for CSRs, it would have had to develop its own internal CSR expertise. This would have more than likely included additional costs to attain the necessary skills for the training and management of CSRs. These costs would have been reflected in the CHF. These skills have already been developed by the specialist call-centre company. Furthermore, a rate of return does exist on the hourly rate payable to the specialist call-centre company in the same way that the pricing structure for any supplier of goods and services would include such a return and it can therefore be considered "reasonable". In ComReg's view, it is reasonable that the specialist call-centre company should make a reasonable return on the provision of its services. In this case, ComReg is satisfied that the specialist call-centre company is earning a return that is reasonable. The cost to the ECAS operator for obtaining the specialist call-centre company's services is borne by the ECAS operator. A reasonable return to the specialist call-centre company is a component of this cost. This cost is allowable, so long as it is reasonable — and ComReg is satisfied that it is.
- 36 With regard to Telefónica's suggestion that no analysis of staff numbers of CSRs had been done and that ComReg had "admitted" that CSR hours were "excessive", ComReg would firstly say that it did indeed conduct an analysis of CSR staff numbers (see for example section 6.3.2 of the TERA report - *Number of provider hours*). Secondly, ComReg stated in the Consultation that:
- "It appears reasonable to suggest that the ECAS provider could still comfortably achieve the minimum set of standards set out in the CA, with only a slight reduction in the number of CSR hours required."*
- 37 Therefore, contrary to what Telefónica suggests, ComReg did not state and never "admitted" that CSR hours were "excessive." However this issue is discussed further in paragraph 54 of Annex 1 entitled "*Performance Metrics*".
- 38 While ComReg has further addressed the comments made by Magnet (with regards to the organisational structure) commencing in paragraph 10 of Annex 1 entitled "*Suggested requirement for a third PSAP*", it should be noted that the requirement to have a third PSAP is a requirement of the CA and is not reviewable by ComReg. However, ComReg considers that not having dedicated ECAS staff to handle emergency calls may require more training on an ongoing basis, as staff would have to be brought in from the wider BT operation on an *ad-hoc* basis and trained to the appropriate standard to maintain the ECAS operation and this may also have a degrading effect on quality.

- 39 While ComReg has further addressed the comments made by Eircom (regarding potential over-capacity) in paragraph 16 of Annex 1 entitled "*Performance Metrics*", it should be noted that the applicable performance metrics are part of the CA and again, they are not reviewable by ComReg. ComReg understands that this specific metric was copied from the eircom performance when it was the ECAS provider, but given the (about) 50% improvement, ComReg believes the current service level is more appropriate and effective. ComReg has assessed the application of these performance metrics to staff planning within the Erlang model and recommended prudent changes to their application where it considers these to be appropriate.
- 40 ComReg has addressed H3GI's comments in relation to a comparison of FTEs between the 2010/2011 review and the 2011/2012 review in paragraph 56 of Annex 1 entitled "*Performance Metrics*."
- 41 ComReg does not consider that there is a duplication of roles as considered a possibility by H3GI. It is a primary function of the FLMs to monitor call quality along with staff training, coaching and supervision. Administration staff also monitor call quality, but to a much lesser extent than the FLMs. This is done to provide a layer of additional quality checking and to provide assurance as to the quality of the service.
- 42 While noting Telefónica's comments regarding benchmarking ComReg has reviewed the structure of the CSRs, the FLMs, Support staff and Managerial/Administration and deems it to be reasonable. Tera further concluded that it considered the ratio of FLMs to CSRs to be reasonable.<sup>8</sup>
- 43 ComReg is of the view that:
- 43.1 €28.07 is a reasonable hourly rate payable to the specialist call-centre company. This will be for the 2012/2013 CHF only and will be reviewed during subsequent reasonable cost reviews.
- 44 The appropriate organisational structure for the ECAS operation is:
- One Head of Operations.
  - Six first line managers ("FLMs").
  - Three support engineers.
  - Two support/administration staff (part time).

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<sup>8</sup> See section 6.11.1.1 (ComReg document No. 11/81a).



### 3.3 Call Volumes

45 In Section 7 of the Consultation, ComReg described how call volumes had evolved and how it expected them to continue evolving to the end of the CA. It also requested respondents to provide details on any network remediation programme or any such initiatives in the short to medium term (1 to 4 years) which may affect the forecasted volume of emergency call. This section incorporated question 6.

45.1 ComReg noted that there had been a significant decline in call volumes since 2009, primarily due to remediation work being carried out by Eircom in its network. However, it also noted that in recent months the rate of decline had slowed significantly.

