Commission for
Communications Regulation

Response to Consultation and Final Determination regarding the Emergency Call Answering Service Call Handling Fee Review 2014/2015

Response to Consultation

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1 Introduction

The Communications Regulation Act, 2002 as amended ("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.[1]

This Response to Consultation and Determination is published to make the review process appropriately transparent and to summarise ComReg's consideration of stakeholder responses to the Consultation and draft Determination[2] ("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 2014 to 11 February 2015.

ComReg received three responses to the Consultation namely from:

- Eircom Group ("Eircom");
- Hutchinson 3G Ireland ("H3GI"); and
- Vodafone Ireland Limited ("Vodafone").

ComReg wishes to acknowledge the contribution of these respondents to the review process. ComReg has reviewed these submissions and has given them all due consideration as part of its statutory review of the CHF.

It is important to note that in discharging its duties under the Act, ComReg is also acting within the context of a contract (known as the Concession Agreement ("the CA")) entered into 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 the CA and the terms of same are not within ComReg's remit. Therefore, in most instances, ComReg has no discretion in relation to the treatment of certain cost categories. Neither is it appropriate for ComReg to comment on specifications or requirements of the ECAS detailed in the CA. This context was acknowledged by respondents to the Consultation.

[1] See section 58D of the Act, as inserted by section 16 of the Communications Regulation (Amendment) Act 2007.

[2] ComReg Document No 13/96.

ComReg has, however, reviewed the costs incurred by the ECAS provider in its implementation of the CA including commercial arrangements between the ECAS provider and third party suppliers. As noted in the Consultation ComReg did not propose to disallow any costs of the ECAS provider or to require any amendments to its operational procedures. ComReg had disallowed costs and required operational recommendations in previous reasonable costs reviews. ComReg is satisfied that the ECAS provider has made these previously recommended changes and continues to implement them in the period of the current review. ComReg remains of the view, as proposed in the Consultation, that the costs incurred by the ECAS provider are reasonable and that its operational procedures are appropriate.

The draft Determination contained in the Consultation proposed a maximum permitted CHF of €3.08 which would constitute an increase of approximately 5% on the previous CHF. The principal factor influencing this increase has been the continuing decline in the annual rate of call volumes, which has also been greater than predicted. In the 2013/2014 CHF review ComReg predicted a rate of decline of 2.0%, whereas the actual rate of decline transpired as closer to 3.0%.

In the present Determination, ComReg considers an annualised rate of decline of 3.0% to be appropriate. This reflects:

- the views of respondents;
- the current rate of decline of c. 3.5% from November 2012 to October 2013; (with the removal of certain hoax calls which increased call volumes in 2012); and
- an allowance for possible further declines in noisy call volumes as a result of regular maintenance work by Eircom of faults associated with its fixed line network.

ComReg therefore concludes that a maximum permitted CHF of €3.08 should apply for the period 12 February 2014 to 11 February 2015.

This CHF represents the reasonable costs that the ECAS provider has incurred and can be expected to incur in delivering the contracted service and handling the expected emergency call volume.

Some respondents to the Consultation wished to see the precise value of the reasonable costs incurred by BT in providing the ECAS service. However, ComReg, as in previous reviews, 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 the redactions, sufficient detail is provided for stakeholders to properly understand the basis for the Determination on the CHF.

It should be noted that while the CA is due to expire on 15 July 2015 there is an option within it whereby the DCENR can extend its term for a further two years. ComReg understands that currently the DCENR is considering whether or not to extend the term of the CA, but that no decision has been taken as yet.

2 Executive Summary

The ECAS receives emergency calls made to 112 or 999 through dedicated Public Safety Answering Points ("PSAP") and forwards these calls, as appropriate, to the relevant Emergency Service on the basis of the service required and the location of the incident.

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.

Under section 58D of the Act, ComReg is required to conduct a review of the maximum permitted CHF that the ECAS operator can charge for handling emergency calls, and as soon as practicable after conducting that review, ComReg has to determine the maximum CHF that the ECAS operator can charge for handling emergency calls on an annual basis. This Determination is made under section 58D of the Act and pursuant to the Consultation on this matter held during October/November 2013.