45.2 ComReg was of the preliminary view that there would be an ongoing net annual decrease of 3.5% in call volumes to the end of the CA. This was based on:

- A blended average 5.0% decline due to Eircom's ongoing remediation plans and other factors; and
- An average 1.5% increase due to population increases

45.3 Call volumes for October and November 2011 indicate that ComReg's assumptions remain valid, but given the somewhat unpredictable nature of the remediation work by eircom (which is outside the ECAS provider's role) this will continue to be monitored.<sup>9</sup>

#### Main issues raised by respondents

46 In relation to *question 6*, the following were the responses to ComReg's preliminary view on call volume forecasts that there would be a net 3.5% annual decline in call volumes:

47 Telefónica and Vodafone agreed with ComReg's preliminary view;

48 Eircom and Magnet partially agreed with ComReg's preliminary view;

49 ALTO and H3GI disagreed with ComReg's preliminary view.

50 Only Eircom indicated that it had an ongoing or planned remediation programme. It agreed with ComReg's assessment of a net 3.5% decline in call volumes as being in line with its own remediation programme. It did however express the view that the removal of "SIM-less" calls needed to be considered.

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<sup>9</sup> ComReg published an Information Notice (Document No 11/65) in September 2011 outlining the trend for the period January - June 2011 inclusive.

- 51 H3GI stated that volumes would decline with the removal of "ghost calls" and SIM-less calls.
- 51.1 ALTO disagreed with ComReg's preliminary view on call volumes, but this disagreement appears to be based on a misapprehension, i.e. that ComReg had based its projected call volumes on historical Eircom data.
- 51.2 Magnet disagreed with ComReg's comments in paragraph 7.4 of the Consultation, considering them to be generic and inappropriate and requested empirical evidence for certain comments made in paragraph 7.7 to the Consultation.
- 51.3 Telefónica agreed with ComReg's preliminary view on call volumes and suggested that the issue of silent and hoax calls should be addressed in the Forum.

### **ComReg's conclusions**

- 52 ComReg has based its projected call volumes on data supplied by the ECAS provider since July 2010. It has also discussed with it the basis for its forecasts and its understanding of the factors influencing the rate of decline.
- 53 ComReg notes Eircom's and H3GI's comments in relation to SIM-less calls and these are discussed further at paragraph 59 of Annex 1 entitled "*SIM-less calls*".
- 54 In the Consultation, ComReg considered that there would be a rise in emergency calls because of the population increase (about 1.5%) and notes that Magnet agrees with this concept. However, as the remediation work being carried by Eircom will reduce the volume of calls from the fixed network by about 5%, the net decline will be about 3.5%.
- 55 No specific research has been undertaken by ComReg in relation to call volumes made by particular age groups. This statement was based on secondary research (including discussions with the ECAS provider and the experiences of the CSRs and consideration of the CSO report as referred to in the Consultation). This is further supported by an EC report of February 2009 which notes that the age group between 25 and 39 make most calls.<sup>10</sup>

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<sup>10</sup> [http://ec.europa.eu/public\\_opinion/flash/fl\\_262\\_en.pdf](http://ec.europa.eu/public_opinion/flash/fl_262_en.pdf)

- 56 However, it must in any event be emphasised that the question of which precise age groups are responsible for making emergency calls is not fundamental to ComReg's conclusions regarding forecasted call volumes and neither does it have any material relevance on the level of the maximum permitted CHF. Rather, ComReg concludes that for every 1% increase in population, it is reasonable to assume, all things being equal, that there should be an equivalent 1% increase in call volumes. Furthermore, in relation to this, ComReg relies on the CSO's predictions in relation to population growth.
- 57 ComReg would point out that in relation to both silent and hoax calls (and others) the calls are, as a matter of law, required to be handled by ECAS. This is clearly the case, regardless of what their ultimate classification might be and it is also clear from the Act that the CHF must be paid in respect of them. Therefore, the existence of these calls is important within the context of the delivery of the ECAS, but ComReg believes that the Forum is the most appropriate place to develop a further and better understanding of these types of calls.
- 58 ComReg is of the view that:
- 58.1 There will be a net annual decline of 3.5% in call volumes during the period to the end of the CA.

### **3.4 International benchmarks**

- 59 In Section 8 of the Consultation ComReg provided details on the difficulties it considered that benchmarking the CHF to other countries would pose. It was of the preliminary view that the U.K., while being the only other country to recover the costs of operating the ECAS operation through a CHF, could not be used as an appropriate benchmark for a number of reasons. This section incorporated question 7.

#### **Main issues raised by respondents**

- 60 In relation to *question 7*, the following were the responses to ComReg's preliminary view that international benchmarks where the CHF-related information cannot be directly comparable are not applicable:
- Eircom, H3GI and, Vodafone agreed with ComReg's preliminary view;
  - ALTO and Magnet partially agreed with ComReg's preliminary view;
  - Telefónica disagreed with ComReg's preliminary view.
- 60.1 eircom in agreeing with ComReg's preliminary view queried how the U.K. maximum CHF (Voice over Internet Protocol calls) could be £0.7885, compared to Ireland's at €3.35.

- 60.2 Magnet disagreed with ComReg's preliminary view and considered that comparing Ireland to other jurisdictions was very relevant, in particular to ascertain if they also shared services with their ECAS operations. It also considered that a review of per capita call volumes should be undertaken.
- 60.3 ALTO considered that there could be an inconsistency in the ComReg data in that it was unusual that it was only in Ireland and the UK that industry absorbed the cost of the ECAS operation.
- 60.4 H3GI considered that the cost of ECAS should be borne by the State.
- 60.5 Telefónica considered that benchmarking could be carried out on a range of typical call-centre costs with an additional metric for the life-critical nature of the service. Without benchmarking, it was of the view that ComReg had no reference point to assess what is or not reasonable.

### ComReg's conclusions

- 61 With regard to eircom's comments on the difference between the CHF in Ireland and the UK, ComReg considers that direct comparisons between Ireland and the U.K. are not appropriate. In particular ComReg notes:
- Differences in population;
  - Differences in the number of PSAPs;
  - The provision of ancillary services in the UK PSAPs;
  - Variations in the application of performance metrics.
- 62 The population of the U.K. is approximately 62,000,000, whereas in Ireland it is approximately 4,500,000. As noted in the Consultation, the average number of calls per capita is similar for Ireland and the UK. As also noted a high proportion of the costs associated with ECAS are relatively fixed. Therefore, while the UK has twice as many PSAPs as Ireland, the number of emergency calls made in the UK is approximately 10 times greater than that of Ireland – while at the same time it includes other services alongside its ECAS operation.
- 63 ComReg notes Magnet's view and points out that in the information available to it, the UK is the only state whereby the multi-service approach is provided is discussed further at paragraph 10 of Annex 1 entitled: "*Suggested requirement for a third PSAP.*" All the other noted ECAS operations have a single ECAS delivery method and all are funded by the Central Exchequer. In some ECAS operations, the model used also involves dispatching resources (ambulance, etc) in the same PSAP but in Ireland this is not the case. Therefore, direct comparisons cannot be made with other ECAS operations on a like-for-like basis.

- 64 The volume of emergency calls per capita in Ireland (0.60) is in the mid-range when compared to the countries listed in Appendix D of the Consultation (0.66). ComReg notes Magnet's reference to lower call volumes resulting in a higher CHF. TERA also conducted an extensive capacity planning review which effectively exceeds a benchmarking exercise, the results of which are explained in the Consultation.<sup>11</sup>
- 65 While noting ALTO's comments about a possible inconsistency in ComReg data, ComReg reiterates its point that UK and Ireland are the only 2 countries where the cost of the ECAS is borne by the presenting network. ComReg has no further view on the implications of this on Ireland or any other jurisdiction.
- 66 ComReg would note that it considers the point raised by H3GI (that the cost of the ECAS be borne by the State) to be a policy decision for the DCENR and beyond ComReg's remit to review reasonable costs. This is discussed further at paragraph 6 of Annex 1 entitled: "*Funding of the ECAS operation.*"
- 67 With regard to Telefónica's comments that without benchmarking, ComReg does not have a reference point, ComReg repeats the statement that the service in Ireland is unique on many parameters. ComReg also believes that a comparison with a typical call-centre and additional metrics made for the life-critical nature of the service may be inappropriate, as the very nature of the specifications contained within the CA are unique and may therefore make any meaningful comparison difficult, unreliable or inaccurate. TERA did carry out a thorough review of the operation in their report using the Erlang model and using their experience of reviewing call-centres and Erlang models.
- 68 ComReg is of the view that:
- 68.1 International benchmarks in where the CHF information cannot be directly comparable are not applicable.
- 68.2 Its assessment of the application of the performance metrics (as set out in the CA) to the Erlang model used for capacity planning purposes is a better means of benchmarking results than direct comparisons with other jurisdictions. This benchmarking is also supported by the expertise of its consultants.

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<sup>11</sup> Section 6 of ComReg Document No. 11/81a.

# 4 Determination

## 1 Definitions

1.1 In this determination:

- “*the Act*” means the Communications Regulation Act 2002;
- “*the Commission*” means the Commission for Communications Regulation established under section 6 of the Act;
- “*emergency call*” has the same meaning as in section 58A of the Act; and
- “*the emergency provider*” means British Telecommunications Ireland Limited.

## 2 Determination

2.1 The Commission makes this determination:

- In exercise of its powers under section 58D (2) of the Act;
- Pursuant to the review conducted by it under section 58D (1) of the Act;
- Having had due regard to section 58D (3) of the Act;
- Pursuant to Commission Document No. 11/81 and Commission Document No. 11/81a;
- Having duly taken account of the responses received to Commission Document No. 11/81 and Commission Document No. 11/81a; and
- Having regard to the reasoning and analysis conducted by the Commission and set out in this response to consultation and determination.

2.2 The Commission hereby determines that for the period 12 February 2012 to 11 February 2013, the maximum permitted call handling fee that the emergency provider may charge to entities who forward emergency calls to it for handling such a call shall be €3.35.