In making this Determination, ComReg has fully taken into account the responses to the Consultation and the recommendations made by its consultants, Analysys Mason Limited ("Analysys Mason").

Ultimately, ComReg concluded that the costs incurred by the ECAS provider were reasonable and that no adjustments were necessary to its operating procedures.

In the Consultation ComReg asked the views of respondents to seven questions. The main points raised by respondents related to:

- The proposed increase in the CHF to €3.08;
- The specification of the ECAS to handle c. 4.8m calls annually when actual calls are closer to 2.8m annually;
- Non-genuine calls; and
- The treatment of many costs covered by the CA.

In this Response to Consultation document, ComReg has detailed its final conclusions in respect of the specific questions asked in the Consultation. Other points that were made by the respondents that are not directly related to the Consultation questions are discussed in Annex 1.

ComReg notes that many of these related issues concern operational, engineering or performance matters; or relate to more fundamental policy issues. ComReg considers that they are beyond the scope of this review (which is focused on the reasonable costs associated with the CHF). ComReg suggests that these issues may be dealt with, as appropriate, in the context of the ECAS Quarterly Forum ("the Forum") chaired by ComReg and attended by the DCENR, ComReg, and telecommunications providers.

Given that ComReg considers that the cost base is now relatively stable, the main factor in determining the CHF for 2014/2015 is the estimation of call volumes. After a period of significant decline from July 2010 (when the ECAS provider commenced live operations) data now shows that call volumes are declining at a gentler rate.[3] In the Consultation ComReg was of the preliminary view that an annual rate of decline in call volumes of 3.0% would be appropriate. Following a review of the responses to the consultation ComReg remains of the view a rate of decline of 3.0% is appropriate. During 2012 a high level of hoax calls affected one operator and this affected the overall call level in that period. The annual rate of decline in call volumes from December 2012 to November 2013, if these hoax calls are included, is greater than the predicted rate of decline of 3.0%. If these hoax calls are excluded from the data, then the annualised rate of decline would be c. 3.0%.

ComReg considers that the ECAS has a high element of fixed costs and this is further described in Annex 1. Because of this, a decline in call volumes may not lead to a corresponding fall in costs. For the current review, a high level of fixed costs with call volumes declining at a greater rate than predicted, means that the CHF has increased.

[3] ComReg document No. 12/105 - Volume of emergency calls January 2012-June 2012

3 Consultation responses

As outlined in the Consultation, ComReg identified five main topics for its review and invited respondents to address them. These were:

i. Section 5 - Relevant cost standard

ii. Section 6 - Reasonable costs

iii. Section 7 - Volumes

iv. Section 8 - Call volume relationship

v. Section 9 – Draft determination

Section 3 provided further background to the Consultation. Section 4 of the Consultation outlined ComReg's approach when undertaking the reasonable cost review.

3.1 Relevant cost standard

ComReg's preliminary views

In Section 5 of the Consultation, ComReg outlined the cost standard it has applied when calculating the CHF. The calculation of the CHF was based on:

- a hybrid costing methodology, employing HCA[4] accounts (appropriately adjusted for reasonableness) and reflecting forward-looking cost and volume data is the most appropriate way to determine the CHF;
- avoidable cost is the appropriate cost principle to be used in assessing the CHF, combined with a hybrid cost model;
- the costs associated with the provision of the ECAS are:
  - Direct costs
  - Indirect costs
  - Fixed costs
  - Variable costs

This approach is consistent with that adopted during the CHF review of 2013/2014.

This section incorporated question 1 which asked:

[4] HCA means Historical Cost Accounts

Do you agree or disagree that it is appropriate to continue to apply the above methodologies for the 2014-2015 CHF review? Please provide detailed reasoning and calculations for your views.

Main issues raised by respondents in relation to question 1

Both Vodafone and H3GI agreed with ComReg's preliminary views.

Eircom, while neither agreeing nor disagreeing with ComReg's preliminary views, was of the view that the level of capital investment (including the additional capital expenditure), the return on investment and the sinking fund were not consistent with the current trend in call volumes. However, Eircom also acknowledged that, as many of these matters were contained in the CA, they were beyond the remit of ComReg.