2.3 This determination is effective from the date of the publication of this response to consultation and determination.

## Annex 1 General comments

- 1 A number of respondents raised points not addressed by the questions posed in the Consultation. Many of the points raised relate to the CA, which is a contract between the DCENR and BT. ComReg is not a party to the CA.
- 2 In discussing the various points raised by respondents ComReg has addressed them under the following headings:
  - Correspondence received from H3GI and eircom
  - Funding of the ECAS operation
  - Historical Call Volumes
  - Suggested requirement for a third PSAP
  - Disallowed costs
  - Fixed Assets
  - Sinking fund
  - Performance metrics
  - SIM-less calls
  - Regulatory Impact Assessment (“RIA”)
  - Scope of the 2011/2012 CHF review
  - ComReg’s monitoring costs
  - Timing of the 2012/2013 CHF review

### **Correspondence received from H3GI and eircom**

- 3 H3GI and eircom referred to correspondence they sent to ComReg in March and April 2010 respectively.
- 4 ComReg notes that both letters were received at a time when Telefónica had instigated legal proceedings in respect of the CHF determination made by ComReg in 2011. ComReg did respond to both letters through its lawyers to that effect and now notes that the points raised are being actively dealt with in this Consultation and the Forum.

### **Funding of the ECAS operation**

- 5 H3GI considered that the cost of the ECAS service should be borne by the State.

- 6 It is not open to ComReg to decide how the ECAS operation is funded. This is solely a matter for the legislature. The ECAS operation is funded by industry and this is clearly provided for by the Act.<sup>12</sup>

### Historical Call Volumes

- 7 ALTO requested that this issue be further investigated.
- 8 The CA was awarded by the DCENR to BT and ComReg is not a party to this contract. The ECAS provider designed and developed its ECAS network based on historical data under the terms of the CA.
- 9 ComReg does not have powers under the Act of 2007 to determine the validity or otherwise of the call volumes subsequently used in the tender process.

### Suggested requirement for a third PSAP

- 10 A number of respondents questioned the need for having a third PSAP. Some respondents questioned as to whether or not other services could share these PSAPs, thereby reducing the costs allocated to the ECAS operation.
- 11 Telefónica noted the positioning of the third PSAP in the location of the specialist call-centre company and that in other jurisdictions the cost of emergency calls can be lowered if commercial activities are also provided at the same location.
- 12 Magnet, while noting that having 3 PSAPs was a legislative requirement, suggested that in order to reduce costs there should only be two PSAPs with one PSAP providing additional non-ECAS services, in a fashion similar to the UK.
- 13 Magnet cited three reasons for including other services alongside the ECAS operation:
- There would be a reallocation of wages and overheads away from the CHF to other services thereby reducing the CHF;
  - Staff could be reallocated during times of peaks and troughs resulting in greater efficiency and better morale;
  - Enables staff to recover from stressful calls.
- 14 H3GI queried the need for the third PSAP, in particular with the ongoing fall in call volumes.

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<sup>12</sup> See section 58C of the Act.



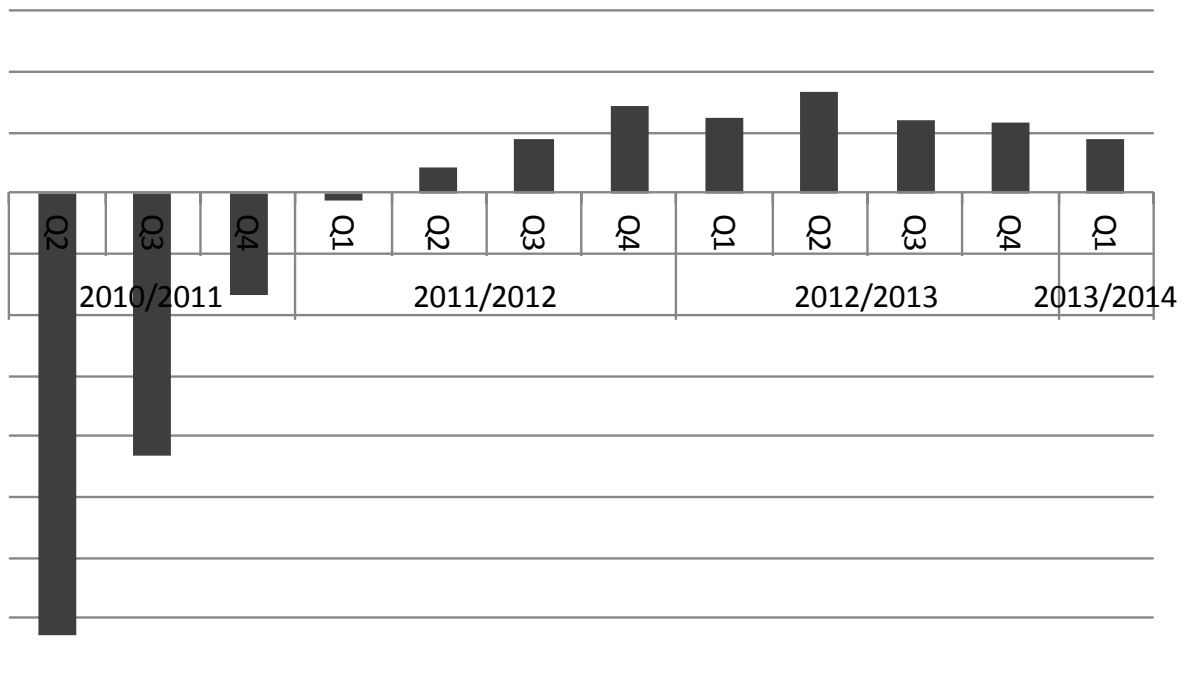
- 15 ALTO considered that 3 PSAPs might be viewed as being disproportionate given the size of the Irish population when compared to other countries. It did, however, acknowledge the possible need for 3 PSAPs when dealing with serious or catastrophic incidents.
- 16 ComReg notes that under the terms of the CA, the ECAS provider is also required to have 3 PSAPs, in order to ensure resilience in its network and adhere to the performance metric that the service be available 99.999% of the time. In addition, under the terms of the CA, it is ComReg's understanding that it is currently not possible to provide non-ECAS related services (such as directory enquiries) by the ECAS provider without the agreement of both parties to the CA. Therefore, while this is the approach taken in the UK, it cannot, at present, be adopted in Ireland. It is not open to ComReg to amend the number of PSAPs because it has no power to do so under the Act and because it is not a party to the CA.
- 17 ComReg also considers that the incremental cost of the third PSAP (which is currently located within the specialist call-centre company premises) to be quite low. In the course of conducting its reasonable costs review, ComReg visited all three PSAPs. The third PSAP has restricted access and occupies a relatively small dedicated floor area within the total area occupied by the specialist call-centre company. It has desk space for approximately 12 CSRs and some additional office accommodation (i.e. small meeting rooms, *ad hoc* administration). It does not have a data centre.

### **Disallowed costs**

- 18 Telefónica considered that as ComReg had proposed to disallow costs of €580,000 in this review, that this should be refunded to providers and that ComReg was not permitted to recognise under or over-recoveries.
- 19 Telefónica also queried the disallowance of costs associated with the hourly rate payable to the specialist call-centre company and considered that ComReg may not have previously evaluated this hourly rate effectively. It was of the view that ComReg should not allow excessive CSR hours.
- 20 Telefónica also requested that the impact of any under or over-recovery of costs on the CHF be disclosed.
- 21 Eircom and H3GI considered that the disallowance of some costs, and the reduction in others, should result in a decrease in the CHF.

- 22 ComReg will annually review costs incurred and if it considers any costs are unreasonable, it will disallow them. The review also enables ComReg to assess forecast costs and volumes (used to determine the CHF) against actual costs and volumes (at the end of the particular review period). This is what ComReg has undertaken as part of this review and it has disallowed €580,000 from the costs to be recovered by the ECAS provider because it deemed them to be unreasonable.
- 23 ComReg would note that the ECAS provider contracted for the hourly rate in 2008/2009. One of the most important parameters evaluated during the tender process was the ability of the specialist call-centre company to meet the performance metrics as required under the CA (given the life-critical nature of the ECAS). It is ComReg's understanding that while the hourly rate payable to the specialist call-centre company was one of a number of parameters evaluated as part of its tender process for the provision of CSRs, it was not necessarily the most important one. It should be stressed that ComReg was not party to this tender process.
- 24 The ECAS provider received a number of tenders and has informed ComReg that the hourly rate proposed by the contracted specialist call-centre company was considered good value. The ECAS provider did not consider that the rate proposed was unreasonable at the time it was contracted. A fixed, multi-year contract provided certainty and protection against increased charges. A review of this contract is permitted after a defined time period. The ECAS provider did not award the contract to supply CSRs solely on the basis of the hourly rate payable.
- 25 ComReg reviewed this hourly rate in its reasonable costs review and only considered it to be unreasonable from June 2011 because this was the first available occasion at which contract changes could have been implemented by the ECAS provider with the specialist call-centre company.
- 26 ComReg would note that under or over-recovery of costs are calculated within the overall determination of the maximum CHF. ComReg is of the view that in order to provide for regulatory and commercial certainty, it is better to have a stable CHF (where possible).
- 27 In calculating the CHF, forecasts for reasonable costs and call volumes to the end of the CA have been used. Therefore, while there might be an under or over-recovery in any particular period the CHF has been calculated to remain as stable as possible over the term of the CA, rather than having significant fee increases and reductions annually.

28 For example, in the following diagram (see also section 6.9 in ComReg Document No. 11/81a) the ECAS provider under-recovered its costs in 2010/2011.<sup>13</sup> This was primarily because actual call volumes were significantly lower than forecast, due to Eircom's remediation programme. However, rather than have a significant increase in the CHF to address this under-recovery in the following period, the CHF has been calculated to allow for the under-recovery of costs to be addressed over the term of the CA.



Source: TERA (ComReg Document No 11/81a)

<sup>13</sup> This was also discussed in paragraphs 6.85-6.90 of the Consultation.

- 29 In designing its ECAS operation, the ECAS provider planned its network and operations based on the information provided in the tender with DCENR (which used historical eircom call volumes of 4.8m calls per annum). Largely because of Eircom's on-going remediation programme, the annual number of calls has dropped to about 2.6m (about a 46% decrease). Therefore, while significant cost savings have been made, this has been offset by the significant decline in the number of calls over which the total cost base is to be recovered. Contrary to what two respondents to the Consultation (eircom and H3GI) suggested, a reduction in call volumes would not bring about a corresponding reduction in the CHF. This is because the reasonable costs of the ECAS are divided by emergency call volumes to arrive at the CHF. If volumes are less, this must tend to increase the CHF given that the majority of the costs (even the in-life costs) of the ECAS are fixed. Accordingly, this is a very important reason why the per-unit cost of the CHF has not changed for 2012/2013.