ComReg's conclusions

Based on the views of respondents ComReg remains of the view that:

- a hybrid costing methodology, employing 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 is the appropriate cost principle to be used in assessing the CHF, combined with a hybrid cost model;
- the costs associated with the provision of the ECAS are:
    - Direct costs
    - Indirect costs
    - Fixed costs
    - Variable costs

The particular matters raised by Eircom are discussed at Annex 1 under "Capital Investment".

3.2 Reasonable costs

ComReg's preliminary views

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 ComReg considered the cost to be reasonable. Due to the commercial sensitivity and confidential nature of the data relating to the ECAS provider and its suppliers, many of the specific values were redacted in the Consultation.

In the Consultation, ComReg noted that while there had been some variation in the level of costs incurred (both up and down) there had not been any major change in the nature/classification of the costs incurred since the 2013/2014 CHF review. ComReg further noted that it considered the costs to be reasonable.

This section incorporated question 2 which stated:

Figure 5 represents the basis of the cost stack for the determination of the CHF for 2013-2014. Please provide any comments on whether the cost categories should remain the same for the determination of the CHF for 2014-2015, including detailed reasoning for your answer.

Figure 5 from the Consultation is re-produced below.

Cost category	2014/2015	2013/2014
	€	€
Pay costs	✂	✂
Non-pay costs	✂	✂
Depreciation/amortisation	2,300,000	2,200,000
Guaranteed return	750,000	750,000
Cost of capital rebate	✂	✂
Sinking Fund	250,000	250,000
Prior Period	✂	✂
Total Costs	✂	✂

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

This section also incorporated question 3 which asked:

Do you agree or disagree with ComReg's preliminary view that €28.07 is a reasonable hourly rate payable to the specialist call centre company, based on what costs have been allowed and what costs have been disallowed? Please provide detailed reasoning and calculations for your views.

Main issues raised by respondents in relation to question 2

Eircom agreed with the general cost categories but did not agree with the level of costs. Eircom also queried the Guaranteed Rate of Return and the asset lives associated with the additional capital expenditure.

Vodafone generally agreed with the cost categories but disagreed with the treatment of the sinking fund.

H3GI generally agreed with the cost categories but disagreed with the treatment of the following:

- the guaranteed rate of return;
- the costs associated with the support of the SMS;
- the sinking fund

ComReg's conclusions

ComReg remains of the view that the main cost categories to be included in the cost stack for the determination of the 2013/2014 CHF are as follows:

- Pay costs
- Non-pay costs
- Depreciation/amortisation
- Guaranteed rate of return
- Cost of capital rebate
- Sinking fund
- Prior period under-recovery

ComReg is of the view that comments raised in relation to the following matters relate to the CA and, as such, are beyond the scope of this review. They are discussed in Annex 1:

- guaranteed rate of return;
- the costs associated with the support of the SMS;
- sinking fund.

ComReg is not a party to the CA and cannot review or amend its terms, conditions or specifications.

Main issues raised by respondents in relation to question 3

Vodafone and H3GI agreed that €28.07 was a reasonable hourly rate payable to the specialist call-centre company. H3GI did however query the rate of return and how it was agreed.

Eircom considered that the salary related element (€12.79) of the hourly rate payable to the specialist call-centre company was within industry norms. Eircom submitted that there was insufficient information provided in the Consultation to enable Eircom to comment on the remaining balance of €15.28. However, Eircom was of the view that this seemed high for a labour intensive operation like ECAS. Eircom also queried why performance related bonuses only seemed to have commenced recently.

ComReg's conclusions

During the review process ComReg has examined, in detail, each of the cost components within the remaining balance of €15.28 of the hourly rate payable to the specialist call-centre company and considers them to be reasonable. However, as the hourly rate is subject to commercial arrangements between the ECAS provider and the specialist call-centre company, ComReg believes that it is not appropriate to disclose further details on these due to the commercial sensitivity and confidentiality of the information. Furthermore, within the hourly rate are elements relating to the salaries of particular staff (such as recruiters and trainers). Unlike the salaries payable to Customer Service Representatives (CSRs), information regarding these salaries is not publicly available. A performance related bonus scheme payable to CSRs has been in place since the operation went live in 2010.