### **Fixed Assets**

- 30 Telefónica referred to what it considered to be errors noted in relation to the recording of fixed assets.
- 31 Telefónica requested that the residual value of assets be calculated and taken into account in calculating the maximum permitted CHF.
- 32 H3GI requested information on whether the value of assets at the end of the CA would be refunded to the industry or reinvested into subsequent ECAS operations. It also noted that industry had made investment for Call Location Information ("CLI") and that if a new ECAS provider were appointed at the end of this CA it should not mean industry having to make further investment for the same technology. It was also of the view the assets should be sold to DCENR at the end of the contract term so all potential bidders could have access to the bespoke system.
- 33 Eircom and H3GI were of the view that the depreciation of assets over five years was inappropriate and that the assets are likely to have a useful life at the end of the CA.
- 34 H3GI also noted that the previous ComReg review had disallowed €232,000 but this reappeared again. Furthermore as some of the costs in October-November 2010 were not audited, H3GI requested for the set-up costs to be reviewed again. It also requested to a breakdown of the minor additional expenditure referred to in paragraph 5.46 of the Consultation.

- 35 The fixed assets issue, referred to by Telefónica in paragraph 1.2 of its response have not formed part of the CHF calculation for either 2011/2012 or 2012/2013 and were excluded by ComReg in both reviews. The inclusion of €232,129 by BT, following a decision by ComReg to disallow it during the 2010 review, was an administrative error made by the ECAS provider, identified by ComReg during this review and duly corrected and removed. It did not form part of either the 2011/2012 or 2012/2013 maximum permitted CHF. This inadvertent error was made by BT and was discovered by ComReg during the CHF review and subsequently disallowed.
- 36 The estimates used for October-November 2010 (€232,808) were replaced by actual data in this review. ComReg considers these costs to be reasonable. Given the nature of the timing of the review, this exercise will be repeated each year. As noted in the Consultation, the ECAS provider is required to inform ComReg where it expects to spend in excess of €100,000 in any 12 month period on fixed asset investments.
- 37 ComReg notes that assets are being currently depreciated in the manner as set out in the CA so that they will be fully written off over the term of the CA.
- 38 As noted in the Consultation, it is likely that the residual value of any assets at the end of the CA would be nil. However, it should be noted that it is a matter solely for the DCENR to:
- Determine the residual value of assets;
  - Determine the asset lives to be applied;
  - Determine what happens to any assets remaining at the end of the CA and in the next tender process; and
  - Decide whether or not to extend the term of the CA
- 39 It is not open to ComReg to amend any residual value of fixed assets or amend their asset lives, because it has no power to do so under the Act and because it is not a party to the CA.
- 40 ComReg can also clarify that only those reasonable costs incurred with the fitting out of the PSAPs have been permitted. Lease interest has not been recovered as part of the set up costs.

### **Sinking fund**

- 41 Both Vodafone and H3GI expressed concerns with the treatment of the sinking fund.
- 42 Vodafone was concerned that:

- ComReg is incorporating a provision into the CHF for past under-recovery even though the sinking fund was designed to address this; and
  - If there is an accumulated value in the sinking fund at the end of the CA the CHF should be adjusted accordingly.
- 43 H3GI was concerned that the level of the fund be reviewed and capped, with excess funds being returned to the industry. It also wanted to know if the level of the sinking fund had been reviewed.
- 44 While the ultimate use of the sinking fund is determined by the DCENR it could also be used to cover the costs of any additional investment in new technologies required at a late stage in the five year CA, which may cause a spike in the CHF. It also could be used to cover any exit costs which BT may incur, should it be required to provide a parallel service in the same way eircom provided a similar service when it was exiting from the provision of this service during September and October 2010.
- 45 In any event, the administration, control and ultimate value of the sinking fund is under the direct control of the DCENR and not ComReg. It is not open to ComReg to justify the level or use of the sinking fund because it has no power to do so under the Act and because it is not a party to the CA. Therefore, ComReg cannot influence its use or its value further. ComReg must, however, include the prescribed value of the sinking fund in its calculation of the CHF each year for the duration of the CA.

### Performance metrics

- 46 Eircom was of the view that ComReg ensured “*that the costs are representative of a truly efficient operation*”. eircom also was of the view that there was over-capacity in the staff planning for the PSAPs. It noted the current average speed of answer by the ECAS provider is 0.6 seconds when compared to the historic eircom average speed of answer of 1.3 seconds.
- 47 eircom also requested clarity on whether the staff numbers in the Consultation represented actual head count or FTEs.
- 48 H3GI considered that the ECAS operation was overstaffed and that a complete efficiency metric review should be carried out. It queried the number of FTEs cited in the 2011/2012 review when compared to the 2012/2013 review.
- 49 H3GI referred to paragraph 5.47 of the Consultation. It queried what the minimum number of CSRs was and where it was documented. H3GI disagreed that CSR staff are fixed and should be variable costs.