The hourly rate payable to the specialist call-centre company includes a rate of return. ComReg is of the view that it is appropriate to include a reasonable rate of return in the hourly rate payable to the specialist call-centre company. This return was assessed in both the 2013-2014 and 2014-2015 CHF reviews. 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 generated additional costs related to the training and management of CSRs. These higher costs would have been reflected in the CHF. More generally, a rate of return exists on the hourly rate payable to the specialist call-centre company in the same way as for any pricing structure of a supplier of goods and services. This associated cost is allowable, so long as it is reasonable — and ComReg concludes that it is reasonable.

ComReg, therefore, remains of the view that €28.07 is a reasonable hourly rate payable to the specialist call-centre company.

3.3 Call Volumes and call volume relationship

ComReg's preliminary views

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 noted that the rate of decline from October 2012 to September 2013 was 3.0%. It also requested respondents to provide details on any network remediation programme or any other relevant initiatives being undertaken by them in the short to medium term (1 to 2 years) which may affect the forecasted volume of emergency calls. Section 7 incorporated question 4 which stated:

> *Please outline if you are aware of any network remediation programme or any such initiatives in the short to medium term (1 to 2 years) which may affect the forecasted volume of emergency calls.*

In Section 8 of the Consultation, ComReg described the relationship between the costs involved in operating the ECAS and the declining call volumes and highlighted that many of the costs could be considered to be fixed costs. ComReg also requested respondents to provide comments on any other matters they considered to be relevant to the CHF review.

Section 8 incorporated question 5 and question 6.

Question 5 asked:

> *Do you agree or disagree with the proposed forecast of the call volume decline rate of 3.0% per annum? Please provide detailed reasoning and calculations for your views.*

ComReg had based its forecast rate of decline of 3.0% on the decline in call volumes from October 2012 to September 2013 (when the Consultation was issued).

Question 6 asked:

> *Are there any other matters which you wish to raise as part of this review? Please provide detailed reasoning and calculations (where appropriate) for your views.*

Main issues raised by respondents in relation to question 4

In relation to Question 4, Eircom observed that it was monitoring faulty lines as well as spurious 112 calls.

H3GI did not comment on any specific remediation programmes. However, it considered that the ECAS forum should discuss measures to reduce the number of non-genuine calls.

Vodafone did not answer question 4.

In relation to Question 5 Vodafone and H3GI agreed with ComReg's view that a 3.0% rate of decline was appropriate.

Eircom was of the view that the projections did not take account of measures aimed at addressing non-genuine calls and that opportunities to further reduce these should be pursued through the ECAS forum.

Both H3GI and Eircom considered that certain non-genuine calls could be reduced with H3GI citing the UK and Germany in this regard. Eircom observed that 58% of calls handled by the ECAS were silent calls or calls without speech and said that this needed to be addressed.

Eircom and H3GI responded to question 6. Eircom responded under the following categories:

1. Proposed capital expenditure
2. Addressing inefficiencies
3. Sinking Fund
4. Lack of a Regulatory Impact Assessment

H3GI considered that:

- the next ECAS provider would be able to use the existing ECAS assets;
- the ECAS operation is overstaffed; and
- the State should pay the cost of running the ECAS.

Vodafone did not respond to Question 6.

ComReg's conclusions

Based on the views of the respondents, ComReg is of the view that no specific remediation programmes will be undertaken within the short to medium term which can materially affect the forecasted volumes of emergency calls. However, ComReg notes the ongoing remediation programmes being implemented by operators, as required. In particular, and as noted in the Consultation[5] Eircom is actively engaged in a process to remediate noisy lines which generate false calls.

[5] Paragraph 160

ComReg remains of the view that the annualised rate of decline will be 3.0%. The rate of decline from November 2012 to October 2013 was 3.5% when compared to the corresponding period. However, if a high level of hoax calls identified in 2012 is excluded the rate of decline is c 3.1%.

In relation to H3GI's and Eircom's comments on non-genuine calls these are dealt with in Annex 1.

In relation to the various matters raised by Eircom and H3GI under Question 6, these are dealt with in Annex 1.

Because it was addressed by respondents in response to a range of questions as well as in their general remarks, ComReg's discussion of capital expenditure incurred by the ECAS provider is also contained at Annex 1.

3.4 Draft determination

ComReg's preliminary views

In Section 9 of the Consultation, ComReg issued its draft determination and requested views on its proposed wording.

This section incorporated question 7 which asked:

> *Do you agree or disagree with the wording of ComReg's Draft Determination? If not, please state your detailed reasoning.*

Main issues raised by respondents

On the basis of the points they had made in response to the preceding questions, and more generally, Eircom and H3GI disagreed with the proposed increase in the CHF. However, neither operator commented on the specific wording of the draft determination.

Vodafone did not answer question 7.

ComReg's conclusions

ComReg is of the view, as discussed in Annex 1, that the issues raised by Eircom and H3GI concern matters that are contained in the CA or are broader issues of policy in relation to the ECAS and its functions. In either case these matters are outside the remit of ComReg as set out in the legislation. In this context, ComReg is of the view that no amendments are required to the wording in the determination.

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 BT Communications 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 its functions at section 10(1)(ca) 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. 13/96 and Commission Document No. 13/96a;
- Having duly taken account of the responses received to Commission Document No. 13/96 and Commission Document No. 13/96a; 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 2014 to 11 February 2015, 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 €3.08.

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

Annex 1: General comments

Eircom, Vodafone and H3GI raised a number of points not addressed by the questions posed in the Consultation. Many of the points raised relate to the CA, which, as previously stated, is an agreement between the DCENR and BT. ComReg is not a party to the CA.

In discussing the various points raised by respondents ComReg has addressed them under the following headings:

- Annual running costs
- Capital Expenditure
- Asset lives
- Sinking Fund
- Guaranteed Rate of Return
- Call volumes
- Efficiency measures
- Depreciation
- Regulatory Impact Assessment
- Type C Calls
- Confidential Data
- Customer Service Representatives
- Cost structure

Annual running costs

Both Eircom and H3GI queried why the operators were required to pay for an ECAS with capacity for 4.8m calls when call volumes were now c 2.8m.

ComReg is aware of efforts made by operators to reduce the number of non-genuine calls. The lower the number of non-genuine calls the greater the level of efficiency in the ECAS. However, it should be noted that when the invitation to tender was issued by DCENR for a concession to provide an ECAS it was specified that the solution should be capable of handling c. 4.8m calls per annum, this being the number of calls being dealt with, by Eircom, at the time of tender. The ECAS provider developed a network capable of handling this number of calls and it is the associated capital expenditure as well as the annual cost of operating this ECAS that is being recovered over the life of the CA. The ECAS solution included a significant capital investment at the outset of the CA to ensure adherence to the Quality of Service parameters designated by DCENR.

The annual operating cost of the ECAS can be considered in the following broad categories[6]:

- Pay costs of Customer Service Representatives ("CSR") and the ECAS provider;
- Non-pay costs of operating the ECAS (i.e. network support, premises);
- Depreciation and amortisation;
- Guaranteed rate of return and sinking fund.

A significant proportion of these costs can be considered to be fixed.

There is a minimum level of CSRs required to operate the ECAS. Their deployment takes into consideration:

- the requirement to adhere to the quality of service parameters as set out in the CA ;
- annual leave, weekend and bank holiday requirements;
- continuous training; and
- the necessity to have sufficient CSRs rostered to successfully deal with "service alerts".

Therefore, the ECAS provider cannot significantly reduce staff without impacting on the quality of service.

[6] These cost categories are not equi-proprotionate

The ECAS provider's pay costs are also relatively fixed. There is a dedicated team of managers and administration staff allocated to the ECAS although the ECAS provider amalgamated certain roles shortly after going live. Further amalgamation of roles is not considered possible in the current context. BT Corporate also provides regular assistance to the ECAS especially where legal, engineering and financial assistance is required. While the precise requirements of these are variable in nature, there is often a fixed cost element. For example, in accordance with the CA the finance function is required to produce quarterly management accounts. Both the finance and regulatory functions participate in the annual reasonable cost review.

The non-pay costs of the ECAS provider relate to the costs such as those associated with the leasing of premises or support contracts for the ECAS network. These costs can be considered fixed as they are in place for the duration of the CA.