- 50 Telefónica stated that ComReg admit there are excessive CSR hours in the ECAS operation and that ComReg should not give allowances outside of the CA.
- 51 ComReg must conduct a review of the *reasonable costs* incurred by the ECAS provider. ComReg would caution that an ECAS operation, by its very nature, cannot be *truly efficient*. This is because it cannot be run similar to a fully commercialised call-centre operation, given its life critical nature. A certain level of excess capacity has to be built in to ensure that the performance metrics as set out in the CA are met. ComReg has reviewed the adherence to the performance metrics and where it considers these could be achieved more effectively, without endangering the service levels, it has requested the ECAS provider to make these changes. However, it has recommended the gradual implementation of the changes (within a relatively short time-frame) to ensure the continued smooth running of the ECAS operation and these recommendations are being adopted by the ECAS provider. This should result in an improvement to the rate of staff utilisation.
- 52 It was also noted in the Consultation<sup>14</sup> that utilisation rates are lower in emergency services than many other sectors:
- Emergency services - 40%
  - Public sector healthcare providers - 55% to 65%
  - Financial services - 70% to 80%
- 53 Therefore, ECAS call-centres tend not to have the same rate of utilisation as commercial call-centres.
- 54 In relation to Telefónica's comment regarding *excessive CSR hours*, ComReg would note that it did not consider the hours to be excessive. Instead it was of the preliminary view that the performance metrics as set out in the CA could still be achieved with a slight reduction in CSR hours. ComReg has no discretion as to the values set in the performance metrics. In its review, ComReg assessed how these metrics were implemented in the Erlang model and recommended some changes to be implemented in a controlled fashion. ComReg did not impose the reduction in CSR hours back to "Go Live" date. It considers that it was appropriate to review the application of these performance metrics after a period of approximately twelve months as this would reflect a full year's activity including an assessment of seasonal factors (i.e. severe weather, Halloween, large public events).

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<sup>14</sup> See section 6.3.2.12 Impact on service targets (ComReg document No. 11/81a)

- 55 ComReg would note that the fact that the current ECAS provider is achieving this target does not necessarily indicate excess resourcing. Given the life-critical nature of the service, ComReg does not think it appropriate to simply reduce the number of CSR hours and increase the response time to answer calls, and therefore answer calls more slowly, in order to achieve a minimal cost saving without careful consideration. ComReg would note, however, that it has reviewed the means by which the ECAS provider implements the performance metrics and has suggested changes resulting in more effective staff planning. This has been reflected in the calculation of the maximum permitted CHF for 2012/2013 and will be included in the scope of future reviews going forward.
- 56 In section 3.4.1 of the HBC report, HBC examined a number of scenarios including the use of eircom's Average Handling Time ("AHT"), different call volumes and whether or not shrinkage is included or not. The conclusion was that 49 FTEs without shrinkage would be reasonable and that this number would increase to 61 FTEs with shrinkage included to allow for holidays, training, absences etc. HBC's initial review was conducted at a time when the call volumes were not stable and the service was in its infancy. Tera conducted a review of CSR requirements and concluded that the number of CSR hours is reasonable, but could be made more effective. ComReg agrees with this assessment and reiterates its call for a cautious and prudent approach to ensure that the integrity of the service is not harmed in any way. ComReg would note that the current number of CSRs (80) is made up of full and part-time staff. Because it is confidential information, the number of hours required and the profile split has been redacted. The ECAS provider is currently implementing these changes in a prudent manner, having regard to the nature of the service.
- 57 The requirement of a minimum number of CSRs relates to the CA and that a contingency of 30% is required to handle any spike in normal volumes and also to deal with any possible evacuation of the centres. For health and safety reasons, BT ensures that a minimum of 2 CSRs per PSAP are working at any time. ComReg's expert consultants did not consider the minimum requirement of 2 CSRs to be unreasonable.
- 58 It is not open to ComReg to amend the performance metrics because it has no power to do so under the Act and because it is not a party to the CA.

### **SIM-less calls**

- 59 Eircom noted that ComReg's volume forecasts did not take into consideration SIM-less calls and H3GI considered that SIM-less calls should not be permitted.



- 60 Eircom also commented that the model used to determine the CHF is based on the same body of costs being recovered, regardless of volumes.
- 61 Eircom was of the view that ComReg and all stakeholders should reduce the volumes of false and spurious calls. This would result in an efficient service funded in a cost effective manner.
- 62 ComReg has not adjusted call volumes to reflect the possible elimination of SIM-less calls because no such decision has been made to amend this practice. SIM-less calls have been a feature of ECAS call volumes for many years and this has only become a matter for discussion very recently. It must be emphasised that is not open to ComReg to disregard SIM-less because it has no power to do so under the Act and because it is not a party to the CA.
- 63 ComReg would also make the observation that should such calls be eliminated (and such a decision would probably be required to be made by the Oireachtas or the DCENR) the CHF under the current CA would be likely to increase. This is because the cost base, albeit slightly lower because of less CSR hours required, would have to be recovered over a lower number of calls.
- 64 This issue was also raised and is in the process of being dealt with in the Forum recently established by ComReg. Regardless of the cause and effect of false and spurious calls, the ECAS is required to handle each call as effectively as possible. It stands to reason that removing these would achieve greater effectiveness but it is beyond ComReg's remit to do this. However, ComReg would share the view that ECAS would be better served with fewer "false calls", so that only genuine emergency calls are received and handled.