The asset lives associated with the depreciation and amortisation of the capital investment of the ECAS are set down in the CA and are fixed over its term. As noted previously, and acknowledged by respondents to the Consultation, ComReg is not a party to the CA and therefore these issues are beyond ComReg's remit.

The levels of the guaranteed rate of return and the sinking fund are also specified in the CA and are therefore fixed over its term.

Therefore, while there is an element of variable costs in the annual operating costs of the ECAS the majority of costs can be considered to be fixed.

Capital expenditure

In its response to Question 1, Eircom considered that the level of investment, including the additional capital expenditure, the return on this investment and the sinking fund were inconsistent with the current trend in call volumes. Eircom nevertheless acknowledges that addressing these may not be within the scope of the current review.

In its response to Question 6, Eircom further elaborated on why it considered that the capital expenditure made during the period was not warranted and requested clarity on ComReg's authority to grant approval for this expenditure. It further considered that the costs should not have been permitted as they were foreseeable at the outset of the project and should have been incorporated into the ECAS providers tender.

H3GI in its introductory comments queried the necessity for the additional capital expenditure given that the project was only three years old and there were lower than forecast volumes which would likely result in idle equipment.

Both Eircom and H3GI considered that, at least, the sinking fund should have been used to pay for this investment.

ComReg can confirm that there is a requirement within the CA for the ECAS provider to request approval from ComReg prior to spending in excess of €100,000 in any 12 month period on the ECAS. In relation to the capital expenditure recently incurred the ECAS provider submitted a detailed proposal to ComReg and DCENR which described:

- the reason the ECAS provider considered the expenditure was necessary
- The cost of the expenditure sub-divided into:
  - Hardware and software upgrades with associated licences and fees;
  - Time and cost required of external service providers;
  - Time and cost required of the ECAS providers own staff.

Each of these requirements was reviewed by ComReg and DCENR and discussed with the ECAS provider prior to approval being granted. It is not obvious to ComReg that all of these costs could have been anticipated at the time of the ECAS tender. In any event, even if they had been anticipated, it is not clear how their inclusion at the outset would make a difference to their contribution to the level of the CHF in the current year.

Asset Lives

Both H3GI and Eircom queried the use of straight line depreciation over the life of the CA and considered that some assets may have a value at the end of the CA. If this occurred, then these could possibly be transferred to a new ECAS provider.

H3GI also requested confirmation on the actual useful asset lives of the assets.

The requirement to write off assets on a straight-line basis (and therefore their asset lives) is contained within the CA, which is beyond the remit of ComReg.

Sinking Fund

Vodafone, in its response to Question 2, did not agree with the treatment of the Sinking Fund as it considered that potential future costs may not be incurred and, therefore, that the Sinking Fund should be used to cover the ongoing costs of the ECAS provider.

Vodafone considered that should it be proposed that the Sinking Fund be used to reimburse the ECAS provider for exit costs that operators should be consulted on this in advance. Vodafone was of the view that the ECAS provider should not be reimbursed for 100% of its costs as well as receiving the accumulated value of the Sinking Fund at the end of the CA. Vodafone also expressed concern that, in its view, ComReg had not reviewed the Sinking Fund to the same extent as other cost categories.

H3GI, in its response to Question 2, also considered that any under-recoveries should be taken from the Sinking Fund.

Eircom considered that the Sinking Fund could be used to fund any additional capital investment.

The requirement for a Sinking Fund is contained within the CA, which is beyond the remit of ComReg. However, it should be noted that the CA provides for any under-recoveries at the end of the CA to be taken from the Sinking Fund and should there be any over-recoveries, then the ECAS provider is required to pay this into the Sinking Fund.

Guaranteed Rate of Return

Eircom, in its response to Question 2, queried the basis for calculating the Guaranteed Rate of Return over the gross book value of assets as opposed to the net book value of assets.

H3GI, in its response to Question 2, queried the value for the Guaranteed Rate of Return as it considered it to be risk-free; and to be payable regardless of whether or not there was a return on the sinking fund.

The basis for the Guaranteed Rate of Return and the associated percentage return is contained within the CA, which is beyond the remit of ComReg. In accordance with the CA, the ECAS provider recovers its reasonable costs. It does not receive a return on the operating costs it incurs. No return is generated on the value of the sinking fund.