### **Regulatory Impact Assessment**

- 65 Both Eircom and H3GI believe ComReg should have conducted a RIA. Eircom considered that the review being undertaken by ComReg is no different to the pricing regulation adopted by ComReg in relation to eircom's regulated services. It referred to paragraph 3.13 of ComReg Document No. 07/56.<sup>15</sup>
- 66 ComReg is not imposing a regulatory obligation upon any stakeholder. The obligation to pay the CHF is imposed by the Act. The Act also obliges ComReg to conduct the review and to determine the CHF annually. ComReg has no discretion to refuse to do so.

### **Scope of the 2011/2012 CHF review**

- 67 Eircom believes that the set-up costs should be reviewed again and the Act does not permit ComReg to restrict its scope in this way.

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<sup>15</sup> ComReg's approach to Regulatory Impact Assessment - Response to Consultation and Guidelines.

- 68 H3GI noted that in paragraph 4.10 of the Consultation ComReg considered that set-up were outside the scope of the review, having been previously reviewed. H3GI disagreed on the basis that there was only 7 months of estimated data and that this was insufficient to conduct a review.
- 69 The capital expenditure (set-up costs) incurred by the ECAS operator is related to the specifications and requirements of the CA. The set-up costs are incurred once by the ECAS operator and accordingly, they need only be reviewed once. The set-up costs were already comprehensively examined by ComReg, during the course of its 2011/2012 CHF review. This review determined the amount of capital expenditure and associated depreciation/amortisation charges to be included in the determination of the maximum CHF (based on a five year asset life as set out in the CA). It would be not be logical or efficient for ComReg to review this issue again. There have not been any material changes made to the capitalised costs of the ECAS during this review period. The focus of this review is on the operating costs, as this is the first year for which actual data is available. It is proposed that operating costs will be reviewed annually. The data used in the 2011/2012 review by HBC was primarily actual information with some forecasts for a relatively immaterial amount and period of time which have subsequently been replaced by actual data. Accordingly, ComReg is satisfied that there is no reasonable basis for reviewing the set-up costs of the ECAS again in this review.

### **ComReg's monitoring costs**

- 70 H3GI queried whether or not ComReg's monitoring costs had been recovered through the CHF.
- 71 ComReg' can confirm that the monitoring costs associated with the carrying out of this review have not been recovered through the CHF.

### **Timing of the 2012/2013 CHF review**

- 72 H3GI was of the opinion that the change to the CHF should not have happened until July 2012.
- 73 Vodafone noted that ComReg's role within the ECAS is limited and its freedom of action is constrained by the design of the ECAS and the CA and the relevant statutory provisions. As a result, ComReg's proposed approach is not unreasonable.
- 74 However, it expressed concern that ComReg may "*not properly consider responses received which might raise material issues with its reasoning or methodology*", given the timeframe for the completion of ComReg's statutory duties.

- 75 Relying on section 58 (B) (1) of the Act, H3GI suggests that the CHF is set for the first two years (at €2.23) of the operation of the CA. The “operation” of the CA may be said to have begun on 14 July 2010 (i.e. the Go Live date). According to this, the two years expires on 14 July 2012. However, section 58 (D) of the Act still requires ComReg to conduct the first CHF review 2 months before the first anniversary the CA was “entered into.” The CA was entered into on 12 February 2009. ComReg was obliged to conduct the first CHF review by 12 December 2010. ComReg is obliged to conduct the second review by 12 December 2011. Accordingly, ComReg is doing what section 58 (D) of the Act requires.
- 76 With regard to Vodafone’s point, ComReg has engaged extensively with the ECAS provider in gaining an understanding of the evolution of call volumes and the In Life costs of the ECAS operation since early 2011. This has included extensive correspondence and meetings with the ECAS provider, analysis of information received to a relatively granular level, as well as the appointment of external consultations to provide a further assessment of the information received. Therefore, ComReg believes that the consultation process, the review of the responses and supporting information has been very robust and that ComReg has also been able to give very thorough consideration to all responses received — as demonstrated in this response to consultation and determination.
- 77 Furthermore, while there has been some disagreements with its reasoning, much of this disagreement relate to issues beyond the remit of ComReg in this review (i.e. historical call volumes, residual value of assets, sinking fund or related policy issues) or areas where further clarity was required (i.e. international benchmarks).
- 78 ComReg is satisfied that it is now in a position to make a full and reasoned determination, having fully taken account of all of the responses it received to the Consultation.