Call volumes

Eircom considered that inefficient calls, such as spurious or SIM-Free calls should be eliminated and suggested that certain procedures could be put in place to address this matter.

H3GI considered that as call volumes declined then the CHF should also decline and that this issue needed to be addressed. It further added, that it considered that one reason that the quality of service parameters were being continuously met was that the ECAS was overstaffed.

ComReg would remind respondents that:

- Under current legislation all calls must be forwarded to the ECAS provider;
- Unnecessary calls can only be removed so long as there is no impact upon uninterrupted access;
- The current ECAS network configuration was designed to handle 4.8m calls.

While the implementation of certain procedures to handle unnecessary calls may result in a lower number of calls to the emergency services, under current legislation these calls have to be answered by the ECAS and there is a cost associated with this. Removing a certain number of unnecessary calls would not necessarily reduce the cost of operating the ECAS. This is because it is designed to handle the 4.8m calls envisaged in the original DCENR tender and has a fixed cost base associated with this contracted specification. The Quality of Service parameters set by the DCENR were developed in the context of an anticipated 4.8m call loading.

Efficiency measures

Operators observed that they wished to reduce spurious calls and had a number of suggestions as to how this could be achieved. Respondents were particularly focused on the issue of SIM-less or SIM Free calls and urged ComReg to review the requirement to carry such calls.

ComReg understands that the issue of “hoax” or “false” calls is not unique to Ireland and is an issue in all EU Member States. The most recent COCOM Implementation Report,[7] for example, states that “in Germany the number of such calls is less than between 3% and 5% (however varying highly regionally and seasonally), Greece reported 99.354%. Between these two extremes there are Cyprus (8%), Romania (14,57%), Austria (30%), Bulgaria (38%), Spain (56,26%), Belgium (46%), Slovakia (68%), Ireland (60%), Czech Republic (75 %), Portugal (77%), Hungary (90-95%), Norway (80% in Oslo and 90% in the rest of the country).”

The Implementation Report also acknowledges “that the majority of hoax/false calls come from SIM-less handsets (Lithuania and the Netherlands more than 99%); this appears to have caused some countries to ban this feature.”

Approaches to addressing the issue of “hoax” calls and other operational matters, may be discussed from time to time, at the ComReg-facilitated ECAS Forum. ComReg is of the view that this is the proper context in which to balance efficiency concerns with the key issue of citizen safety.

[7] Implementation of the European emergency number 112 – Results of the sixth data-gathering round

Depreciation

Eircom, in its response to Question 2, disagreed with the depreciation of fixed asset investment over five years (i.e. the term of the CA).

As noted in this year's and last year's consultation, fixed asset investment is depreciated over the life of the CA and this is set out in the CA, which is beyond the remit of ComReg.

Regulatory Impact Assessment

Both H3GI and Eircom considered that ComReg should have conducted a Regulatory Impact Assessment ("RIA") as the level at which it sets the maximum permitted CHF has an impact on all operators who forward calls to the ECAS.

As noted in previous years in relation to the determination of the CHF, ComReg is not imposing a new regulatory obligation upon any stakeholder. The obligation to pay the CHF is imposed by the Act[8]. The Act also obliges ComReg to conduct the review and to determine the CHF annually. ComReg has no discretion to refuse to do so. ComReg is of the view that a RIA is not required in this instance as ComReg is carrying out its obligations under the Act. ComReg has acted in accordance with its obligation under Section 12(3) of the Act to seek to ensure that it carries out its functions in a proportionate manner and has followed its own published Guidelines[9] in respect of when a RIA is required.

Section 1.6 of the Guidelines explains that "in certain circumstances it may not be appropriate to conduct a RIA. In particular, a RIA is only considered mandatory, or necessary, in advance of a decision that could result in the imposition of an actual regulatory measure. <u>ComReg should only conduct a RIA where it itself has determined to impose a regulatory obligation. Where ComReg is merely charged with implementing a statutory obligation, it will assess each case individually and determine whether a RIA is necessary and justified, having regard to [the] degree of discretion it may exercise</u>, and the principles of reasonableness and proportionality." (Emphasis added)

Type C Calls

Eircom raised some queries about the manner in which data is transferred from the ECAS to the Emergency Services which it referred to as "Type C Calls".

The nature of the interface between the ECAS provider and the Emergency Services themselves is beyond ComReg's remit and is more a matter for the Emergency Services themselves and the relevant Government departments.

[8] See section 58C of the Act.
[9] Guidelines on ComReg's Approach to Regulatory Impact Assessment – Document No. 07/56A

Confidential Data

Both H3GI and Eircom considered that there was a lack of transparency due to the redaction of certain data.

ComReg is mindful of its obligations to be as transparent as possible in its consultation process. However, ComReg also adheres to the confidentiality guidelines contained in ComReg Document No. 05/24[10].

Customer Service Representatives ("CSR")

H3GI queried why there were now approximately 70 CSRs operating the ECAS whereas in a report prepared by Howarth Bastow Charlton[11] ("HBC") in 2010 it suggested that 49 Full Time Equivalents ("FTE") would be sufficient to handle 4.8m calls.

ComReg understands that the ECAS provider currently utilises the services of c. 70 CSRs,[12] but that when these resources are rostered (based on part-time and atypical shift patterns) this number equates to approximately 52 FTEs. Furthermore, in order to adhere to the quality of service parameters of the DCENR some additional capacity is required when allocating resources to the ECAS.

Cost structure

H3GI raised various matters in relation to the cost structure of the ECAS.

H3GI wondered how the costs of specialist engineers and other support functions are apportioned, and whether there was duplication of certain functions within the ECAS.

Specialist staff are managed through the use of timesheets managed by the ECAS provider while the nature of the controls over these timesheets and the level of costs arising from them is discussed with the ECAS provider during the course of the annual review. ComReg notes, in this context, that the overall level of such costs continues to decline.

ComReg has reviewed the roles of the various staff members involved directly and indirectly in the ECAS and does not consider that there is any duplication. The ECAS is a branch within BT and the financial information necessary for the preparation of ECAS financial statements is extracted from the ledgers of BT. Thus there is an economy of scale which tends to reduce ECAS costs in these areas

H3GI also wondered why there is a need to source specialist engineering skills and whether the ECAS has some common costs with BT.

[10] Guidelines on the treatment of confidential information.
[11] 17 December 2010
[12] Paragraph 61 of the Consultation

There are three fully dedicated engineers assigned to the ECAS who provide the day-to-day maintenance of the ECAS across the three PSAPs. They also ensure that routine maintenance functions are carried out and liaise with the external network support teams as appropriate. However, from time-to-time service requirements do arise for more specialist skills that may be found within the wider BT group. Use of such skills is charged to the ECAS based on actual time consumed. ComReg has discussed the roles and associated costs with the ECAS provider and understands that the provision of these resources in this manner represents an economy of scale. If the ECAS was to recruit and maintain such staff on a permanent basis or to hire them from a third party, these would be likely to be more expensive and less timely options.

At the same time, ComReg considers that the costs of these support functions are not common costs but are attributable to the operation and maintenance of the ECAS. For example, the ECAS has reference offers in place with various mobile and fixed line telecommunications operators. The cost associated with putting these reference offers in place is attributable to the ECAS.

H3GI also discussed the costs associated with the operation of the SMS service and the costs associated with the development of that service. Notwithstanding the points made by H3GI, it may be expected that the technical options available in the area of Emergency Services access would evolve over time and that not all solutions to be made available to citizens would have been stipulated in the original tender. It would seem unreasonable to deny to the public an enhanced mode of access to the Emergency Services simply because such a solution had not been envisaged at the time that the CA was signed.

On the other hand, the need for such developments must be clearly established and the costs justified so as to ensure that such developments are strictly controlled and undue burden is not placed on operators and, ultimately, their customers. The role of ComReg in this context is to assess the level of need and the efficiency and cost-effectiveness of any solution designed to fulfil it. At the same time ComReg must respect the commercial sensitivity and confidentiality of specific projects.

H3GI's proposal that ECAS operational costs should be borne by the State is a matter of government policy and is beyond the scope of the current CHF review.